sibilant singing. High in the hot sky circled the buzzards. An ethereal spider-line trailing from a tall pine caught the September morning sun and gleamed. Peter noted it with intense minuteness, and the men seemed cheering for many hours in the corn-fields and timber. The trail of the carriage was very wet and of a bright red. And he heard the flag softly snapping, snapping very softly, above him in the breeze.

"He came up in a balloon, I guess," said the one living artillerist. "We couldn't git out his range — there wasn't room. He unlimbered and plunked us one by one, so blasted regular that some got afeard of him and run. The thing ain't possible. I've seen it done, and yit I say, it ain't possible! We brought them guns up piece by piece, too, and belonged to the finest battery in the service — the bloody son of a gun! — Gimme a drink of whisky!"

"Not Dorgan?" said General Marmaduke. "Was it really you? Was there no one to help you? My brave lad, are you badly hurt?"

"Yes, sir." Peter raised himself and fell forward with swimming eyelids. General Marmaduke caught him in his strong arms and put his head for a time over his heart.

"Gentlemen, this boy has saved the command, and he is going out," he said, and a hardening came in his throat.

The little dragoon's head fell backward. . . . If Lorena could see him *now!*

THE HISTORY OF THE STANDARD OIL COMPANY: PART TWO

BY

IDA M. TARBELL

AUTHOR OF "THE LIFE OF LINCOLN"

CHAPTER IV

THE TROUBLES OF A TRUST

ALL that Mr. John D. Rockefeller asked of the country by the year 1885, was to be let alone. He had completed one of the most perfect business organizations the world has ever seen, an organization which handled practically all of a great natural product. His factories were models of their kind, managed with the strictest economy. He owned outright the pipe-lines which transported the crude oil. His knowledge of the consuming power of the world was accurate and he kept his output strictly within its limit. At the same time the great marketing machinery he had put in operation carried on an aggressive campaign for new markets. To China, Africa, South America, as well as to remote parts of Europe and the United States, Standard agents carried refined oil. The Standard Oil Company had been organized to do business, and if ever a company did business it was this one. From Mr. Rockefeller himself, hidden from everybody but the remarkable body of directors and heads of departments which he had "acquired" as he wiped up one refinery and one pipe-line after another, to the humblest clerk in the office of the most remote marketing agency, everybody worked. There was not a lazy-bone in the organization, nor an incompetent hand, nor a stupid head. It was a machine where everybody was kept on his mettle by an extraordinary system of competition, where success met immediate recognition, where opportunity was wide as the world's craving for a good light to cheer its hours of darkness. The machine was pervaded and stimulated by the

consciousness of its own power and prosperity. It was a great thing to belong to an organization which always got what it wanted and which was making money as no business in the country ever made it.

What more, indeed, could Mr. Rockefeller ask than to be let alone? And why not let him alone? He had the ability to keep together the widespread interests he had acquired — not only keep them together, but unify and develop them — why not let him alone? Many people, even in the Oil Regions, were inclined to do so. Some because they feared him — rumor said Mr. Rockefeller was vindictive and never forgot opposition; others because they were canny and foresaw that some day there might be a chance for them in the Standard Oil Company; still others because criticism of success is ungracious business and arouses a suspicion that the critic may be envious or bitter. But there were a few people, as there always are, whom no cowardice, self-interest, or fear of public opinion could keep quiet, and these people insistently urged that the Standard Oil Company was a menace to the commerce of the country. These people went over again and again the steps by which Mr. Rockefeller had reached his height. They began to point out a result of his success less apparent then than now: that a monopolization of one great industry means gradual control of others. We have been and are being wronged, they repeated. We have a right to do an independent business. Interference to drive us out is conspiracy. Let Mr. Rockefeller succeed in the oil business and he will attack other industries; he will have imitators; in fifty years a handful of men will own the country.

Mr. Rockefeller handled his critics with a skill bordering on genius. He ignored them. To see them, to answer them, called attention to them. He was too busy to answer them. "We do not talk much — we saw wood." An attitude of serene indifference is supremely wise — for a time. It belittles the critic and it gives the outsider, who watches the game, a feeling that a serenity so high must come from an impregnable position. Only the few irreconcilables withstood his sphinx-like attitude, and yearly, after the compromise of 1880, their warnings and accusations became louder and more fierce. Probably the greatest trial Mr. Rockefeller has ever had has come from the persistency with which malcontents have kept him before the public. They have interfered with two of his great principles — "hide the profits," "say nothing." It was they who had ruined the South Improvement Company; it was they who had indicted him for conspiracy and compelled him to compromise in 1880. It was they who now, after the splendid pipe-line organization was completed and his marketing machinery was in order, kept up their agitation and their cursing. And their work began to tell. The feeling that the Standard Oil Company must be looked into grew. Even those who, dazzled by Mr. Rockefeller's achievement and by the effectiveness of his machine, were inclined to overlook its ethical side and to refuse to consider to what aggregation of power and abuse it might lead, began to feel that it would be quite as well to have the matter thrashed out, to have it settled once for all whether the thing had been so bad in its making, and was so dangerous in its tendencies as the "oil-shriekers" pretended.

This feeling was intensified in 1885, 1886, and 1887 by a series of remarkable trials and investigations. Two of these have already been described in the last December issue of this magazine. The first brought out Mr. Rockefeller's peculiar arrangements with competing refineries for limiting the output of refined oil so as to keep up prices, and the contract for rebates with the Lake Shore Railroad which he enjoyed for a number of years; a contract which, as Judge Atherton said in giving his opinion on the case, kept freight rates *down* for the Standard Oil Company and *up* for all others, and enabled it "to establish and maintain an overshadowing monopoly, to ruin all other operators and drive them out of business."

