openly on the side of those who fight for Justice; in all his artistic experiments the one thought of sympathy for suffering humanity is uppermost, whatever the subject of his work may be. A host of newer younger writers here, as in England, confirm the encouraging hope that the English-writing poet can see the trend of modern thought as well as can his colleagues elsewhere, and that he is willing to fight *his* foe, even more terrible than the legal fetters which bind them, the lion of indifference to his seriousness which lies in his path.

PATENTS FOR INVENTIONS.

(*For the Review.*)

By FRED. J. MILLER.

There are two kinds of opposition to patents and patent laws. The first of these is opposition to all patents, and all patent laws, as authorizing grants of monopolies. This seems to be based upon the idea that all monopolies—all exclusive privileges of every kind are wrong in principle and ought not to be allowed. The other sort of opposition is based upon the belief that our present patent law works injustice in many cases, and ought to be amended in important respects. Considering the first kind of opposition, it seems to me that it has no sound basis. A patent, or at least some security of return for labor expended in inventions is justifiable upon the same ground that copyrights are justifiable; upon the general law that what a man has produced by his labor he is primarily entitled to the possession of. The patent law, in fact, recognizes that a man is entitled to the exclusive possession of his invention during his lifetime. That is to say, a man who has invented an improvement of any kind may, if he chooses, keep it a secret. He may use his device or machine in the manufacture of goods to be sold to the public, and though the goods themselves are thus necessarily revealed, and may be patented or not according to circumstances, the machine which makes them need not be revealed at all, and there are cases of this kind—many cases in fact—where this is being done. No one, so far as I know, denies the right of the inventors and the makers of the machines to thus keep them secret; it being obvious that other inventors and other machinery makers have the same right to invent and make machines for the same purpose, which right in fact they often do exercise. It is difficult to see where any unfair monopoly results from such retention by the inventor of the secret of his own invention.

But now the patent law steps in and merely says that if the inventor, instead of keeping his invention a secret and using it for his own benefit, exclusively, will make its construction entirely public so that anyone versed in the art may be thereby enabled to make and use a similar machine, the inventor may still retain the exclusive right to manufacture and sell the invention for seventeen years, after which it is to become public property.

It is open to question as to whether or not this is a fair bargain as between the inventor and the public. In some cases it is probably as fair as any that could be formulated. In other cases, it is undoubtedly unfair to the public. But, still, in other cases it is certainly unfair to the inventor, who, during the seventeen years' grant of the exclusive right to the use of the invention may, for good and sufficient reasons, be unable to reap any of the benefits from his invention, which, nevertheless, may turn out to be, eventually, one of great value to the public. This has happened in many cases. The locomotives so long used on the elevated roads in New York afforded an example of it.

As to the second class of objections based upon the unfair results of the working of our present law in some instances, there can probably be no serious dispute. Few people claim that the present patent laws are entirely just in every respect, or that they might not be amended with advantage to all concerned. But this is quite different from saying that the inventor is entitled to no protection or no equivalent for the service he renders in making his invention known to all men.

If a man is walking over an unoccupied portion of the earth's surface where he has an undisputed right to walk, and is merely enjoying the beauties of the landscape or otherwise passing his time for his own pleasure, and if happening to look down he picks up a nugget of pure gold, he is generally considered to have a valid title to the gold—as much of a title as though he had expended labor in digging below the surface of the earth or had otherwise expended his capital or labor in producing an equal quantity of gold.

Inventions are produced in ways which are analogous to those referred to in the acquirement of gold. Some inventions come to the mind of the inventor by what may be called an inspiration or a thought which is not preceded by any particular study of the problem involved or by the expenditure of time or capital looking toward the solution of any problem connected with the invention. In the earlier days of patents, it is probable that a much larger proportion of patented inventions were made in that way than is the case at the present time; the much more usual way of producing patentable inventions today being analogous to that of the man who digs and expends his labor and capital in the production of gold. Inventions nowadays are usually the result of much study, sometimes of years of devotion to the solution of a single problem, and requiring the expenditure of a great deal of labor and of capital. It seems to me that the man who expends this labor and capital is as much entitled to the product of such expenditure as are those who expend labor and capital in producing any other thing useful to mankind and for which men are willing to pay a price rather than go without. It is generally conceded that the man who spends a year or more in writing a book is entitled to the exclusive control of the sale of the book, and this is granted him by a copyright, preventing anyone from printing the book without the consent of the author. Is the principle of a patent any different from this? To me, it seems not to be, and that the one kind of useful labor is as properly compensated as the other kind, especially in view of the fact that in both cases the public may withhold all compensation, and will certainly do so unless it believes it is receiving an adequate return for its money.

The fact is that in most cases patents, though called monopolies, are not in a strict sense monopolies at all; that is to say, though they give to the inventor the exclusive right of manufacturing and selling his invention within a certain period of years, they do not prevent the public from going on in the use of that which the new invention was intended to supersede, nor from getting on without using the new invention. And as a matter of fact, the public generally will go on without the new invention and in many cases does so, leaving the inventor without any compensation whatever. No valid patent for an invention ever took away from the public any useful thing already possessed by it. It can only result in giving to the public upon terms agreed to by the public a thing not previously possessed by anybody, the further provision of the agreement being that after seventeen years the public shall have it without further compensation to the originator. Is there anything intrinsically unfair or oppressive in such a bargain? Very many inventions produced and patented nowadays are studied out by men employed for that purpose. These are usually high salaried men who have previously given proof of their ability to invent. They are employed at a fixed salary, usually for a definite period

of time and sign a contract at the beginning agreeing to study and to experiment and to produce if possible inventions along a certain line, generally pertaining to the line of business followed by their employer. And the salary received by such a man is often but a mere bagatelle compared to the total cost of actually producing an invention of value. Often many thousands of dollars are expended upon experiments and trials of what turn out to be, after all, useless. These experiments are often of such a nature as to require the employment of expert knowledge of a high order, together with the most costly special equipment, used in the light of dearly bought experience.

