

1882, 1883 and 1884, if justice has been done to the claims and just rights of the people?

MR. OSLER. That question must be objected to, it could not have had anything to do with bringing the prisoner here. I object first as a matter of opinion; second, that it is a leading question, and third, that it is irrelevant to the issue.

MR. LEMIEUX.—The most important objection is that it is leading. As to the opinion of the witness, I should think his opinion is valuable, it is facts I want from the witness, I suppose he can give his opinion based on the facts. If he says no or yes, I will ask him why, and he will give me his reason why.

HIS HONOR MR. JUSTICE RICHARDSON.—That will be a matter of opinion.

MR. LEMIEUX.—I will put the question and you can object to it.

Q. Do you know if at any time the Dominion Government agreed to accede to the demands made by the Half-breeds and Clergy, relative to the claims and rights you have spoken of in the preceding answer?

MR. OSLER.—I do not object to the question, if confined to a date prior to the 1st July, 1884, the time he was asked to come into the country, although the question is really irregular. I am not going on strict lines, but I do object to his asking as regards the present state of things. I do not object if he confines his questions to the time prior to the prisoner's coming to the country.

MR. LEMIEUX.—My question will show that the prisoner had reason to come. If the people had confidence in him, he had a right to come and help them, to try and persuade the federal Government to grant what had been refused them so far.

HIS HONOR MR. JUSTICE RICHARDSON.—Your question is what, Mr. Lemieux?

MR. OSLER.—I am willing that the question should be allowed if limited to the time prior to July, 1884.

HIS HONOR MR. JUSTICE RICHARDSON to Mr. Lemieux.—Is that the way you put it?

MR. LEMIEUX.—Yes.

MR. OSLER.—Then we withdraw the objection.

HIS HONOR.—Then we will have his answer.

MR. LEMIEUX.—I want to put the question generally.

MR. OSLER.—It is so general and difficult to grasp, anyway, I won't object.

MR. LEMIEUX.—Perhaps it is difficult to you but not to the witness.

Q. Will you state if since the arrival of the prisoner in the country up to the time of the rebellion, the Government have made any favourable answer to the demands and claims of the Half-breeds?—A. Yes, I know they have acceded to certain demands in regard to those who did not have any scrip in Manitoba. A telegram was sent on the 4th of March last, granting the scrip.

Q. Before that time?—A. Yes, regarding the alteration of survey of lots along the river, there was an answer from the Government saying they would grant it, and that was an important question.

Q. What question then remained to be settled?—A. The question of patents, that has also been settled in a certain way, because Mr. Duck was sent and I went with him as interpreter.

Q. What other question remained?—A. Only the question of wood, timber.

Q. Do you know that there is a commission sitting in regard to the claims and petitions of the Half-breeds?—A. Yes.

Q. Do you know how many claims and demands have been settled by that commission since it has been in existence?—A. In what place is it? In the North-West or in the district of Carlton?

Q. Generally.—A. I do not know, I know for my own district.

Q. What do you know?—A. I know that at Batoche they gave three scrips.

Q. Since the rebellion? A. Yes, about three weeks ago.

Q. At Duck Lake?—A. Forty.

Q. Since the rebellion?—A. Yes, about the same time.

Q. Do you know of any other?—A. No, not in that district.

Q. You have had occasion to meet the prisoner between July 1884 and the time of the rebellion?—A. Yes.

Q. What is the name of your parish?—A. Prince Albert.

Q. You saw the prisoner there?—A. Yes.

Q. Did you see him elsewhere?—A. At St. Laurent, several times, I don't know how often and I saw him at Batoche also.

Q. Have you had occasion to speak often to him on the political situation and on religion?—A. Frequently, it was the matter of our conversation.

Q. Did you like to speak of religion and politics with him?—A. No, I did not like to.

Q. Will you give me the reason why you did not like to speak of religion and politics to him?—A. Politics and religion was a subject he always spoke of in conversation, he loved those subjects.

Q. Did he speak in a sensible manner?—A. I wish to say why I did not like to speak to him on those subjects. Upon all other matters, literature and science, he was in his ordinary state of mind.

Q. Upon political subjects and religion?—A. Upon politics and religion he was no longer the same man; it would seem as if there were two men in him, he lost all control of himself on those questions.

Q. When he spoke of religion and politics?—A. Yes, on those two matters he lost all control of himself.

Q. Do you consider, after the conversations you have had with him, that when he spoke on politics and religion he had his intelligence?—A. Many times, at least twenty times, I told him, I would not speak on those subjects because he was a fool, he did not have his intelligence of mind.

Q. Is that the practical result you have found in your conversation with Riel on political and religious questions?—A. It is my experience.

Q. You have had a good deal of experience with people and you have known persons who were afflicted with a mania?—A. Before answering that, I want to state a fact to the court regarding the prisoner. You know the life of that man affected us during a certain time.

Q. In what way?—A. He was a fervent Catholic, attending the church and attending to his religious duties frequently, and his state of mind was the cause of great anxiety. In conversation on politics, and on the rebellion and on religion, he stated things which frightened the priests. I am obliged to visit every month the Fathers (priests) of the district. Once all the priests met together and they put the question, is it possible to allow that man to continue in his religious duties, and they unanimously decided that on this question he was not responsible, on these questions; that he could not suffer any contradiction on the question of religion and politics, we considered that he was

completely a fool, in discussing these questions; it was like showing a red flag to a bull, to use a vulgar expression.

By Mr. CASGRAIN.

Q. I believe in the month of December '84 you had an interview with Ric! and Nolin with regard to a certain sum of money which the prisoner claimed from the Federal Government?—A. Not with Nolin, Nolin was not present at the interview.

Q. The prisoner was there?—A. Yes.

Q. Will you please state what the prisoner asked of the Federal Government?—A. I had two interviews with the prisoner on that subject.

Q. The prisoner claimed a certain indemnity from the Federal Government, didn't he?—A. When the prisoner made his claim, I was there with another gentleman and he asked from the Government \$100,000. We thought that was exorbitant and the prisoner said "wait a little, I will take at once \$35,000 cash."

Q. And on that condition the prisoner was to leave the country if the Government gave him \$35,000?—A. Yes, that was the condition he put.

Q. When was this?—A. This was on the 23rd December '84.

Q. There was also another interview between you and the prisoner?—A. There has been about 20 interviews between us.

Q. He was always after you to ask you to use your influence with the Federal Government to obtain an indemnity?—A. The first time he spoke of it was on the 12th December, he had never spoken a word of it before, and on the 23rd December he spoke about it again.

Q. He talked about it very frequently?—A. On these two occasions only.

Q. That was his great occupation?—A. Yes, at those times.

Q. Is it not true that the prisoner told you that he himself was the Half-breed question?—A. He did not say so in express terms, but he conveyed that idea, he said, if I am satisfied the Half-breeds will be. I must explain this. This objection was made to him that even if the Government granted him \$35,000, the Half-breed question would remain the same, and he said in answer to that if I am satisfied the Half-breeds will be.

Q. Is it not a fact he told you he would even accept a less sum than \$35,000?—A. Yes, he said, "use all the influence you can, you may not get all that but get all you can, and if you get less we will see."

Q. When he spoke of religion, the principal thing of which he spoke, was it not the supremacy of Pope Leo the 13th?—A. Before the rebellion he never spoke directly on that question as to the supremacy of the Pope.

Q. On that question he was perfectly reasonable?—A. On religious questions before that time he blamed everything, he wanted to change Mass, and the liturgy, the ceremonies and the symbols.

Q. Do you pretend that every man who has strange ideas on religious matters is a fool?—A. No, I don't pretend that.

Q. A man may have particular views on religious matters and still retain all his reason and intelligence?—A. That depends on the way in which he explains his ideas and by his conduct in expressing them.

Q. A man may be a great reformer of great religious questions without being a fool?—A. I do not deny history, but the reformer must have some principles which the prisoner never had.

Q. Is it not true that the prisoner has fixed principles in his new religion?—A. He had the principle that he was an autocrat in religion and politics, and he changed his opinion as he wished.

Q. Do you say he changed his religion as he wished?—A. His ideas changed, to day he admitted this and to-morrow denied it; he was his own judge in these matters, he believed himself infallible.

Q. Is it not a fact that the Half-breeds are a people extremely religious?—A. I admit the fact, very religious.

Q. Is it not true that religion has a great influence upon them?—A. Yes.

Q. Is it not true that a man who tried to govern them by inducing them to completely change their religion or to do away with it, would have no influence with them at all?—A. Exactly, it was just because he was so religious and appeared so devout that he exercised such a great influence upon them. I wish to explain this point because it is a great point. With Half-breeds he never was contradicted and consequently he was never excited with them, and he appeared in his natural state with them. He did not admit his strange views at first, it was only after a time that he proclaimed them and especially after the provisional government had been proclaimed.

By Mr LEMIEUX.

Q. Is it not a fact that if any opposition was made to Riel, he became irascible and violent and almost uncontrollable?—A. As far as my personal experience goes he would not allow the least opposition at all, immediately his physiognomy changed and he became a different man.

Mr CASGRAIN objects to this evidence on the ground that it should have been given on the examination in chief.

PHILIPPE GARNOT, SWORN, examined by Mr Fitzpatrick.

