

holding company that those vast industrial and railroad combinations are now formed which are known as "trusts." In early days the "pool" and the "trust" were the methods adopted to effect industrial combinations. The pool was nothing more or less than a "gentlemen's agreement" among those concerned with respect to the division of the output and the fixing of prices. Because it was an agreement depending upon the word of honour of those concerned it broke down. Besides it violated the principles of the English common law—that is, law built up on tradition, custom and legal decisions and practice—which forbade combinations that unduly restrained trade. The trust was constituted on a different legal basis. The holders of the voting securities of competing companies turned over a majority interest in each company to one man or to a small group of men, and received in return what were known as "trust certificates." The trustees thus could control the policies of hitherto competitive organizations. The trust also was proved to be illegal under the common law. The reasons therefor are stated clearly in the following judgment given in 1890 against the North River Sugar Refining Company, a New York corporation. The court held that this company was a combination "the tendency of which is to prevent competition in its broad and general sense and to control, and thus at will, enhance prices to the detriment of the public. The corporation, entering the trust, had exceeded the powers of its charter. The defendant had disabled itself from exercising its functions and employing its franchise as it was intended it should by the act under which it was incorporated, and had, by the action which was taken, placed itself in complete subordination to another and different organization to be used for an unlawful purpose, detrimental and injurious to the public. This was a subversion of the object for which the company was created, and it authorized the Attorney-General to maintain and prosecute this action to vacate and annul its charters." The Standard Oil Company was also declared illegal on similar grounds by the Supreme Court of Ohio in 1892. Thus, both the pool and the trust have given way in the United States to the holding company, the modern form of combination.

*The "trust," in the form described, established an absolute control over the separate properties, all executive officers of the various companies being elected by the trustees, and dividends being distributed to all holders of certificates whether the properties represented were idle or not. A trust was not an incorporated company, and thereby not being required to make reports, could maintain entire secrecy as to its operations. Its power resided in*