

Pools Illegal Under Common Law.

These arrangements are, however, regarded by the English common law as illegal combinations—conspiracies in restraint of trade. That law holds good in England, in Canada and in the United States, except in so far as it may have been modified by Statute law—law made by regular Parliamentary or Congressional methods. English common law forms the groundwork of the English and American legal systems, and the position which the English-speaking peoples take towards industrial combinations has been profoundly modified by the fact that such organizations are conspiracies in restraint of trade and have no legal right to exist.

The Pool An Unsatisfactory Organization.

What is the consequence? It is this: a manufacturer who has entered into one of these pools and has thus incurred certain obligations to the other members of the pool, may break his contract at any moment when he finds it advantageous to do so, and he cannot be held legally accountable for so doing, since the law will not enforce an illegal contract. The other members of the pool are in the position of gamblers who cannot collect debts due them. They can receive no legal redress because the courts will not enforce contracts which are in themselves violations of the law.

The pool agreement had, therefore, its disadvantages. It was formed primarily in order to extract unusually high rates of profit from the public, and its members who were so willing to extort money from the people, were, many of them, not averse from violating their agreement with each other when they found this to be to their immediate interest. As the law would not punish the offending party, the others in the agreement were powerless. Thus they found it necessary in many cases, to substitute some closer arrangement for the existing one. If we may judge by German experience, it is unlikely that had the agreements of the pool been enforceable by law, it would ever have developed into the trust.