Q. What is your name?—A. Philippe Garnot.

Q. Where do you live when you are at home?—A. At Batoche.

Q. Where are you living at the present time—living now?—In Regina jail.

Q. Do you know Riel the prisoner at the bar?—A. I do.

Q. You have known him for how long?—A. I saw him for the first time in Helena Montana, about seven years ago.

Q. Did you see him at Batoche during the course of last summer or in the Saskatchewan district?—A. I saw him last fall.

Q. What time last fall?—A. In October.

Q. From that time up to the month of March last did you have occasion to see him frequently?—A. No, I did not see much of him, I only saw him once or twice.

Q. During that time did you have any conversation with him?—A. No, not that I remember.

Q. No conversation whatever with him?—A. I had some small conversation but none that I can remember well.

Q. Do you remember during the course of last autumn and last winter up to the month of March, do you remember having any conversation with him on religious matters or on political matters?—A. No, I never had.

Q. No conversation whatever up to that time?—A. I had some conversation but not on religion or politics.

Q. Did you at any time talk to him on religion previous to his arrest?—A. I did, after the trouble, after the 18th March.

Q. Was he living at your house?—A. No, but he came there occasionally and slept there sometimes.

Q. When he spoke to you of religion do you remember what he said to you?—A. I know he was talking to me about changing the Pope or some thing of that kind, wanting to name Bishop Bourget, of Montreal, Pope of the New World as he named it, he spoke to me several things about religion that I cannot remember.

Q. Did he say anything to you about the Holy Ghost or the Spirit of God?—A. Yes, he said in my presence, not to me exactly, that the spirit of Elias was with him.

Q. Did he say he had any of the divine attributes that are generally attributed to Elias?—A. That is what I think he meant by that.

Q. What did he say about it as far as you can recollect?—A. He wanted the people in the meeting to acknowledge him as a prophet and he gave them to understand that he had the spirit of Elias in him and that he was prophesying.

Q. Do you remember any of his numerous prophecies?—A. I don't remember them all.

Q. Do you remember any of them?—A. I know every morning, almost every morning, he would come in front of the people and say such and such a thing would happen, I don't remember any of them in particular.

Q. You said a moment ago he spent some nights at your house?—A. Yes, he slept once or twice at my house.

Q. During the nights he spent there did you notice anything remarkable about him?—A. I know he was praying loud all night and kept me awake sometimes.

Q. Every one else was asleep in the house at that time?—A. I was the only other one in the house with him.

Q. Can you remember now the kind of prayers he delivered himself of?—A. It was prayers he was making up himself. I never heard them before.

Q. You are a Roman Catholic?—A. Yes.

Q. You are a French Canadian?—A. Yes.

Q. Had you ever heard any of those prayers before?—A. I never heard them except some of them, he would say the prayer "Our Father..." but all the rest of the prayers I never heard them before except by him.

Q. During the time you saw him when he delivered himself of these prophecies you alluded to, what was his temper, how did he act when contradicted?—A. He would not stand contradiction by any one, he had to have his own way in everything.

Q. Was he very smooth tempered?—A. No, he was not smooth tempered.

Q. Irritable?—A. Yes.

Q. Did he make any declaration to you as to what he thought himself to be, in the way of power or authority?—A. No, he did not make any statements to me, but in my presence he made a declaration that he was representing St. Peter.

Q. Did he aspire to any particular gift or pretend he was endowed with the abilities of a poet, musician, or orator?—A. No.

Q. You did not hear him boast of his great intellectual qualities?—A. No.

Q. Did he at any time communicate to you his views with reference to the way in which the country was to be divided in the event of his success?—A. He did in my presence.

Q. Tell us what he said to you about that as far as you can remember?—A. He was talking about the country being divided into seven provinces, one for the French, Germans, Irish, and I don't know what else, there were to be seven different nationalities.

Q. Do you remember anything else besides those you have mentioned, what other foreigners?—A. Italians.

Q. Hungarians?—A. I can't remember particularly very well, I know it was seven different provinces, and seven different nationalities.

Q. Did the plan he then stated appear to you a very feasible one?—A. I did not believe he could succeed in that.

Q. Did he say he expected any assistance from these people?—A. Yes, he mentioned he expected assistance from them, he mentioned he expected the assistance of an army of several nationalities, and I remember he mentioned the Jews. He expected their assistance and money, he was going to give them a province as a reward for their help. That is what I understood him to say.

Q. Did he tell you how he had arranged that or if he had made any arrangements with these people?—A. He might, but I don't remember.

Q. In his conversation with you, or with others in your presence on these subjects, did he at any time give you any intimation that he had any doubt of his success, that any obstacle could prevent him from succeeding?—A. No, he always mentioned that he was going to succeed, that it was a divine mission that he had, and that he was only an instrument in the hands of God.

Q. When he talked of other matters than religion and the success of his plans, how did he act and talk generally?—A. I never noticed any difference in his talk on other matters, because I never had much intercourse with him only during the time of the trouble, I met him once before that.

Q. Did he appear to be actuated by any friendship for other people, or did he appear to be wrapped up in himself? Did he appear to have any sympathy for any one except himself? Did he appear to think of any one but himself, I mean during these times you had conversation with him?—A. I could not answer that question, because I don't understand it rightly.

Q. When he spoke of religion and about the country, and in the different interviews with you or others, did you understand that he had any idea of thinking of the welfare of anyone at all except himself, that he was the sole person to be considered?—A. It seemed as if he was working in the interest of the Half-breed population and the settlers generally. He mentioned that.

Q. Did you communicate to anyone your impression of this man—what you thought of him?—A. I did.

Q. What did you think of him?—A.\* I thought the man was crazy, because he acted very foolish.

By Mr. ROBINSON.

Q. He had great influence over the Half-breed population there, hadn't he?—A. Yes, he could do almost what he wanted with them.

Q. Are you one of those who followed him?—A. No. I followed him, but against my will.

Q. What do you mean?—A. When a man has a stronger force than I have I have to follow him, he came to me with an armed force and I had to go.

Q. Do you say you were forced to follow him by violence? Is that what you mean?

—A. I don't mean to say I was forced exactly by violence. He came and brought me from my house, he came with armed men, and I saw it was no use resisting.

Q. Do you mean to say you followed him because of the armed men, and that that was all that influenced you?—A. Yes.

Q. He had great influence over all the Half-breed population?—A. I always thought he had lots of influence amongst the Half-breeds.

Q. I believe they looked to him as a leader and followed him?—A. Yes, they did.

Q. They relied up'n his judgment and advice?—A. They did.

VITAL FOURMOND SWORN, examined by Mr. Lemieux. (Arthur Lewis sworn as interpreter.)

Q. Your profession?—A. I am a Priest of St. Laurent, in the district of Carlton, an Oblat Father.

Q. For how long have you been a Priest?—A. Ten years. I arrived at the place in the year '75.

Q. Have you known the prisoner, Riel, since '84?—A. Yes, directly since his arrival. I knew the prisoner by what I had heard, but I had never seen him till then.

Q. Since his arrival in the country, have you had several conversations with the prisoner up to the time of the rebellion?—A. Very often.

Q. At St. Laurent?—A. At St. Laurent, at Batoche during the war.

Q. Had you any conversation with the prisoner on religious and political subjects?—A. Very often.

Q. Were you present at the meeting which Father André spoke of in which Riel's sanity was questioned?—A. Yes, I was present.

Q. Did you agree with the other Fathers in the opinion as to the sanity of the prisoner?—A. It was me consulted the Revd. Fathers.

Q. Were you personally acquainted with the facts upon which you based your opinion as to the insanity of Riel?—A. I was personally acquainted with the facts upon which they based their opinion.

Q. Will you please state upon what facts you based your opinion that the prisoner was not sane on religious or political matters?—A. Permit me to divide the answer into two, the facts before the rebellion, and the facts during the rebellion. Before the rebellion it appeared as if there were two men in the prisoner; in private conversation he was affable, polite, pleasant and a charitable man to me. I noticed that even when he was quietly talked to about the affairs of politics and government and he was not contradicted, he was quite rational, but as soon as he was contradicted on these subjects then he became a different man and he would be carried away with his feelings. He would go so far as to use violent expressions to those who were even his friends. As soon as the rebellion commenced then he became excited, and he was carried away and he lost all control of himself and of his temper. He went so far, that when a Father contradicted him he became quite excited, and he had no respect for him and he often threatened to destroy all the churches. He says: There is danger for you, but thanks for the friendship I have for you, I will protect you from any harm. Once I went to St. Antoine and there I met a number of priests, and Riel says: I have been appointed by the Council to be your spiritual adviser. I said our spiritual adviser was the Bishop, and Mr. Riel would not be him. There is only one way you can be our adviser, the only way you can become so is by shooting us, the only way you can direct us is by shooting us, and then you can direct our corpses in any way you like. That was my answer to him.

(The interpreter states that he does not feel qualified to correctly interpret the evidence, and Mr. Casgrain proposes that he translates the evidence given by the defence, and Mr. Fitzpatrick that given by the Crown; which is agreed to.)

