

**“ONE PERCENT INSPIRATION AND 99 PERCENT TRACING PAPER”: THE PAN-ELECTRIC SCANDAL AND THE MAKING OF A CIRCUIT COURT JUDGE, APRIL–NOVEMBER 1886**

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**ABSTRACT**

*The Pan-Electric scandal of 1886 grew out of a plot by prominent Southern Democrats to seize control of the fledgling telephone industry by filing suit in federal court to invalidate patents held by Alexander Graham Bell and Bell Telephone. The suit led to President Grover Cleveland's appointment of Tennessee senator Howell Edmunds Jackson to the Sixth Circuit federal court and a ruling by Jackson that led to the final court victory for Bell.*

**INTRODUCTION**

In 1886, the growing controversy over the legitimacy of certain telephone patents held by the Pan-Electric Company threatened to become the Democratic equivalent of the Grant-era Credit Mobilier scandal of 1873. Just as Credit Mobilier enriched Republican congressmen who had voted lavish appropriations to railroads in which they held stock, Pan-Electric promised to profit Democratic appointments and congressmen at the expense of Bell Telephone. In its wake, the careers of several prominent Southern Democrats, including Attorney General Augustus Garland, Interior Secretary L.Q.C. Lamar, and Tennessee Senator Isham Harris, hung in the balance. While Harris's fellow Tennessean Howell Jackson was never personally touched by the scandal, the controversy over Pan-Electric was an influential factor in Democratic President Grover Cleveland's decision to appoint Jackson to the Sixth Circuit Court. *United States v. American Bell Telephone Company* turned out to be the first important case that Jackson addressed as a federal circuit judge.

**THE SCANDAL**

The scandal was uniquely Tennessean in its origins. In an era of great inventions, former Memphian Dr. J.W. Rogers had dreams of seeing his son achieve the kind of fortune and public acclaim then being enjoyed by such men as Thomas Edison and George Westinghouse. After graduating in physics from Princeton University, J. Harris Rogers was appointed chief electrician of

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Washington's Capitol Building. In his spare time, he conducted experiments with the telephone and obtained several patents covering his inventions. In 1881, his father bought a large house in Washington for Rogers to use as a laboratory where he could conduct his experiments.

J.W. Rogers, who arrived in the capital during the same year as freshman senator Howell Jackson, contacted his friend of thirty years, Isham Harris, for help organizing a stock company to market his son's inventions. Impressed by the laboratory and J.H. Rogers's instruments, Harris agreed to participate in the venture provided he could name and approve other partners. Jackson was not approached, but other prominent Tennesseans were. On March 13, 1883, the Pan-Electric Telephone Company was organized as a Tennessee corporation. Its original board of directors included former Tennessee congressman J.D.C. Atkins, as well as the congressman from Memphis, Casey Young.

Under the nominal presidency of former Confederate General Joseph E. Johnston, the board included then-Arkansas Senator Augustus Garland. The company was capitalized at \$5,000,000, an arbitrary figure based on what the directors thought was the potential value of J. H. Rogers's patents. Within months of its organization, the new company was embroiled in litigation involving charges of copyright infringement.<sup>1</sup> As one scholar subsequently noted, Rogers' inventions "seemed to be about one percent inspiration and 99 percent tracing paper."<sup>2</sup>

With Grover Cleveland's election as president in 1884, Pan-Electric's directors had reason to anticipate government intervention in their favor. The new administration seemed to go out of its way to encourage this belief. Not only was Garland appointed attorney general, Atkins and General Johnston were rewarded with appointments as commissioners of Indian affairs and railroads respectively. Within six months of Cleveland's inaugural, the company moved to press its seemingly new advantage. In mid-1885, the directors asked their fellow stockholder, the new attorney general, to sue in the name of the United States for the annulment of Bell's patents.

When Garland initially refused, Congressman Young and some of his fellow directors then presented a petition to U.S. District Attorney W.B. McCorry at Jackson, Tennessee, asking that he bring a suit in the government's behalf. On August 31, McCorry wrote Garland recommending that suit be brought on the grounds that Bell's patent was too generic and had been obtained by fraud. With Garland conveniently off deer hunting in Arkansas, his Virginia-born solicitor general, John Goode, granted the directors' request; but the President

intervened and submitted the matter to Secretary Lamar for review. Lamar, with no formal ties to the company, upheld his fellow Southerners' request, reasoning that since the charges against Bell (and subsequently the Patent Office) involved fraud, they should be tested by government suit at government expense against Bell's company.

