Patents.

One of the methods employed by trusts to raise the value of their properties and depreciate those of others has been the illegal use and misuse of patents. Combinations have used their political and pecuniary influence to prevent patents applied for being granted, in order that they might use the invention as being unpatented. A Court case disclosed that associated railway companies made an agreement for the purpose of restraining individual owners of patents from freely negotiating sale of interests in their patents, and from collecting compensation from any member of the association who has appropriated a patent invention. The combination was to use all means against any person bringing a suit against one of these members, was to collectively "boycott" or refuse to negotiate with the patentee, and not to settle a suit or claim so long as a similar suit or claim was maintained against any other member of the association: this, of course, to cut off the "sinews of war" from the opponent. (See Pettibone *v.* United States, 13 "Supreme Law Reporter," 542, 1893.) Thus, any competition for a patent is suppressed, and the combination either uses the patent without payment or purchases it at its own price. As the law of the United States declares that there shall be a fair and open market for patents such acts as those spoken of are plainly in "restraint of trade," and are illegal.

Mr. Albert H. Walker, in his book on patents, page 396, says,—

> Suppose the Baltimore and Ohio Railroad Company see the wonderful invention and think that it is a good thing, and a good deal cheaper than coal, and say, "We will proceed to infringe Mr. Vance's patent, and we will fight him ten or fifteen years if he sues us, with the probable result of his exhausting his means before he gets a decree." Such a course of defiant infringement is in many cases the deliberate purpose of railroadmen. It was the avowed practice of H. E. Sargent, the superintendent for many years of the Michigan Central Railroad, and one of the members of the Western Railroad Association. He has avowed it as his universal principle never to pay anything voluntarily to a patentee. He says, "Whenever our attention is called to a patent of value we use it, and in a few cases we are made to pay by plucky inventors, but in the aggregate we pay much less than if we took licenses at first."

The Hon. Elisha Foote, ex-Commissioner of Patents, says ("Loco. Engineering," November, 1892, p. 415):—

> What chance would the poor inventor have against these powerful corporations? None but a very wealthy person could enter into such a controversy. . . . Suppose any of these wealthy corporations should call upon a poor inventor to commence a suit against them and to encounter a big railroad combination with all their able and learned counsel in their employ. It would be impracticable; he would have to give up his patent.

How enormous are the forces exerted when a monster combination sets itself to defraud a single person of his rights may be gathered from the fact that one of these trusts, particularly alleged as an offender and sued for this variety of illegal behaviour, was the Eastern Railroad Association, a combination of more than two hundred and fifty railway corporations. These individual corporations were by their own agreement forbidden to acquire patents; there was a common Board for the purpose, a special fund, and special officers whose duty was to defend, apply for injunctions, make series of appeals, &c., in order to secure the full use of patents to the trust and prevent competitors from benefiting by them. In one of the Board's reports (eleventh report) they made the statement "It has been thought advisable to accept of a low compromise rate offered by the owners of one or two patents whose claims upon investigation have been found to be valid." Then follow data of twenty suits successfully defended. Little more need be said.

Discrimination and Rebates.

By far the greatest evil alleged to proceed from the formation of trusts is the destruction of competition through agreements for rebates and discrimination given by the transport and carrying companies to the trusts. The mischief has assumed far larger proportions in the United States than in any other part of the world. In foreign countries and colonies like New Zealand, where the railways are either in the hands of the Government or controlled by Government influence, the necessity for State regulation is scarcely apparent, but in the United States the practice grew into a giant evil. It is not strange to find that the railway corporations in America offered no opposition to the anti-rebate law. They will probably be extensive gainers, for the rebates were often forced from railway companies at the point of the industrial bayonet, although these railways have been held up to execration as the sinners in respect to these discriminations.

> In the early part of this year it came to the knowledge of the President that great railway systems in the Middle West, upon which every section of the country is dependent for the movement of breadstuff, had entered into unlawful agreements to transport the shipments of a few favoured grain-buyers at rates much below the tariff charges imposed on smaller dealers and the general public. This injustice prevailed to such an extent and for so long a time that most of the smaller shippers had been driven from the field, and the business formerly enjoyed by them absorbed by a limited number of persons who received secret and preferential rates. In a word, there was practically one buyer on each railway system, and the illegal advantages he secured from the carrier gave him a monopoly of the grain on the line with which his secret compact was made.—(Attorney-General Knox, speech, Chamber of Commerce, Pittsburg, Pa., 14th October, 1902. C.R., 17th December, 1902, p. 412.)

This is a good example of the system, but the Standard Oil Company is generally quoted as the worst offender. It is well known that the Standard Oil Company had their product carried from Whiting, Indiana, to New Orleans and the southern States for 23 cents, when independent refiners were charged 33 cents, a discrimination of 43 per cent. But it is asserted that in other cases the same company made the railways charge more than double to independent refiners and then hand the oil company the difference. The small shipper suffered greatly also if not taking a whole carload. According to the evidence of an independent refiner given before the Railroad Classification Committee, in 1900 oil shipped in quantities less than a carload paid 266 per cent. more than a carload. The measurement of the carload also increased; at one time it was 20,000, it was raised to 24,000, and in 1900 to 30,000 gallons.

Since legislation passed at the last session of Congress has dealt fully and drastically with this variety of oppressive evil, no more need be said at present about a system which has been the ruin of thousands, and which has probably produced more crime and misery than any other force in commercial and economic life.