Witness continued . . . . He has extraordinary ideas on the subject of the Trinity. The only God was God the Father, and that God the Son was not God, the Holy-Ghost was not God either. The second person of the Trinity was not God, and as a consequence of this the Virgin Mary was not the mother of God, but the mother of the son of God. That is the reason why he changed the formula of the prayer which is commonly known as "Hail Mary" Instead of saying "Hail Mary, mother of God" he said "Hail Mary, mother of the Son of God." He did not admit the doctrines of the Church of the Divine presence. According to his ideas it was not God who was present in the Host, but an ordinary man six feet high. As to his political ideas he wanted first to go to Winnipeg, and Lower Canada, and the United States, and even to France, and he said we will take your country even, and then he was to go to Italy and overthrow the Pope, and then he would choose another Pope of his own making.

MR. OSLER.—YOUR HONOR, we would prefer the interpretation should be done by a regular interpreter. I don't think it is within the ordinary rules of the evidence that it should be done as it is now. It is a question even whether even if consented to as in this case, it would be binding in a criminal case.

Court here adjourned for lunch.

On Court resuming, Louis Bourget was appointed interpreter.

Q. Before adjournment you said that Riel had said he was going down to Winnipeg, that he was going to the Province of Quebec, then he was going to cross the ocean and go on to Paris and Rome, and have a new Pope elected. He would get one appointed or appoint himself as Pope?—A. Yes, he said something to that effect.

Q. Have you made up your mind about the prisoner being sane, as far as religious matters are concerned?—A. We were very much embarrassed first, because sometimes he looked reasonable and sometimes he looked like a man who did not know what he was saying.

Q. Finally?—A. We made up our minds there was no way to explain his conduct, but that he was insane; otherwise, he would have to be too big a criminal.

Q. As the agitation was progressing, did you notice a change in his conduct, in his mind?—A. A great change, he was a great deal more excitable.

Q. At the time of the rebellion, you formed the opinion that he was insane?—A. Yes, I can tell some facts to that effect.

Q. If it is not too long, will you tell what it is?—A. Once he was asked by the people to explain his views on religion, on religious matters, so they could see through them. When he found out the clergy were against him, that he was contradicted, he turned against the clergy, particularly against me, and opposed the clergy, and kept following me into the tents wherever I would go. He compelled me to leave the place, go down to the river and cross to the other side. There were several women there who came to shake hands with me. The prisoner had a very extraordinary expression upon his face, he was excited by the opinion he gave upon religion. The prisoner spoke to the women and said: "Woe unto you if you go to the priests, because you will be killed by the priests." All of a sudden, when I came to the boat which was not very easy to get into, the prisoner with great politeness came up and said, "Look out Father, I will help you to get on the boat."

Q. In an instant he passed from great rage to great politeness in a very few minutes?—A. Yes. The first time I was at Batoche I was brought before the Council by the prisoner.

Q. When you first came to Batoche, were you friends with the prisoner?—A. Yes, I was.

Q. You repeat what you have already said that in matters political and religious the prisoner was not in his mind?—A. Yes.

Q. And could not be controlled?—A. Yes.

Q. And was not sane?—A. Yes.

Q. What happened at the Council house when he brought you there?—A. I was to render on account of my conduct as a priest and several other matters against the provisional government. The prisoner got very much excited and called me a little tiger.

Q. Why did he call you a little tiger?—A. I don't know, I suppose because I contradicted him. It was about ten o'clock when I asked to go, late at night, and then the prisoner became very polite and offered a carriage to convey me. The Council was in the room above, and there was a stairs I had to go down, and I had a parcel in my hands under my arms. With extraordinary politeness, the prisoner took the parcel and said "Father, you may hurt yourself."

Q. Did he ever show you a little book in which he had written those prophecies in the blood of the buffalo as to the future of this country?—A. I heard of it but I never saw it, the prisoner never spoke to me about the book.

By MR. CASGRAIN.

Q. It was when the prisoner was contradicted that he became uncontrollable?—A. Yes, that is what I said.

Q. It was then the prisoner became uncontrollable?—A. Yes, and at other times too.

Q. The Half-breeds did not contradict him on religious matters?—A. Some of the Half-breeds did contradict him.

Q. A great number, most of the Half-breeds followed him in his religious views?—A. I cannot say, "most" would be too many.

Q. A great number?—A. Yes, and several did not dare to express their views.

Q. Before the rebellion began he was quiet and sane in mind?—A. Yes, relatively, except sometimes, when he was contradicted, as I said this morning.

Q. When do you fix the commencement of the rebellion?—A. The 18th of March. The prisoner came himself and proclaimed the rebellion.

Q. He made you take an oath of neutrality towards the provisional government, during the rebellion?—A. No, there was no oath but there was a written promise, concerning the exercise of the ministry.

Q. Was it in terms of neutrality towards the provisional government?—A. Yes.

Q. You said there was no other way to explain his conduct than to say he was insane or a great criminal, and you would rather say he was insane. Rather than say he was a great criminal, you would say he was insane?—A. I did not say that, but in my mind it was the best way to explain it.

Q. You had naturally a great deal of friendship for the prisoner?—A. I could not have friendship, because I did not know him at the beginning, and afterwards, when I became acquainted with him, the friendship was broken off.

Q. Between the time when he came to the Mission and the time you had a rupture with him, is it not true that you and he were friends, that you had a great deal of friendship for him?—A. Yes, as I would have for you.

Q. Religion has a great influence on Half-breeds?—A. In what sense?

Q. In a general way. They are a religious people by instinct?—A. Yes, religion has a great influence with them.

FRANÇOIS ROY sworn, examined by Mr. FITZPATRICK.

Louis Bourget, interpreter.

Q. You are a doctor of medicine?—A. Yes.

Q. In the city of Quebec?—A. Yes, I belong to Quebec.

Q. What is your position in Quebec?—A. For a great number of years I have been medical superintendent and one of the proprietors of the lunatic asylum of Beauport.

Q. How long have you been connected with the asylum as a superintendent?—A. More than fifteen or sixteen years.

Q. You are also a member of the Society of American . . . of the Society of the Superintendents of the insane Asylums of America?—A. Yes.

Q. During these fifteen or sixteen years, your duties called you to make a special study of the diseases of the brain? Is it not true that it has been necessary for you to make a special study of diseases of the brain?—A. Yes, it was my duty to go to the principal asylums in the United States, and see how the patients were treated there.

Q. Had you any connection with the asylum at Beauport, in 1875 and 1876?—A. Yes.

Q. You were at that time superintendent of the asylum?—A. Yes.

Q. In those years or about that time, did you have occasion to see the prisoner?—A. Certainly, many times.

Q. Where did you see him?—A. In the asylum.

Q. Can you tell the date?—A. Yes, the date was taken from the register when I left Quebec.

Q. What date is that?—A. I took the entry from the register in the hospital in the beginning of this month.

Q. Was he admitted with all the formalities required by law?—A. Yes.

Q. Will you tell me what time he left the asylum?—A. He was discharged about the 21st January, after a residence in the house of about nineteen months.

Q. Had you occasion to study at that time the mental disease by which the prisoner was affected?—A. Yes.

Q. Did you have relations with him during that time and did you watch him carefully during that time?—A. Not every day, but very often.

Q. Can you say now what mental disease the prisoner was then suffering from?—A. He was suffering from what is known by authorities as magalomania.

Q. Will you give the symptoms of this disease?—A. Many symptoms of the disease are found in the ordinary maniacs. The particular characteristic of the malady is that in all cases they show great judgment, in all cases not immediately connected with the particular disease with which they suffer.

Q. Will you speak from memory or by referring to the authors, what are the other symptoms of this disease?—A. They sometimes give you reasons which would be reasonable if they were not starting from a false idea. They are very clever on those discussions and they have a tendency to irritability when you question or doubt their mental condition, because they are under a strong impression that they are right and they consider it to be an insult when you try to bring them to reason again. On ordinary questions they

may be reasonable, and sometimes may be very clever. In fact, without careful watching they would lead one to think that they were well.

Q. Was he there some weeks or months before you ascertained his mental condition?—A. Yes, I waited till then to classify him as to his mental condition. We wait a few weeks before classifying the patients.

Q. Does a feeling of pride occupy a prominent position in that mental disease?—A. Yes different forms, religion and there are great many with pride. We have kings with us.

Q. Is the question of selfishness or egotism prominent in those cases?—A. Yes.

Q. Are they liable to change their affections rapidly?—A. Yes, because they are susceptible to the least kind of attraction.

Q. In that particular malady are the patients generally inclined to be sanguine as to the success of their project?—A. The difficulty is to make them believe that they will not have success; you cannot bring them to change, that is a characteristic of the disease.

Q. Are people who suffer of this particular form of disease liable to be permanently cured, or are they liable to fall back into the old malady?—A. They generally remain in that condition, they may have sensible moments and the intermission wouldn't interfere.

Q. In a case of this kind, could a casual observer, without any medical experience, form an estimate as to the state of the man's mind?—A. Not usually, unless he makes a special study of the case. There is more or less difference in each case.

Q. What is the position of the mind of a man suffering from this disease, in reference to other subjects which do not come within the radius of his mania?—A. They will answer questions as any other man with a sense of reason, it is only when they touch the spot of their monomania that they become delirious.