The second case was one showing that in 1885 the pipe-line department of the Standard Oil Trust made a contract with the receiver of the Cleveland and Marietta Railroad, by which it paid 10 cents a barrel on its oil shipments while its rivals paid 35 cents. Moreover, that 25 cents of this 35 was given to the Standard as a drawback. This case was explained in December as fully as seemed necessary to the writer at the time, but since its publication her attention has been called to certain statements claiming that the contract was made by subordinates

without the knowledge or consent of the Standard Oil Company officials, that it was repudiated as soon as it was known and *before* the suit which finally made it public was brought, and that restitution was at once made to the persons wronged. For instance, in the Digest of Evidence made by the Industrial Commission in its report published in 1900 (p. 158), it is stated that the money collected was refunded *before* suit was brought. Again, in an interview published in the New York *World* for March 29, 1890, Mr. J. D. Rockefeller himself states: "When the arrangement was reported to the officers of the company at New York, it was not agreed to, because our counsel pronounced it illegal in so far as it embraced oil carried by the pipe-line. Some $250 had been paid to the pipe-line under this contract on oil which the line had not transported. This was refunded. We repudiated the contract before it was passed upon by the courts and made full recompense. In a business as large as ours, conducted by so many agents, some things are likely to be done which we cannot approve. We correct them as soon as they come to our knowledge. The public hears of the wrong — it never hears of the correction."

The facts in this case, as found by the Special Master Commissioner, George K. Nash, late Governor of the State of Ohio, appointed to investigate and report to the court for its action on the discriminations charged against the receiver of the Cleveland and Marietta road, are these: They show that both the statement in the report of the Industrial Commission and the impression Mr. Rockefeller seeks to give are wrong.

On the 8th of February, 1885, Daniel O'Day and W. T. Scheide, both men in high official positions in the Standard Oil pipe-line service, met the general freight agents of the Wheeling and Lake Erie Railroad and the Cleveland and Marietta Railroad at Toledo, Ohio, where an arrangement was made by which all crude oil shipped from Macksburg and vicinity over the Cleveland and Marietta Railroad should pay 35 cents a barrel, 10 cents of which was to go to the railroad and 25 cents to the Standard. The receiver of the road objected to the contract on the ground that it was intended to drive the independent oil refiners at Marietta out of business, but consented to it after advising with his counsel, because, if he refused, the Standard threatened to put a pipe-line from Macksburg to Parkersburg through which to transport all the oil controlled by them. The loss of this freight the receiver felt his enfeebled road could not afford.

This contract, made at Toledo, went into effect on the 20th of March, 1885. Among the shippers from Macksburg to whom the contract applied was Mr. George Rice. When he found that he was to be charged 35 cents on his oil — double what he had been paying — he began to build a pipe-line of his own from Macksburg to the Muskingum River. In the meantime, from March 20th to April 30th, he shipped over the road, sending 1,360 barrels, on which he paid $476; $340 of this money was sent to the headquarters of the Standard pipe-lines, at Oil City, Pa. At the end of April Mr. Rice stopped his shipments over the Cleveland and Marietta, and five and a half months later, on October 17, 1885, he applied to the court for an order requiring the receiver of the Cleveland and Marietta to report to the court touching his charges and rates of freight on oil. Judge Baxter, to whom the application was made, immediately issued such an order. Ten or twelve days *after* this order was issued, and over *eight months* after the arrangement of Mr. O'Day and Mr. Scheide had been made at Toledo with the freight agents, a check for $340, the amount paid the Standard out of Mr. Rice's freight charges, was returned to the agent of the Standard at Marietta, who sent it to the bank of the receiver in Cambridge, Ohio. The money later was returned to Rice.

Governor Nash also found that drawbacks to the amount of $649.15 had unjustly been paid to the Standard Oil Company on the shipments of the Argand Oil Works and Argand Refining Company, of Marietta, and to the amount of $639.75 on the shipments of the Marietta Oil Works. The sums were refunded by the Standard Oil Company in both cases.*

The facts show that the statement in the report of the Industrial Commission that the money was refunded *before* suit was brought is wrong and that, while Mr. Rockefeller is technically correct in stating

* The documents from which the statements are drawn are all on file in the office of the Clerk of the United States Circuit Court for the Southern District of Ohio, Eastern Division.

that the Standard repudiated the contract before it was passed on by the courts, he should have added they did not repudiate the contract until *eight months after* it was made and did not refund the money until *twelve days after* it became certain that the contract would be produced in court.

Simultaneously with these two cases there was a most sensational trial going on in Buffalo, New York, growing out of an indictment for the crime of conspiracy by the Grand Jury of Erie County, New York, of three prominent members of the Standard Oil Company — H. H. Rogers, John D. Archbold, and Ambrose McGregor —with two refiners with whom they were associated — H. B. Everest and C. M. Everest. The case is reported here at some length, because of the importance it has assumed in the popular controversy which has been going on for the last twenty years over "Standard methods," it being the case on which is based the often-repeated charge that Mr. Rockefeller, to win his point, has been known to burn refineries. For sake of clearness, a narrative of the case has been drawn from the testimony offered, no statements being admitted which were not brought out in the trial.

It seems that some time in 1879 the owners of the Vacuum Oil Works, of Rochester, New York — H. B. and C. M. Everest, father and son — sold to H. H. Rogers, J. D. Archbold, and Ambrose McGregor, of the Standard Oil Company, a three-fourths interest in that concern. The Everests remained as managers of the refinery, on a salary of $10,000 a year. The business policy of the Vacuum, including the fixing of salaries, was dictated by a board of directors made up of Messrs. Rogers, Archbold, McGregor, and the two Everests. The meetings of this board were held at the office of the Standard Oil Company, in New York or in Rochester, as convenient.