Not long after this decision Garland's ties with Pan-Electric were exposed in the *New York Tribune*. In October, Alexander Graham Bell returned to America from a trip to Newfoundland and immediately launched a counterattack against the government's suit. The Justice Department continued its efforts on Pan-Electric's behalf. On March 17, 1886, Solicitor General Goode announced that the suit would be brought in the U.S. District Court, Columbus, Ohio. Overruling Young's objections that the suit should be tried in Tennessee, Goode maintained that since Ohio had no experience in telephone litigation, the Columbus court would show greater impartiality to all parties. Whether tried in Columbus or Jackson, the district court in question fell within the confines of the Sixth Judicial Circuit. Consequently, in either location, the case fell under the supervision of that circuit's presiding judge. On March 17, the day of Goode's announcement, that judge was John Baxter of Tennessee.

Baxter's death two and a half weeks later, on April 2, complicated matters. In the meantime, the House had voted 198 to 66 to investigate the actions of Pan-Electric and its directors. The formal hearings began on March 2 and continued through May 27. While the investigative committee of five Democrats and four Republicans voted along party lines to exonerate not only Garland but also Goode, Lamar, Atkins, Johnston, and Harris,<sup>3</sup> the hostile public atmosphere in which the hearings were held made the choice of a candidate to succeed Baxter difficult. Whoever was chosen would in all likelihood be the judge who would preside over the government's case against Bell.

#### THE DILEMMA

Baxter's death was greeted with relief. Writing to the president on the day of the Judge's demise, a prominent attorney, Lowman P. Lowrey, observed

that the known idiosyncrasies of that judge and especially his notorious contempt of patents and summary way of dealing with them would eventually add materially to the difficulties of the Government in holding the prosecution of that case up to the high tone which is necessary to the preservation of a favorable public opinion toward it. The ground of that

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fear which is perhaps unjust to that judge is now removed and except that I have serious doubt whether jurisdiction of the Am Bell Co can be got there reconciles me heartily to the selection of a place of trial which has been made.<sup>4</sup>

As for a potential successor, Lowrey commended the abilities of Tennessee-based District Court Judges G.R. Sage and E.S. Hammond. Noting that the latter, however, held court in Memphis, Lowrey went on to warn that "such an appointment would, I fear, revive the scandal of the Memphis suit, and furnish seeming reason to misrepresent the *aminus* [basic attitude or governing spirit] of the administration."<sup>5</sup>

In an April 8 editorial, *The Nation* expressed a similar view.

The death of Judge Baxter last week is of especial public interest at the present time, owing to the fact that the Government suit to annul the Bell telephone patent has lately been begun at Columbus, O., in the circuit of the United States Court, over which Judge Baxter presided. It has for some time been an open secret among the profession that Judge Baxter had strong sentiments against letters patent, and it needed to be a very clear case of infringement to secure success before him.<sup>6</sup>

The editorial continued:

So prevalent had become the feeling about his views in this particular that many suits were discontinued in his circuit, and few were begun there, the owners of patents preferring to allow infringement to go on unmolested in that district rather than to risk their rights in a suit, although their patents may have been sustained in other circuits. Under these circumstances the appointment of a successor to Judge Baxter by the President will be looked for with considerable interest.<sup>7</sup>

Within this atmosphere of growing public distrust a search was begun for Baxter's successor, a search that entailed a sectional ramification. Although the *Memphis Avalanche* naturally assumed that President Cleveland would select a Democrat, it suggested that the president "will desire to restore the equilibrium disturbed by war and sectional politics which has left the supreme court and almost the entire federal judiciary composed of northern men."<sup>8</sup>

Considering the entire field of judges then in place within the Sixth Judicial Circuit, the editors at the *Avalanche* mused:

Ohio has now Justice [sic] Waite and Matthews of the Supreme Court, and District Judges Welker and Sage, and Judge Woods, of Georgia, is a native of Ohio. Michigan has only its two district judges. Kentucky has Judge Harlan of the supreme bench and District Judge Barr. Tennessee has two district judges, Judge E.S. Hammond of this city and Judge David M. Key of Chattanooga.<sup>9</sup>

Aware that the late Judge Baxter "was a union man in the war and had been a conservative republican since," the editors complained that the vast majority of the judges within the federal judiciary "are so exclusively appointed from the north or of men of northern birth, emigrated for position, that the exceptions are very few."