Q. You stated that the prisoner left the asylum in 1878?—A. In January 1878.

Q. Have you ever seen him from that time till yesterday?—A. No, never.

Q. Do you recognize him perfectly as the same person who was in your asylum in 1876 and 1878?—A. Yes.

Q. Were you present at the examination of the witnesses that took place to-day and yesterday?—A. Partly.

Q. Did you hear the witnesses describing the actions of the prisoner as to his peculiar views on religion, in reference to his power, to his hoping to succeed the Pope and as to his prophecies yesterday and to-day?—A. Yes.

Q. From what you heard from those witnesses, and from the symptoms they prove to have been exhibited by the prisoner, are you now in a position to say whether or not at that time he was a man of sound mind?—A. I am perfectly certain that when the prisoner was under care, he was not of sound mind, but he became cured before he left, more or less; but from what I heard here to-day I am ready to say that I believe on those occasions his mind was unsound, and that he was laboring under the disease so well described by Dagonst.

Q. Do you believe that under the state of mind as described by the witnesses and to which you refer, that he was capable or incapable of knowing the nature of the acts which he did?—A. No, I do not believe that he was in a condition to be the master of his acts and I positively swear it, and I have people of the same character under my supervision.

Q. Will you swear from the knowledge you have heard?—A. From the witnesses?

Q. That the man did not know what he was doing or whether he was contrary to law in reference to the particular delusion?—A. No, and for another reason, the same character of the disease is shown in the last period, the same as when he was with us.

there is no difference. If there was any difference in the symptoms, I would have doubts, but it was of the same character so well described by Dagoust, who is taken as an authority and has been adopted in France as well as in America and England.

Q. The opinion you have formed as to the soundness of his mind is based on the facts that the symptoms disclosed by the witnesses here yesterday and to-day are to a large extent identical with the symptoms of his malady as disclosed while he was at your Asylum?—A. Yes.

By Mr. OSLER.

Q. You are one of the proprietors of the asylum?—A. Yes.

Q. It is a private asylum under government supervision?—A. It has the character of a private asylum as to the condition of the board of the patients, but it is a public institution in that sense of the word, we receive patients by order of the Government.

Q. But it is a private asylum as far as its financial basis is concerned?—A. No, because it is ruled by the Government.

Q. Is it owned by the Government or by the proprietors?—A. By the proprietors.

Q. It is only subject to inspection by the Government?—A. To inspecting and visiting besides.

Q. Is the profit or loss of the establishment borne by the proprietors?—A. Yes, by the proprietors.

Q. What is the extent of your accommodation, how many patients?—A. I do not know whether you have the right to ask these questions.

Q. How many patients have you got?—A. Sometimes the number increases and sometimes it diminishes, according to the discharges. I think there would be an average of from 800 to 900.

Q. It is from the profit of keeping these patients that the proprietors make money?—A. And to pay expenses and the interest upon a large capital put in.

Q. You are paid by the Government and paid by private patients?—A. When we have them.

Q. And the proprietors manage it as a place to cure and where they board these thousand people?—A. We have a place to cure and take care of those poor people who cannot take care of themselves.

Q. Who manages the institution?—A. There is a medical superintendent.

Q. Who manages the financial part of the institution and looks after the bread and butter of the patients?—A. We have a treasurer to look after that.

Q. You have a medical superintendent to look after the medical department?—A. Yes, and we have rules and regulations of the house.

Q. The proprietors only have a general supervision?—A. More than that, I myself am a specialist.

Q. You are quite a specialist in keeping a boarding house?—A. No.

Q. You have to look after that?—A. No.

Q. Who looks after the financial part?—A. My co-associates.

Q. You do not look after that?—A. No.

Q. You look after the patients?—A. Yes I take a special interest in the insane and those who require treatment.

Q. Will you tell me whether you ever prescribed or looked personally after the prisoner?—A. I did.

Q. Under what name was the prisoner in the Asylum?—A. Under the name of Larochele.

Q. Under what name does he appear in your books?—A. That is it.

Q. Did you know his right name?—A. No, I was not present when he entered the first day.

Q. Have you got the papers with you under which you held him?—A. I have this memorandum book.

Q. I want to see the papers?—A. No, I have not brought the books.

Q. Have you any papers showing what disease he had and under whose certificate he was confined?—A. I cannot give you what I have not got.

Q. There are papers and certificates filed?—A. Those papers are kept by the Provincial Secretary and I would have to get them from him.

Q. Where did you make that note from?—A. From the register, taking the exact date.

Q. It is from that register only that you are able to speak of the case?—A. No, it is only a help to my memory so as to be exact as to date.

Q. Among the thousand patients that were there at the time, have you a perfect recollection of his symptoms?—A. Yes, because he was a special case and gave me a good deal of care.

Q. Did you inquire into his former history?—A. No, except as to the fact of his disease.

Q. You did not get the history of the patient?—A. I asked some questions as to the conditions of his character and his disease.

Q. Was there necessity by reason of his violence to have him under restraint?—A. Yes, sometimes he was very violent.

Q. You found out what his name was?—A. He confessed to me who he was.

Q. That violence was after he was admitted into the Asylum?—A. Yes.

Q. All this treatment would appear in the books, there would be a history of the case?—A. Not always, it depends. It is in the medical book.

Q. You have no book or copy of the book here?—A. No.

Q. You have brought us nothing?—A. Except what I am able to tell from memory.

Q. You knew a long time before that you were going to be examined as a witness in this case, you had been spoken to about it shortly after the capture of the prisoner?—A. No, I was asked by telegraph.

Q. You were seen by the friends of the prisoner shortly after he was arrested?—A. No.

Q. When where you spoken to about giving evidence at the trial?—A. Some days before the trial came on.

Q. Did it not strike you that it would be important to have a written history of the case, the cause of his committment, did it not strike you that that would be a matter of importance in considering a case of this kind?—A. No, I thought they would ask me my opinion of the case.

Q. That is what you thought would be satisfactory?—A. I never thought of coming at all at first.

Q. At the time he was there, you attended how many cases per

—A. I saw the most important cases, and took a great deal of interest in them on account of the responsibility of the treatment.

Q. And the others would carry out the treatment?—A. They would consult me and I would consult them.

Q. How many superintendents have got?—A. None, co-associates.

Q. How many patients had you under your immediate treatment in the year '77?—A. I am not able to tell you.

Q. 100 cases?—A. No, we have not 100 cases of acute mania under our hands unfortunately.

Q. How many did you have under your personal treatment?—A. The cases of which I make a special study are acute mania.

Q. How many of such cases would you have in a year?—A. Not many unfortunately.

Q. How many in a year?—A. 25 or 30 would be about the average of acute cases.

Q. We will speak of '77; can you give us the names of those men whom you treated in '77?—A. I will give you some of the names, I cannot tell you all. If you mention the names I would know about them.

Q. The treatment of those persons is gone from your mind?—A. More or less.

Q. You see the value of written testimony here?—A. There are certain cases.

Q. Did you not know that this man was Riel?—A. I heard that he was and he himself admitted to me that his name was Riel.

Q. Who put him in the Asylum?—A. The Government.

Q. On whose certificate, on what medical certificate was he put in?—A. I do not know, it is in the department of the Provincial Secretary. We admit them as sent by the Government.

Q. You are paid by the Government?—A. Yes.

Q. That is the local Government of Quebec?—A. Yes, they see that everything is correct. They have a special physician for that.

Q. You say the main feature of this disease is what? what is the leading feature of this disease do you say? do you say it is a fixed idea incapable of change?—A. That one thing I may say.

Q. Will you answer the question, do you say that the leading feature of the disease is a fixed idea incapable of change by reasoning?—A. I did not succeed in changing . . .

Q. I ask you is that the leading feature of the disease?—A. That is one of the features.

Q. Is it the leading feature?—A. It is one of them, it is one of the characteristic features.

Q. A fixed idea with a special ambition incapable of change by reasoning?—A. Yes, we did not succeed in changing the idea of the patient.

Q. Well, that fixed idea is beyond his control?—A. I would'nt be prepared to say entirely.

Q. If it is beyond his control, he is an insane man?—A. Yes.

Q. Is not this fixed idea beyond his control?—A. Yes.

Q. If within his control, it is an indication of sanity?—A. That he was trying to get better, he may have had intermissions in which he understood his condition.

Q. If it is subject to control, it is not a fixed idea, that is what we have agreed upon as the leading characteristic, do you understand?—A. I do not know what you are after.

Q. If this idea is subject to control then this man is sane?—A. There may be intermissions when he can control himself, because then the insanity disappears.

Q. And then there is a lucid interval?—A. Yes.

Q. During the period of the insanity the idea possesses the man and it is not controllable?—A. No.

Q. Is that the leading feature of the disease?—A. Partly, do you know of any other?

Q. I am not an expert in insanity, can you give me any other leading feature of the disease?—A. I have no other feature to give.

Q. That is the only one you can describe?—A. I gave you the features and characteristics of the disease well enough.

Q. I am going to keep you to that unless you want to enlarge upon it, I am going to build my theory upon that; you can enlarge it as much as you like now, but do not go back upon me afterwards? Is there any other leading feature of the disease?—A. I have given you the principal characteristics of his disease.

Q. I want to get the peculiar characteristics of this form of mania?—A. They have intermissions, sometimes for months and sometimes for days. The least contradiction excites them.

