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CHAPTER IV

Gary Goes Into Iron and Steel

A first undertaking of an Illinois settlement in the 30's and 40's, as early as the first general store, was a blacksmith shop. Here were made shoes for horses, simple and rough iron work for wagons and plows, and, as well, frequently the tongs, pokers and andirons for the household. It was with difficulty that these bloacksmith shops and the foundries which soon sprang up beside them kept pace with the demands of the Western settlers.

These settlers were progressive buyers. That is, they were open to new tools, asking nothing better than to spend money ~~for anything~~ for which that enabled them to do their work more quickly. It was this attitude of mind that in 1847 brought Cyrus McCormick from Virginia where he had developed his reapers and where the Virginia wheat farmers had proved too conservative to give him the market he sought. It was different in the West. There the farmers bought his machines faster than he could ship them, and he saw that the natural thing was for him to go to the centre of this great trade.

It was so with other things - ~~lightning rods, for instance.~~ One of the early recollections of young Elbert Gary, whose story we are following, was of ~~the two lightning rod~~ factories and the use of their ~~of his home town Wheaton~~. Then, there were plows, and a show place in Naperville the county seat, seven miles from his home, was a steel plow factory

There were 2 in his town of W.

Plowing contests ?

Plowing contests ?

that by the time he was ten years old (1856) was boasting in its advertising literature that it had "never been beaten at any state or county fair." As a matter of fact it was one of, if not the oldest ~~steel~~ plow factories in the West. It made the enormous amount of fifteen plows a day, at an average price of fifteen dollars apiece! A plow factory in that vicinity today makes _ _ _ plows a day and sells them at _ _ _ _ _ dollars!

While energetic and resourceful farmers like Erastus Gary were taking advantage of all sorts of new inventions, they were frequently forecasting by their ingenious devices inventions which were to be of incalculable importance in future agricultural and industrial developments. There was the important matter of fencing the prairies. Rails and board fences were ~~a failure~~ not satisfactory, wind and fire sweeping them down regularly. One of Judge Gary's earliest recollections is of his father enclosing their Wheaton farm fields in wire fencing, and a little later, when he was about twelve years old, of being set with his brother Noah at making roughly finished staples barbs for the wires.

Erastus Gary's device was simple enough. He drilled a hole in an old anvil and cutting strips of wire diagonally with a cold chisel, directed the boys to stick one end in the hole and with a hammer bend the strip. This was then fitted around the fence wire with a pair of pincers - the result was a partly successful home-made barbed wire fence, made by the Garys ~~fully fifteen years~~ several years before the first successful patent was taken out, which That was in 1873.

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Between thirty and forty miles from where Erastus Gary lived, in DeKalb, Ill., another farmer, Joshua Gliddon, resourceful like himself, had been experimenting with barbed wire, and with the help of his wife had made something that seemed to him so practical that he had had it patented. One of Mr Gliddon's neighbors in DeKalb with whom he talked much on these matters was a hardware dealer, I. L. Ellwood. Ellwood had long sold wire to the farmers. He had heard much talk of the possibility of fitting it with some kind of an instrument which would prevent cattle from breaking it down, and proposed to Gliddon after he had secured his patent that they would go into partnership for the making of the barbed wire. The plan was carried out and the manufacture of the barbed wire, so well known today was began in 1875 in DeKalb.

Ellwood for some time had been buying his wire from what was then the foremost and the oldest wire manufacturer in the country, Washburn & Moen of Worcester, Mass. When he and Gliddon began to turn out barbed wire his orders increased so enormously that one of the Washburns became curious to know what was being done in DeKalb with these unusual quantities and went out to investigate. As soon as he put his eyes on what Gliddon and Ellwood were turning out he saw that here was a product with a future. The upshot was that he bought out Gliddon and arranged with Ellwood to manufacture at Worcester, Ellwood taking the Western market and he the Eastern and Southern.

But trouble awaited them. One of Gliddon's neighbors, a carpenter, a German by the nameof Jacob Haish, had also been experimenting with barbed wire and only a little later than Gliddon

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had secured a patent and in the second story of his carpenter shop had begun to manufacture. The Washburns had always been aggressive defenders of their patents and they immediately began circularizing the trade with the threat to sue any dealer that bought a barbed wire which did not bear their license tag. Jacob Haish was not one to be easily frightened and he followed up the Washburn threat with an elaborate illustrated circular, declaring that his fence wire was "sold on its merits and not through the influence of threatened lawsuits." It was the beginning of a war which was to prove long and cruel.