Speculating on possible successors, the *Avalanche* praised both Hammond and Key as "native" and as reflecting "credit upon the bench and upon their own houses." After examining each of the present members of the state supreme court, it then turned its attention to prominent Memphis attorney B.M. Estes. The editors began by observing that Senator Jackson had been mentioned by eastern correspondents as future judicial material then reflected:

Mr. Estes was formerly the law partner of Senator Jackson. It is to be assumed that he would have Senator Jackson's support. It is generally believed that Senator Harris and Mr. Estes are on good terms, so that he might fairly count on his support.

Concluding that it was "possible that the winner will be either Mr. Estes or Senator Jackson, himself, if Tennessee shall draw the prize,"<sup>10</sup> the *Avalanche* left little doubt as to its belief that a southerner would and should be selected. This view, however, was not universally maintained. The same day that the *Avalanche* speculated on Estes and Jackson, the *New York Herald* set its sights farther north. Reviewing the present court membership, the *Herald* argued:

The appointment cannot in reason go to Ohio, which already has two Circuit Judges; nor to Kentucky, which also has two; and that as Judge Baxter was a Tennessean, a chance will now be given Michigan.<sup>11</sup>

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A few days later, the *Avalanche* predicted that Estes would be the eventual nominee. Acknowledging that the Memphis attorney had by that time, won the formal endorsement of both Harris and Jackson, the paper praised Estes for his “character, attainments, and eminent fitness” for office. If Estes had any competition at all for the nomination, his “strongest competitor” would by necessity, come from neighboring Kentucky.<sup>12</sup>

Writing the senator on April 6, the Memphis attorney urged “that if you make a *decided effort* for me (No one doubts that you will), I will get the appointment.” Adding that “I shall be under lasting obligation to you,”<sup>13</sup> Estes, a former Tennessee legislator and Confederate district attorney, consequently brought moral pressure to bear on his former law partner. Within days, however, the specter of Pan-Electric arose to effectively destroy whatever chances Estes had for the appointment.

On April 9, Estes wrote, with regard to his “wife’s ownership of pan electric telephone stock . . . It never entered into the imagination of my thought that this frivolous matter could have any influence on controlling the appointment of Circuit Judge.” Continuing his plea, “I certainly would not for a moment suppose that the facts as I state them would render me incompetent to try any cases involving the interests of the telephone Co.” Clearly shaken by the sudden turn of events, Estes begged Jackson to somehow save the day for him. He was persuaded that “if a Tennessean is appointed to the place, there will not be another opportunity . . . in my lifetime.” Bemoaning that his “nominal connection with the stock” was a “trivial matter . . . likely to prove a great calamity to me,” Estes closed with the plea that his former partner “take the trouble to explain this matter to Mr. Cleveland and put me right with him, if my nominal connection with the stock has been mentioned to him.”<sup>14</sup>

For Howell Jackson, this must have been a painful moment. B.M. Estes had been both his friend and associate. To support his nomination in the face of alleged ties to the growing scandal over Pan-Electric would have been difficult even if Jackson had not been a candidate for the position. The next few days witnessed the senator’s struggle to reconcile his loyalty to Estes with his own ambition. He had to consider the politics of Pan-Electric as well as the pressure applied by his friends and supporters.

As Estes and Jackson wrestled with the Pan-Electric dilemma, President Cleveland was dealing with it too. Despite Attorney General Garland’s complicity in the scandal over Pan-Electric, he was participating in the judicial selection. Writing the president on April 8, he referred to a conversation he had had the

day before with Supreme Court Justice David Matthews. According to Garland, they had agreed that the growing caseload of the circuit made it essential to fill the vacancy as quickly as possible. As for the likely successor, Garland reminded Cleveland that Ohio and Kentucky were both represented on the Supreme Court. "Baxter was from Tenn[essee] and his predecessor from Mich[igan]," so the appointment should come from one of those two states. He added that "while Baxter was from the South," he was not a representative Southerner. Nevertheless, the former Arkansas governor and Confederate senator made it plain that he thought that Tennessee was entitled to the appointment.<sup>15</sup>

On April 9, *The Nation* addressed the Sixth Circuit's workload.