Q. There is a class of healthy intermissions, sometimes a man likes beer and sometimes whiskey. I want to get the characteristic that distinguish him from a healthy man, not those that we have in common with the insane?—A. We always answer reasonably, but when a man comes and pretends to know everything and talks nonsense, we expect that to a certain extent he has lost his reason.

Q. We want to get at the leading characteristic, you have given us one feature is there only the one feature? If there are any other features, say so?—A. I won't give you any.

Will you stick to it?—A. Yes.

Q. Then what leading idea not subject to change by reason is it that you have fixed upon in the evidence yesterday or to-day bringing you to the conclusion that he is of unsound mind?—A. It is because of some symptoms.

Q. Tell me the symptoms that bring you to the conclusion that this man is within the rule you have laid down? Tell me the facts that bring him within that rule?—A. The facts are that he has always kept that characteristic.

Q. Answer that question?

MR. FITZPATRICK.—This witness has been speaking in English for some time past. If the witness does not understand the questions properly he should answer the questions in French.

MR. OSLER.—If the man wants to hide himself under the French, he can do so.

Q. You understand what I mean?—A. Parlez-moi en français.

MR. OSLER.—It will be for the jury to say whether he is making the change at his own suggestion or at that of the counsel on the other side.

Q. Having given a rule to test this insanity what fact is there disclosed in the evidence that leads you to say that the prisoner comes within the rule?—A. That part of the evidence given by the clergy to day shows in a positive manner that the prisoner has manifested symptoms that we meet in megalomania.

Q. That is not an answer to my question. I want the fact on which you bring the

prisoner within the rule which you have laid down?—A. I want to take the fact proved by the evidence

Q. Tell me the fact upon which you rely?—A. The prisoner gets his theory from the idea that he has a mission.

Q. Do you understand that to be the fixed idea not controllable by reason?—A. I believe so, because reason has never so far succeeded in changing that idea that he has.

Q. Is that the only reason you have for saying that the prisoner is insane?—A. It is, and I believe it to be sufficient.

Q. Is it consistent with a man laboring under an idea not controllable by reason, that he would abandon that idea for \$35,000?

MR. FITZPATRICK.—I object to that; that has not been proved.

HIS HONOR.—What is the question?

MR. OSLER.—Is it consistent with a man having an idea not controllable by reason, that he will abandon that idea for \$35,000? Let that be a hypothetical question?

MR. FITZPATRICK.—I object to the question.

HIS HONOR.—He can put hypothetical questions.

MR. OSLER.—My learned friend must know that the question is regular and should not interfere at a critical part of the examination, so as to give the witness a cue.

MR. FITZPATRICK.—I did not have any such intention. We have the right to object, and we intend to exercise that right.

MR. OSLER.—You should not exercise it in such a way as to give the witness a cue. That is the second cue you have given the witness. You gave a him cue in regard to speaking in French.

Q. Will you answer the question: is it consistent with the leading feature of this disease, an idea not controllable by reason, that he should abandon that idea for money?—A. I think it is possible that the prisoner might want to obtain the money to attain the object he has in view.

Q. It may be consistent if he wants the money for the object he wishes to obtain?—A. Yes.

Q. Do you say that that answer is consistent with the idea that he is not able to control his actions?—A. Yes, it gives it more strength.

Q. Wherein does that differ from the idea of a sound mind?—A. It is very important in this case particularly, the patient shows great ability in taking the necessary means to accomplish the particular mission that he believes has been given him, he was reasoning from a false basis, and that is a characteristic of this disease.

Q. Do you agree with this proposition: "An insane delusion is never the result of reasoning and reflection"?—A. I don't understand what you want to get at.

Q. I want you to give an answer, do you agree with that proposition, that an insane delusion is never the result of reason and reflection?—A. I believe that he makes false reasoning from a false principle.

Q. Is delusion produced by reasoning and deduction?—A. It has been by hallucination and .....

Q. That is not an answer to my question. I want to know whether a delusion, an insane delusion, may be the result of reasoning and deduction, or is it always the production of the disease?—A. Sometimes, not always, sometimes by false inspiration.

Q. Sometimes by sane inspiration?—A. Yes.

Q. You won't answer my question?—A. I have done my best.

Q. Have you not the capacity to understand it?—A. That may be your opinion.

Q. Take an insane delusion in a man's head, can it be brought by reasoning and deduction, or is it the outcome of the disease?—A. It is the consequence of his disease.

Q. And, therefore, it has nothing to do with reason and deduction?—A. I believe that when a patient is under the influence of hallucination, he is quite beyond control.

Q. You say it is the first principle of irresponsibility, whether it is the result of disease or whether it is the result of reason, distorted reason if you will, it is only by disease that the insane delusion is produced?—A. Yes, by the disturbance of the brain which there is in every case.

Q. And it is by reason of it being a product of the disease that it is not controllable?—A. It is a consequence of it.

Q. Why do you say this prisoner during this time had no knowledge of right from wrong?—A. I say that the prisoner was under the influence of his delusion that he had a special mission to fulfil.

Q. From what facts in evidence do you say that the prisoner could not distinguish between right and wrong?—A. They never could prove to him that that mission never existed.

Mr. FITZPATRICK.—It is impossible for us to accept such a translation as is now being given of the evidence.

Mr. GREENSHIELDS.—The last two questions have not been translated properly.

Mr. OSLER.—We have done everything we could to procure a translator, we did not want one for our part of the evidence, and it was for the defence to produce one in tendering a witness whose evidence had to be translated.

Mr. FITZPATRICK.—I say it is entirely wrong, it should be taken down in French.

Mr. OSLER.—It has been taken down in French as well as in English.

Mr. FITZPATRICK.—It has gone to the jury in English.

Mr. OSLER.—The witness can explain himself in English but was told not to do so. It was not my difficulty.

Mr. FITZPATRICK.—I think that the Act of '80 provides for the use of both languages.

HIS HONOR Mr. Justice RICHARDSON.—The court can take the best interpreter to be had.

Mr. FITZPATRICK.—All right, if you say so.

Mr. ROBINSON.—When they hear it improperly translated, they should say so and it can be repeated.

WITNESSES . . . It could not be proved to him that the mission did not exist.

HIS HONOR —Is that answer correct?

A. Yes.

Mr. OSLER.—Q. Is that the only reason why you should say the prisoner could not distinguish between right and wrong?

HIS HONOR.—The reporter had better read the question to him and see whether it has been correctly translated.

(Reporter reading from his notes). "From the facts in evidence, do you say the prisoner could not distinguish between right and wrong?—A. They never could prove to him that that mission never existed.

HIS HONOR.—Is that the proper answer?—A. Witness, yes

MR. OSLER.—Q. Is that the only reason why you say the prisoner could not distinguish between right and wrong?—A. I give that as one of the reasons.

Q. Give that . . . Give me any other reason?—A. The reasons given by the last witness.

Q. I want you to state the facts that the witnesses spoke of, from which you came to your conclusion?—A. The facts are that he believed he had a mission to fulfil in the North-West.

Q. What evidence have you that that was an insane delusion? Because he stated he had a letter from the bishop containing such an allegation?—A. I never heard that he was inspired by such a letter.

Q. Do you say that any man claiming to be inspired is insane so as not to be able to distinguish between right and wrong? A. It is possible.

Q. Is it a true proposition scientifically?—A. The proposition as given by the patient is not always reasonable.

Q. Might it not be evidence of fraud on the part of the man making it?—A. Not when the same idea has been sustained at different times without reason.

Q. When the idea is sustained from time to time it is only sustained with insanity, is that the answer?—A. Yes particularly with that kind of delirium.

Q. Do you know the history of Joseph Smith the Mormon, would you consider him insane?—A. No, I do not know his history.

Q. Do you know anything of Brigham Young, would you call him insane? A. To my mind he was more or less insane.

Q. Would you call Brigham Young's ideas of prophetic inspirations inconsistent with the knowledge of what is right and wrong?—A. It would require an examination. If you send him to the asylum for a few months, I will make a study of the case.

Q. Does not the whole evidence sustain the theory that it was a skilful fraud?—A. I don't think so. I saw the prisoner at my place, he always retained the impression that he had a mission, when he could have none and he had nothing to gain by it.

Q. I am asking the general question whether the evidence upon which you have formed your opinion is not consistent with a skilful fraud?—A. It might be possible, there might be such an understanding, but it is not my opinion.

Q. It may be that it is consistent with a skilful fraud?—A. There is no evidence in this case that can prove that there was fraud.

Q. Do you say the evidence is inconsistent with a skilful fraud?—A. When I had the prisoner under my care . . .

Q. I am asking you about the fact in evidence on which you found your opinion?—A. In the mental condition of the prisoner, I think he is not . . .

Q. That is not an answer at all. Can you give me an answer?—A. Put the question in another way.

Q. If you cannot answer it in English or French, I may as well let you go, you can go.

---

DR. DANIEL CLARK, sworn, examined by Mr. Fitzpatrick.

Q. You belong to Toronto, do you not?—A. I do.

Q. What is your position there, Doctor?—A. A superintendant of the Toronto Lunatic Asylum.

Q. Have you had any experience in the treatment of the insane?—A. A small experience.

Q. Limited to how many years, Doctor?—A. Between nine and ten years.

Q. Has it been your fate to attend occasionally as expert in cases of lunacy?—A. Yes, very often.

Q. Have you had occasion to examine this prisoner here at the bar?—A. I examined him three times, twice yesterday and once this morning.