But it was not only disputes over patents that Ellwood and Washburn met. They were pestered with pirates, of particular audacity and ingenuity, men who seeing the fortunes that lay in barbed wire and emboldened by the disputes over the patents, set up factories of their own. One of the very earliest and altogether the ablest of these poachers was a young man of twenty-three or four by the name of John W. Gates.

Ellwood had employed Gates as a salesman, and he had proved himself ~~immediately~~ a genius at the business. He had a natural passion for selling things - anything - accompanied by equal energy and audacity. Recognizing that Texas was a fertile field for barbed wire if the ranchmen and cowboys could be persuaded that it would be effective in fencing in their wild horses and cattle, he dropped down into the State and when the merits of his "line was questioned, built a barbed wire corral and sent out

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an invitationsfar and wide that the wildest animals be ~~he had should~~ be brought in to test the new invention. It was a wonderful exhibition that followed. I have heard it declared that no rodeo ever ~~held~~ equalled it. The ranchmen were convinced and Gates was loaded ~~down~~ with huge orders.

But he felt that this was too much business to pass on to his employer, so, going to St. Louis, he persuaded a couple of gentlemen who had capital to go quietly into the manufacture of barbed wire. Before Ellwood knew it, and indeed while he was telegraphing over the country for his lost salesman the Gates plant ~~put barbed-wire-on-the-market.~~ began operations.

An injunction was served on him in Missouri, but he and his partners picked up their machinery and slipped over the Mississippi River into Southern Illinois and went on turning out the pirated product. Every move that Ellwood made Gates checkmated him until finally in despair his pursuer concluded that it was better to license him than to fight him. And thus it was that about 1880, John W. Gates became a legitimate wire manufacturer.

1885 to 90 Ellwood sued

But he was not satisfied with his St. Louis plant, and rapidly secured an interest in four others - three of them in Pennsylvania, and one in the West.

Now, these scattered concerns had to live under more or less cruel trade conditions. Pirates sprang up who scoffed at patents as Gates ~~he~~ had done. The price of the rods from which the wire was drawn fluctuated extravagantly. The railroads frequently favored their

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competitors who, in spite of trade agreements on prices, freely undercut when they thought it to their advantage. John W. Gates was well fitted by temperament and experience to hold his own under such conditions, but he realized that survival in barbed wire was only to the strong, and he began talking to his partners in the five scattered factories about combining. By 1892 he was ready for the amalgamation. A lawyer was needed, and Gates went at once to Judge Gary who at the time, because of the extent of his practice, had refused to take a third term on the bench.

Gates went to Gary not only because he had always known him - he was born only twenty miles ~~away~~ from Wheaton - but because of a profound confidence in the man's legal ability and fairness. It was a confidence born of experience for Gary had had ~~him on the witness stand once for cross-examination and had proved too able for the wily Gates~~ been opposing lawyer in a case against Gates been successful. - a fact that had so won his respect that although he was beaten in this particular case, he ~~ever~~ afterwards in legal difficulties consulted the Judge. Besides by this time Gary had become a very successful practitioner and was well known to

(3) It was a simple matter ~~for Gary~~ to put together the five concerns as an Illinois corporation. It was done in exactly the same way, Judge Gary tells me, in which six years later he was to frame the Federal Steel Corporation and eight years later the United States Steel Corporation. That is, the owners of the plants having agreed on the amount of stock to be issued - $4,000,000 - settled by negotiation what each should have and exchanged their old shares for the new. The complete block of stock in the concern, which they

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owners of the old concerns.
called the Consolidated Wire & Nail Company, was held by the partners.

The framing of the Consolidated W ire & Nail Company caused
the country's wide flung
great uneasiness in wire circles where Gates was both liked by some and sus-
by others
pected. The Illinois public questioned it - it was another Trust.
The new combination arrived at an unhappy moment, too. The panic
of 1893 was close on its heels. There were threats of reduced tariffs
from the new Democratic administration. There were serious labor
troubles. Men like Gates and certain of his associates in the com-
bination find business depression hard on their nerves. The new
more or less discordant
board was ~~quarrelsome~~, and its counsel, Judge Gary, soon found peace
making one of his ~~chief~~ duties. They appreciated it, frank men
that they were. They began to discover, too, that he gave them
something more than counsel on legal matters, that he gave them
sound business advice, and it was advice which resulted from reflec-
tion on the actual condition of business, the details of which, they
as well as or
discovered, he knew in many cases better than they themselves did.
It was not long before he was invited to the Board of Directors and
began to buy stock, for, from the first, Gary had believed that the
Consolidated was an entirely sound business proposition, that is,
or more.
that it was worth the $4,000,000 at which it was capitalized.