Of the United States judges in that circuit district, Judge Withey has for some time been too ill for service, and is trying to regain his health; Judge Brown, the District Judge at Detroit, has been so overworked that he is unable to leave home to attend to court business, and according to last reports will not be well enough to hold court for some time to come. The death of Judge Baxter therefore leaves the United States Courts in Michigan without any judge to attend to court business until his successor is appointed.<sup>16</sup>

In response to such articles, District Court Judge Henry Brown wrote the president that such reports were in error. He acknowledged recent illness, but the future Supreme Court justice assured the president that he was holding court and hearings in his library. Insisting he would soon be able to fill in for the incapacitated Judge Withey, Brown went on: "It is of far more importance that this appointment shall be deliberately than speedily made."<sup>17</sup> He was not committed to any candidate. "I have no interest in the matter beyond wishing that President Cleveland's first judicial appointment [sic] shall meet with the unanimous approval of both parties."<sup>18</sup>

#### THE SELECTION

The *New York Herald* of April 10, reported that "there is good reason for believing that the President will appoint Senator Jackson, of Tennessee, as United States Circuit Judge in place of Judge Baxter, deceased."<sup>19</sup> In a letter to Jackson one day later, Judge Hammond, knowing that the senator was currently championing the candidacy of Estes, wrote that he had

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read in the papers that you were hesitating on account of your constituents, which I take it means that your friendship with Estes was in the way of your acceptance. I mind you not to refuse. You would find, I think, that the Judgeship would be more to your taste than a political career however prominent you might become and it will lead you more directly to the Supreme Bench than the others.<sup>20</sup>

Hammond addressed “the infernal nonsense about the ‘Telephone Suit,’” saying that it was “entitled to no more consideration in selecting a judge than one for the collection of a note for \$50 or than one for a pair of mules, extra large.”

As to Jackson’s relations with Isham Harris, Hammond urged Jackson not to let that senator’s links to Pan-Electric be a barrier to accepting Cleveland’s appointment. Instead, he urged Jackson to accept the judgeship and then, if such a case involving Pan-Electric came before him, he could “do like Baxter did in the RR Commission cases—call the district judges to sit with you, as many as you wish, or you can leave it to the district judges to try.”

Reiterating that he “would not think of that suit a moment,” Hammond closed, “I sincerely hope you will take the place.”<sup>21</sup> At the same time, Hammond’s clerk, A.J. Ricks, wrote to Southern financier Charles McClung McGhee asking him to join Hammond in urging Jackson to accept the judgeship. “I know you are intimate with the Senator,” wrote Ricks, “and have influence with the President. Can you not use your influence to induce Mr. Jackson to take this office?”<sup>22</sup> As the pressure mounted Howell Jackson found himself on the verge of a change in his career. The deciding factor came a day later when Jackson received a personal letter from President Cleveland.

“My Dear Senator,” it began,

The applications on behalf of all classes to fill the place made vacant by Judge Baxter’s death are so numerous that the matter promises to degenerate into an unseemly scramble. To avoid this I have determined to send the name of Judge Baxter’s successor to the Senate at once. In the interest of this important branch of public service, and very clear conception to my duty in the matter, I have determined to say to you, you must abandon all scruples you have entertained and permit me to nominate you to the vacancy.<sup>23</sup>



Sensible of Jackson's current commitment to Estes as well as to other potential Tennessee nominees, Cleveland elaborated:

Your reluctance to consent to this action, growing out of the consideration for constituents in your State desiring the place, does you great credit, and increases my estimate of your value. You have no right to attempt to control my action or limit my selection in this way. I am quite willing that all other aspirants and their friends should know that your nomination is my own act and result of conviction of what ought to be done, from which I cannot be moved by your arguments, or by presenting the claims of other aspirants.

Concluding with the admonition, I fully expect "you will not be insubordinate in the face of plain duty,"<sup>24</sup> the president left little doubt as to the limits of Jackson's options.

