

Mr. Edmunds's Argument for People's and Overland Cos.

It is difficult to see wherein the essential parts of these machines differ, and it is perfectly plain that the New York tests failed of perfect action from the rough treatment the machines had had, and from having been shaken out of adjustment. Complainants' witness, Professor Wright, of Boston, in his notes of the tests of the instruments used in New York, states the results as follows: "'F,' reproduced as transmitter; Drawbaugh talking, Tisdale receiving—heard very well; understood very well, numerals counted, and conversation." Whatever instruments were used by complainants' experts, Pope, Cross and White, in their private tests, were not put in evidence, and they were unable to say they were reproductions of the instruments used at New York and Philadelphia, and they never tested the reproductions used by Professor Barker at Philadelphia.

Mr. George F. Edmunds for the People's Telephone Company, and for the Overland Telephone Company.

The court below was right in its theory in the treatment of this cause, and that theory was that either this method of transmitting speech through a wire, and by what are called electrical contrivances, actually existed at the time that the defendants' testimony in the court below said that it did, or the whole of the defendants' testimony is false.

After the utmost inquiry and the utmost contrivance and ingenuity that could be brought to bear, it was found by the court below, that these machines, which were said to have been used and practised by Drawbaugh, were in substance and fact the same sort of contrivances for transmitting articulate sounds through an iron or copper or any other metallic wire, as those of Mr. Bell, and therefore, as the court below held, there was only one way to get rid of this cause below, and that was to find that the story that was told by Mr. Drawbaugh, of himself and of his work, and the story that was told by his neighbors and visitors and the great mass and cloud of witnesses that came from that community, was untrue, and that, so far as this part of the case is concerned, is

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all there is to it; and that is exactly what you have got to do when you study this testimony — what Judge Wallace did.

You must adopt his theory, which I will state a little later on, and hold that the whole of this thing that was said to have existed on the face of the earth from 1868 or 1869 down to 1875 and 1876 and thereafter (I suppose poor Drawbaugh had a right to go on with what he had, although Bell had come on the scene) is a pure fabrication, a pure illusion. I don't mind about epithets; you can call it illusion, delusion, fabrication or anything else. The question is whether those things took place on the surface of the earth at that time. If they did, then, confessedly, according to the finding of Judge Wallace below, and according to the arguments of our learned friends on the other side, if those things took place that were said to have taken place prior to the date of this patent, as this testimony tends to show, with whatever of imperfection this witness or that witness may be found to have been guilty of, either purposely or otherwise, then Mr. Bell's case as a prior inventor and as entitled to prevent the use of these machines, that are said to have been invented by Drawbaugh, has no place in this court.

It is not the question that you are now to pronounce upon, whether Mr. Drawbaugh shall have a patent for a particular thing. It is the question of whether he or those who have taken up his cause shall have a right to use their instruments against the intervention that you are called upon to make because Bell is a favored and prior inventor; and therefore it is of no consequence whether Drawbaugh has an application for a patent now pending, or whether he ever made an application or thought of making an application for a patent.

The point is whether Mr. Bell is entitled to stand upon the law of Congress which says that if he is the first and prior inventor of a useful invention, and has made a proper application in a proper way for its exclusive possession and use, he shall have it. That is all. So that, what is to become of the Drawbaugh invention, or the Gray invention, or the whosoever invention as it regards a monopoly to be obtained through the Patent Office has nothing to do with this case at all.

