

No. —.

In the Circuit Court of the United States for the Southern
District of New York.

THE UNITED STATES OF AMERICA, PETITIONER,

v.

THE EASTERN STATES RETAIL LUMBER DEALERS'
ASSOCIATION AND OTHERS, DEFENDANTS.

ORIGINAL PETITION.

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2019, 1911

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THE UNITED STATES OF AMERICA,	} In Equity.
petitioner,	
v.	
THE EASTERN STATES RETAIL LUM-	
ber Dealers' Association and oth-	} No.
ers, defendants.	

*To the Honorable the Judges of the Circuit Court of the
United States for the Southern District of New York,
sitting in equity:*

The United States of America, by Henry A. Wise,
its attorney for the Southern District of New York,
acting under the direction of the Attorney-General
of the United States, brings this proceeding in equity
against—

1. The Eastern States Retail Lumber Dealers'
Association, a corporation of the State of New York,
and its officers, directors, members, and delegates, as
follows: President and director, Richard S. White,
who is a citizen and resident of the southern district
of New York; vice president and director, William

C. McBride, who is a citizen and resident of the eastern district of Pennsylvania; secretary and treasurer, Louis A. Mansfield, who is a citizen and a resident of the district of Connecticut; directors, William B. Gaines, B. E. Perkins, William T. Galliher, and Charles H. Tibbetts, who are respectively citizens and residents of the districts of Massachusetts, Rhode Island, District of Columbia, and southern district of New York; members, John Perrine, Jesse D. Crary, and James S. Davis, citizens and residents of the State of New York; George A. Smock, J. F. Glasby, and James M. Reilly, citizens and residents of the State of New Jersey; A. Schumaker and W. H. Judd, citizens and residents of the State of Connecticut; Clarence H. Carpenter, G. Waldo Parrott, and William P. Vaughn, citizens and residents of the State of Rhode Island; H. W. Sears, C. P. Chase, and E. N. Bagg, citizens and residents of the State of Massachusetts; Charles P. Maule and Fisher Dalrymple, citizens and residents of the State of Pennsylvania; E. M. Yerks and Tracy Cowan, citizens and residents of the southern district of New York; Lee L. Herrell, a citizen and resident of the District of Columbia; Henry P. Duker and George H. Poehlmann, citizens and residents of the State of Maryland.

2. The New York Lumber Trade Association, a corporation of the State of New York, and its officers and trustees, as follows: Russell J. Perrine, president, John F. Steeves, first vice president, Frederick W. Starr, second vice president, Charles F. Fischer, treasurer, and Jesse D. Crary aforesaid, secretary, all

of whom are citizens and residents of the southern district of New York; trustees, David M. Ressegnie, John L. Cutler, William P. Youngs, Isaac P. Vanderbeek, Guy Loomis, William S. Wandel, Hammond Talbot, Gulian Ross, Richard S. White aforesaid, Rowland McClave, Louis Bossert, James H. Pittinger, John Eagan, William H. Simonson, Abner P. Biglow, Albro J. Newton, Christopher W. Wilson, Elbert M. Wiley, Peter A. Smith, John J. Cooney, Edwin D. MacMurray, Waldron Williams, George C. Lavery, William F. Clarke, John C. Creveling, William S. Van Clief, Allan H. Church, Treadwell D. Carpenter, Patrick Moore, James Sherlock Davis, and Thomas J. Crombie, all of whom are citizens and residents of the southern district of New York.

3. George A. Smock aforesaid, individually and as president, A. K. Bennett, individually and as vice president, J. F. Glasby aforesaid, individually and as treasurer, and James M. Reilly aforesaid, individually and as secretary, of a voluntary association known as the New Jersey Lumberman's Protective Association; and the following individually and as directors in, and as representatives of, all the members of said last-named association: I. W. Searing, Charles W. Ennis, A. B. Ayers, H. V. Meeks, W. W. Smalley, M. F. Ellis, S. S. Thompson, S. Fred Bailey, A. K. Bennett, W. D. Gulick, W. E. Tuttle, jr., I. Newton Rudgers, Isaac E. Hutton, Warren Somers, James Crowell, H. P. Dillistin, R. W. Kennedy, E. H. Booth, M. J. Kimball, G. W. Dickensheet, Irving A. Collins, P. J.

Devlin, all of whom are citizens and residents of the State of New Jersey.

4. The Building Material Men's Association of Westchester County, a corporation of the State of New York, and its officers and directors as follows: E. M. Yerks, aforesaid, president, John F. Dinkle, vice president, Robert Haviland, treasurer, Tracy Cowan, aforesaid, secretary; F. M. Dain, J. A. Mahlstedt, Alonzo Guest, C. P. Young, E. N. Leete, Charles H. Tibbetts, aforesaid, directors, all of whom are citizens and residents of the southern district of New York.

5. William C. McBride, aforesaid, individually and as president, Fischer Dalrymple, aforesaid, individually and as vice president, and Charles P. Maule, aforesaid, individually and as secretary and treasurer of a voluntary association known as the Retail Lumberman's Association of Philadelphia; and the following persons, individually and as directors and as representatives of the members of said last-named association: Herbert P. Robinson, Benjamin Stoker, S. A. Yorks, Amos Y. Leshner, Herbert E. Weitzel, Frank L. Luckenbach, Charles H. Wisler, John E. Lloyd, Charles M. Strickler, James A. Richardson, Charles M. Chestnut, I. N. Troth, all of said officers and directors being citizens and residents of the State of Pennsylvania.

6. The Lumber Dealers' Association of Connecticut, a corporation of the State of Connecticut, and its officers and directors, as follows: A. Schumaker, aforesaid, president, F. A. Lines, vice president,

and Louis A. Mansfield, aforesaid, secretary and treasurer; directors, E. J. Lake, W. H. Goddard, Frank H. Saxton, Harry C. Turner, John O. Fox, Horace S. Hatch, Howard L. Platt, Louis A. Lampson, W. B. Beckley, H. W. Damon, A. R. Plumley, and F. H. Barnes, all of whom are citizens and residents of the State of Connecticut.

7. The Massachusetts Retail Lumber Dealers' Association, a corporation of the State of Massachusetts, and its officers and directors, as follows: H. W. Sears, aforesaid, president, L. S. Williston, vice president, W. H. Sawyer, vice president, W. A. Fuller, vice president, M. L. Foster, treasurer, and E. N. Bagg, aforesaid, secretary; directors, C. K. Ferry, F. K. Southworth, Charles P. Chase, aforesaid, Edwin Bradley, Edward S. Decker, J. L. Temple, Frank Palmer, and William B. Gaines, aforesaid, all of whom are citizens and residents of the State of Massachusetts.

8. Lumber Dealers Association of Rhode Island, a corporation of the State of Rhode Island, and its officers and directors as follows: Arthur S. Vaughn, aforesaid, president, Willard D. Lansing, vice president, G. Waldo Parrott, aforesaid, secretary and treasurer; directors, John F. Galena, George D. Lansing, Louis Roberts, Jeremiah F. O'Driscoll, Forrest J. Perkins, aforesaid, Samuel C. Cottrell, Henry A. Grimwood, jr., Edward W. Duff, all of whom are citizens and residents of the State of Rhode Island.

9. William T. Galliher, aforesaid, individually and as president, W. A. H. Church, individually and as vice president, George E. Walker, individually and as treasurer, Lee L. Herrell, individually and as secretary, and the following persons individually and as members and committeemen, and as representatives of the members of a voluntary association known as the Lumber Exchange of the District of Columbia, Thomas W. Smith, John W. Tolson, Samuel Ross, all of whom are residents of the District of Columbia.

