ordinary course of transit, should have entered Canada on the 24th, but which, owing to some mishap, did actually pass the frontier only a few days after. The circumstances of these facts show that there was no intention to break through the law, and that the importation was not considerable; therefore this case of importation in the latter part of the month of August, 1878, cannot entail the voidance of the patent.

At the same time that no stress is put upon these facts, it is, nevertheless, an occasion to warn patentees in general against the danger of running so close to the expiry of the twelve months as to incur the risk of coming even a day too late with their last importation. This tribunal is a paternal tribunal, the judges of which are the natural protectors of the patentees' rights; and, as such, bound to give to the facts the most liberal construction consistent with a compliance with the spirit of the law; but the patentees are the first guardians of their own interests and should not put their property in jeopardy, by placing these judges in the position of being obliged to overstretch leniency in order to save their patents.

During the first year of the existence of the patent, then, the patentee or his legal representatives, imported, or caused to be imported, about five hundred instruments ready for use, as they had a right to do; a few days after the expiration of the twelve months they also imported, or caused to be imported, seventy-five complete instruments, which latter importation being inconsiderable and apparently done in good faith, and not with any intention to evade the law, is declared not to have forfeited the patent. There remains now to examine what was done after that time.

It is desirable, first, to enter into a cursory examination of the instruments patented as new articles of manufacture. It will, however, be sufficient to investigate the elements of one of these two instruments, the one commonly called the "hand telephone," represented in figure 6 of the drawings of the patent. It consists, 1st, of a casing with a side cover, the whole being at the same time a handle, with a flat ring piece fixed to it, called disk in the trade, and a perforated cup-like screwed top, the whole and the four distinct parts of which are of a form special to this new article of manufacture; this handle casing may be made of any suitable materials, but as a matter of fact is in this case made of hard rubber; 2nd, of four bars of magnetized steel, bound together by screws and nuts; 3rd, of two soft iron pieces, called drop forgings; 4th, of a bobbin, on which silk covered, small copper wires are rolled around; 5th, of wire posts, also called screw cups, and a regulating screw; 6th, of a metallic vibrating plate or diaphragm, sometimes called disk, as a matter of fact cut out and otherwise worked from what is commonly called japanned or ferrotype plates; 7th, of a few other insignificant articles of construction.

It will expedite matters to consider together the two questions raised in the dispute, of illegal importation and of non manufacture; for in the measure that illegal importation goes on, in that measure the industry and the labor of the country are deprived of the benefit of manufacturing.

Therefore, we have to examine what, in these instruments, is raw material which does not fall under the application of the 28th section, and what are industry and labor; because it is clear that if the aggregate amount of industry and labor entering into the making of such instruments was merely trifling, unless a criminal intention of totally disregarding the law was shown, which is not the case here, it would not be a liberal nor a reasonable interpretation of the spirit of the law to destroy the patent, on account of its importation or non-manufacture; if it were, for instance, amounting in all to a value of ten dollars a year, as the learned counsel, Mr. Macdougall has it, with the Latin maxim—*de minimis non curat lex*, or even if it were ten times as much as that for every year.

As already said, it will suffice to confine our study of the case, to the examination of one of the two instruments patented, the "hand telephone." The raw materials of this instrument comprise, steel in bars, soft iron, wood and vulcanized rubber, to which must be added, as common articles of commerce, silk covered wires, japanned plates or sheets of ferrotype, as some call them, screws, nuts, and may be wire posts. The value of each hand telephone complete is about $2.00; the value of the raw materials, including common articles of commerce, entering into each instrument, may be said with certainty, not to reach the aggregate of $0.90. Therefore the industry and labor put upon each of these instruments may be set down at about $1.10. One would be inclined to take a much more exalted idea of the value of the labor put upon the two instruments patented from the statement made by Mr. Sise, the general manager of the Bell Telephone Company of Canada, that their telephone factory at Montreal, established in 1882, has $50,000 capital invested in it, and that the pay roll of that factory amounts to $30,000 a year wages; notwithstanding that the rubber handles of the hand telephone are not yet manufactured in Canada, as we have it from Mr. Sise, who says that they cannot get them made in Canada, having again vainly tried to do so a week before he gave his evidence in this case; which, of course, can only mean that the Bell Telephone Company have not pro-