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Now, let us see if we can find out, according to the ordinary and universal principles, and practice and experience of mankind, whether we can believe anything in respect of an alleged historic event, that is said to have occurred, before fame had glorified some later discoverer. Let us see what a telephone is. It is a contrivance for transmitting speech. When the air is fair, as it is to-day, it is an amazingly good one. You and I talk to our grocer, or our doctor, or whatever, and it is extremely convenient. There comes around a sudden change of weather to-night, and to-morrow morning, I try to talk to my grocer and my butcher, and I tell him I want lamb, and he says, "Is it beef you want?" The thing is out of adjustment, and after trying and trying and hearing a roar in your ear—and somewhere in some of these books there is stated that in these earlier times (supposing it is not all a lie and an invented lie) that was just the thing that happened in one of these ancient Drawbaugh contrivances; that one witness who put his ear to a thing, instead of hearing a voice, heard a roar. Well, we have all heard a roar, and are inclined to tear the thing down and throw it out of the window, and send it down to whoever is chief of the performance here (and a very good fellow I believe he is), and ask him to refund our money. The thing won't go. You are in immeasurable wrath and indignation. But when you come to look at this telephone you find that, on the whole, it is an extremely useful, an extremely ingenious, an extremely valuable invention; but when you find it out are you to say *post hoc ergo propter hoc*?

Are you to say that nobody ever did anything of that kind before, for the simple reason that somebody who finally got force enough, with capital behind him, with science as his handmaid, with the stress and urgency of competition in telegraphy, like the Gold and Stock Board in New York and The Western Union Telegraph Company, struggling for the ascendancy in the best means of communication, hesitating for a year or two before they believed the thing was of the least possible consequence—are you therefore to say that every man who lived in this neighborhood in Pennsylvania, and that this old unlettered man, whose life had been pure from beginning to end, are liars?

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There is nothing else, in my judgment, in this case, on the point I am now speaking of, except that we take up what has at least come to be a famous and accomplished fact, and say that everybody ought to have known it before, and that if anybody had known the fact before and could not make anybody else believe in it, it must be a lie. Now I deny that proposition. It is against human experience; it is against human morals; it is against every principle and test that we apply to the belief that we are called upon to express one way or the other in respect of human testimony.

Now, therefore, I want to ask your Honors, in the brief time that I have—and I shall not refer in detail to this testimony, but I wish to ask you to explore and to read this testimony both of the complainants and of the defendant, in this People's case and the Overland case, which brings in some later testimony—to read this evidence and see whether you can say as Judge Wallace did, that one single part of the evidence, namely, the statement of this poor old inventor himself, is a fabrication, and that other parts of it, as to events that they say took place on the earth before this patent of Mr. Bell was applied for, were pure delusions, and that the testimony of scores and scores of men and women having no common concert (unless it is brought about afterwards by a conspiracy that involved every one of them) was a fabrication or a delusion.

If we were to carry ourselves back, if you please, and to try this case as it might have been tried if the law of Congress had been a little changed, so that instead of having an appeal to the Supreme Court of the District of Columbia on a refusal of the Commissioner of Patents to grant a patent, we had an appeal to this court; if Drawbaugh, sorrowful and sick and miserable and harried by judgments and creditors and delusions and crazinesses (as some of these witnesses say about this very thing, which I shall come to presently again) had applied for a patent before Mr. Bell had appeared on the scene at all, and the Commissioner of Patents had said, "I won't grant you this patent, not because of anybody or anything else, Reis, or a string telephone, or whatever, or a harp of a thousand strings"—that my brother on the other side will delight

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your Honors' fancies with, if he does not convince your judgment,—“I will not grant you this telephone because it is of no practical use; it is not a useful invention. You have got a toy. You have got a demonstration of what is called a scientific fact. You have got a thing here which, when a person speaks into one hole, at one place, another person can hear it at another. Of what consequence is that? No possible consequence to humanity.” Just as Orton thought; just as everybody but Pope—who had a vision of the future that none of the business men, who had money and who had enterprise and who had ambition and who had competitions, could be made to think, for a whole twelve months or more, of this very Bell apparatus, thought. The Commissioner of Patents says, “I won’t grant you this patent.” And now we appeal to this court, and not to the Supreme Court of the District of Columbia; and we come on here with this proof, and we show to your Honors, by this same set of testimony, and with all the counter testimony, that there are five per cent of that whole community, called as witnesses—and I think that is a fair statement; call it ten per cent if you please, or twenty—who say, “We were around Drawbaugh’s shop all the time and never heard of such a thing;” but there is your ninety per cent or eighty per cent or seventy per cent or sixty per cent who say, “We saw and heard that thing go.” Well, you say, “It must be proved, upon all human grounds of considering testimony, that that thing did happen—that you have got a contrivance that will do that thing.”