10. The Retail Lumbermen's Association, of Baltimore, Maryland, a corporation of the State of Maryland, and its officers and directors as follows: Henry P. Duker, aforesaid, president, Harry J. Matthews, vice president, George H. Poehlmann, aforesaid, secretary and treasurer; directors, John J. Duffy, Samuel H. Helfrich, A. Frank Gilbert, George Schumacher, Benjamin C. Bayne, John D. Vridin, John H. Geis, all of whom are citizens and residents of the State of Maryland.

The individuals named above as defendants are retail dealers in lumber, and are hereinafter termed defendant dealers.

I.

CONSPIRACY.

The defendants for some time past have been and now are engaged in an unlawful conspiracy unduly, unreasonably, and directly to restrain the hereinafter described trade and commerce among and between

the several States and Territories of the United States in lumber and lumber products, in violation of the act of Congress approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies." Such unlawful conspiracy is evidenced by, and is the result and outgrowth of a series of wrongful acts extending over a period of many years last past and continuing to the present time, and participated in by the defendants, respectively, in the manner and to the extent hereinafter more fully set forth. In participating in the various acts, agreements, and combinations in pursuance of said conspiracy as hereinafter described, all of the defendants have been actuated by wrongful intent directly, substantially, unduly, and unreasonably to restrain said interstate trade in lumber and lumber products.

II.

THE LUMBER TRADE.

The lumber trade is now and was long prior to February 21, 1903, divided and described by those engaged in said trade as follows:

1. *Manufacturing.*

The commodity known as lumber is the product of sawmills and manufacturing establishments, operating in various States of the United States, that receive the logs from the forests and saw them into the various sizes and lengths of timber and lumber required by the trade for building and manufacturing purposes in various parts of the United States. The

growth of certain kinds of timber from which such lumber is manufactured is so distributed that no one State contains all of the varieties demanded and required by the trade, so that the products of pine timber known as yellow pine are largely from manufacturing establishments located in the vicinity where such timber is grown, in the States of North Carolina, Georgia, Mississippi, and Arkansas; the products of white-oak timber from North and South Carolina, Georgia, and other States of the United States; the products of maple timber from Ohio, Indiana, Michigan, and other Northern States; the products of spruce timber from Maine, West Virginia, and other States; the products of fir, red cedar, and redwood from Washington, Oregon, California, and other Western States; the products of red oak from Indiana, Michigan, Minnesota, Tennessee, and other States; the products of cypress timber mainly from the States of Louisiana, Mississippi, and Arkansas; and the products of other special varieties of timber from manufacturers in various localities and parts of the United States. When such timber has been manufactured into lumber in these various States the greater part of the same is transported from such States by railroad and steamship lines into and through other States of the United States to markets in which such lumber is required for building and manufacturing purposes. The sawmill or planing-mill owner who manufactures or converts timber into lumber is commonly known and described in the trade as the "manufacturer."

2. *Wholesale trade.*

The wholesale merchants, known as wholesalers and jobbers, dealing in lumber and lumber products, are usually located at or near the large markets and centers of trade, such as New York City, N. Y.; Chicago, Ill.; Pittsburg, Pa.; Baltimore, Md.; St. Louis, Mo., and at numerous other cities in various parts of the United States. In some cases the wholesaler and jobber above described maintains a yard for receiving and storing stocks of lumber which have been purchased from manufacturers in various parts of the United States and shipped from the manufacturing establishments in pursuance of such sales, through and to other of the United States where such wholesale yard is established. In other cases the wholesaler and jobber does not maintain a yard, but handles shipments of lumber upon order from customers to and through the wholesaler and jobber to the manufacturer, which lumber is shipped in pursuance of such orders from one State to another on consignment from the manufacturer to the customer of the wholesaler and jobber, which customer, in organized and controlled trade, as hereinafter described, is the retail yard, and which said customer may be, and often has been and is, the consumer or contracting builder hereinafter described.

3. *Retail trade.*

In nearly every town and city in the States of Rhode Island, Massachusetts, Connecticut, New York, New Jersey, and in the cities of New York, N. Y.,

Philadelphia, Pa., Baltimore, Md., and Washington, D. C., and other towns and cities in the United States, are located retail dealers who receive and store lumber purchased by such retail dealers from the manufacturer and the wholesaler and jobber above described, which lumber is so stored by such retailer for the purpose of supplying the local demand for such lumber for building and manufacturing purposes in the city or town where such retail yard is located. The lumber so handled by such retail dealers is manufactured in various States of the United States and is sold in and out of and shipped out of and through said States in pursuance of such sales by the manufacturer and the wholesaler and jobber to the retail dealers described herein.

Another branch or form of the retail trade is found in the so-called "mail-order houses," these being large commercial establishments, located in Chicago, Ill., Davenport, Iowa, St. Louis, Mo., and in other States, which sell lumber and its products, as well as other lines of merchandise, direct to the consumer in nearly all the States of the United States, such mail-order house having generally purchased the same from the manufacturer directly without the intervention of the wholesaler and jobber and the regular retail yard. This line of trade is systematically opposed by the wholesaler and jobber and by the retail dealer, as hereinafter described.

4. *The consumer.*

Lumber and lumber products are manufactured as above described for sale for building and manufacturing purposes in all parts of the United States and are shipped and sold from and through the States named and as so described for the ultimate use of the contracting builder and manufacturer and for construction work in the States of Rhode Island, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, and the District of Columbia, and other States. The consumer is classified by the trade into—

(a) The contracting builder or other operator in construction work, where the lumber purchased by him is for use in building houses, bridges, cofferdams, wharves, and repair and construction work of all kinds, except that carried on by the United States Government; and

(b) The converter or manufacturer who converts the sawed lumber into furniture and "trim," such as moldings, frames, sash, doors, and blinds, and in some cases into boxes and containers; and

(c) The United States Government and, in some localities, municipalities and railroads.

(d) The small consumer of lumber for small building, repair, and construction work.

(e) Cooperative unions of consumers, generally located in country districts in many States.

III. FORM AND EFFECT OF CONSPIRACY.

Prior to the incorporation of the aforesaid Eastern States Retail Lumber Dealers' Association in 1902, as hereinafter described, the defendants (except the Lumber Exchange of the District of Columbia, the Retail Lumbermen's Association of Baltimore, Md., and the Building Material Men's Association of Westchester County and their respective officers, directors, and members), together with other individuals and lumber trade associations hereinafter described but not named herein as defendants, unlawfully and knowingly engaged in a conspiracy in unreasonable restraint of the interstate trade and commerce in lumber and lumber products heretofore described, and at and since that time they were and have been continuously and are now engaged in such conspiracy, whereby such interstate trade and commerce has been and is now being unreasonably restrained in the manner described hereafter, and the said the Retail Lumbermen's Association of Baltimore, the Lumber Exchange of the District of Columbia, and the Building Material Men's Association of Westchester County, and their respective officers, directors, and members herein named as defendants, on the dates showing election of said companies to membership in the Eastern States Retail Lumber Dealers' Association, joined, entered into, and contributed to and engaged in, and ever since have continued and are now engaged in the same conspiracy in such restraint of the interstate trade and commerce in lumber and lumber products,

whereby such interstate trade and commerce has been and is now being unreasonably restrained, in the following manner:

The defendants have by means of written and verbal agreements, between themselves and also with other lumber trade associations and corporations and other individuals hereinafter described not named as defendants and by resolutions adopted in joint and separate meetings and conventions, and by the adoption of constitutions and by-laws and declaration of purposes, and by interchange of correspondence between themselves and said trade associations, and between the several trade associations and corporations herein named, and with other corporations and individuals not defendants herein as aforesaid, and by adoption of rules and regulations by duly authorized committees of said defendant companies, associations, and exchanges, and by specific acts of said defendant companies and associations and the individual members thereof, and their officers and agents, in pursuance of constitutions, by-laws, purposes, rules, regulations, agreements, and correspondence, arbitrarily fixed, established and maintained arbitrary divisions and classifications of the lumber trade in the interstate commerce as aforesaid, whereby such interstate trade and commerce is unreasonably restrained and competition unreasonably prevented and unduly restricted in the manner herein described.