John W. Gates now had a strong enough wire and nail unit to
enable him to compete with the best of those in the business, but
he was not satisfied. As he traveled back and forth from East to
West and dropped in to rival plants to talk over matters with the

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owners, he frequently broached the subject of a larger combination, and when he came back he invariably discussed the matter with Gary who was himself gradually coming to the conclusion not only that there would be economies and better service in such an undertaking, but that it was possibly the only means by which the manufacturers could be brought to observe their own marketing arrangements. The pools through which they were constantly attempting to do this almost invariably ended in bitter rows and accusations born of their suspicion of one another. The suspicion was generally well placed. One of the frankest of the group of wire manufacturers of that period, John Stevenson of the New Castle Wire Works, said once in testifying as to the difficulties in trade that they had at that time, "Every man's hand was against his neighbor, we were all Ishmaelites, every one of us." And he went on to tell of a meeting of manufacturers in which a price of $1.50 had been fixed for nails in the keg, and one of the leaders in the group, hurrying out to the telegraph office, entered an order for 10,000 kegs at $1.40! By accident this message fell into Mr. Stevenson's hands at the telegraph office just after the meeting had adjourned for lunch and he had the pleasure of laying it before his colleagues when they reconvened. It was that kind of thing, so Mr. Stevenson claimed, that caused 80% of the mortality in the wire and nail business and not consolidation, as was publicly charged.

One of the chief things that the best men in the business at this time felt the need of was the protection from one another.

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It was not until late in the summer of 1897 that matters came to a focus. Gary had been in Europe - his first trip. Indeed, the first long vacation he had ever taken. He had kept himself fit as few men do through his ~~now fifty~~ many years of continuous hard work by his joyous and temperate social life and by his unbroken interest in outdoor pursuits - horseback riding, fishing trips, and every now and then a few days' hunting in ~~Wisconsin~~ Iowa and Minnesota. But early in this year, an Eastern lawyer who had been associated with him in a case in Chicago had, as the Judge says, talked him into the notion of going abroad. And that notion once in his mind nothing could change him.

With Mrs. Gary and one of his daughters, he had started in June for a ~~two~~ three months' trip, every detail of which seems to be as clear in his mind now, after more than 25 years as when he returned.

He proved to be the same kind of a traveler that he was lawyer, sportsman, Sunday School ~~teacher~~ teacher. He had a tremendous interest in everything - the beautiful English country - Chester, the first walled town he had ever seen, with its story of Charles II watching from the tower while Cromwell defeated his army - his failure to get to Mr. Gladstone, though he had bought his way with gold pieces straight up to the private secretary and undoubtedly would have succeeded with him if it had not been for Mrs. Gladstone, a rigid enforcer of doctor's orders. "It would not have hurt him a bit," the Judge grumbles today. The greatest piece of

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vandalism of his life as he considers it, was sitting in Gladstone's pew in the Harden church and tearing out from his hymn book the leaf on which the great man had written, "Shall we go out before the last hymn?"

He recalls still the solemnity of London, if you first see it, as he did, about twelve o'clock on a Saturday night! In spite of guides and counselors, he knew what he wanted to see in the great city. First, Bunyan's grave, then Charles Wesley's, then Dickins' "Old Curiosity Shop" -- memories of things that had impressed him in his youth. He was as tireless in his sight-seeing as in the law, rising every morning at five o'clock to visit markets, and watch the people going to work. At night after a hard day in churches and galleries, he was out to watch the night life of towns and cities. But the real excitement of his journey was his pilgrimage in search of the twelve greatest pictures of the world. Mrs. Gary knew what they were, and he wanted to see them, every one of them, and they did it, from "Mona Lisa" and "The Immaculate Conception" in Paris to "The Descent from the Cross" in Antwerp. It was his first experience with great pictures and aroused in him a love of painting which he has steadily cultivated through the years.

A man comes back from his first trip to Europe if it has been put through as thoroughly and as joyously as Judge Gary put through this trip of his, heartened, enlarged, refreshed. He had got his hand on something which was to mean much to him in the revolutionary task that awaited his return, for when he reached

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Chicago there was Gates . He wanted Gary to begin work immediately on the long talked of combination in wire and nails.