So far as can be inferred from the testimony, the works were well managed, the dividends large, and the employees well treated. In 1880 the salesman of the concern, J. Scott Wilson, decided to leave the Vacuum and go into business for himself. The decision seems natural, for until 1878 Mr. Wilson had carried on an independent oil business of one kind or another. He had been a partner in a refinery and understood making oils. He had been a jobber on his own account before going with the Everests, and as such had had a considerable clientele. Wilson told one of his fellow employees, Charles B. Matthews, of his decision, and asked him to go with him. Matthews had been with the Everests about the same length of time as Wilson — some two years. Previous to this engagement he had been a farmer. He had had no experience in oil refining, for his duties at the Vacuum had been mainly looking after outside business — for instance, he had several times gone to New York to consult J. D. Archbold and H. H. Rogers concerning business matters, and particularly concerning patents, owned by the Vacuum, of whose validity there was some doubt. For some time Matthews had been dissatisfied with his salary — he had asked for a raise, but had not got it — a fact which probably made him more favorable to Wilson's suggestion.

The two men decided finally to form a company and build an oil refinery at Buffalo. Wilson said on the witness-stand that he did not want to handle the Vacuum processes in the new works, but to make only the oils with which he was familiar. Matthews, however, had convinced himself that the patents which covered the Vacuum processes and apparatus were invalid, and insisted that they build at least one Vacuum still. The question of what steps the Vacuum might take to stop them was discussed, and Matthews remarked that he expected they would pay $100,000 or $150,000 to prevent their going into business.

The new firm needed an experienced stillman, accustomed to the Vacuum processes, and, early in 1881, they asked one Albert Miller, a stillman in the Vacuum works, to join them. "If we have Miller," they told each other, "we can go to the customers of the Vacuum Oil Company and say to them, 'We have the same process and the same apparatus and the same oils as the Vacuum Oil Company, and we have their oil superintendent, Mr. Miller, to manufacture the oils.'" Miller had been with the Everests for several years, having worked his way up from a laborer at two dollars a day to a position where, as stillman, he was paid by the hour, and earned from $1,200 to $1,400 a year. He and his wife had been thrifty, and had several thousand dollars in property. Miller thought there was money in the new venture, and consented to join Wilson and Matthews. The

three set about carrying out their plans before they notified their employers of their intention to leave — Miller going so far as to order certain iron castings, needed in the construction of their works, made after patterns owned by the Everests. He had these made at the foundry patronized by the Everests. He paid for them himself, and carried them away, presumably giving the impression that they were for his employers.

Early in March Matthews and Miller notified C. M. Everest, who was in charge, his father being in California, that they were going to leave and establish at Buffalo an independent concern, to be called the Buffalo Lubricating Oil Company, Limited. Mr. Everest, surprised out of discretion by the news, told them plainly that he should do all in his power to injure the proposed concern. He asked them where they expected to get oil, and they replied that they would get it from the Atlas Refining Company, an independent concern in Buffalo, which had its own pipe-line. "You will wake up some morning and find it is in the Standard," replied Mr. Everest. Apparently Mr. Everest's threat had little influence on the men, for they pushed the building of the works in Buffalo as rapidly as possible. On March 15th they signed an agreement to carry on the proposed business for five years, each man to put in $2,000. A month later the three men, with two relatives of Matthews's, organized a stock company — the Buffalo Lubricating Oil Company, Limited — with a capital of $40,000.

Although Miller had gone to Buffalo the first of March, with Matthews and Wilson, he returned frequently to Rochester to see his family. On several of these visits he saw C. M. Everest, who never failed to ask about the progress of the new concern, and to warn him that the Vacuum Company would never allow it to do business. "Don't you think, Miller," Everest said to him once, "that it would be better for you to leave those men and have $20,000 deposited to your wife's credit than to go to these parties?" Miller affirms that he answered that he had gone with the new firm in good faith, and thought he ought not to leave them.

About two months after the new firm began building, the elder Everest, who had been in California, returned to Rochester, and soon after had several interviews with Miller. He impressed on the man, as his son had done, that the Buffalo Lubricating Works would never succeed. He told him that the Vacuum meant to bring suit against them for infringing their patents, and would get an injunction and stop the works; that Miller, being the only man who had money, would lose it all. To save himself, Everest advised Miller to come back to the Vacuum. "But that would leave them in pretty bad fix," Miller said. "That is exactly what I want to do," replied Everest.

The fear that the new concern might be ruined through the hostility of the Vacuum, and he lose his savings, seems to have preyed on Miller's mind. He took his wife into his confidence, and she, too, became alarmed. He began to neglect his work in Buffalo. He was often away at nights. Matthews began to be worried by Miller's neglect and absence, and to watch the stations to find, if possible, where he went.

Miller's question now was, how could he get away from the Buffalo firm? He had signed, for the company, a note for $5,000. He was under contract for a term of years. He discussed the question with the Everests, and they advised him to see his lawyer. On the 7th of June, according to Mr. H. B. Everest,* who went with him to help present the case, Miller did consult George Truesdale, a lawyer of Rochester, who had always handled his business. Mr. Truesdale afterwards told in court what occurred.

"Mr. Everest stated that Miller had left his employ, and got engaged with another oil concern in the city of Buffalo; that he desired to get back again; he wanted him to come back; and he said he supposed Miller had explained to me his situation, and the obligations he was under to the Buffalo company. I told him that he had made some statements to me about his contract with the parties in Buffalo; that he had spoken about being an endorser or party to the note made by — I think he said Matthews and Wilson and himself, and I think another party, four or five of them had made, endorsed a note to raise money, done to start the Buffalo business, and that he had a contract or an arrangement with them to go into a company at Buffalo to manufacture oil, and that he wanted to know how he could get out of that arrangement. I stated what I had said to Miller, that he would, of course, be liable on the note, if he was charged properly when it became due, and that if he wanted to get out of that arrangement my advice to him had been to see if he couldn't get released; if they wouldn't release him, or buy out his interest; then, if he couldn't do that, the only other way I saw was for him to leave them and take the consequences.

* Trust Investigation, Committee on Manufactures, House of Representatives, 1888, p. 864.