The purpose and effect of said divisions and classifications of the lumber trade arbitrarily and wrongfully fixed by defendants as aforesaid have been for

several years last past, and now are, and will continue to be unless enjoined by an order of this court to unreasonably eliminate all competition, except as between retail yards, for the trade of the contractor and builder and ultimate consumer of lumber and lumber products hereinbefore described, with the exception in some cases, but not all, of such consumers as the United States Government, railroads, dock and wharf builders, and manufacturers using lumber which enters into some manufactured article to be sold in completed form to the trade; and to force such ultimate consumer to buy at retail prices such lumber and lumber products from regularly established and recognized retail lumber merchants whose business is such as to entitle such retail merchant to membership in one of the retail associations hereinbefore mentioned, and to force such consumer to buy such lumber at retail prices regardless of the amount of such lumber required by the consumer, whereas, but for such unlawful conspiracy and combination, such consumer could and would buy lumber from the wholesalers and manufacturers hereinbefore described at greatly reduced prices.

The further purpose and effect of said classifications fixed as aforesaid have been and are now to force such ultimate consumer to buy the required supply of lumber and lumber products from the said regular and recognized retail merchant operating a retail yard in the vicinity where such lumber is to be used, whereas, but for such unlawful conspiracy, such consumer

could buy lumber from another retail dealer in another State at reduced prices; and, further, to prevent such consumer in any of the States heretofore named from buying, shipping, and receiving any lumber and lumber products from any wholesale dealer or manufacturer of lumber doing business in any of the States heretofore named; and, further, to prohibit and prevent any wholesale dealer in lumber or any manufacturer of lumber and lumber products in any of the States heretofore named quoting prices for or selling and shipping such lumber and lumber products to any such consumer in any of the States heretofore named.

The result of such illegal methods, well known and so intended by said defendants, has been, is now, and will continue to be, unless the aforesaid wrongful acts are restrained by order of this court, to close the door of the wholesale dealer and manufacturer in all parts of the United States to the consumer, and arbitrarily and unreasonably to deprive such manufacturer and wholesaler, as aforesaid, of the trade of the consumer residing in the territory covered by the retail dealers' trade associations and corporations heretofore described and named as defendants in this suit, except through the medium of the retail yard operated by the retail dealers aforesaid, defendants herein, and members of the trade associations and corporations herein described.

IV.

HISTORY OF DEVELOPMENT OF CONTINUING CONSPIRACY.

1. TRADE ASSOCIATIONS.

With the intent and purpose of securing and rendering the aforesaid arbitrary classification of the lumber trade more certain of continuance and in pursuance of the aforesaid illegal scheme involved in said conspiracy, certain retail lumber dealers, for themselves and on behalf of their associate dealers in the retail lumber trade, and for and on behalf and with the connivance and approval of the defendant dealers aforesaid, formed the various defendant lumber-trade associations and corporations aforesaid, and said defendants have continued and maintained and do now continue and maintain the same for and with the aforesaid intent and purpose.

The history of the formation of said associations and corporations and their activities in furtherance of the aforesaid unlawful scheme and conspiracy are as follows:

(a) The Eastern States Retail Lumber Dealers' Association is and at all times since October 16, 1902, has been a membership corporation organized and existing under the laws of the State of New York; its principal place of business is at 18 Broadway, in the city, county, and southern district of New York, at which place it has held its annual meetings; it is carrying on business in the southern district of New York and in the cities of Washington, D. C.; Balti-

more, Md.; New York, N. Y.; and in the States of Massachusetts, Rhode Island, Connecticut, and New Jersey, and elsewhere, in the manner and form hereinafter described. Said company was first formed as a voluntary association of retail lumbermen and their representatives in September, 1902, at the city of New Haven, in the State of Connecticut, and at the first meeting of the corporation, which was held at Providence, R. I., on February 21, 1903, a constitution and by-laws were formally adopted, the same being hereinafter fully set forth as a part hereof and marked "Exhibit A."

The membership of this company has been for a long time past and is now composed of retail lumber dealers hereinbefore named as defendants, who were elected, in accordance with Article VII of its by-laws, as the representatives and delegates of the associations hereinafter named, and of the individual members of said last-mentioned associations.

For more than three years prior to the formation of the Eastern States Retail Lumber Dealers' Association aforesaid the secretaries and other representatives of the various State and city organizations then in existence, and named as defendants in this suit, with others not so named, met at various places in the United States one or more times each year and discussed ways and means of effecting the objects and purposes of their respective organizations and perfected plans of cooperation between themselves and other associations in the lumber trade in the manner and form hereinafter set forth.

At a joint meeting held at New York City, N. Y., on May 7, 1902, of representatives of the New York Lumber Trade Association, New Jersey Lumberman's Protective Association, Pennsylvania Lumberman's Protective Association, Lumber Dealers' Association of Connecticut, Retail Lumberman's Association of Philadelphia, Lumber Dealers' Association of Rhode Island, and the Massachusetts Retail Lumber Dealers' Association it was voted by said representatives as follows:

That each association shall elect two members, who, together with their respective secretaries, shall organize an association composed of the retail lumber dealers' associations of the East.

Pursuant to this action, a notice, signed by the defendant, Louis A. Mansfield, dated August 26, 1902, was sent out by him from New Haven, Conn., to the associations named above in this paragraph, calling a meeting to be held at New Haven, Conn., on September 3, 1902, which notice contained the following:

This meeting is called to perfect an organization of the retail associations to consider the matter of the conference with the National Wholesale Lumber Dealers' Association, to select a delegate to attend the meeting of the Secretaries' Association at Chicago. At the meeting of said associations last above mentioned, held September 3, 1902, at New Haven, a committee was appointed to prepare a constitution and by-laws for a permanent organization of eastern retail lumber dealers' asso-

ciations. At a meeting held in New York City on September 17, 1902, by representatives from the New York Lumber Trade Association, the New Jersey Lumbermen's Protective Association, Pennsylvania Lumberman's Protective Association, Lumber Dealers' Association of Connecticut, Retail Lumberman's Association of Philadelphia, and the Lumber Trade Club of Boston, it was voted to form a permanent incorporated organization to be named The Eastern States Retail Lumber Dealers' Association, directors were elected, and the chairman was authorized to complete the incorporation; at the same meeting it was moved and voted that the objects of said association should be as follows:

The objects of this association are to foster the lumber trade, to reform the abuses in the conduct of the lumber business by diffusing accurate and reliable information among its members, to procure uniformity and certainty in the customs and usages of the trade, to protect its members from unjust and unfair and unbusinesslike competition within the territory covered by this association, and to show reciprocal relations with the other associations as may be deemed expedient, so far as the same may be done under the laws of the State of New York.