But could such a combination be financed? Would Morgan consider it? The two men laid their plan before the first ranking partner in the concern, Mr. Charles H. Coster, and found him hospitable. Finally Mr. Morgan agreed that if the wire manufacturers could be brought together he would back a consolidation, to be known as the American Wire and Steel Company, its capital to be $80,000,000 - one half preferred and one half common. A syndicate of $20,000,000 was to be floated, though Mr. Morgan told Judge Gary when this was first under discussion that such a floatation would cause a panic in Wall Street! $15,000,000 of the common stock was to be divided between the promoters of the undertaking, these promotors being Gates, Gary and six other gentlemen who had presented themselves at the Waldorf-Astoria at the beginning of the negotiations and had shown that they too had been considering a wire combine. They made so good a showing that Gates finally consented to join forces with them, the understanding being that the $15,000,000 in common stock was to be divided fifty-fifty between the two factions.

Now began weeks of the hardest and closest kind of work for Judge Gary for it was to him that the bargaining largely fell. As Gates rounded up group after group of wire manufacturers, they went over with them the reports of the expert accountants and engineers that had been examining their plants, in order to reach a fair basis on

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which an exchange of stock could be made. There were few of the these manufacturers that did not believe - honestly enough for the most part - that their plants were worth more than the expert appraisals, and it was a feat of Judge Gary's business to convince these doubters. He did it with remarkable success and gradually the men with whom he was dealing, both manufacturers and financiers began to see that here was a man not only of an amazing capacity for work but of an amazing patience in negotiations. In speaking in a former article of Gary as a young lawyer, I quoted the remark of one of his DeKalb County observers that while the lawyers of the defense spent their evenings playing poker, Gary worked over the testimony. That was what happened now. John W. Gates was not the only poker player among the wire makers. As a rule they went out from their meetings to their games. The Judge, it was noted, stayed by his

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meetings to their games. The Judge, it was noted, stayed by his figures.

Another thing developed that made an impression. He had a passion for fair dealing. You had to show him that the thing you were trying to put over was fair before you could get his approval. It was not too much to say that every day that these wire negotiations went on the respect for Judge Gary's ability and fairness increased. The general public paid little attention to what was going on at the headquarters of Gates and Gary at the Waldorf-Astoria, but the iron and steel trade watched the negotiations with anxiety and doubt. Even the leader of the trade journals, the Iron Age, seems to have had little precise information of what was being done though it knew the general purport of these gatherings of wire and rod interests. "The undertaking is by far the greatest and most far reaching recorded in the history of the iron trade," said this journal in November. "Its ramifications extend far beyond the wire trade people . . . . . ~~If the negotiations now in progress~~ As a buyer of steel, such an enormous aggregation of mills and works would have an over-shadowing influence. If the negotations now in progress with what is pronounced to be fair prospect of success should end in consolidation, then the whole iron trade of the country would have to face greatly changed conditions."

By the first of February, 1898 this "fair prospect of success" of which the Iron Age spoke seemed to have become a sure thing, and then suddenly, on the morning of the 15th, came news that staggered the country - the "Maine" had been blown up in the harbor of Havana

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The negotiators at the Waldorf-Astoria shook their heads. What did it mean to them? The tense days that followed made their anxiety greater. By the end of ten days the wise Mr. Morgan had concluded that this was no time to launch a new venture in Wall Street, and so in a note sent to the gathered wire men he told them that he did not feel justified in going further at that time.

There was a long discussion. Judge Gary suggested that possibly the matter could be suspended for a few months and after the trouble was over taken up again; but the negotiators were done with it for the time - "tired" of it, they said. If Mr. Morgan would not go ahead, they would not. That was the final decision. When John W. Gates came out from the meeting he said to the interested parties anxiously waiting at the door, "The jig's up. There's nothing to do but go home."

It was the next day as several of the Western contingent were traveling toward Chicago that Ellwood of the DeKalb plant, who was keen for the combination, said to Judge Gary, "Why should not the Consolidated take in my plant?" The head of the Salem, Ohio wire manufacturers was there. "I would like to put mine in," he said. Gates was consulted. By the time the group reached Chicago, they had practically agreed to attempt to unite the Western manufacturers on the same basis that had been worked out for the national consolidation. The undertaking was turned over to Gary for consummation and in less than four weeks from the time he had left the disappointing final meeting at the Waldorf-Astoria he had the new company

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incorporated - The American Wire & Steel Company of Illinois, it was called. It was a $24,000,000 concern - $12,000,000 of which was in preferred stock and $12,000,000 in common. It could not be said to be an over-capitalized company for, according to the Iron Age, the combined plants had earned on an average in the three preceding years, $1,666,000. Judge Gary, who received nothing for his work, was to be both general counsel and a director of the new concern.