I told him that I did not know the exact terms of his contract, but, if he had entered into a contract and violated it, I presumed there would be a liability for damages, as well as a liability for the debts of the Buffalo party. Mr. Miller and Everest both talked on the subject, and Mr. Everest says, 'I think there is other ways for Miller to get out of it.' I told him I saw no way except either to back out or to sell out; no other honorable way. Mr. Everest says, substantially, I think, in these words, 'Suppose he should arrange the machinery so it would bust up, or smash up, what would the consequences be?'—something to that effect. 'Well,' I says, 'in my opinion, if it is negligently, carelessly done, not purposely done, he would be only civilly liable for damages caused by his negligence, but, if it was wilfully done, there would be a further criminal liability for malicious injury to the property of the parties, the company.' Mr. Everest said he thought there wouldn't be anything only civil liability, and said that would—he referred to the fact that I had been Police Justice, had some experience in criminal law—and he said that he would like to have me look up the law carefully on that point, and that they would see me again."

In a talk with Miller a little while after this, C. M. Everest said to him: "You go back to Buffalo and construct the pipes so that they cannot make a good oil, and then, I think, if you would give them a little scare. You might scare them a little, they not knowing anything about the business, and you know how to do it."

On account of Miller's neglect, the first still in the new refinery was not ready to be fired until June 15th—it was an ordinary still, as was the second one built—the third only was built for the Vacuum process. As soon as the still was ready it was filled with some 175 barrels of crude oil and a very hot fire—"inordinary hot" was the droll description of the fireman—built under it. Miller, who superintended the operations, swore at the fireman once or twice because the fire was not hot enough, and then disappeared. While he was gone the brickwork around the still began to crack. The safety valve finally blew off and a yellow gas or vapor escaped in such quantities that the superintendent of a neighboring refinery came out and warned the fireman that he was endangering property. Miller was hunted up. He had the safety valve readjusted—it was thought by certain witnesses that he had it too heavily weighted—and ordered the fires to be rebuilt, hot as before. He again disappeared. In his absence the safety valve again blew off. The run of oil was found to be a failure. It was not a pleasant augury, but oil refiners are more or less hardened to explosions and no one seems to have thought much of the accident. Nobody was injured—nothing was burned, nothing but 175 barrels of oil spoiled—that, in an oil refinery, is getting off easy.

On the 23d of June Miller made the transfer of property advised by the Everests and talked over with Truesdale, and a week later he left the Buffalo works suddenly on receipt of a telegram, and joined H. B. Everest at the Union Square Hotel in New York. Here Everest advised him to telegraph his wife to move at once to Rochester lest Matthews attach their household goods, and then proposed the two go to Boston. The only event of interest at the Union Square Hotel was a purely casual meeting with Mr. H. H. Rogers, one of the directors of the Vacuum Oil Company. Mr. Rogers seems to have had no conversation with Miller other than to remark in leaving that he would see him to-morrow if he did not go to Boston. The men did, however, go to Boston, junketing about for some days on what Everest tried, with indifferent success, to persuade Miller was a pleasure excursion! While they were amusing themselves, Everest hired Miller at $1,500 a year to "do any fair job we put him at, either at Rochester or some other place." The job turned out to be a rambling one—a few weeks of semi-idleness in Boston—then nothing until September, when he undertook to supervise the drilling of a salt well in Le Roy, New York. This lasted until February, 1882; then nothing until May, when, on the advice of H. B. Everest, who had returned to California, Miller went there: "Pack up, sell your property there and come on. Come right to my house and I will help you to get a place and show you how to raise fruit and be an independent man." Miller went, the Vacuum Oil Company paying his expenses. On his arrival he was put to work in a cannery.

In the meantime things were going badly with the Buffalo Lubricating Works. Miller's loss was a severe one. The men were all novices in making oil, save Wilson, and he was on the road, and they seem to have been unable to find a competent manager. The Everests soon succeeded, too, in getting Wilson out of the new firm by bringing a suit against him for damaging its business by unlawfully leaving it. The suit was withdrawn and

the costs paid when Wilson consented, in December, 1881, to leave the Buffalo works. Wilson's loss was particularly serious, as he was a salesman of experience.

The suits for infringing the Vacuum patents and processes, which Everest at the start had warned Matthews would be brought, were begun in September, 1881 — four separate suits within a year. Matthews, as has been said, had convinced himself that the patents were not valid, and some time in the spring of 1882 he saw H. H. Rogers in New York concerning the suits.

"I told him I had come in to talk with him about the patent litigation, or suits that were begun by the Vacuum Oil Company against my company," Matthews said in his testimony. "'Well,' he said; 'well, what about it?' — something like that. I told him that the product patent, that I well knew, was without merit, and that he knew it was without merit, and I could not see what object or good they could get out of it by bringing suit on that patent. And also the steam patent, I considered was without value, and that he knew it was without value. He said that if one court did not sustain the patents that they would carry along up until we got enough of it — that was the substance of that talk."

Matthews was evidently discouraged by the result of his talk with Rogers, for, meeting Mr. Benjamin Brewster, of the Standard Oil Company, he offered to sell the Buffalo Lubricating Works for $100,000. The offer was refused, and the suits against which Mr. Matthews protested were pushed — three of them were lost by the Vacuum people, one sustained, damages of six cents being awarded; but those lost were not carried up, as Mr. Rogers had warned Mr. Matthews they would be.