Now you have got over that point. Now, if you had heard that testimony pro and con—taking it all, before fame had lit its lamp and flamed it over this world, could there be a doubt that you would say that that thing did exist, and that Drawbaugh did it? It is impossible to deny it. Then you would come to the second question: “Well, what of it?” That is just what these wise and prudent and urgent and ambitious and learned and critical men said—all but Pope—for a whole year after Bell had brought his operation of 1877 to public and commercial view, and was refused, because, although they admitted it would exist and did exist, yet it was

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of no consequence. And it would have been open to question ; and if I were sitting in your place in 1875, when this testimony had been presented on appeal from the Commissioner of Patents to me, sitting where you are, I am very much afraid that I should have thought — as I believe you all would have thought, as Orton thought, and as the Stock Exchange thought at New York, and as everybody else thought at that period of time, "We cannot grant this patent, because it is a mere toy." It is like the gyroscope, which flies in the face of all natural ideas of gravitation, as we all know. What of it ? Is the gyroscope a useful invention for the practical purposes of humanity ? Everybody knows it is not. It is a very useful and ingenious thing, as illustrating a law, and nobody knows what that law is to this day ; that is an unseen force or combination of forces that nobody can understand ; that violates all our common sense about the laws of gravitation ; and that is, that you put a wheel into motion, and although it may lean way over there [indicating], and may weigh five thousand pounds, it won't fall down. Well, what good is that to mankind in a practical sense ? So I say, if we carry ourselves back, as I think most sincerely we are bound to do, when we are trying to find out the truth, to see what we should have said in 1875 if the whole of this evidence had been presented to us then as to what Drawbaugh had done, we should have said, "It is plain beyond all possible dispute that he has done that thing ;" and we should have been most likely to say, sitting on an appeal from the Commissioner of Patents, "We will not grant you a patent because it is not a useful invention. It is a mere toy or a mere illustration of an interesting circumstance in the law of the vibration of the atmosphere ; but as a useful invention that is to be applied to the common purposes of mankind (which is the theory of the patent laws) it has no place here."

Now the question, therefore, is whether this evidence proves, and proves to a demonstration, and proves more and more by the circumstance that there is counter evidence, that this witness is mistaken in his date, and that that witness is mistaken in the identity of the particular instrument that is called to his

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attention, proves more, and more from that circumstance,—that it is not this conspiracy which involves two hundred or more people, of all walks of life in this town in Pennsylvania. And as I think, the key to the whole of it is (the circumstance that I have been so shortly commenting upon) that at the time when this invention was being carried forward by this man, nobody believed it was otherwise than the idea of what is now called a crank. Some people — because people differ in their emotions and their sensibilities and their perceptibilities — said, "It is impossible. I won't go up and see it," as the Jews did, I believe. When sceptics scoffed and hooted all they could say in answer was, "These things we saw, we heard; we saw the sick healed; we saw the eyes of the blind opened," &c. Nobody believed it. That would dispose of one class of these witnesses, who said it was impossible. The other people said, "What of it? What good will it do that you can speak through this piece of wire and by this contrivance, whatever it may be?" I am not now on the question whether the contrivance of Drawbaugh was the same as the contrivance of Bell or not; that is another question. I am speaking on the question of whether there did exist in those years, beginning in 1863 and going down to 1875, (I will stop before the Bell application for the first patent was filed) the implements named, and whether those things did take place there. The other class of people say, "Oh, yes, we have heard of that sort of thing. We didn't take any interest in it. It was funny; it was queer;" — just as you say of thousands of devices for children and that sort of thing; the discovery of some new force of nature which the great mass of mankind believes cannot be applied to the positive and the efficient objects of human affairs. Now, when you come down to 1877, as I say, when Mr. Bell's final and real patent was obtained and had got through a year of struggle, the thing discovered, either by Gray (as I believe) and absorbed, to use a moderate expression, by some of the occult contrivances of the Patent Office, without the personal combination of Mr. Bell himself, so far as I at this present moment believe, but in some way absorbed out of the secret archives of the Patent Office into a