An episode in this rapid organization illustrates the reputation he was winning at this period in the iron and steel world - a reputation which was to be a big factor in his future career. Among the mills which had consented to go into the combine which had fallen through was one at Andersen, Ind., of which E. J. Buffington, the present president of the Illinois Steel Company was owner and director. He was wanted in their new undertaking but he and Gates could not settle upon a price. Finally Gary was called in.

"I found at once," said Mr. Buffington in telling me of the episode, "that I had an entirely different type of man to negotiate with. He had great bargaining ability but also a desire to see both sides. He was inclined to believe at the start that I was putting too high a price on my plant, but his fairness in the matter led me to greater frankness than I had been accustomed to exercise in my business dealings. I soon found that I was putting all my cards on the table with him. I had engaged a lawyer to protect me in the negotiations, but after I had been over the matter thoroughly with Gary I said to him, 'If you will consent to guide me and safeguard my interests in this matter, I will let my lawyer go.'

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"He consented to do it and my lawyer agreed with me that it was a wise move so between us we worked out the terms of a settlement which both believed to be fair. It was the beginning of my faith in the justice of this man."

The American Steel & Wire Company of Illinois had hardly been organized before unexpectedly Judge Gary was launched into a new steel undertaking, one more basic and formidable than wire and nails. The new call came logically enough. Among his clients in Chicago for three or four years now had been the biggest steel concern of the West, the Illinois Steel Company. Its origin is worth considering since it was ~~in fact~~ to be the nucleus of what has become the greatest business in the world.

The Illinois Steel Company was rooted, like barbed wire, in the imperative demands of the new born Illinois. With the first start of the railroad westward from Chicago, past Erastus Gary's Wheaton farm in 1847 there had come a ~~demand~~ call for rails, which as the roads multiplied the eastern manufacturers had found it difficult to satisfy. It was this demand that in 1857 led one Captain Eber B. Ward of Michigan to put up a rolling mill in Chicago. It had a capacity of one hundred rails a day, and the demand grew so rapidly that seven years later he doubled it.

Now, up to this time Ward had been obliged to bring ore and coal for his plant from Pennsylvania and Ohio, but in 1864 a tremendous thing for the Middle West iron manufacturers happened - transportation opened enabling them to bring ore from the Lake Superior mines. At the same time it was found that Illinois

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mixed with Pennsylvania and West Virginia coals yielded a coal which could be used with this ore. The result was an immediate and immense expansion of the industry, not only in Illinois but in Wisconsin and Michigan.

But it was not iron rails alone. Ward had seen the meaning of the Bessemer process and was the first man in the United States to undertake to apply it commercially. It was early in 1864 that he set up a converter in Detroit, Mich. and here made steel ingots ~~blooms~~ ingots, which a few weeks later he turned into steel rails at his Chicago rolling mill. These were the first steel rails to be made in the United States. It was not many months before far-seeing men in the iron business realized that steel rails were bound to replace what they had been making for the railroads. Then began all over the country the movement to convert existing iron mills into Bessemer plants. It was expensive business. Few of the manufacturers could get the money it required. Captain Ward's Chicago rolling mill was one that could command capital and it accordingly began to gather in its less fortunate competitors in the Middle West, and by 1889 it was able to capitalize itself for $50,000,000 and to call itself by a new name, the Illinois Steel Company. By this time there was only one city in the United States making more iron and steel than Chicago, and that city was Pittsburgh.

Now, for several years before, as well as after this combination, John W. Gates had bought iron and steel rods for his wire from this concern. He had earned the reputation with them of always getting

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the best of the bargain. I have heard old timers say that the Illinois Steel Company finally felt that it was safer to have him in the concern than out and early in the 90's made him a director and in 1894 president. At that moment the company was having a hard time. Its last dividend had been paid in 1892. In 1893, the panic year, it had suffered - indeed, there had been serious talk of putting it in the hands of a receiver. Everybody knew its plight because it was one of the few concerns in the country which published an annual report of its year's dealings.