As moving as Cleveland's letter was, Jackson's decision to accept the appointment was based more on an accompanying communication from the president. Earlier Jackson had presented Cleveland with the names of Estes and two other state residents for consideration for the position; now Jackson was quietly yet pointedly informed that if he did not himself accept the nomination, the appointment would go outside Tennessee. Having thus done all he could for his friend Estes, the senator was finally free to indulge his own ambitions. Now after ten days of deliberation, events accelerated rapidly. On the day Jackson received the president's personal letter, his elevation to the circuit judgeship moved with blinding speed.

The *New York Times* described what was to follow. Having been notified that day that Jackson had accepted the appointment, Cleveland immediately sent the nomination to the Senate. "In less than half an hour after the message had been received,"

Mr. Jackson was confirmed. The nomination came in while the Senate was at work on the Indian Appropriation bill. It was recognized on both sides of the chamber as an excellent selection, and Republicans and Democrats alike desired to express their kindly feelings for their fellow-Senator by confirming him at once.<sup>25</sup>

As noted in the *Times*, Senate rules prohibited public debate on the matter, and the chamber was closed in order for the Senate to go into executive session.

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Then Mr. Jackson's nomination was laid before the Senate and a number of speeches full of warm friendship and compliment for the Tennessee Senator were delivered by Senators who had served with him on committees and others. Among the Republicans who thus spoke were Mr. Sherman and Mr. Hoar. There was of course no opposition to the formal confirmation of the new Judge.

Observing that Jackson was “quietly disposing of a dish of roasted oysters in the Senate restaurant while this was going on,” the paper went on to report that before the senator had completed his meal, “he had to shake hands with a good many Senators who wanted to congratulate him, while adding their regret that he was to leave them.”<sup>26</sup> Thus began the judicial career of Howell Edmunds Jackson.

### THE RULING

Jackson—Grover Cleveland's first important appointee to the federal judiciary—was formally sworn in as a circuit court judge on April 14, 1886. One day later, *The Nation* commented:

The President's appointment of Senator Jackson, of Tennessee, to fill the vacancy in the United States Circuit Court Judgeship caused by Judge Baxter's death, is highly commended by candid men of all parties . . . It shows that Mr. Cleveland can be trusted to discharge this most responsible branch of the executive's duty with a conscientious purpose to do the best thing for the country.<sup>27</sup>

Within seven months of his appointment Jackson made his first important judicial decision. In the case of *United States v. American Bell Telephone Company*,<sup>28</sup> the new judge addressed the seemingly endless, maddeningly inescapable controversy over Pan-Electric. While he had never personally been involved with the company, the scandal touched nearly every aspect of Jackson's career in the Senate.

Pan-Electric had come to Washington the same year as Jackson. Since then, it had engulfed the careers of three fellow senators, Isham Harris, Augustus Garland, and L.Q.C. Lamar and Congressman J.D.C. Atkins. Merely the dream of a former Memphian, Pan-Electric had been chartered as a Tennessee corporation in 1883 and later filed suit against Bell Telephone in the judge's

hometown of Jackson. Finally, having helped to sabotage the judicial aspirations of Jackson's friend, Estes, the scandal was instrumental in securing Jackson's appointment to the bench in April. In the fall of 1886, the lawsuit engendered by the scandal became Judge Jackson's responsibility.

Jackson did not rule directly on the viability of the Bell patents, but he paved the way for Bell's ultimate triumph over both the federal government's lawsuit and Pan-Electric's claims. On November 11, in a decision written by Jackson, but read in his absence, District Judge Sage dismissed the government's suit for lack of jurisdiction. Noting that the Ohio companies being sued were neither agents nor partners, but merely licensees of American Bell, the court held that the corporation could be sued only in Bell's home state of Massachusetts. By dismissing the lawsuit without prejudice, Jackson's decision allowed the federal government to begin its litigation anew and challenge the legality of Bell's patents in the state of Massachusetts.

While not a complete loss for the government, Jackson's decision spelled the beginning of the end for Pan-Electric. With its sophisticated laws on corporations and patents and its close identification with the Bell enterprise, Massachusetts was the one state that Pan-Electric's directors wanted to avoid. Pan-Electric launched its assault in Tennessee but shifted it to Ohio. Jackson's ruling brought an end to the search for a favorable jurisdiction.