The disappearance of Miller, the man on whom the firm had depended for superintending building and refining, the withdrawal of Wilson, with whom the enterprise had originated and on which it had staked its hopes of finding a ready market, and the series of suits for infringement of patents, were troubles brought on him, so Matthews believed, as the result of a deliberate attempt on the part of the Vacuum Oil Company to make good C. M. Everest's threat to do all in his power to ruin the Buffalo Lubricating Works, and, in the spring of 1883, he brought a civil suit against the Everests for $100,000. While Matthews was working up his case he learned that Miller had returned from California, that he had left the Everests because he claimed they had "not treated him right," and that he was idle in Rochester. Matthews asked him to come to Buffalo, and evidently got from him then, for the first time, the story of the pressure the Everests had brought to bear on him to leave the Buffalo Lubricating Works, the "fixing" of the still at their advice so that something would "smash," the transfer of his property, his two years of semi-idleness on $1,500 a year and a bonus of $1,000, paid for a reason which can only be surmised, and his final breaking in California, because he saw no settled employment in view and no prospect of the Everests doing more for him than they were. To all of this Miller made deposition in July, 1884.

The first civil suit was brought to trial early in March, 1885. A short time before the trial began Matthews secured evidence which emboldened him to give his suit a much wider range than he had intended. This was the testimony of the lawyer Truesdale, quoted above, that in his office Everest had suggested that Miller "arrange the machinery so that it would bust up or smash up." The explosion of June 15th was immediately construed as the result of this counsel. On the strength of this evidence Matthews instituted a second civil suit for conspiracy to bankrupt him, but added to the original defendants the three other directors of the Vacuum Works — H. H. Rogers, J. D. Archbold, and Ambrose McGregor — and the Standard Oil Company of New York, the Acme Oil Company of New York, and the Vacuum Oil Company. Matthews seems to have argued that, as Rogers, Archbold, and McGregor were directors with the Everests in the Vacuum Oil Company, they had probably been consulted by the Everests concerning Miller, and could be included in the conspiracy, and, as the Vacuum, Standard Oil Company, and Acme Oil Company were all concerns in the Standard Oil Trust, they, too, could be included. He also went before the Grand Jury of Erie County and secured there an indictment of H. H. Rogers, J. D. Archbold, Ambrose McGregor, and the two Everests for criminal conspiracy. The defendants succeeded in getting the indictment set aside the first

time, but Matthews re-presented the case, and a second indictment was found of the same persons. It should be noted that Mr. McGregor was indicted only because he was a director of the Vacuum works, his name not being mentioned in the evidence presented to the Grand Jury.

Matthews seems to have been convinced that his case was impregnable as soon as he got Miller's first deposition, and to have talked freely about what he expected to get from it. In December, 1884, he told a business acquaintance that he ought to have brought his civil suit for $250,000 instead of $100,000. In the spring of 1885 he said to Mr. Cotter, an independent oil refiner of Philadelphia, in talking of his suit, that the Standard should buy him out or that he would make it very warm for them.

An indictment for conspiracy of three men of such prominence as Mr. Rogers, Mr. Archbold, and Mr. McGregor riveted the attention of the whole country on the coming trial. It was apparent from the first that the Standard meant to put up a big fight to have the indictment quashed. They had, indeed, set a strong machinery at work immediately to get evidence on which to bring a counter charge of conspiracy, that is, that Matthews's intention in starting the Buffalo Lubricating Works was never to do business, but to force the Standard to buy him out at a big price. They at once set a detective to work on the case, one item of his instructions reading: "We have reason to believe that the suit is brought for the purpose of forcing the Standard to purchase the works of the Buffalo Lubricating Company and Matthews has made certain statements to that effect; would like reports of any statements or admissions by him in relation to his objects in these suits." Under the direction of this detective, a man employed in Matthews's works for some months made daily reports of what he saw and heard there, copies of which were forwarded to the Standard office in New York.

A detective was also put on Miller's track. Miller was now employed in a refinery in Corry, Pennsylvania, and here he was for a long time under espionage. The chief expression obtained from him was by luring him into a saloon one Sunday afternoon and getting him half drunk. While in this condition, the saloon-keeper testified, he said the Buffalo suit was a —— humbug, but there was money in it and that they (he and the persons who were drinking with him) might as well make it as anybody.

It was on May 2, 1886, that the trial began. The array of wealth and legal learning in the Buffalo court-room during the fourteen days' case, set not only the town, but the country, agape. There were not only the Standard men indicted of conspiracy — H. H. Rogers, J. D. Archbold, Ambrose McGregor — but Mr. Rockefeller himself was there — quiet, steady, watchful. The hostile said the accused and their counsel were disdainful of the proceedings — nobody charged Mr. Rockefeller with disdain.

There was a great array of legal learning — five eminent lawyers. This for the accused. For the people was the District Attorney of Erie County, George T. Quinby, with one assistant. For fourteen days witnesses were examined, and the above story was dragged from them by dint of questioning and cross-questioning. On May 10th the testimony for the prosecution ended and the "people rested." The Standard lawyers immediately applied for the acquittal of Mr. Rogers, Mr. Archbold, and Mr. McGregor, on the ground that no fact or circumstance had been proved that connected them in the slightest degree with the charge of conspiracy to lure Miller away or to destroy the Buffalo works. The District Attorney combated the proposition vigorously. These gentlemen, he contended, owned three-fourths of the Vacuum works; they were always present at directors' meetings; it was a fair presumption that they knew what was done to persuade Miller to leave the Buffalo works; they must have known the moneys paid him while he was doing little work. Mr. Rogers had certainly threatened Matthews that he would carry up the patent suits until the Buffalo works got enough of it.