Q. Did you attend at the examination of the other witnesses in this case yesterday and to-day?—A. I did,

Q. From what you heard from the witnesses here in court, and also from the examination which you have made of the accused, are you in a position to form any opinion as to the soundness or unsoundness of his mind?—A. Well, assuming the fact that the witnesses told the truth, I have to assume that . . . and assuming also that the prisoner at the bar was not a malingerer (that is English I believe), then of course there is no other conclusion that any reasonable man could come to, from my stand-point, of course, that that man who held these views and did these things must certainly be of insane mind.

Q. Do you consider, Doctor, that a person suffering from such unsoundness of mind as you say that this man is suffering from, is capable of knowing the nature of the acts which they do?—A. Why, the insane understand, many of them, the nature of the acts which they do, except in dementia cases, and melancholia, and cases of mania even, they often know what they do, and can tell me what they did, tell all about it afterwards. It is all nonsense to talk about a man not knowing what he is doing, simply because he is insane.

Q. Do you think that man was, in the circumstances detailed by the different witnesses, in a position to be able to say or be able to judge of what he was doing, as either wrong or contrary to law?—A. Well, that is one of the legal metaphysical distinctions in regard to right and wrong, and it is a dangerous one, simply because it covers only part of the truth. I could convince any lawyer if they will come to Toronto Asylum, in half an hour, that dozens in that institution know right and wrong, both in abstract and in concrete, and yet are undoubtedly insane. The distinction of right and wrong covers part of the truth. It covers the largest part of the truth, but the large minority of insane do know right from wrong, it is one of these metaphysical subtleties that practical men in asylums know to be false.

Q. There are some lawyers who think it false also?—A. Well the lawyers find it in the books, and they take it for granted it must be correct.

Q. Do you consider from the knowledge which you have of this individual, that at the time the events detailed by the witnesses here took place, that is to say, in March, April and May last, that he was laboring under such a defect of reason from disease of the mind, that he did not know that what he was doing was wrong?—A. I think he did know. I think he was quite capable of distinguishing right from wrong.

Q. Quote the particular acts, Doctor?—A. Well, to quote the particular acts, I presume, if you were to ask him to define what is right and what is wrong, he could possibly give you a good definition, as far as I could judge from my examination of him.

Q. Was he in a position to be able to say at that time, and to act at that time as an ordinary sane man would have done?—A. Assuming the evidence given by the witnesses, he did not act as a sane man would have done, for this reason, that no sane man would have imagined that he could come into the Saskatchewan, and that he could gather around him such a force as would enable him to become monarch of this country. That it could be divided up into seven divisions, giving each to a different nationality. He was not an ignorant man. He was not like an Indian who never read a newspaper, and knew nothing of the country around him. He had travelled, he had been in Ottawa, he

had been in the United States, and he knew all about the power of Britain and the Dominion. And for him to imagine that he could come here and raise a few Half-breeds in the Saskatchewan and keep up a successful warfare, and divide the country into seven divisions and with different nationalities, was certainly not a thing that a man, with an ordinary understanding, would ever think he could succeed in.

Q. So that you think at that time he was certainly insane and of unsound mind?—  
A. Assuming the statement made... I think so.

Q. To be true?—A. Yes.

Q. You take into consideration of course in this opinion, all the evidence given as well by the doctors as by the other witnesses?—A. Yes, I assume of course as I said before that not only the evidence given is correct, but that he was not a deceiver. I might say if the court will allow me, that when I come to cases of this kind, I am not subpoenaed for one side more than another, I am here only subpoenaed to give a sort of medical opinion, and therefore I stand in that capacity.

Mr. Justice Richardson. That is well understood, Dr Clarke.

By Mr. OSLER.

Q. Then, Doctor, he would know the nature and quality of the act that he was committing?—A. He would know the nature and quality of the act he was committing, subject to his delusions, assuming them to be such.

Q. He would know the nature and quality of the act he was committing and he would know if it was wrong?—A. If it was wrong based upon his delusion, yes.

Q. And all the facts are quite compatible with a skilful shamming by the malinger'ing?—A. Yes, I think so, I think that no one, at least I say for myself of course, that in a cursory examination of a man of this kind who has a good deal of cunning, who is educated, that it is impossible for any man to state on three examinations whether he is a deceiver or not. I require to have that man under my supervision for months, to watch him day by day before I could say whether he is a sham or not.

Q. Months under your supervision to say whether he is a sham or not?—A. Yes.

Q. And really the only grounds upon which you would form an opinion as to his insanity is the commission of the crime?—A. No, not the commission of the crime. I form an opinion of his insanity from the statements made by the witnesses, both anterior to the crime and since that time.

Q. But you told the court and jury just now that what struck you was the insane idea of seeking to take possession of the country and divide it into provinces?—A. Yes that is one idea.

Q. That gave you the greatest idea of his insanity?—A. One, and then the other one was he was a Roman Catholic and among Roman Catholic people, among people attached to their priests, and he went among that people endeavouring to conciliate them as he supposed in order to get them educated up in any schemes he had in view. And yet he goes to work and says at once, "I want to depose the Pope".

Q. But did you notice also this, that he gets the people to follow him?—A. Some of them do.

Q. Yes, but he got the people to follow him with their guns?—A. They followed him on another basis.

Q. They elected him Prophet?—A. Yes, and he told me this morning he was a Prophet and he knew the jury would acquit him because he knew what was coming beforehand.

Q. Then, don't you think that this is perfectly consistent with such leading spirits as Joseph Smith and Brigham Young?—A. No, it is not.

Q. Not consistent ?—A. No, and I will tell you the reason why.

Q. Well I don't want the reason beyond your opinion ?—A. Well, it is not consistent.

Q. It is not consistent however with fraud ?—A. Consistent with fraud ?..... Yes, anything is consistent with fraud that is not discovered.

Q. You cannot say that it is not fraud ?—A. No I cannot.

Q. And there is nothing here to show you in the state of his intellect that he was not able to distinguish between right and wrong and know the quality of the act which he was committing? A. No, I say that I think that he knows what right is from wrong and know the quality of the act he was committing, subject to his delusions, but mind you, I want to add to that, that many of the insane know right from wrong.

Q. And you know Dr. very well, that there is a class of insanity that is held responsible to the law ?—A. You know I am not allowed to say anything about responsibility legally.

Q. You know that there is conflict between the courts and the doctors ?—A. I know there is.

Q. And you know that the doctors have an idea that all mental diseases should be acquitted of crime ?—A. No they don't all. For instance Maudsley has written a small book on the responsibilities of the insane. He is a most prominent man in England.

Q. He brings in, and the doctors have a tendency to bring in as irresponsible a very much larger class than the courts and lawyers ?—A. I think not, I think of late years such men as Maudsley, Buchnell and Schuch, &c., and some of these recent investigators lean to the idea that insanity *per se* does not absolve from responsibility, you have to take each case on its own merits.

Q. There is a large class of insane people or cranks ?—A. No, you cannot say, or cranks, because a crank is a different man altogether. A crank is a man who is normally a peculiar man from his birth upwards. An insane man is a man that has become so out of usual conduct, from disease.

Q. I did not bracket them together, I put them in the alternative ?—A. You said "or cranks," I thought you meant lunatic equal crank.

Q. I put them as coming to each other's border line ?—A. I thought you had an equation.

Q. It is so that a large number, then I should say, of insane persons ought to be responsible to the law ?—A. There are some that are.

Q. For they know right from wrong and know the nature and quality of the act they perform ?—A. When I speak about responsibility it is said the court should decide.

Q. That is when you are examined in chief but on cross-examination we have a little more liberty ?—A. I see.

Q. You have been an expert witness in criminal cases ?—A. Yes.

Q. How frequently ?—A. Well I don't know, perhaps 9 of 10 times, perhaps more. I don't remember exactly the number.

Re-examined by MR. FITZPATRICK.

Q. You said a moment ago that the conduct of this man might be consistent with the conduct for instance of such men as Smith and Young, and you were about to make distinction between the two and you were stopped ?—A. Oh! Smith and Young were religious and enthusiasts, they carried out consistently their system. If you read Brigham Young's bible or if you read Mahomet's Koran if you like, or if you read any of those books issued by those men who are religious enthusiasts you will find that consistently

with common sense they have tact and discretion to carry on successfully till the end of their lives without intermission, a successful crusade of this kind, and their books contain sufficient consistency throughout to show you that these men were sound in mind as much as nature provided them with sound mind. That is the difference.

Q. Do you find anything of that kind in the present case?—A. No, I don't think he would make a very good Brigham Young, or El Mahdi.

Q. You say that he is quite capable of distinguishing right from wrong subject to his delusions?—A. Subject his particular delusion, yes.

MR. LEMIEUX.—This closes our defence, your Honor.

MR. ROBINSON.—We have some witnesses in rebuttal.

DR. JAMENS WALLACE, sworn, examined by Mr. Osler.

Q. Dr. What is your position?—A. I am medical superintendent of the asylum for the insane at Hamilton, Ontario.

Q. An institution having how many patients on the average?—A. Somewhere over 600.

Q. How long have you been making a branch, a specialty of the insane, of the study of the insane?—A. I have been in charge of that asylum nearly 9 years, but I have been studying insanity for a few years more than that.