In the difficulties of the company it was to be expected that sooner or later ~~Gates would call in~~ Gary would be called in for consultation, and when this had happened his advice was such that he thoroughly impressed the board of directors - and they were men worth impressing. At the suggestion of H. H. Porter Gary was made General Counsel There was Marshall Field and H. H. Porter of Chicago, Nathaniel Thayer of Boston, A. J. Forbes Leith of New York (afterward Lord Leith of Fyfe) - all men who had responded to the call for money and still more money, to meet the necessity of making steel instead of iron rails. It was the beginning of a close association of ~~Gary~~ with the directing board. Indeed, ~~I have heard it said that~~ it soon came about that they would refuse to hold a meeting ~~with Gates~~ if Gary was not present!

This was the Judge's relation to the Illinois Steel Company when, soon after ~~the~~ American Steel & Wire Company of Illinois had finished the organization of the wire concern of which we have been talking, he received a letter from Nathaniel Thayer of Boston, asking his opinion as to the purchase

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of the Elgin, Joliet & Eastern railroad, running from Chicago to the company's Joliet works.

Now, by this time, 1898, Judge Gary had come to the conclusion that what the Illinois Steel Company needed was not more railroads but more ore lands, better manufacturing facilities - acquisitions which would bring about what he called "a rounded proposition", by which he meant a self-contained business owing its raw materials, controling its transportation, with furnaces and mills to make finished as well as semi-finished products, at prices which would put it in better shape to meet the formidable and threatening competition of the greatest iron master in the country, Andrew Carnegie.

Mr. Carnegie's first entrance into the iron and steel world was in 1864 - the year that Captain Ward made the first steel rails in the United States. But it was with iron that Carnegie began. It took him eleven years to grasp the commercial possibilities in steel. Then (1875) so goes the story, he saw a Bessemer converter in blast and hastened forth to organize the company which built the Edgar Thompson Steel Works at Braddock, Pa.

Carnegie had the incredible good fortune to secure as manager of this plant Captain Billy Jones whose success in doubling, redoubling and doubling again the output of steel amazed the steel manufacturers of the world and founded the Carnegie fortune.

After that, things went fast with Andrew Carnegie. One after another he bought in plants, built in the Pittsburgh district to compete with his monopoly in steel rails - Homestead and Duquesne. He bought and leased ore lands in the Lake Superior region, built and

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bought railroads, and in 1889 he took Henry Frick into partnership, tying up with his enterprise the greatest coke producing region in the country.

Carnegie wanted to control each essential factor in his producing problem and by the time the Illinois Steel Company was organized in 1889 he had practically achieved his ambition and a few years later he was able to consolidate in one huge concern the various iron and steel undertakings which he had been fostering - the Carnegie Steel Company, ~~with a capital of~~ (no space), superfluous partners and associations weeded out - his pet notion of a "close corporation" realized.

Andrew Carnegie was always a cruel competitor, feared as much for his ingenious devices in getting advantages on railways and in markets as for his conscienceless price cutting and his irresponsibility in pooling arrangements, which were then almost universal in the iron and steel trade. "Artificial arrangements," he called the pools, "strengthening the other fellow," he once told his board, "as much as they strengthened you." This was "bad business."

The Illinois Steel Company had suffered from the Carnegie rivalry, ~~in spite of President John W. Gates' ability to keep up his end when it came to hard, tricky and reckless dealings~~. The bigger the two grew the more severe the competition had been. Judge Gary as counsel of the company believed that the concern's future depended first and chiefly upon its control of abundant supplies of iron ore which

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could be transported as cheaply as Carnegie was transporting from his vast Lake Superior ore interests. At that time the Illinois Company was buying from the Minnesota ~~Ore~~ Iron Company - the second largest development in the northern ore country. Instead of buying another railroad, why not buy the Minnesota ~~Ore~~ Iron Company, a coke supply, plants to round out their proposition, make themselves impregnable. It was with this suggestion that he answered Mr. Thayer's letter asking his judgment as to the wisdom of buying the Elgin, Joliet & Eastern. Mr. Thayer's reply was a request that he come at once to New York to a meeting of the Board.