The upshot of the matter was that Judge Haight advised the jury to acquit Mr. Rogers, Mr. Archbold, and Mr. McGregor. "The indictment charges a conspiracy," the Judge said. "It also charges certain overt acts. One of the acts charged in the indictment is the enticing away from the Buffalo company of a servant. Another of the acts alleged is an attempt to blow up or destroy the Buffalo works, and another

act that of bringing false suits against the corporation. So far as the agreement or combination to entice away a servant from the Buffalo company is concerned, I have not been able to recall any evidence which shows that either of these three defendants ever knew of it, ever heard of it, or ever took any part in it at all. So far as the charge of an attempt to blow up the Buffalo works is concerned, I have been unable to recall any evidence that has been given in which either of these three defendants ever knew of it, ever heard of it, ever advised it, or ever took any part in it whatever. The only thing about which I have had any doubt was in reference to the maintaining of actions which have been brought upon patent rights which were formerly owned by the Everests, and by the Everests transferred to the Vacuum Oil Company, and it appears that two suits were brought upon patents, and that there was another suit, a third one, in reference to a trade-mark. It appears from the evidence that upon one occasion Mr. Matthews went to New York and had a talk with Mr. Rogers, and that his conversation has already been discussed and related in your hearing. The query in my mind was as to whether or not the inference could not be drawn, from this conversation, that Rogers did know of the bringing of these actions, acquiesced in their being brought, and in that way became a party to them; but, even conceding that the actions were brought with his knowledge and consent, I am inclined still to think that the evidence is hardly sufficient to warrant his conviction, for the reason that it does not appear that the actions were brought without probable cause; in other words, the bringing of an action and being defeated in the action is not of itself sufficient to authorize a jury to say that it was a false action. That standing alone is not sufficient to authorize the jury to say that it is a false action, but there must be shown in addition to that that there was a want of probable cause; in other words, that the party bringing the action knew and understood beforehand that he had no good cause of action. . . . I am inclined to the opinion that the evidence would not warrant his conviction upon that ground."

There was great noise made about the acquittal, charges of bribery and undue influence; but any fair-minded person reading the evidence carefully must agree that Judge Haight had no choice.

The acquittal of the three Standard gentlemen was followed by an application for the acquittal of the Everests, but the case with them was different. It had been proved conclusively that they threatened at the start to ruin the new concern, and that they had counseled Miller "to arrange the machinery so it would bust up or smash up"; there was a strong presumption that Miller, acting on this advice, had arranged for the explosion of June 15th, though, as he claimed, he meant only to "give them a scare." The Judge denied the application in their case, therefore, and the trial went on. The whole force of the defense was now thrown to proving that Matthews had gone into the Buffalo Lubricating Company merely to sell out. His offer to Mr. Brewster in 1882, his talk of making the Standard settle, were rehearsed. Two witnesses were produced also, who told of seeking Matthews in 1885, after the criminal suit was brought — both of them were strangers to him at that time — and of offering, on the ground that they knew the Standard defendants, to attempt to settle the affair. Matthews had told these men that, if the Standard would give him $250,000 for his refinery, he would withdraw the civil suit, but that he would not touch the criminal suit as it was in the hands of the District Attorney. The jury was not greatly influenced by the evidence produced to show that Matthews was a blackmailer. Evidently they concluded that, granting that the Everests had cause of complaint against the men for using their processes — they certainly had no just cause in the fact of the three men setting up in business for themselves — granting that the enterprise was started for blackmailing purposes, the Everests should have taken their case into the courts — not plotted the destruction of the refinery by any such underhand methods as they employed. Whatever the jury's process of reasoning, however, it is certain that on May 16th they brought in a verdict of "guilty as charged by the indictment."

The most strenuous efforts were made to set the verdict aside. The Judge granted a stay, and an attempt to get a new trial was made, but unsuccessfully. The sentence was stayed until May, 1888. The statute provided a penalty of one year's

imprisonment or $250 fine or both. Efforts were at once made to soften the sentence. A petition signed by over forty "leading citizens" of Rochester, New York, the home of the Everests, was sent to Judge Haight, praying him, on account of the "untarnished fidelity and integrity" of the convicted men, to make the penalty as light as the court was authorized by law to fix. Six of the jurors were induced to sign a paper claiming that in their belief the jury in rendering its verdict of guilty, did not mean to pronounce the Everests guilty of an attempt to blow up or burn the works of the Buffalo company, but guilty only of enticing Miller away, and they recommended that the sentence, therefore, be a fine and not imprisonment. The result was that the two Everests were each fined $250. This sentence was made light, the Judge explained, because of the civil suits brought to recover damages for the very same acts — a person could not be punished twice for the same offense.

The first civil suit referred to above resulted in a verdict of $20,000 for Matthews. The second civil suit was for $250,000, but before it was tried Matthews's business had become so involved by all this trouble that in January, 1888, it was put into the hands of a receiver. The defendants then offered to settle the civil suits for $85,000. The Judge ordered the receiver to accept the offer, on the ground that a verdict for criminal conspiracy had already been brought against the Everests, and that a person could not be punished twice for the same offense!

It was not until June, 1889, that the receiver filed his account of the settlement of the affairs of the Buffalo works. Of the $85,000 paid by the Standard, Matthews seems not to have gotten a cent. The entire sum went to settle the debts of the concern and pay the lawyers. The large proportion which went to the lawyers was construed by certain persons as evidence that they were in the blackmailing scheme with which the Standard charged Matthews.

The leading firms which presented claims were Box, Hatch & Norton, Corlett & Hatch, and Lewis & Moot. It is said that their claims aggregated nearly $35,000. The receiver appointed by the court allowed them, respectively, $9,000, $2,500, and $11,200. The account filed by the receiver shows that they received considerably less. Box, Hatch & Norton were paid $5,625; Corlett & Hatch $1,562.50; Lewis & Moot $7,000.

Now, at the time that the settlement was made, Hatch was a Judge of the Superior Court and Corlett a Justice of the Supreme Court, and it was intimated by friends of the Standard that these gentlemen had used official influence in Matthews's favor. The documents in the case show that the moneys they received were all paid by the order of the court on the report of a referee, properly appointed, and went to settle liens for services rendered the Buffalo Lubricating Company in the long litigation which had grown out of the fight made on it by the Vacuum works. The money to Corlett & Hatch was paid for services rendered before either of them left the firm for the bench, according to an affidavit in the record.