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remodelled specification — he has got his patent of 1877 that does describe a device that will do that thing. That having been done, it takes a year or more before he and all his coadjutors, he and they with millions of capital and enterprise and ambition behind to push it forward, and not an over amount of scruples before to retard it, can bring it to be believed in and invested in and operated by the public of the United States as a useful invention. It turns out to be useful.

Now they tell us that that staggers human experience; if I substitute Drawbaugh's name for Bell's my learned friends say it staggers human experience; you cannot do anything of that kind. If Drawbaugh had done the same thing that Bell had, in the same time, you would have believed the whole thing was a conspiracy and a lie and that the thing did not exist now. You would not have believed the evidence of your senses; yet in Bell's case it took a year or more to persuade anybody — people who, with money and with capital and with ambition and with competition to contest for the best means of monopolizing the interchange of communication across this continent and everywhere else, to think it was of the least possible consequence. Now, may it please your Honors, is not that a commentary of some weight upon the audacity (and I use that in its best possible sense) of the gentlemen on the other side and the learned Judge below, in the treatment of this subject. Judge Wallace was even wiser than they, under the impress of his considerations, in finding a means of getting rid of this proof of what had taken place. I am not now, you understand, on the question of whether Drawbaugh's contrivances, if they existed, were the same contrivances as Bell's. That you will come to understand, if you have not already. I don't suppose there is any question about that, but no matter for that. Judge Wallace's only way out, under whatever intellectual or other impression of this tide-wave of what had come to be a famous discovery, was this. It was, as he saw, impossible to get rid of this testimony on the ordinary principles, which, ever since jurisprudence was invented, have been applied to finding out the truth. Here he says — I will not quote his language, but that is the idea and scope of it, and I

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only refer to it because it is the best possible and the strongest presentation of any grounds upon which you can say these things did not exist and happen as they are related to have existed and happened — he says: Why, here is a whole community, a well-ordered, respectable, quiet body of people, engaged in every occupation of life that makes up a well-ordered and respectable community. Out of these, within the circuit of the geographical limits where an inconspicuous or crazy or inconsequential, not useful but interesting contrivance had been discovered, witnesses are called upon, one by one, to state what they remember. They say with endless iteration, — but not repetition of the same date and circumstances and event, which would give some ground to say, "Why, there must have been a convention to see this thing, or else the whole thing is in some way a delusion or fabrication," — but week by week and month by month, as the ordinary events of a social and respectable and well-ordered community made it happen that one or the other of its members should go to that place, they saw these things, which existed for some purpose or other — *if* they saw them; they heard these voices, and were able to hear and speak to a person in a distant room by applying their mouth to one and their ear to another, as the case might be (I am not going into the details), and therefore, as they say, they saw the thing and they heard the voice. How are you going to disbelieve it? Why, Judge Wallace says that the only way you can possibly disbelieve it is to believe that the man — now I state this strongly; I exaggerate, and logically exaggerate, merely to show you the absurdity of the proposition — Judge Wallace says, "You cannot believe anything of that kind, because there was not any such fellow as Drawbaugh; there was not any such shop."