Pursuant to the authority given, and in accordance with the last-mentioned declaration of purpose, articles of incorporation were prepared and perfected on September 18, 1902, by the directors, duly authorized as aforesaid. The articles of association provided that the membership of said association should

be composed of the associations from the States of New Jersey, Connecticut, Massachusetts, Rhode Island, and from the cities of New York City, N. Y., and Philadelphia, Pa., and such other regularly organized bodies representing the retail lumber interests as should be elected by a majority vote at any regular meeting of the association.

The first regular meeting of the incorporated company was held at Providence, R. I., February 21, 1903, when were in attendance delegates sent from the following associations: New Jersey Lumberman's Protective Association, New York Lumber Trade Association, Lumber Dealers' Association of Connecticut, Retail Lumberman's Association of Philadelphia, Lumber Dealers' Association of Rhode Island, and the Massachusetts Retail Lumber Dealers' Association, at which meeting the rule as to membership contained in the articles of association above mentioned was changed to provide the following:

The members of this association shall be composed of three members, one of whom shall be the secretary, of each of the following associations: The New York Lumber Trade Association, the New Jersey Lumberman's Protective Association, the Lumber Dealers' Association of Connecticut, the Lumber Dealers' Association of Rhode Island, the Massachusetts Retail Lumber Dealers' Association, the Retail Lumberman's Association of Philadelphia, and of three members, one of whom shall be secretary, of such other regularly organized bodies representing the retail lum-

ber dealers' interests as shall be elected by a majority vote at any regular meeting of this association. (Exhibit A.)

Since the change in the by-laws last above mentioned the membership of said The Eastern States Retail Lumber Dealers' Association has been fixed in accordance with said changed by-laws and as heretofore alleged.

At a meeting of said last-named association held at Philadelphia, Pa., March 1, 1905, the Lumber Exchange of the District of Columbia was elected to membership in the said association by election of authorized delegates as provided in said by-laws.

At a meeting of said association held at Washington, D. C., on March 3, 1908, the Building Material Men's Association of Westchester County was admitted to membership in the said association, by election of authorized delegates as provided in said by-laws.

At a meeting of said association in June, 1910, the Retail Lumberman's Association of Baltimore, Md., was elected to membership in the said association, by election of authorized delegates as provided in said by-laws.

The members of the several retail lumber dealers' organizations heretofore described in this paragraph represented in the combination known as the Eastern States Retail Lumber Dealers' Association, as aforesaid, are the most prominent dealers in said trade in their respective localities and collectively do the greater part of the retail business in the States wherein they are located.

(b) The New York Lumber Trade Association is a membership corporation organized and existing under the laws of the State of New York, with its principal office and place of business at 18 Broadway, in the city, county, and southern district of New York. There are two classes of members in said company, one being called "resident" and the other "associate" members. The resident membership of said company is composed of wholesale and retail lumber dealers in the city of New York, State of New York, and that part of Hudson County in the State of New Jersey east of the Hackensack River in said State, and its nonresident membership is composed of wholesale and retail lumber dealers outside of the territory aforesaid and doing business in the States of New York, Maryland, Pennsylvania, Virginia, Michigan, Rhode Island, Massachusetts, and California.

The business and affairs of this company are conducted by its officers and trustees, hereinbefore named as defendants, all of whom are elected from among its members. Said board of trustees have and for several years last past have had full power, authority, and control over the property of the company and over its officers and other committees, and in the making of rules and regulations for the enforcement of the provisions of its constitution and by-laws, and in directing that its members be warned, censured, fined, suspended, or expelled for the violation of any of such rules and regulations, or any of the provisions of said constitution and

by-laws, or in levying and providing for the collection of assessments upon its members.

Among the standing committees provided for in the constitution and by-laws of said company are: (a) The lumber committee, which was and is charged with the duty of keeping informed of the wholesale price of timber and lumber and to quote to and notify members of changes in same, and to direct all dealings in lumber and timber between members and between members and nonmembers; (b) the committee on trade relations, which is charged with the duty of establishing and maintaining friendly relations between resident and nonresident and wholesale and retail lumber dealers within and without the association, to discourage unfair and oppressive business methods in the trade and generally to aid and direct the association in furthering the best business methods and interests of the members, and to hear and investigate complaints in matters affecting trade relations between wholesalers, retailers, and others; this committee is also empowered and required to "inquire into all cases of interference by wholesale dealers with the retail trade, and *vice versa*, and especially into all complaints of alleged sales by wholesale dealers direct to consumers or customers of retailers or the solicitation of retail trade by wholesale dealers, whether members of the association or not," and to furnish members with information respecting the same.

It was and is also provided in said constitution and by-laws that any member guilty of misconduct,

breach of faith, or of violation of any of the provisions of the constitution, by-laws, rules, or regulations of said association may be warned, censured, fined, suspended, or expelled.

The main purpose and effect of the rules and regulations of said association as administered by said boards and committees is to prevent sales of lumber by the manufacturer or wholesaler direct to the consumer, as more particularly hereinafter described.

(c) The New Jersey Lumbermen's Protective Association, aforesaid, is a voluntary membership association which was organized in or about 1885. There are two classes of members in said association, one known as "active" and the other as "associate" members. The active membership was and is composed of retail lumber dealers doing the business of buying and receiving lumber and lumber products in interstate trade and commerce from manufacturers and wholesale dealers in various States of the United States and selling such lumber and lumber products in the State of New Jersey; the associate membership was at first composed of retail lumber dealers doing business outside the State of New Jersey, which latter rule respecting associate members was later, at a date unknown, changed and extended by said association to include wholesale dealers doing business in and out of the State of New Jersey, so that at present and for several years past the active membership is and was composed of retail dealers doing business in the States of New Jersey and New York, and the

associate membership includes wholesale dealers in lumber doing business in the States of New Jersey, New York, Michigan, Maryland, Pennsylvania, and Massachusetts. A complete list of the members of this association is annexed hereto and marked "Exhibit B." The principal place of business of said association is at the office of its secretary in Newark, New Jersey, and said secretary conducts all the correspondence for the members of said association, its boards, and committees.

It was originally provided in the constitution of the said association adopted and in force in 1892 that the association should "have for its object the protection of its members against sales by wholesale dealers and manufacturers to consumers and the giving of such other protection as may be within the limits of cooperative association." The by-laws in force in 1892 provided the means to be adopted to prevent sales from manufacturers and wholesalers to a consumer or anyone not a regular lumber dealer operating a yard, whereby the wholesaler or manufacturer so selling should be posted in the manner hereinafter described to all the members upon refusing or neglecting to make a satisfactory explanation.

The by-laws of the association in effect in 1892 contained the following resolution:

Resolved, That this association will heartily cooperate with any other association in the United States in the exchange of reports, or in any manner that will facilitate the object of the association.

By amendments said constitution and by-laws and rules of said association in use during the years 1901 to 1911, both inclusive, the same objects and purposes are retained and authority given to the board of directors, all of whom are named defendants in this suit, to manage the business, property, and affairs of said association, to adjudicate all differences and complaints against wholesalers and manufacturers for violation of the rules, and to carry into effect such measures as they may deem expedient on behalf of other members of said association whose names as such members in 1911 are shown on the list annexed hereto and marked "Exhibit B."

The main purpose and part of the method employed in advancing and fixing the rule aforesaid against sales by wholesalers and manufacturers to consumers, contractors, and builders is shown by the rules of said association to be that no wholesaler or manufacturer doing business in any State of the United States will be permitted to sell or solicit for sale any lumber to a contractor or builder or other consumer in the territory covered by the operations of the members of the association, except to and of those consumers who manufacture for sale to the trade stocks of sash, blinds, doors, moldings, trim, desks, furniture, pianos, organs, trunks, and boxes. The same rules likewise prohibit any retail dealer doing business in any other State than in the State of New Jersey selling, soliciting, or quoting the consuming trade in that State, and provides like punishment for such an offense. For a violation of

the rules the rules provide that the name of the offending dealer shall be published to the members.