Upon what principles of right or justice should such an employer be expected to hand over products of such labor and expenditure to a competitor to be used without price? I can think of none.

In the case of the telephone and in other notable instances, patents have worked unjustly, and more or less for the oppression of the public. But I believe that in every case of this kind, it will be found, upon careful investigation, that the injury to the public has resulted from monopolies of other kinds, not from the patents. Take the case of the telephone, for instance. It is a familiar fact that, owing to a defect in the present patent law, the virtual life of this patent was extended far beyond the period contemplated by the law, though it would I think be extremely difficult to show that, even with such unintended extension of time, the inventor received returns out of proportion to the value of his invention. There was probably collusion in delaying the issue of the final patent for many years after the patent had been applied for, and this had the effect of virtually prolonging the life of the patent by as many years. But now, the fundamental patents upon the telephone having finally expired, we see competition in the telephone business in many cities of the United States, and rates for the use of the telephone that are certainly not to be seriously complained of. In other places, particularly in New York city, there is a complete telephone monopoly, though it is quite certain that so far as the patent laws are concerned they have precisely the same application to the situation in New York that they have to the situation in cities where there is telephone competition with lower rates and better service.

The key to the situation in New York is well known to be the fact that the the company controlling the telephone here has been shrewd enough to avail itself of the occasion for putting in conduits for wires under ground, to organize a subsidiary company which it controls, and which in turn controls the conduits, and by more or less of guilty collusion of legislators at Albany it absolutely controls access to these conduits and prevents any competing company from introducing its wires into them. Thus it is seen that the monoply of the telephone in New York is not to-day based upon patents at all, but upon that form of monopoly which obtains in practically all the cities of the world; that is, a franchise monopoly; a use of the public streets exclusively for a certain private purpose, without adequate return to the municipality for such use.

To us who are interested in a much broader reform than can possibly be brought about by any modification or the abrogation of the patent laws, it seems to me that agitation against the patent laws can only work injury to the cause we have at heart. It will arouse needless prejudice; it will divert our energies, and so far as I can see cannot possibly produce any good results. The benefits to be derived from the abrogation or radical amendment of the present patent laws even if we grant all that is claimed would be comparatively small; perhaps not perceptible to the average citizen; while we are interested and are trying to get others interested in a reform which is fundamental in its nature, and the benefits of which we feel sure would be so great as to far overshadow any which might be obtained by tinkering with patents, and moreover, would so clear the way and throw so much light upon conditions as they are as to

make it much easier for us to decide the proper course to take with regard to patents or any other social problem; including copyrights and the questions arising out of the organization and perpetuation of corporations.

Very many hardworking men—men whose activities are in every way highly useful to all of us—are in one way or another interested in patents and believe in them. Many of these men can readily be brought to see the iniquity of railroad and other franchise monopolies and the extreme unwisdom of taxing industry and consumption while letting monopolies including valuable unimproved land go untaxed.

Before we repel such men, as we inevitably will repel them, by attacking patents, we had better first be sure patents are wrong and second that if wrong they are vital or important and must needs be cleared away before we can reach the goal toward which all Single Taxers are striving. I very much doubt that patents can be shown to be wrong, and I feel certain that even if wrong they are relatively unimportant and had best be let alone, while we concentrate our efforts upon the thing which we are all agreed is wrong and *must* be righted.

In commerce, in politics, in industries, in science and every other form of human activity those who succeed, those who bring things to pass, are those who concentrate upon one thing and until that thing is accomplished regard it as the all important thing. We are agreed upon just one thing, i. e., the equal right of every human being to the use of the earth. In proportion as we concentrate upon that one thing we shall succeed, in proportion as we diffuse our energies and devote them to other things, not vital to our main object and regarding which we shall arouse needless opposition and prejudice, we shall fail or postpone final success.

FRED. J. MILLER.

East Orange, N. J.

THE FAIRHOPE CONTROVERSY.

Commmunication from N. O. NELSON.

Editor Single Tax Review:

Responding to your request for some comments on the Fairhope situation, let me say first that it is difficult if not impossible for an outsider to fairly estimate a situation made up of local conditions and problems which he does not understand. I am neither able nor willing to make any criticisms on the details of Fairhope management. It is only upon the principles involved that I feel justified in commenting and advising.

The experience I have had in the making of Leclaire, not as a Single Tax colony, but as a settlement of people, has taught me some things that are applicable to all such special communities. I have been open minded to learn by experience, and experience is necessary in the application and development of any theory. While operating under the handicap of a possible autocratic power, I have so entirely obliterated all exercise of that power, that Leclaire is free from any sense of it and is as completely free and independent as any farming

NOTE.—N. O. Nelson, the millionaire proprietor of Leclaire, Ill., a co-operative town started in 1890, is a well-known Single Taxer, though Mr. Nelson describes himself as an "immediate opportunist." The profit sharing which Mr. Nelson began with his employes in 1886 has proven successful beyond all expectation. Mr. Nelson's practical business experience, his cautious judgment, united with his faith in democracy, give to his communication on Fairhope a peculiar value.—THE EDITOR.