Now, as I say, I have exaggerated that; but logically he says: "I cannot believe all that these people, of unquestioned respectability, and in every walk of life, say that they saw and heard before the great dividing line of fame and no fame (which is a great dividing line) had been drawn in 1877 or 1878, or whatever the time was; because, if I *take Drawbaugh alone* and there had been no other witness in the case,

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I should have said, it is absolutely incredible that Drawbaugh could have done that thing." Now, that is the honest logic, if your Honors will read that opinion, and the honest statement (although I have paraphrased it) of the judgment of the court below; and I repeat that it is the best ground on which the complainants' case below and the appellees here can be put. Now it is, I confess, a little bit new, and I shall speak of it with reserve and modesty, that a judicial tribunal should so reason. To illustrate; as in a case of treason, for instance, where the Constitution requires that nobody shall be convicted unless upon the evidence of at least two witnesses, where the first witness to prove the treason who was *pars inter partes*, says, "I was a coadjutor in this treason of the respondent," and himself tells the story; the Judge charges the jury, "Why, this man's story, this coadjutor in the treason, this accomplice, I should not believe if he told this story alone. I don't believe he was there, if I took him alone, at all. The whole of his story standing alone would challenge my disbelief, on his own statement, instead of my belief. Therefore, gentlemen of the jury, although there are two hundred people who came together, a band of patriots, rushing to the scene of the *corpus delicti*, who swear that they saw this man engaged with the respondent in committing this act of treason, they are not to be believed; they are acting under a delusion, because if I had that fellow alone, I should think he was a liar and a scamp." Now, what kind of logic is that? What kind of morals is it? What kind of philosophy is it? What kind of persuasion is it to the constitution of the human mind to believe or disbelieve any evidence? I need not say that it is perfectly absurd, and yet I repeat with emphasis and deliberation that that is the ground, stated ground, upon which the court below held that the Drawbaugh contrivances, machines, instruments, operations, facts, never existed on the surface of this earth until after — never existed at all, because nobody contends that these events took place that are described by the witnesses after 1877 and 1878.

I beg, for the sake of human justice, that whatever may become of this cause, which, compared to the infinite meas-

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ures of justice, is a small one, great as it is, that your Honors will not commit yourselves to any such theory of the weighing of human testimony as that. But that is what it is. I have not overstated it. Read his opinion. But now let us see how they treat Drawbaugh alone. Let us suppose now that this invention was not famous, and that the millions behind and the millions before, and the great light at night and the cloud by day to lead us did not exist, and we were to look at it as a simple fact; what would you believe then? Suppose it stood on the testimony of this old man alone? Because I don't mean to leave Mr. Drawbaugh in the category in which Mr. Justice Wallace left him.

It has generally been supposed, perhaps erroneously, that the whole life and conduct of a man, when he gives testimony about any event that he says he knew about and that he did himself and that was within the category of human possibilities, and not against a law of nature,—when you would say he was crazy, insane, and therefore, although perfectly honest, not to be believed,—would be considered, and, if his course of life had been such as to show him, as we are all shown, whether Judges or gentlemen at the bar, or bystanders or suitors or whatever, to be honest, he would be believed. Now, how are you going to tell whether a man is an honest man or not? How are you going to find that out? All that we can judge by, as we have not omniscience and do not know the secret hearts of men, is the life and conversation of the person in question. If a man is brought on the stand to testify, of whose career for twenty or thirty or forty years, the twelve men in the jury-box and the three or the five Judges on the bench, as the case may be, at a *nisi prius* trial, know without any proof what his reputation is in the community; that he has been a gambler; that he has been an immoral man; that he has been averse to everything that upholds the good order and morality of the community; in other words, that his color is bad, without referring to specific instances; if a man of that kind comes up to testify, and although he may say something within the ordinary course of human nature, if it is disputed, you doubt it. That is the law by which you

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measure men. Now, take it on the other hand. Suppose, respecting the same event, a fact that could exist, not a statement that showed that the man must be insane, poor fellow; whose life from his birth to the day of giving his testimony has been pure; has been upright; has been respected; and that in the whole forty years that he had lived in that community never a shade or a suspicion had touched it; and he tells you a tale of an event that he himself was the doer of, and which is within the range of sanity; would you believe him, although two years, five years, ten years after, a scientist, glorified by capital and by fame, had said, "I have done that thing, and therefore you could not have done it before." That is a statement of this case as applied to the testimony of Drawbaugh himself, if you take him alone. And you have refused to uphold many and many a patent in this court as you ought, upon testimony more slender than would be the testimony of this honest old man himself, if it stood alone. And yet he is surrounded and fortified by scores and scores of honest and respectable people, whose characters are not impeached any more than his is, who say that they saw and heard that thing done before this dividing line, about which there can be no mistake, between the glorified fame of Bell and his coadjutors, and what preceded it.