The members of said association, as shown in Exhibit B hereof, acting together under the direction of the said officers and directors thereof as aforesaid, have adhered to and carried out the aforesaid methods and purposes of the said constitution, by-laws, and rules. All the members of said association are not named as defendants in this suit for the reason that there are a large number of such members, and to name every one would hinder and delay the trial of this cause, and this suit is therefore brought against the persons named individually as defendants and as the representatives acting for and on behalf of said members of the said New Jersey Lumbermen's Protective Association.

(d) The Building Material Men's Association of Westchester County is a corporation organized and existing under the laws of the State of New York, with its principal place of business at White Plains, in the State and southern district of New York.

Its membership was and is confined to dealers in and manufacturers of lumber and building material doing the business of buying lumber and lumber products and receiving the same from various States in the United States as hereinafter described and selling the same in Westchester County or vicinity, in the State and southern district of New York. The objects of said association, among others, were and are to prevent sales of lumber from manufacturers and wholesalers doing business in various States of the United

States to contractors, builders, or ultimate consumers, and to furnish information of such sales and to secure settlements from such wholesalers and manufacturers in favor of its members on account of such sales, and to fine or expel its members for violations of its by-laws and rules.

Its officers and directors are authorized and required by its constitution and by-laws to manage and control the business of said association.

(e) The Retail Lumberman's Association of Philadelphia, for many years last past has been and is now a voluntary membership association of lumber dealers as hereinbefore alleged. Its membership is confined to dealers in lumber in the city of Philadelphia and immediate vicinity in the State of Pennsylvania. A complete list of the members of said association is annexed hereto and marked "Exhibit C." The headquarters and principal place of business of said association is at Philadelphia, Pennsylvania. The object of said association, so far as the same is disclosed by its articles of association, was and is "to secure and disseminate to its members any and all legal and proper information which may be of interest or value."

The articles of association also provide that there shall be no rules adopted to stifle competition, limit production, regulate prices, restrain trade, or pool profits, nor shall there be any penalties imposed for any purpose; but notwithstanding such provisions, section 7 of said articles provides for reporting and listing for distribution names of wholesalers and

manufacturers doing business in various States of the United States and who sell, quote, or solicit the trade of the contractor, builder, and ultimate consumer, except canal companies, steam railroads, manufacturers of steel blooms and pig iron, the United States Government, and manufacturers of barrels, sash, doors, blinds, and wooden boxes, the purpose and effect of which provision has been and is to prevent sales of lumber from manufacturers and wholesalers to consumers as hereinafter more particularly described.

The business of said association is managed and controlled by its officers and directors, who conduct and control said business as the representatives of and on behalf of its members.

All the members of said association, have for several years last past cooperated and do now cooperate to carry into effect the aforesaid purposes and objects with the aforesaid results in the manner herein described; not all of said members are made defendants in this suit because to do so would hinder and delay the trial of said cause, and this suit is therefore brought against the individuals named defendants as the authorized representatives selected and authorized in accordance with the constitution and by-laws of said association, acting for and on behalf of the said members of the said Retail Lumberman's Association of Philadelphia.

(f) The Lumber Dealers' Association of Connecticut is a corporation organized and doing business under

the laws of the State of Connecticut, with the principal place of business at New Haven, Conn. This company has two classes of members, known, respectively, as "resident" and "associate" members. Its resident membership is composed of retail lumber dealers doing business in the State of Connecticut, and the associate membership is composed of retail dealers and wholesale dealers in lumber doing business in the States of Michigan, Massachusetts, Ohio, Connecticut, New York, Rhode Island, and Virginia.

Its officers and directors manage and control its business.

The purposes, among others, of said association, so far as the same are indicated in its by-laws and the resolution printed and distributed with said by-laws, are to restrict sales of lumber from the wholesaler and manufacturer to the retail dealer with a regular yard, and to prevent one retail dealer from doing any business in the immediate territory supplied by any other retailer, and to prevent the consumer from purchasing lumber and lumber products from manufacturers and wholesale dealers in any part of the United States. The manner, form, and effect of carrying such purposes into effect are set forth more particularly hereinafter.

(g) The Massachusetts Retail Lumber Dealers' Association is a membership corporation incorporated and existing under the laws of the State of Massachusetts, with its principal place of business at Springfield, Massachusetts. It has two classes of mem-

bers, known, respectively, as "resident" and "associate" members. Its resident membership is composed of retail lumber dealers doing business in the State of Massachusetts, and the associate membership is composed of wholesale dealers and retail dealers in lumber doing business in the States of Massachusetts, Rhode Island, South Carolina, and Michigan. The officers and directors of said company were duly elected in compliance with the constitution and by-laws under which said association operates, and manage and control the business of said association.

The purpose of said association, so far as the same is shown by its articles of association and by-laws, is to prevent the sale of lumber from the wholesale dealer and manufacturer doing business in various States of the United States, as herein described, to the contractor, builder, or other ultimate consumer in other States, and means are provided for the secretary of said association to report and list such wholesaler or manufacturer making such sales in the manner hereinafter more particularly described. Said by-laws also provide for agreements between the said association and its committees and the National Wholesale Lumber Dealers' Association, hereinafter described, whereby classifications of the retail trade may be made to the purpose and end that any person once decided, under such agreements, to be a carpenter and builder, shall never thereafter be considered a legitimate customer for the wholesale trade.

There is also printed and made a part of the by-laws of said association certain resolutions of said association providing that said association should cooperate with other associations to facilitate its objects and purposes, and also stating that sales by a retailer in any other territory than that adjacent to his yard is contrary to the spirit and object of said association; the acts and operations to carry such purpose into effect and the result of the same are shown hereinafter.

(h) The Lumber Dealers' Association of the State of Rhode Island is a membership corporation organized and doing business under the laws of the State of Rhode Island, with its principal place of business at Providence, Rhode Island. This company has two classes of members, one of which is known as "resident" and the other as "associate" members; its active membership is composed of retail lumber dealers doing business in the State of Rhode Island, and its associate membership is composed of retail dealers and wholesale dealers in lumber in the States of Rhode Island, Massachusetts, Michigan, New York, South Carolina, and Virginia.

The officers and directors of said company, duly elected in accordance with its by-laws, manage and control its business.

The purpose and object of said association, as partially shown in the by-laws, is to prevent sales of lumber from the wholesale dealer and manufacturer doing business in various States of the United States directly to the contractor, builder, or ultimate consumer in

other States; and provision is made in its by-laws for reporting and listing and distributing the name of such wholesaler or manufacturer who makes such sales. Provision is also made in said by-laws for classification of the retail trade by agreement with the National Wholesale Lumber Dealers' Association to the expressed purpose and end that a person classified as a carpenter and builder "shall never be considered as a legitimate customer for a wholesaler to sell to."

(i) The Lumber Exchange of the District of Columbia, under which name William T. Galliher, Lee L. Herrell, and other defendants hereinbefore named have been and are associated, was organized as a voluntary membership association about 1892, with its principal place of business at the city of Washington. Its membership is composed of retail and wholesale dealers in and manufacturers of lumber doing the business of buying and receiving such lumber and lumber products from other dealers in various States of the United States and selling the same in the District of Columbia. A list of its members is attached hereto and marked "Exhibit D." A constitution and by-laws has been duly adopted, under which said association is operated.