But would the Minnesota ~~Ore~~ Iron Company sell? And could they finance any such combination as this would mean? The advantage of interlocking directorates came to the front at once. One of directors of the Minnesota Ore Company, H.H. Porter, was a director of the Illinois Steel Company. Another, Robert Bacon, was a Morgan partner. Still another was H. H. Rogers of the Standard Oil Company. Another, Governor Flower of New York, the head of the biggest brokerage firm in the country. These men with others on the various directorates were brought together by the Illinois Steel Company's board and in very short order a decision was made to amalgamate the interests in one concern if Mr. J. Pierpont Morgan could be persuaded to undertake its financing. Mr. Morgan seems to have been favorable from the start to the idea, and a committee was promptly appointed, consisting of Governor Flower of New York, Senator Spooner of Wisconsin, Robert Bacon of the Morgan firm and Judge Gary,

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with full power to amalgamate the companies and purchase other companies if it was deemed advisable.

And so the Judge found himself again - and this time in mid-summer - with the prodigious task of appraising the interests involved, coming to an understanding with the parties most interested in each concern, adjusting one thing to another and making a showing to Mr. Morgan which would justify him in financing the amalgamation. It is not too much to say that the legal and business work was done practically by him for Senator Spooner was on a vacation and Governor Flower turned up only once. For three months the man put in the closest kind of work, and out of it came a concern which it was decided to call the Federal Steel Company, into which went the plants that have been mentioned as well as some others of lesser importance.

The new company was capitalized at $200,000,000, about one half of which was issued in preferred and common stock. The book value of the companies that had been combined was about $56,000,000, but this was much below their actual value - $31,000,000 below, it was finally decided - an amount which Judge Gary contended at the time was too low. The experience of twenty-seven years since the Federal was organized has proved him right. The Minnesota Ore Company yielded the year after it was bought , $ worth of ore ten years later, $ worth and in 1924 it was estimated to be worth $.

They had to have more money to perfect their plans, for in the combination there was only about $10,000,000 in liquid assets. It

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required several interviews with Mr. Morgan to convince him that this was necessary. Why had they not the money was his pertinent question. Finally, after much argument, he consented to raise $14,000,000 new capital. of organizing the Federal Steel Company

By September the work had been completed, after three months of as hard toil as Judge Gary, hard worker as he always was, had ever put in. It was the first time in his professional life, so far as I have been able to find, that his friends became anxious about him. Mr. H. H. Porter, kind man that he was, insisted on picking him up and taking him away from the desk for a rest from the work over which he hung night and day, trying to bring order out of the complicated problems that had been put up to him.

But the last thing was done and Judge Gary was preparing to go back to Chicago when he was asked to come to Mr. Morgan's office. Several men interested in the new organization were present. J. Pierpont Morgan was not a man to beat about the bush, and without preliminaries he said:

"Judge Gary, you have put this thing together in very good shape. We are all very well pleased. Now you must be president."

It was the first intimation that the Judge had had that such a thing was in the minds of his clients.

"No, he told Mr. Morgan, he could not think of it.

"Why not?" the great banker boomed.

"Why, Mr. Morgan," Gary replied, "I have a law practice worth $75,000 a year and I ~~must take care of that.~~" having cannot leave it.

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"We'll take care of that," insisted Mr. Morgan. "We must make it worth your while."

"But I must think it over."

"No," insisted the great banker, "We want to know right now."

"But who are the directors to be?"

"You can select the directors, name the executive committee, select your officers and fix your salary," Morgan replied.

"Quite characteristic of him," Judge Gary will tell you.

Judge Gary begged for a week. They gave him twenty-four hours. And twenty-four hours later he made a contract for three years service, refusing a longer period to which Mr. Morgan tried to, was urged him. His firm could hold his law practice for three years, he felt. Through others he

And so in September 1898 Judge Gary went back to Chicago to close up his business as a lawyer, and to begin his career as the President of what was then the biggest steel concern, but one, in the United States. Over night he had become a public character. The Chicago newspapers interviewed President Gary and the Iron Age carried a biographical sketch, the appraisement of his fellows, and telegraphed briefly his movements. When the Judge returned to New York to take up his duties it was on an entirely new footing. In a year's time, first in putting together the American Wire & Steel Co. and secondly, the Federal Steel Company, he had won the confidence and respect of the strongest and ablest business men of Wall Street, including the most important of them all, J. Pierrepont Morgan. It had come to a point where in this group at least no move in steel

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was made without asking and hearing what Gary thought.