Jackson's handling of the case attracted considerable public attention. The hearing lasted five days, and, as the *New York Times* reported,

some remark was excited at the time among members of the local Bar on account of the difficulty which the court, in permitting so protracted a discussion, seemed to confess it found in a question usually disposed of in an hour. It is now known that it was the peculiar position in which Judge Jackson found himself placed which prompted the careful deliberation which the question has received.<sup>29</sup>

After reviewing the background of the case and Jackson's appointment as presiding judge, the paper expounded:

Judge Jackson owes his appointment to the present Administration, and the annoying report had gone out that the Government believed it could rely upon him in the telephone suit. He came to the hearing with a strong conviction that the suit should not have been brought in this

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jurisdiction, but fearing that he might have been in some measure led to adopt such an opinion by the unwarranted reports that he was owned by the Administration and must entertain the suit, he was particularly anxious to hear all that counsel might have to say.<sup>30</sup>

So it was in this act of personal and judicial integrity that Howell Jackson demonstrated the independence that characterized his professional career. With regard to his ruling's immediate ramifications, *The Nation* opined:

The end of the suit instituted by the Government to find out whether Bell Telephone Company had not obtained its patents by fraud is most melancholy. The origin of the proceedings has been clouded with scandal, their expense has been great, and now the Ohio Circuit Court has dismissed the bill for want of jurisdiction.<sup>31</sup>

To *The Nation's* editors it appeared that

the suit ought to have been brought in Massachusetts, if anywhere. But the promoters of the suit think they would not get justice in Massachusetts, because there the telephone stock is very extensively held. It is said that the leading points in the case will be passed on shortly by the Supreme Court in other telephone cases now pending before that tribunal, but the Pan-Electric people are not cheered up by this, because they say collusion has presided over the making up of the issues in these cases. There are five in number and their records fill 25,000 printed octavo pages, and they are all to be argued together.<sup>32</sup>

The federal government renewed its suit in 1887 in a district court in Massachusetts. It was dismissed again for lack of jurisdiction, but on appeal the Supreme Court reversed that decision and remanded the case to lower courts. The Massachusetts court dismissed again and the high court overruled again.<sup>33</sup> On March 19, 1888, American Bell's patents were sustained by order of the United States Supreme Court.

In a "divided opinion of a crippled court," the Supreme Court justices narrowly upheld the so-called Telephone Monopoly, judging that Bell was the original inventor of the speaking telephone and sustaining his patent. Speaking for Justices Miller, Matthews, and Blatchford, Chief Justice Morrison Waite

dismissed all charges that Bell had obtained his patent through government fraud and upheld the validity of his original patent until its scheduled expiration date in 1893. In their dissent, Justices Field, Bradley, and Harlan stoutly maintained that because Bell had not, in fact, invented the telephone, his patent should be declared void and his monopoly broken up.

For his part, Justice Gray did not sit in the case because his relatives owned substantial amounts of Bell stock. The court's newest justice, L.Q.C. Lamar, had only recently been appointed to the bench to replace the deceased Justice Woods, so he did not participate in the decision. Had Lamar been established on the court he would have had to recuse himself owing to his prior connection with the case as Cleveland's secretary of the interior.<sup>34</sup>

The Telephone case and the Pan-Electric scandal passed into history in an opinion filling the entire volume of 126 *U.S. Reports*. Authored by Morrison Waite, it was nevertheless announced from the bench by Samuel Blatchford, because the chief justice was too ill to attend. *Bell Telephone* was Waite's final decision. Four days after its verdict, the chief justice died, as soon to be forgotten as the decision he had authored and the scandal that had prompted it.<sup>35</sup>

#### THE CONSEQUENCES

Pan-Electric is not accorded the historical recognition given other Gilded Age scandals like Credit Mobilier and the Whiskey Ring. Nevertheless, in its time it threatened several prominent Democrats and nearly rendered the Cleveland Administration as notorious as the previous corruption-ridden presidency of Ulysses S. Grant. It touched such prominent Southern leaders as Harris, Garland, and Lamar and even became a factor in Tennessee's 1886 gubernatorial election: Harris confidant Colonel Robert F. Looney was crippled in his race against Jackson ally Robert Taylor after it became known that he had received \$600,000 of Pan-Electric stock in return for his help in setting up the company.<sup>36</sup>

As for Howell Jackson, his role in the scandal was secondary and incidental. Unlike his fellow Southern Democratic representatives Harris and Garland or Atkins and Young, he had no affiliation with Pan-Electric. Unlike his friend Estes, he owned no company stock, and unlike Interior Secretary Lamar, when he had to decide an issue in Pan-Electric's claim against Bell, Jackson, as circuit court judge, ruled against the interests of Pan-Electric.