So that I submit, if your Honors please, you are to be governed in reading this testimony by this test; and that is the test to which I appeal; only read it with all its drawbacks—and there are drawbacks which my learned friend on the other side will present; drawbacks which I say, according to all human experience in finding out truth, fortify rather than diminish the force of the evidence in favor of this invention of Mr. Drawbaugh. Taking all that in, if you act upon the principles which have been common to intellectual operation for a thousand years and must always be, if you seek for the living truth, as you do, and unless you reverse all the principles of finding that have ever guided you before, you cannot fail to say that it is proved that this old man, in that obscure place, where the forces of nature are just the same as they are at Beacon Hill in Boston, that this old man in that obscure place,

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did do the thing that Mr. Bell did, at some time in 1876 or 1877, for this purpose I do not care which.

Something has been said about Gray's having applied for a telephone patent in 1876, the same day that Bell did; there is no claim that Gray stole it from Bell; he, therefore, as all agree, invented a telephone contemporaneously with Bell; so it was not, after all, impossible that any mind save Bell's should have made this discovery. But I will not dwell on this line of argument, because I cannot take up your Honors' time. What I have said is, to my mind, the key to the whole thing on the question of priority. Perhaps something ought to be said for a single moment, about what the court below said in respect of the intrinsic impossibility of Drawbaugh's having done this thing. Perhaps it is not necessary, because the court below was obliged to find (to pursue his own logic) and refer only to the intrinsic, as he thought, impossibility of Drawbaugh's being capable of prophesying among prophets, or of good coming out of Nazareth, or whatever, upon the ground that Drawbaugh was a pure liar; that he was a perjured scoundrel, weak, feeble, but pernicious, to use a phrase which I hope will not offend this administration, pernicious in having sold himself to a band of adventurers who are trying to do exactly what Mr. Bell and his band of adventurers have been trying to do, and that is to make something out of an invention; because when you come to the question of adventurers and epithets, of course one invention is just as good as another, whether it be a new one or an old one; everybody goes into it who thinks he can make anything out of it. Now to fortify his notion, Judge Wallace, feeling evidently that the ice was a little thin that he stood on, in respect of these methods of weighing testimony and finding out truth that I have referred to, rather steadied himself as a man on stilts does with a long pole, to keep from falling over—on the idea that it is intrinsically impossible that Drawbaugh could have had such a conception. Why? Because it required what is called scientific training. It required costly and particular apparatus. It required scholasticism, and a long drawn-out and drawn-up consequence of study, from step to step, that

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should have at least brought him, as the Judge thought Mr. Bell had been brought, to the point where this crowning glory of discovery would have come. In other words, it was logic ; step by step of a logical proposition ; and nobody, therefore, could discover what was before an unseen force of nature, always existing — how many more there are that are yet to be discovered, if your Honors please — but not one of them, to this day, has ever been discovered by such logical steps as Judge Wallace thought were necessary a man should take to do. There is Mr. Bell himself, struggling and hoping, as people do, for the philosopher's stone, exhausting all the sources year in and year out of a trained and philosophical and scientific mind, with every adjunct that scholarship and research and history could give him ; and he finds the philosopher's stone, which is to turn everything into gold. He was struggling and struggling to do something which he could not reach. How did he get it at last ? Accidentally — in the sense in which I use the word accident. A particular amount of tension in a particular set of mechanical contrivances happened to be such that, finally, struggling away, they heard a word ; and then for weeks — I am not now stating this, you understand, with precision, to illustrate what I say — they had heard one sound and there was hope. Now, it was not logic that did that. It was not logic that led Franklin to put his kite up in the sky. It was not logic that has led anybody at least to discover anything. It is not training that does it, although training is useful ; the man is better equipped. The soldier can fight better who has a multiple discharge gun than the man with equal courage and bravery who has only an old musket ; but they are both true patriots, and they both have the same intrinisic force and capacity to do. One has better implements ; that is all. Now, what is the history of this sort of thing ? How many instances there are ! I might take all the time that is left to our side to tell you, and tell you rightfully, not speaking out of the record — because I believe you have decided after great consideration, that the court may be supposed to have some general knowledge of human events without its being printed and sent up to you by the clerk.