The officers and directors of said association, duly elected from the membership in accordance with the said by-laws, manage and control the business of said association.

One of the purposes and objects of said association as partially revealed in its by-laws and constitution has been for several years last past, and is now, to

prevent sales and shipments of lumber and lumber products from manufacturers and wholesale dealers doing business in various States of the United States to contractors, builders, and other consumers in other of said States, which purposes and objects have been and are now carried out by the officers and directors aforesaid, acting for and on behalf of the members named in Exhibit D hereto annexed.

(j) The Retail Lumbermen's Association of Baltimore, Md., is a membership corporation organized and doing business under the laws of the State of Maryland, with its principal place of business at Baltimore, Maryland. Its membership is composed of retail lumber dealers doing the business of buying and receiving lumber and lumber products from manufacturers and wholesale dealers operating in various States of the United States, and selling the same in the city of Baltimore, Md.

Its officers and directors of said company were duly elected pursuant to the provisions of its by-laws and manage and control its business.

Its purpose as declared in its articles of association is to collect and distribute information to its members, and to prevent sales of lumber from the wholesale dealers and manufacturers doing business in various States of the United States, to the contractors, builders, and ultimate consumers, except canal companies, pig-iron and steel bloom manufacturers, United States Government, coopers, sash, door, and blind manufacturers, and box makers.

2. COOPERATION BETWEEN RETAILERS' AND WHOLESALE- SALERS' ORGANIZATIONS.

The aforesaid arbitrary classification and unreasonable restriction of the said lumber trade was made more certain of enforcement by cooperation between the defendant retail dealers and the defendant associations and corporations and the association of wholesale dealers in lumber hereinafter described. This cooperation, forming a part of the aforesaid unlawful scheme, was carried out as follows:

(a) The National Wholesale Lumber Dealers' Association is a membership corporation organized and doing business under and by virtue of the laws of the State of New York, with its principal place of business at the city of New York. Its membership is composed of manufacturers of, wholesale and retail dealers in, and jobbers of lumber operating in the States of New York, North Carolina, Kentucky, Pennsylvania, Maryland, Michigan, West Virginia, Massachusetts, Tennessee, Virginia, South Carolina, New Jersey, Illinois, Ohio, Wisconsin, Indiana, Louisiana, Connecticut, Florida, Georgia, Missouri, Alabama, Rhode Island, California, Mississippi, and in the District of Columbia, and the Provinces of Nova Scotia, Ontario, Quebec, and British Columbia, in the Dominion of Canada. The officers and trustees of said association are charged with the active management and control of its business.

Said association, under the direction and management of said officers and trustees, conducts several

departments, among which are a credit bureau reporting to members on the financial responsibility of various individual dealers in lumber, a legal and collection bureau having to do with collection of delinquent accounts, an insurance department, and other departments not necessary to describe herein; and in addition to these there have been in operation for several years past and are now duly appointed and authorized committees for the adjustment of differences, claims, and disputes between members of said association, and between such members and other lumber dealers not members, relative to the regulation of trade and maintenance of trade classifications, as hereinafter more particularly described.

Prior to the year 1899 there were numerous conferences and interchange of correspondence, information, and resolutions between the National Wholesale Lumber Dealers' Association, representing the wholesale dealers in and manufacturers of lumber, hereinbefore described, and certain of the defendant retail associations, corporations, officers, boards, committees, and individuals hereinbefore described and others, in the effort to secure a classification of the lumber trade whereby the consumer's trade would be preserved and confined to the retail dealer, and the trade of the retail dealer should be confined and preserved to the wholesale dealer.

(b) Boston agreement.

At the annual meeting and convention of the National Wholesale Lumber Dealers' Association, held at Boston, Massachusetts, on March 2 and 3,

1899, there were present representatives from wholesale dealers and manufacturers from all parts of the United States and nearly every State east of the Mississippi River, and representatives from certain of the defendant members of retail associations and the corporations and individual defendants and other retail lumber dealers' associations, who took part in the proceedings of the convention on matters pertaining to the classification of the lumber trade, as hereinbefore described. The purpose and intent of such cooperation, as hereinbefore alleged, between wholesale and retail dealers was stated by the president of the National Wholesale Lumber Dealers' Association in an open meeting at said convention as follows:

It was a desire to protect and also to improve the condition of the wholesale lumber business that a few thinking lumbermen conceived the idea of organizing the wholesalers into an association for mutual protection. It has been evident for some time that the retailers of lumber have been awakened to the advantages of mutual association to the extent that almost every State has an association of retail lumbermen. The retail associations have made such rules and regulations as to them seemed best to protect their interest, consequently the wholesaler, standing alone, found himself helpless to combat such rules and regulations made by the retail associations as were an encroachment upon his rights and ideas of trade. The endeavors of the retail associations seem to have been to keep the lines of wholesale and retail

in their proper channels. This is to be commended. No fault can be found with the retail associations for taking such action as they deem wise for the advancement of their own interest. It was with the desire to place the wholesalers in position of having something to say, as well as to assist in keeping in their proper channels the lines of wholesale and retail trade, that this association was formed. Not with a desire to dictate or antagonize the retail associations, but to cooperate with them in putting the lumber trade where it will earn us a fair return upon our investment. Owing to a seeming misunderstanding of our motives on the part of the retail associations our association did not make as much progress as was desired, but continual endeavor has brought about some good results, namely, by creating a better understanding and a greater confidence in our association by the retailers. It was with a desire to further improve our relations with the retail associations that your board of trustees authorized me to invite to this convention representatives from each of the retail associations. At our last convention, held in Cleveland, there was authorized a trade relations committee. This committee has performed great service in the lines I have referred to. It must be self-evident to every member of our association, as well as to every member of the retail associations, that much good can and will come to us all alike if there is established perfect confidence and belief in the honest motives of each other. To bring this about

technicalities should be avoided, all subjects and differences treated and considered in a broad-minded manner, and all differences of opinion settled by conferences and arbitration. Decisions thus made to be promptly carried out and honorably maintained. * * *

We have with us to-day as our guests a large number of retail dealers, sent here as delegates of retail associations from a number of States. They are here upon our invitation and request.

At the same convention the committee on trade relations of the said National Wholesale Lumber Dealers' Association made a report showing the same purpose and intent of the wholesale and retail dealers to classify the trade as hereinbefore alleged. This report recommended close cooperation between the wholesale and retail dealers and between their respective organizations, and to control and confine all interchange of trade in lumber to the members of such associations, the report being attached hereto and marked "Exhibit E."

Out of this report and the discussion which followed it at said convention grew the contract known as the "Boston agreement," which was adopted by the National Wholesale Lumber Dealers' Association and by the representatives of the retail associations in attendance at said convention. A copy of said agreement, with amendments thereto, is attached hereto as a part hereof and marked "Exhibit F."

At the same convention the by-laws of the National Wholesale Lumber Dealers' Association were amended

in accordance with said "Boston agreement" to read as follows:

Article XIX.—Relations with retail associations.

Whenever it shall be determined by the board of trustees, directly or through committee acting separately or in conference with any authorized body from a retail association, that any person, firm, or corporation is not a legitimate customer for the wholesale trade according to the principles recognized by this association as best concerning the interests of the lumber business, the members shall not thereafter sell to such person, firm, or corporation.