This, then, in outline, is the history of the case on which are based all charges, so far as the writer knows, that the Standard Oil Company has deliberately destroyed property to get rid of rivals. The case is of importance, not only as showing to what abuses the Standard policy of making it hard for a rival to do business will lead men like the Everests, but it shows to what lengths a hostile public will go in interpreting the acts of men whom it has come to believe are lawless and relentless in pursuing their own ends. The public, particularly the oil public, believed the Standard would "do anything." It read into the Buffalo case deliberate arson, and charged not only the Everests, but the three co-directors, with the overt acts. They refused to recognize that no evidence of the connection of Mr. Rogers, Mr. Archbold, and Mr. McGregor with the overt acts was offered, but demanded that they be convicted on presumption, and when the Judge refused to do this they cursed him as a traitor. To-day, in spite of the full airing this case has had in the courts and investigations, Judge Haight is still accused of selling himself to a corporation, and Mr. Rogers is accused daily in Montana of having burned a refinery in Buffalo. As a matter of fact, no refinery was burned in Buffalo, nor was an intention to burn one proved.

These cases, coming simultaneously as they did, produced a profound public

impression. Even to the most conservative they seemed a demonstration of what the critics of the Standard had been charging for years: that they used every means in their power to make it impossible for their rivals to do business. Public suspicion was still further aroused against the Standard at this time by their popular indictment for an offense even more serious than that of criminal conspiracy or forcing a feeble railroad to pay it a drawback out of a rival shipper's freights — this offense was the buying of a seat in the Senate of the United States.

In January, 1884, H. B. Payne, of Cleveland, Ohio, to the amazement of his party and State, had been elected by the Democrats to a seat in the Senate of the United States. The Legislature which returned Mr. Payne had gone to Columbus instructed for one of two candidates — George H. Pendleton or Gen. Durbin Ward. Mr. Payne's name had not been mentioned in the fall campaign, but hardly had the Legislature convened when there sprang up at the Neil House, in Columbus, an extraordinary Payne boom. Its backers were Senator Payne's own son, Oliver B. Payne, at that time treasurer of the Standard Oil Company, and Colonel Thompson, a prominent personage in the same concern. Their lieutenants were also members of the company in one capacity or another. Large sums of money were alleged to have been circulated. There was a rumor that Oliver Payne had said the election cost him $100,000. It was claimed that it could be proved that a check for $65,000 had been cashed in Cleveland by one of the Standard men prominent in the Payne boom and that the whole sum had been spent in Columbus.

A perfect uproar of indignation followed the announcement of Mr. Payne's choice. All over the State the Standard Oil Company was charged with the election. The Democratic press was particularly bitter:

"It was simply a question whether Pendleton, Ward, Thurman, Converse, Follett, Geddes or any other capable and honest Democrat should receive the compliment of a seat in the Senate or that the Standard Oil Company should buy the place for Henry B. Payne," said the Butler County *Democrat*.

The Carroll County *Chronicle*, in commenting on the election, said: "It is a great mistake to suppose Standard Oil has captured the Democratic party of Ohio. It may have captured a score or two of men elected to the Legislature, but they are not the Democracy of Ohio by a long shot."

"The monopoly of the Standard Oil Company must be destroyed," declared the Columbus *Times*. "Its intrusion into political circles must be prevented. There must be no later acceptance of this outrage. Political purity and perpetuity permit no complacency."

The comments were not confined to papers of the State; the New York *Sun*, under the head "Was Payne's Election Bought?" said:

"The subjoined communication from a source which we always respect, is worthy of more attention than is usually bestowed upon the animated expressions of those whose preferences have not been realized:

"It is now believed, and I believe that the Standard Oil Company recently bought with money Ohio's seat in the Senate of the United States for Mr. Payne. How can the social respectability of a man make such a crime respectable? Or is there to be one standard of political morality for Republicans and another for Democrats? Or are Democrats expected to condemn corruption only when practiced by Republicans and to condone, defend, and cover it up when practiced by Democrats, or when it is found only in the Democratic party? In my opinion there is no danger so threatening to free institutions as the sale and purchase of political power, and nothing more to be condemned."

Although these charges were kept up for two years, neither the Standard Oil Company, Mr. Payne, nor the Legislature which had elected him, noticed them. The scandal became one of the issues of the next Ohio campaign and was instrumental in returning a Republican Legislature. When the new Legislature convened, at the opening of 1886, an investigation of the Payne case was ordered. Some fifty-five witnesses were examined, and the resulting testimony turned over to the Senate of the United States for its examination. The testimony did not prove the charge of bribery, the Ohio Legislature said; the witnesses most concerned had absented themselves from the State, but the testimony secured was of such a nature as to require the Senate's attention. The matter went to the Senate Committee on Elections, and in July, 1886, a majority reported against the further investigation asked by the State of Ohio. Two members of the committee, Senators Hoar and Frye, protested against this decision.

"Is the Senate to deny the people of a great State, speaking through their Legislature and their representative citizens, the only opportunity for a hearing of this, one of the most momentous cases which can exist under the Constitution? We have

not prejudged the case, nor do we mean to prejudge it. We sincerely trust that the investigation, which is as much demanded for the honor of the sitting member as for that of the Senate or the State of Ohio, may result in vindicating his title to his seat and the good name of the Legislature that elected him.

. . . . . .

"How can a question of bribery ever be raised, or ever be investigated, if the arguments against this investigation prevail? You do not suppose that the men who bribe, or the men who are bribed, will volunteer to furnish evidence against themselves? You do not expect that impartial and unimpeachable witnesses will be present at the transaction? Ordinarily, of course, if a claim like this be brought to the attention of the Senate from a respectable quarter, that a title to a seat here was obtained by corrupt means, the Senator concerned will hasten to demand an investigation. But that is wholly within his own discretion, and does not affect the due mode of procedure by the Senate. From the nature of the case the process of the Senate must compel the persons who conducted the canvass, and the persons who made the election, to appear and disclose what they know, and, until that process issue, you must act upon such information only as is enough to cause inquiry in the ordinary affairs of life.