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Suppose you take Columbus to begin with. His instance is so familiar that it is useless to refer to it. Suppose you take Arkwright, the great English inventor of the cotton spinning machinery; was he a student, a professor, a teacher, of any kind of science? Not a bit of it. He was a barber. Suppose you take Watt, another Englishman, who, I believe, is somewhat famous, and who, perhaps, may be referred to without violating the proprieties, although his name is not mentioned in the record. What was he about? He, like poor old Drawbaugh, was engaged in his youth, when he was fourteen, in inventing an electrical machine; for aught I know it may have been this electrical machine; because this telephone is an electrical machine, and nothing else. He was doing that very thing when he was a mere lad. Where was his scholarship, his great accumulation of all the scientific knowledge and facts that had been discovered in natural history in the centuries before? I can run down, may it please your Honors, through Fulton, and Whitney, the cotton-gin man; and what was he? A man skilful in mechanics? No; he was a lawyer in an obscure country town in Georgia, living on a plantation, and I believe teaching the children — teaching the children of some planters, who were great people in those days; and it was suggested to him what a great thing it would be if you could only find out a way to get rid of the seeds in the cotton and separate the fibres from the seed. This lawyer invented the cotton gin. Up start my brothers on the other side and say, as Judge Wallace said below, "Why, it is utterly impossible. This man was bred to Blackstone and Coke; what does he know about the method of separating the seeds of cotton from the fibre?" Suppose somebody in a distant part of the country, three or four or five years afterwards, this obscure thing down there working well, should say, "It is impossible to believe this man Whitney who swears, and the men on his plantation who swear, that they had a cotton gin working there for five years before an application was made in Mississippi, by somebody, or in Louisiana, where a great syndicate had been gotten up to exploit a cotton gin that had been discovered." I could go through, of course, innumerable

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illustrations which demonstrate—and I am ashamed to take your Honors' time even in referring to it—that the history of human experience from the beginning of time that we have any record of, down to this day; from the time, as I believe, the Bible, or some other good book, tells us that Tubal Cain invented the art of playing the flute, the first musical instrument, it is said, that ever was made, down to this day—shows that the correlation between what we call scientific knowledge and education and the discovery of these important forces of nature, and their application, has no connection whatever; and that it is more often than otherwise that the obscure genius whom God made and whom the schools did not make, and the obscure mechanics, most of whom unhappily have never got the benefit of their inventions, have been men who have brought to the knowledge of mankind most of the things which we now consider to be the most useful to us. Therefore, I say, without going, as I said, in the time that must be left to my fellows—without going into the question of the identity of these machines; without going into the utmost gravity of that question about what happened between the time when the application of Mr. Bell as formulated and put into the hands of Mr. Brown, was filed in the Patent Office, and on the same day with Mr. Gray's caveat describing what he would do and what happened thereafter; and without going into the question of the effect of these claims, in respect to their validity and scope and so forth, I must say that in respect of the topic I have called your Honors' attention to, that it is the end of this case: If your Honors will take this testimony as to what took place in an honest and respectable community in Pennsylvania for years and years, year in and year out, proved by the whole body of the community, of every calling, in support of this honest old man whose career is not questioned as a man of purity of life, of uprightness of character, although poor and sorrowful, there is an end of it.