At the annual convention of the National Wholesale Lumber Dealers' Association, held at Baltimore in March, 1900, the trade relations committee made a report showing the satisfactory working of the "Boston agreement," and close cooperation of both wholesalers and retailers to carry the same into effect. A copy of this report is attached hereto and marked "Exhibit G." Due to disputes as to arbitration an amendment was then agreed to by the National Wholesale Lumber Dealers' Association and the representatives of certain of the retail associations hereinbefore described providing for arbitration of differences and reaffirming the "Boston agreement." A copy of a report relative to said amendment is attached hereto as a part hereof and marked "Exhibit H."

At the same convention the chairman of the trade relations committee made the further report respecting this "Baltimore amendment" as follows:

The amendment is approved by the committee on trade relations with this statement, that there might be in the next year a case possibly where some member of this association would unintentionally sell to a trade which he had no right to sell to. Such a case has come up in the past year, and there seems to be a reasonable excuse for it; but the committee on trade relations have said to the retail dealers that they will do all in their power to prevent any sales being made before classifications are determined.

At the regular annual convention of the National Wholesale Lumber Dealers' Association, held in March, 1901, at Pittsburg, Pa., the trade relations committee made a report which was then and there adopted by that association and the representatives and members of the retail associations and corporations in attendance, and which provided further methods of arbitration, classification, and restriction of trade along the lines fixed by the "Boston agreement" and the "Baltimore amendment" as aforesaid. A copy of that report as adopted, and known as the "Pittsburg amendment," is attached hereto as a part hereof and marked "Exhibit I."

During the period covered by the adoption and operation of the aforesaid Boston agreement, Baltimore amendment, and Pittsburg amendment, as aforesaid, the contents, purposes, and necessary

effect of the same were fully known by the members of the several defendant retail associations and corporations, defendants herein, in existence at the time and were fully discussed in the meetings of the said retail associations and by correspondence between members and officers of the same, and the aforesaid cooperation and agreements entered into between the National Wholesale Lumber Dealers' Association and the said defendant retail associations and corporations, by their authorized representatives, were fully authorized and subsequently approved by all of said associations and their members.

In pursuance of the aforesaid agreements, known as the Boston agreement, Baltimore amendment, and the Pittsburg amendment, the duly authorized officers of the several defendant retail associations and their members, and corporations, heretofore named as defendants herein, further illegally conspired to and did furnish, and do now furnish the same information respecting sales by wholesalers and manufacturers to consumers to the authorized officers of the aforesaid National Wholesale Lumber Dealers' Association, and said information was used by the last-named officers and association to inform the members of said National Wholesale Lumber Dealers' Association of such sales, and to arbitrarily and wrongfully control the trade and keep the same within the lines agreed upon in the Boston agreement, amendments, and attendant resolutions and by-laws hereinbefore mentioned, viz., to force such trade into the channels

there declared and adopted as the rule to govern all parties to said agreements, to the end that the wholesale dealers and manufacturers, members of said National Wholesale Lumber Dealers' Association, should sell lumber only to members of the said defendant retail associations in their respective localities and that the last-named members should buy lumber only from members of said National Wholesale Lumber Dealers' Association.

(c) *Nominal withdrawal of Boston agreement.*

During the years prior to and during 1903 many differences of opinion had come up relative to classification of the trade along the lines of the Boston agreement and amendments. The defendant members of the aforesaid retail associations and the officers and representatives of the aforesaid corporations determined by way of resolution in joint convention in 1903 that when a customer or consumer of lumber should once be classified by the retail dealers as a carpenter and builder, such classification should be final and should govern both the retail and the wholesale and manufacturer's trade, and that the latter should not be permitted to sell lumber to such consumer. While the officers and members of the National Wholesale Association did not contend for the right to sell to a consumer, they did contend that the classification should be the subject of arbitration when disputed by either side. During this period classifications of the lumber trade as aforesaid were fixed

by said defendants and the aforesaid agreements were carried out.

At the annual convention of the National Wholesale Lumber Dealers' Association held March 5 and 6, 1902, the committee on trade relations reported successful operation of the aforesaid classification agreements showing active cooperation between the defendant retailers and the said wholesale organization and the acceptance by the latter of classifications fixed by officials of the retail associations aforesaid.

There was also reported at the same convention a set of resolutions adopted by the aforesaid Eastern States Retail Association, as follows:

Whereas the retail associations were organized for the purpose of retaining for the retail dealer such trade as is rightfully his; and

Whereas the trade of the carpenter and builder is trade which does exclusively belong to the retailer: Therefore be it

Resolved, That the concerns decided by the respective retail associations to be carpenters and builders, whether they own and operate yards or not, shall never be considered legitimate customers for the wholesalers to sell unless classification be requested, when the decision of the retail association shall be final.

That if, in the process of individual classification as at present pursued, a concern shall be classified by the retail association interested to be carpenters and builders, such classification shall be final.

Resolved, That if the question of the arbitration of a carpenter and builder be the basis of

affiliation with the National Wholesale Lumber Dealers' Association, then that we sever our reciprocal relations with the National Wholesale Lumber Dealers' Association.

(Signed) LOUIS A. MANSFIELD.

It was resolved at the executive committee meeting at the same convention to recommend to the board of trustees that the request of the eastern retail associations be not granted. This resolution was formally adopted later.

The National Wholesale Lumber Dealers' Association maintained its right of arbitration, and on March 4, 1903, its secretary wrote to the secretary of the said defendant, the Eastern States Retail Lumber Dealers' Association, as follows:

MARCH 4, 1903.

LOUIS A. MANSFIELD,
*Secretary Eastern States Retail
Lumber Dealers' Association.*

In reply to your communication of January 31, 1903, I am instructed to advise that the action of the National Wholesale Lumber Dealers' Association at the meeting to-day authorized the following reply to be made: That the resolution contained in the communication of January 31 from the Eastern States Retail Lumber Dealers' Association can not be adopted by the National Wholesale Lumber Dealers' Association, as it does not embody the principles of arbitration.

That the national association is always willing to settle disputed questions by arbitration,

asking no more than it is willing to give, and requests that the present system of establishing classifications, which has settled many difficult questions in the past and unquestionably benefited the retail and wholesale trade, be continued. The National Wholesale Lumber Dealers' Association pledges itself to be as liberal in its classifications as possible and still accord to its members by arbitration the protection to which they are entitled.

Thereupon action was taken by the said retail organizations as follows:

The New York (City) Lumber Trade Association, the Lumber Dealers' Association of Connecticut, the Retail Lumbermen's Association of Philadelphia, the Lumber Dealers' Association of Rhode Island, and the Massachusetts Retail Lumber Dealers' Association terminated the agreements heretofore existing, known as the Boston, Baltimore, and Pittsburg agreements.

This action was reported to the annual convention of the National Wholesale Lumber Dealers' Association, held at Washington, District of Columbia, March 4, 1903, and the secretary of that association, by proper authority, immediately notified the individual members of said association as follows:

Notwithstanding the fact that the above-named retail associations have withdrawn from agreements with us, the National Lumber Dealers' Association will continue to classify. Therefore, all members of the national association must, if they wish the protection of this associa-

tion, ask for and obtain the classifications of this association.

All members are particularly instructed to carefully observe the principles which this association has always advocated and do that which will at all times assist in maintaining the natural divisions of trade.

NATIONAL WHOLESALE LUMBER
DEALERS' ASSOCIATION.

E. F. PERRY, *Secretary.*

At the annual convention of the National Wholesale Lumber Dealers' Association held at Washington, District of Columbia, March 2, 1904, the secretary reported a continuation of the classification scheme, notwithstanding the apparent abrogation of the "Boston agreement." A copy of that report is annexed hereto and marked "Exhibit K."