The make up of the board of directors over which he now began to preside shows the power accorded him in the business world, for in addition to Mr. Morgan it included such men as H. H. Rogers, Nathaniel Thayer Governor Dolliver Marshall Field, D. O. Mills, H. H. Porter, Robert Bacon. One name that naturally might be looked for on this board, that of the president of the Illinois Steel Company, John W. Gates, is missing. H. H. Porter had refused to go into any consolidation in which Gates had an official position, and Mr. Morgan bluntly announced that he would not allow him in the directorate because he didn't think property was safe in his hands. But if they thought they were eliminating John W. Gates from the steel business they were wrong. They were to hear from him again and again. Mr. Morgan in fact was to pay dearly more than once for his refusal to deal with this frank, engaging and unscrupulous plunger and speculator.

Judge Gary's removal from Chicago to New York was no less of a change in the man's business than in his private life. His home through all these years had been in Wheaton. The town and its activities were dear to him. There would be no more ~~taking the place of an absent singer in the church choir,~~ no more church suppers or Sunday School picnics. There would be no more fishing and hunting excursions. There would be times when he would regret it. One of his ~~old~~ former hunting mates tells of finding him on one of his visits to Wheaton, years after the change was made, with his old hunting coat, game bag and gun, "I will never use them again," he said sadly.

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The change decided upon, he resolved to carry out an early dream. In his boyhood an aunt who lived in Hackensack (?) Haverstraw, N.Y. had been an occasional visitor to the family, and she had told the children wonderful things of the beauty of the Hudson river. Her nephew Elbert had decided that when he grew up he was going to have a home on this wonderful river. It was then with this determination that he came to New York in 1898! He had "Gray Gables", Samuel Tilden's country home, in mind; and as he also wanted a town house, he ~~decided that it should be~~ considered the Tilden house on Gramercy Park. His sophisticated associates, ~~were~~ quick to dispel the dream. The people of the world into which he had come had town houses on Fifth Avenue and summer estates at Newport and on Long Island. And so it happened, for ~~Judge Gary~~ when in the fall of 1898, the new president of the Federal Steel Company, he took up what turned out to be a permanent residence in New York City.

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McCartney, H.S. p.59
Shaw, James p.60
Clark, Charles T. p.60-61
} quoted in Life

"It is some satisfaction," he told the opposing counsel, H. S. McCartney, still a well known lawyer of Chicago, a few years ago when the two men were recalling early legal experiences - "It is some satisfaction," said Judge Gary, "to have offered a useful decision to our legal profession."

It must be some satisfaction, too, to realize how often he was right in those days in forecasting what the trend of the law towards corporations and changing industrial conditions was to be. Mr. James Shaw of the Aurora (Ill.) Public Library, who was a court stenographer in those days and heard Gary conduct more than one case, says in a private letter to the author:

"He (Gary) came to the bar on the eve of revolutionary changes in the law - changes that have been so gradual that historians have taken little notice of them. Nevertheless a tremendous advance has been made in the law itself, and in its interpretation by the courts. This advance is in conformity with the changes wrought in the social structure by the great inventions and discoveries of the last two or three generations. A great era of railroad building began just about the time that Elbert Gary appeared on the stage of action. That was followed by the telephone. The construction and operation of these appliances found the law silent as to their rights, duties and obligations. The factory system arose, or rather it became enormously extended. Concerns employed hundreds, and even

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thousands of men and women. How should the rights of these human beings be protected? At first the law dealt harshly with workers who met with accident. There was the principle known as the 'fellow-servant' doctrine, which held that a workman injured by the neglect or ignorance of another workman could not hold the employer liable. There was also the doctrine of 'assumed risk', which held that an employee injured by a machine that he knew to be defective, could not call upon his employer for compensation for the injury.

"These peculiar doctrines, and others of a similar nature, materialized as lawyer-made or court-made laws. With the development of the labor union, and its influence in procuring the enactment of laws more humanitarian, these doctrines have gone the way of other harsh laws. The conditions for working people have become humanized."

Judge Charles T. Clark of Chicago, who entered the Gary firm in 1886 as a law clerk, says of his attitude towards the undeveloped law:

"There are two kinds of lawyers: First, fellows who must find precedents to indicate to them the decision they should make or the action to be taken: and second, lawyers from principle. E. H. Gary was of the latter kind. Any new legal proposition would be thought out minutely and logically. He would then say to his juniors, 'I think the law in this matter ought to be so-and-so; see what you can find to back me up.' He would often anticipate

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in the entire absence of precedent, what the decision in the courts would have to be, and would direct his course accordingly. Inasmuch as corporation law in those days was very scarce he had to adopt this attitude. He could see in advance the handwriting on the wall farther than anyone else."

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