Q. For more than 9 years?—A. Yes.

Q. And you see every variety of it, I suppose?—A. All shades and varieties.

Q. Now, did you devote yourself to the medical branch of it?—A. Entirely.

Q. You have nothing to do with keeping the hotel or boarding house?—A. Well, I have the general superintendence of the house, but I devote nearly all my time to the medical department of the asylum.

Q. Have you been listening to the evidence in this case?—A. Yes.

Q. Have you examined or had an opportunity of seeing the prisoner? A. I saw him for about half-an hour, that is alone, not in court.

Q. And you have been here during the.....?—A. During the sitting of the court.

Q. Have you formed an opinion of his mental responsibility, of his sanity or insanity?—A. I have, so far as my time and opportunities enabled me to do so.

Q. What is your opinion?—A. I have not discovered any insanity about him, no indication of insanity.

Q. What would you say then in view of the evidence and your examination; is he of sound mind or is he not?—A. I think he is of sound mind.

Q. And capable of distinguishing right from wrong?—A. I think so.

Q. And know the nature and quality of any act which he would commit?—A. Very acutely.

Cross-examined by MR. FITZPATRICK.

Q. You have no doubt whatever in your mind, from the examination you have made of this man during half an hour and from the evidence which you heard here, that he is of perfectly sound mind?—A. Well, I should qualify, that is I should qualify my answer to that question. I have had only a limited examination of him and in any case of obscure

mental disease, it sometimes takes a very long time before one can make up their mind, but from what I have seen of him I say that I have discovered no symptoms of insanity.

Q. So that what you now say, Doctor, is purely and simply this, not that he is not insane, but that you have not been able to discover any symptoms of insanity?—A. That is what I say, I say that I have not discovered it. It would be presumption for me to say that he is not insane from the opportunities that I have had, but at the same time my opinion is pretty fairly fixed in my mind, that he is not insane.

Q. You are aware that a great many cases exist in which men are found to be perfectly insane, without its being possible to discover any trace of insanity?—A. Oh! sir, I have had patients in my Asylum for weeks sometimes before I found any symptoms of insanity.

Q. You are aware also, are you not, that there have been cases in England in which men were examined for a whole day and cross-examined by such men as Erskine for instance, perfectly insane, and during the whole day it was impossible for Erskine to discover that the man was insane?—A. Yes, I dare say such cases may exist, I am quite certain such cases have existed.

Q. You are quite certain such cases are in existence?—A. Yes.

Q. Therefore you are obliged to say that all that you have discovered in this case or all that you are now in a position to say is that you have not discovered any traces of insanity?—A. That is all my conscience will allow to say.

Q. You have heard of that particular form of mental disease known as magalomania probably?—A. Yes.

Q. Would you tell me what are the symptoms which are the characteristic of this disease?—A. That is a simple complication. That is a term which is scarcely ever used and I think it is only used by one writer, I don't remember any other who uses it in the English language and he simply introduces it and says . . .

Q. But one writer uses that name?—A. Only one that I can think of at the present time in the English language and he says that it is a condition in which the patient has delusions, grandiose delusions, delusions of greatness and most commonly complicated with that form of insanity called paralytic insanity or gentle paralysis.

Q. You are aware that this particular form of insanity is characterised among other things by extreme irritability on the part of the patient?—A. Not magalomania, magalomania simply applies to grandiose ideas. It can have no other definition than that, and these definitions allow me to explain, are delusions, they are delusions such as a person holding and believing himself to be a king or possessed of immense wealth, and that all the world is at his feet. These are the kind of delusions that are meant by magalomania as I understand them, and it has not any other meaning that I know of.

Q. The delusions are that he is rich?—A. Yes.

Q. And powerful?—A. Yes.

Q. A great general?—A. Yes.

Q. A great minister?—A. He may be a great anything and everything.

Q. A great prophet?—A. Yes.

Q. Or divinely inspired, or that he is a poet or a musician, in fact that he is an egotist and selfish man?—A. Yes.

Q. But you are quite sure that the characteristic of irritability is not one of the characteristics of this malady?—A. It is not a malady, it is merely a symptom.

Q. That is a form of mental disease?—A. It is not a mental disease, it is only a symptom of mental disease.

Q You have heard of a book written and published by Dagoust, a French writer?  
—A. I have heard of it but I have never read it.

Q. He is an author of repute, is he not?—A. I think so, but I don't read much French.

Q. Would you allow me to read to you what this author says. Talking of magalomania, he says: "What characterises this particular form of mental alienation is exaggeration of the sentiment of personality"; expansive passions, he says, is one of the consequences of it. He says, monomaniacs are happy, satisfied with themselves, and speak without a limit of their own personality. Now here is the part I speak to you about, the individual is susceptible, irritable, he is seized with sudden fury when he is at any time opposed in his idea...!—A. Well isn't that speaking of gentle paralysis, the insanity of gentle paralysis.

Q. It is under the head of magalomania, with the plates showing the different characters?—A. I understand that, but there are a vastly large number of manias, puerperomania and all that sort of thing.

Q. Would you keep to magalomania, that is what we now refer to, that is what the book refers to and what I refer to?—A. I stated that magalomania was one of the complications or symptoms of paralytic insanity, and that that you read, of course is one of the accompaniments of the paralytic insanity too, irritability and all that you stated, they are always found in connection with each other.

Q. And you now say that irritability is one of the characteristics of magalomania?  
—A. No, I don't; magalomania, as far as I understand it, is one of the complications of the paralytic insanity and the irritability is also another symptom of paralytic insanity.

Q. We will just narrow the facts down to exactly what we have in evidence, that extreme irritability is one of the characteristics of this magalomania?—A. Simply....

Q. And the books shows, that I now hold in my hand, that it is one of the characteristics?—A. I think we do not understand each other.

Q. I am waiting for light?—A. I have stated that magalomania is a symptom commonly found in paralytic insanity, irritability and those other symptoms are also symptoms found in the same disease.

Q. So that now, irritability being one of the characteristics of paralytic insanity and magalomania being one of the branches of paralytic insanity, you now say irritability is one of the characteristics of magalomania?—A. Oh! But we find magalomania in other diseases and we find magalomania is simply mania.

Q. But in magalomania irritability is laid down by the book as one of the characteristics at all events?—A. Yes.

Q. So that now, Doctor, you are of opinion that the idea of grandeur and of power is not to be found anywhere, except in cases of paralytic insanity?—A. O! yes, we find it in simple mania. We find it in simple mania, but these are fixed delusions and persons who hold them say they believe themselves to be kings or queens, or great leaders, or wealthy people. They may be great in any thing, and great in every thing and they actually believe this and they act upon their belief, constantly act upon their belief.

Q. Did I understand you to say, Doctor, that the idea of grandeur is exclusively a symptom of paralytic insanity, that that is not to be met in other cases?—A. No, I have just stated now that you will find delusions.

Q. Is it not a fact that in cases of magalomania one of the characteristics of magalomania, one of the very essential characteristics of magalomania is that the individual who suffers from that particular form of mental disease is able in a very large measure to hide the disease from any person who endeavours to find it out?—A. Well, insane persons are able as I said before to conceal their delusions, sometimes for a length of time, but a per-

son suffering from magalomania does not attempt to do it, he is too proud to expose his delusions.

Q. So that one of the characteristics of it is pride!—A. Yes.

Q. Is there a case in which a man, for instance, would be under the insane delusion that he was destined to fill a great mission, that he was in a position to take possession of a great country such as this one is, would not that man be in a position to take such means as would be necessary to arrive at his ends and to take those means with a great amount of shrewdness and precaution!—A. That is quite inconsistent with my idea of magalomania. As I said before, my idea of magalomania is, as defined by Clouston, for instance, that that man is already in possession of all these things and he does not want any more.

Q. So that your idea is Dr that a man that is suffering from this particular disease is not in position and it is utterly impossible for him to take any steps to arrive at the conclusion which he pretends he ought to arrive at!—A. O yes! O! he does not require any plans at all, every thing flows into him, he is the greatest man in the world and every thing is subservient to him, wealth comes to him he does not want and he can command every body and they will obey him.

Q. So that he does not make any calculations at all and does not adopt any means at all to arrive at his ends!—A. Not at all.

Q. It is one of the characteristics of the malady that he is unable to do that!—A. Not unable, because he does not have to do it, he is so self-possessed and so self-contented.

Q. Now Dr, will you just read this little book again on that subject, (it is so much the more dangerous that he still retains the necessary faculty to be able to make calculations that are necessary to arrive at his ends!)—A. But is that speaking of magalomania?

Q. Under the chapter and title "Magalomania?"—A. Well, would you allow to quote from Clouston, he is speaking of mental depression and he says there are few cases of depressed feeling with exalted intellectual condition. Many persons exaggerate their former notions of wealth and position by way of contrast with their present misery. I had a woman in excited melancholy groaning all the time and then considered herself a queen and another a king, and of immense wealth. Some cases are of the nature of what the French call magalomania, that is, expansive grandiose exalted state of mind, which as a mental symptom, is best seen in gentle paralysis coupled with ideas of persecution, and with depressed feelings especially at times.