"The question now is not whether the case is proved — it is only whether it shall be inquired into. That has never yet been done. It cannot be done until the Senate issues its process. No unwilling witness has ever yet been compelled to testify; no process has gone out which could cross State lines. The Senate is now to determine, as the law of the present case, and as the precedent for all future cases, as to the great crime of bribery — a crime which poisons the waters of republican liberty in the fountain — that the circumstances which here appear are not enough to demand its attention."

For three oppressive July days the Senate gave almost all of its time to a bitter debate on the reports. The name of the Standard was freely used. "The Senate of the United States," said Senator Frye, "when the question comes before it, as this has been presented, whether or not the great Standard Oil Company, the greatest monopoly to-day in the United States of America, a power which makes itself felt in every inch of territory, in this whole Republic, a power which controls business, railroads, men and things, shall also control here; whether that great body has put its hands upon a legislative body and undertaken to control, has controlled, and has elected a member of the United States Senate; that Senate, I say, cannot afford to sit silent and let not its voice be heard in an inquiry as to the truth of the allegation."

In spite of the hard work of Senators Hoar and Frye the majority report was adopted by a vote of 44 to 17.

For the time the matter rested, but only for the time. The failure to investigate rather intensified the conviction that Mr. Payne's seat had been bought by the Standard Oil Company. In 1887, when Mr. Payne voted against the Interstate Commerce Bill, people said bitterly: "It was for this the Standard put him in the Senate." The feeling became still more intense in 1888. The question of trusts was before Congress. The Republicans had come out with an anti-trust plank in their platform; the Democrats, in response to Mr. Cleveland's message, were declaring the tariff the greatest trust-builder in existence, and calling on their opponents for reform there, if they were sincere in their anti-trust attitude. In this agitation the Standard Oil Company undoubtedly exerted its influence against all trust investigation and legislation. The charge became general that they were helping the Democrats. "This is why they wanted a Democratic Senator."

In September, 1888, when a phase of the trust question was before the Senate, Mr. Hoar, with his genius for asking far-reaching questions, said one day: "Is there a Standard Oil Trust in this country or not? If there be such a trust, is it represented in the Cabinet at this moment? Is it represented in the Senate? Is it represented in the councils of any important political party in the country?"

It was the first time since his election, four years before, that Mr. Payne had been sufficiently touched to reply. "There is nothing whatever to sustain the insinuation which the honorable Senator conveys. I make the declaration now, for the first time, and it will be the last time I shall ever take notice of it.

"The Standard Oil Company is a very remarkable and wonderful institution. It has accomplished within the last twenty years, in commercial enterprise, what no other company or association of modern times has accomplished, but, Mr. President, I never had a dollar's interest in that company. I never owned a dollar of its stock; I never rendered it any service, and that company never rendered me any service. On the contrary, when a candidate for the other House in 1871, no institution, no association, no combination in my district did more to bring about my defeat and went to so large an expense in money to

accomplish it as the Standard Oil Company. . . .

"As a matter of fact nine-tenths of the stockholders of the Standard Oil Company are now and always have been Republicans. Within my knowledge there are but two Democrats who have ever been stockholders in that company."

Mr. Payne's denial was not sufficient to quiet Senator Hoar. He returned to the attack. It was a "general public belief," he declared, that the Standard Oil Company was represented in the Cabinet and Senate. He called attention to newspaper charges to that effect, and declared that he had many personal letters in his desk asserting that the Standard was helping the Democrats. He asked for information when he put his questions, he said; he made no charges. Mr. Whitney was the member of Mr. Cleveland's Cabinet to whom Senator Hoar referred, and he promptly, in a public letter, disclaimed all connection with the Standard Oil Company. Mr. Hoar said he "cheerfully accepted" the denial. As to Mr. Payne, he was not satisfied, and when Mr. Payne, in heat, replied to him, Senator Hoar closed his lips forever by a burst of withering sarcasm:

"A Senator who, when the Governor of his State, when both branches of the Legislature of his State complained to us that a seat in the United States Senate had been bought, when the other Senator from the State rose and told us that that was the belief of a very large majority of the people of Ohio without distinction of party, failed to rise in his place and ask for the investigation which would put an end to those charges if they had been unfounded, sheltering himself behind the technicalities which were found by some gentlemen on both sides of this Chamber, that the investigation ought not to be made, but who could have had it by the slightest request on his own part and then remained dumb, I think should forever after hold his peace. . . . I think few men ever sat in the Senate who would refrain from demanding an investigation under such circumstances, even if it were not required by the Senate itself. . . . There were Senators who thought that the admission of that Senator, the continuance of that Senator in his seat without investigation, indicated the low-water mark of the Senate of the United States itself.

And there the Payne case rested. It was never proved that the Standard Oil Company had contributed a cent to his election. It was never proved that his seat was bought, but the fact that in the face of such serious charges, rehearsed constantly for four years, neither Mr. Payne nor the Standard Oil Company had done aught but keep quiet, convinced a large part of the country that the suspicion under which they rested was less damaging than the truth would be. In the minds of great numbers this silence was a confession of guilt. The Payne case certainly aggravated greatly the popular feeling that the Standard Oil Company was a menace to the country. Daily the demand to investigate it, as well as the train of trusts which had followed in its wake, grew. By the spring of 1888 this demand was so strong that the House of Representatives ordered an investigation of Trusts by the Committee on Manufactures. When the question was before the House the liveliest concern was shown as to whether the Standard Oil Company, "the most important case" of all, would escape. More than one member asked to be assured before consenting to the investigation that the Standard would be put on the rack. The same feeling was shown in the Senate of New York State, where an investigation was ordered for February, 1888. It was certain, indeed, now, that Mr. Rockefeller would not be let alone much longer. He was to be dragged into the open much as he might deplore it, to explain what his trust really was, to prove, if possible, to a suspicious and hostile public that he had a right to exist.