Jackson's ruling was good law and was never overturned. On the contrary, in the years to come, Jackson's first important decision as a federal judge was cited repeatedly by such Supreme Court jurists as Horace Gray,<sup>37</sup> Joseph McKenna,<sup>38</sup>

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John Marshall Harlan,<sup>39</sup> and William Rufus Day.<sup>40</sup> In 1899, Rufus Peckham, Jackson's successor on the Supreme Court, paid tribute to his late predecessor by outlining his *Bell* ruling as binding legal precedent. Thus in the case of *Mutual Life Insurance Co. v. Spratley*, Peckham observed,

In *United States v. American Bell Co.*, 29 Fed. Rep. 17, Judge Jackson stated the three conditions necessary to give a court jurisdiction in personam over a foreign corporation: First, it must appear that the corporation was carrying on its business in the State where process was served on the agent; second, that the business was transacted or managed by some agent or officer appointed by or representing the corporation in such state; third, the existence of some local law making such corporation amenable to suit there as a condition, express or implied, of doing business in the State.<sup>41</sup>

By the end of his seventh month as a circuit court judge, Howell Jackson had demonstrated himself to be a competent jurist of both independence and integrity. Just as he had been Democrat Grover Cleveland's first important judicial appointment in 1886, seven years later, he became Republican Benjamin Harrison's last important appointment to the bench when the outgoing president elevated him to the Supreme Court just days before leaving office in March 1893. Jackson had proved his unique abilities as a circuit court judge but did not live long enough to do likewise as a Supreme Court justice. Diagnosed with tuberculosis, he died in August 1895.<sup>42</sup>

### NOTES

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5. *Ibid.*
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10. Ibid. See also "The Federal Court Vacancy," *The Memphis Avalanche*, April 4, 1886, 2; and "Death of Judge Baxter," and "Office Craze," *West Tennessee Whig*, April 7, 1886, 2.
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22. William Joseph MacArthur, Jr., "Charles McClung McGhee, Southern Financier" (Ph.D. diss., University of Tennessee, March 1975), 108 n.144.
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25. "From Senate to Bench," *New York Times*, April 13, 1886, 1. See also *Congressional Record* 18, no. 4 (April 12, 1886): 3390-91; *Journal of the Executive Proceedings of the Senate of the United States of America* 25 (April 12, 1886): 411, 413; "From our Regular Correspondents," *New York Herald*, April 13, 1886, 1; and "At the Capitol," *Daily Memphis Avalanche*, April 13, 1886, 8.
26. Ibid.
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32. Ibid. See also "The Week," *The Nation* 45 (November 29, 1886): 241.
33. Williams, "Pan-Electric Telephone Controversy," 150-51.
34. "The Telephone Monopoly Upheld by the Divided Opinion of a Crippled Court," *New York Herald*, March 20, 1888, 5; "Bell's Patents Sustained," *New York Herald*, March 20, 1888, 3; 126 *U.S. Reports* 2 (1888); and "The Week," *The Nation* 46 (March 22, 1888): 227.
35. Louis Filler, "Morrison Waite," in *Justices of the United States Supreme Court, 1789-1969, Their Lives and Major Opinions*, ed. Leon Friedman and Fred L. Israel (New York: Chelsea House in association with R.R. Bowker, 1969), 2:1243; and Gustavus Myers, *History of the United States Supreme Court* (Chicago: C.H. Kerr, 1912; New York: Burt Franklin, 1968), 575-77.
36. Williams, "Pan-Electric Telephone Controversy," 144-46, 156, 161.
37. 156 *U.S. Reports* 520 (1895).
38. 190 *U.S. Reports* 409 (1903).
39. 196 *U.S. Reports* 444 (1905).
40. 205 *U.S. Reports* 392, 393 (1907).
41. 172 *U.S. Reports* 618 (1899).
42. Harvey Gresham Hudspeth, "Jackson, Howell Edmunds," in *The Tennessee Encyclopedia of History and Culture*, ed. Carol Van West (Nashville: Rutledge Hill Press, 1998), 472.