Q. Do you think there is anything in what you have read there that is inconsistent with what I have read to you, that contradicts that!—A. Well, there is nothing that contradicts it, but I say that magalomania is .....

Q. That is simply an interpretation of what this book has said here!—A. Well, we are not very far apart; we are only apart this far, that you wish to contend for magalomania as a disease, while I contend that it is only a symptom.

Q. We are not talking about symptoms of diseases at all. I ask you, was that one of the symptoms of magalomania and you said it did not exist in a case, and the book says that it does!—A. You are not doing me justice.

Q. I don't mean to do you an injustice, I don't mean to adopt any bullying process, it is not my habit, and I don't do it, I don't pretend to set my knowledge against yours in a matter of this kind, you are free to explain it. This magalomania was called formerly intellectual monomania, was it not!—A. Yes it is a monomania.

Q. It came under that general class of cases formerly!—A. Yes.

Q. Now, one of the symptoms of that malady—you have heard of a book written by Ducelle!—A. No, I never heard of that.

Q You don't know le grand Ducelle, the French author?—A. No, I don't know the book.

Q You never heard of a book of that kind; at all events, I cannot put the authority in evidence, as you don't know it, but I might ask you, for instance, whether or not in that particular form of disease which I have spoken to you about, that is, intellectual monomania, that insane persons believe they are in constant intercourse with God, and they believe themselves to be inspired, and believe themselves to be prophets, and their hallucinations are such that they suppose they are in constant intercourse with a Supreme Being?—A. Yes, I have known patients of that kind.

Q Have you ever heard of — (Giving the name of another French author)?—A. I don't want to hear of any French authors, I never read them.

Q You never got that far?—A. No.

Q Persons suffering from delusions of grandeur are perfectly harmless as a rule, are they not?—A. No, as a rule, they are not, not always, they sometimes are and sometimes they are not.

Q In cases in which they would be harmless, would you put two of these people in the same ward?—A. I never put two together anywhere, I never put two lunatics together anywhere. They are always kept either one, or more than two.

Q Would you put more than two together?—A. Yes.

Q Without any impropriety whatever?—A. Yes, our buildings are put up with a view to that.

Q I don't know if you understand my question, I suppose several persons suffering from the same...two kings, and a queen or two queens, you would put all these persons together in the same ward?—A. They might be and they might not.

Q You would not see any objection to that?—A. There would be no impropriety in putting them together, I think not.

BY MR. OSLER.

Q Where the disease exists, is the idea the result of the disease fixed and constant?—A. It is a result of the disease.

Q But is it fixed or intermittent?—A. In those cases they are fixed.

Q So that when a person has taken herself for a queen, she remains a queen?—A. She usually dies a queen.

Q In her own idea?—A. Yes.

Q And she is a queen to every body to whom she talks?—A. Yes.

Q Not sometimes a queen and sometimes otherwise?—A. No.

DR. JUKES sworn, examined by Mr. Robinson.

Q You are at present the medical officer attached to the mounted police force?—A. I am the senior surgeon of the mounted police.

Q And how long have you been in medical practice?—A. Thirty-five years.

Q Have you devoted your attention to insanity at all specially, or not?—A. Never specially, there are cases of course which occasionally will come under the notice of every general practitioner, but as a special study I have never done so.

Q Every medical practitioner, I suppose, has his attention more or less directed to it?—A. Occasionally I have been called upon to certify in cases of insanity.

Q. You are also surgeon to the jail here I am told?—A. At present until a jail has been erected in the North-West Territories, the guard room at head quarters at Regina constitutes the jail.

Q. In that capacity insane persons would pass under your hands, any person supposed to be insane?—A. Yes, I remember during the last few years a number of persons of unsound mind have been sent there as a place of confinement.

Q. And in this way they have come under your observation?—A. They have come under my observation for the time.

Q. You know the prisoner, I believe?—A. Yes.

Q. How long have you known him?—A. I don't remember the exact date he was brought to Regina, but I think it must have been between the 20th and 24th of May.

Q. But whatever it was, between the 20th and 24th?—A. About that time, I am not sure.

Q. Since that time how often have you seen him?—A. I have seen him almost every day. There have been one or two or perhaps three days that I have missed seeing him, owing to pressure of other business, other work at that time, but I have seen him uniformly every day.

Q. As a rule, you have seen him every day, although you have missed two or three or four days during that time?—A. Yes.

Q. Then you had an opportunity, I suppose, of observing his mental condition?—A. I would speak to him on every occasion in passing him, and he has generally acquainted me with what he conceived to be his wants and his necessities, and I would examine into the condition of his physical and general health, and ascertain how his diet was agreeing with him and things of that kind, such as come under my special duty. And occasionally he would speak to me on other matters, occasionally he would delay me and speak to me on other subjects.

Q. Then have you formed an opinion as to his mental state? I am speaking now of his insanity, sanity or insanity?—A. I have never seen anything during my intercourse with Mr. Riel, to leave an impression on my mind that he was insane.

Q. Then as I understand, you believe him to be sane?—A. I believe him to be sane, so far as my knowledge of such matter goes. I have seen nothing to induce me to believe otherwise.

Q. I suppose you have had your attention directed to that part of his character more or less, I mean to his mental condition, more or less?—A. No, I have never seen anything to make me question his mental condition, and therefore I have never led the conversation under any circumstances to draw out any possible insane notion. I have never made any effort to do so, because my duty was otherwise.

Q. What I mean is, Doctor, you have heard, I suppose, from time to time, rumors that there was an assertion of the unsoundness of his mind?—A. I have heard rumored that he had been formerly insane, and that he had been confined, I think, in the Beauport asylum, and I have heard it also rumored that it was the intention to bring forward the plea of insanity on the present occasion in his defence, that is the general rumor.

Q. Therefore, I suppose you have had this thing in your mind, that is all: that part of his condition in your mind in speaking to him? That is all that I mean?—A. Yes, I have always watched him very carefully, so as to notice if possible any appearance of unsoundness of mind, and if I had noticed it, I would have placed him under special treatment as far as my knowledge enabled me to do or have advised further treatment for him, as I have done in other cases.

Cross-examined by Mr. FITZPATRICK.

You said, Doctor, that you had not made any endeavour to ascertain, during the

intercourse that you had with Mr. Riel, whether or not he suffered from any particular mental disease? Did you notice any form of insanity, or any mental disease, unsoundness of mind?—A. I never specially examined him as a lunatic, I never made a special examination of him as a lunatic.

Q. You never made any special endeavour to discover whether or not he was suffering from any particular form of mental disease?—A. Never any special endeavour, anything beyond ordinary conversation of the day.

Q. Is it not a fact there are different forms of insanity which are not discoverable except after considerable endeavours has been made to discover them?—A. Yes, it is so, unquestionably, that you may converse with the man continually and not be aware of his insanity until you touch accidentally, or some other person touches accidentally upon the point upon which he is insane.

Q. Had you been informed at any time of the particular mental disease from which Mr. Riel was supposed to have been suffering?—A. I don't think I ever knew as much of it as I have learned here.

Q. So that you never made any endeavour to...?—A. I never did, that is, I never spoke to him specially with regard to what he believed to be his mission, knowing that many very sane men might be so and yet a man might be perfectly sane.

Q. So that you have no doubt at all, Doctor, from the evidence that you heard here given by the different witnesses who were examined, the conduct of Mr. Riel is perfectly compatible with a perfectly sound mind?—A. Well, I regret to say that my hearing is rather imperfect in the court room and that I have not been able to hear as well as I could wish the translations that were made of the examinations in French, but, so far as my understanding has gone of the evidence which has been given, I have heard nothing that would satisfy me that he was of unsound mind, I have heard nothing that might not be accounted for by other causes, that, for instance, of fraud or deception. A man might really believe that he had a mission as many great men have believed, or he might only pretend for a purpose that he had that belief.

Q. A man might also labor under the insane delusion that he had a mission?—A. He might also labor under the insane delusion; but the fact of his laboring under that insane delusion, would not necessarily imply that he was otherwise insane or incompetent either to perform business in a successful manner or to be responsible for his actions. That would be my own judgement.

Q. But *quoad* the particular delusion... in so far as the particular delusion under which he is suffering is concerned, he would be still responsible in your opinion, Doctor, supposing for instance that a man labored under the delusion that his neighbor was a savage dog, and was endeavouring to destroy him and bite him, and that he killed his neighbor, he might be perfectly sane in other respects?—A. You misunderstand me, if you think I entertain that opinion.

Q. That is not the opinion you entertain?—A. Certainly not.

Q. So that if a man is laboring under an insane delusion, the acts which he does while he is under that insane delusion, *quoad* the particular delusion, he is not responsible for?—A. If a man is clearly... if it can be proved that a man is acting under an insane delusion, then any act I should consider which he performed under the delusion, any act having special relation to his delusion, I should consider that he was not personally responsible for, if it could be shown clearly that that delusion was an insane one, and that it was not rather a feigned one for a purpose.

Q. So that if it can be proven that a man is labouring under an insane delusion, that he was in communication with the Holy Ghost and was acting under the direct inspiration of God, and he was bound to do a certain act, and he did it, would he be responsible for that act?—A. Views on subject of that kind are so different even among those who are confessedly sane, that it is hardly one on which I could base an opinion. There