The delegates duly authorized by the defendant members of the aforesaid retail associations and corporations, including the Eastern States Retail Lumber Dealers' Association, attended and took part in these proceedings in this convention, as they had before and as they have continued to do up to the present time.

The reports of subsequent annual conventions of the National Wholesale Lumber Dealers' Association and the minutes of the meetings of the committees on trade relations, arbitration, and the executive committee of said association show cooperation with the defendant members of said retail associations

and corporations on such classification of the trade in each year since 1903 to the present time.

Notwithstanding the nominal abrogation of the Boston agreement, the aforesaid arbitrary and wrongful classification of customers by the authorized officers of the aforesaid retail associations and corporations connected with the said Eastern States Retail Dealers' Association continued to be accepted by the authorized officers of the National Wholesale Dealers' Association for distribution to its members and does so continue up to the present time.

In 1905 such information furnished by the officers of said retail associations was published and circulated by the National Wholesale Lumber Dealers' Association in a publication known as "List C," a copy of which is attached hereto and marked "Exhibit L."

The intention, purpose, and effect, known to both the aforesaid defendant retail dealers and said wholesale dealers, of said List C was to prohibit and prevent sales of lumber from members among wholesale dealers and manufacturers in all parts of the United States to anyone on said list. Said List C was issued periodically as aforesaid until about September 25, 1907, when it was discontinued, and thereafter the same character of information respecting the aforesaid arbitrary classification of the lumber trade by retailers has been secured from members of said retail associations and is furnished to members of said National Wholesale Lumber Dealers' Association by its officers upon individual application of its members.

The information upon which such classifications are made by the National Wholesale Lumber Dealers' Association has been and is secured by means of correspondence, the circular letters addressed to the secretaries of the aforesaid retail associations and corporations and others being well understood by all persons to call for such classifications of consumers and retail dealers. Copies of two of these circular letters are attached hereto and marked Exhibits "M" and "N."

The replies to said circular letters, written by the secretaries of the aforesaid defendant retail dealers and members of the aforesaid defendant retail associations and corporations, almost invariably contain the information that the person about whom the inquiry is made is or is not "legitimate trade" for the wholesaler.

Upon the receipt of such a response from the secretary of the retail association the secretary of the National Wholesale Lumber Dealers' Association did then and still does acknowledge receipt to the secretary of the aforesaid retail association in a circular form of letter containing, among other things, the following:

We are in receipt of yours of — instant in which you advise us of your classification of the above concern as being consumers, such as carpenters and builders, and not retail dealers of the class whose requirements entitle them to purchase at wholesale. Your protest and classification will be communicated

to our members, and said classification continued unless and until objection is made to the same as being in error, in which event we will promptly communicate with you.

The last quoted letter has been for many years last past and is now in direct conformity to the action taken in the regular meeting of the executive committee of the National Wholesale Lumber Dealers' Association at Ottawa, Canada, held in August, 1905, where were in attendance duly authorized delegates and representatives of the defendant members of the aforesaid retail associations and corporations, and where the recommendation of the trade relation committee of the said National Wholesale Lumber Dealers' Association was adopted as follows:

The executive committee recommend that in future upon receipt of notice from the regularly organized Retail Lumber Dealers' Association of a protest against a buyer of lumber operating in the district covered by said association as being a consumer, such as a carpenter and builder, and not proper trade for the wholesaler, that this association accept such protest and classification, but without prejudice and until an objection is made by a member or members of this association, at which time evidence shall be required and the classification of the same party be made by the executive committee or by subcommittee appointed to consider the case.

Directly following this action at the Ottawa meeting the president of the National Wholesale Lumber

Dealers' Association in the annual convention, held at Washington, D. C., on March 7, 1906, read his report, in which is shown the continuance of the principles of the aforesaid cooperation and arbitrary classification and division of the lumber trade as established by the aforesaid agreements and resolutions, a copy of the said report being annexed hereto and marked "Exhibit BB."

At the annual meeting of the said National Wholesale Lumber Dealers' Association held at Washington, March 4, 1908, that section of the by-laws known as article 18, relating to agreements with the retail associations, was formally repealed and annulled. This action was immediately followed, at the same convention on the same day and hour and as the business immediately following, with a resolution adopted as follows:

Whereas under the so-called Boston agreement certain firms, corporations, and others were classified as lumber dealers with whom our members could fairly maintain business relations: Therefore be it

Resolved, That it is the sense of this association that these relations should be continued as far as is consistent with fair and proper consideration to all our interests.

At the same convention there were in attendance regularly authorized and invited delegates and representatives from the aforesaid defendant retail dealers and members of said defendant retail associations and corporations; and there was furnished to

each of the said retail organizations a copy of all proceedings in which they took part, and said copy or minutes was received and reported to the membership of the aforesaid retail associations and corporations.

At different periods of time between 1899 and 1908, the exact duration of which is unknown to your petitioner, the said National Wholesale Lumber Dealers' Association did adopt, in pursuance to the aforesaid conspiracy, various means of listing and publishing the persons reported by the aforesaid retail associations their officers and members, defendants herein, and distributing such information by circulars, pamphlets, "blacklists," and lists known as "yes" and "no," illustrations of which are attached hereto and marked "Exhibits O, P, Q, R, S, and T.

During the times herein alleged the said National Wholesale Lumber Dealers' Association and the said Eastern States Retail Lumber Dealers' Association, and the defendant officers and members of the retail associations hereinbefore mentioned and the said defendant corporations were also in more or less close cooperation with other trade associations in other parts of the United States, not named as defendants herein, among which were the associations named in the "Boston agreement" and the "Baltimore" and "Pittsburg amendments" (Exhibit F), and the Lumber Secretaries' Bureau of Information located in Chicago, Ill., the National Lumber Manufacturers' Association located in St. Louis, Mo., the Lumberman's Credit Agency located in Chicago, Ill., and

many others, for the purpose of regulating the lumber trade along the lines hereinbefore described, viz, to prevent the wholesaler and manufacturer of lumber in all the States of the United States from selling directly to the consumer in any other State, and to prevent the said consumer from buying or receiving lumber from said wholesaler and manufacturer.

(d) Continuing conspiracy.

Petitioner further alleges that the necessary, unavoidable, known, and intended result of such contracts, resolutions, and continued agitation in said joint conventions, and by said correspondence and publications and said cooperation between the National Wholesale Lumber Dealers' Association and its officers and members in all parts of the United States and the defendant the said Eastern States Retail Lumber Dealers' Association, its officers and members, and the aforesaid defendant corporations and their officers and members, retail associations and said defendant retail dealers, and other associations and individuals as aforesaid not here named as defendants, and the infliction of fines and penalties, and entering of protests and fixing classifications of trade by said defendants herein, and the publication of said black lists as herein described, and articles in trade papers, over a period of more than twelve years last past, has been to establish and permanently fix and maintain unlawfully and unreasonably restrictive and arbitrary rules for the trade and business of buying, selling, and shipping

lumber for transportation from one State to another State of the United States, and to eliminate competition between the manufacturer, wholesaler, and retailer in such trade and to so unreasonably and unduly restrain trade and commerce among the States in the manner and form herein alleged.

3. COOPERATION OF INDIVIDUAL DEFENDANT RETAIL ASSOCIATIONS.

Each of the aforesaid defendant retail associations and corporations, making up in their combined form the Eastern States Retail Lumber Dealers' Association as hereinbefore alleged, have held for several years last past and do now hold annual and special meetings at which the members operating actively in various branches of the lumber trade have attended and do now attend. At these meetings and by means of correspondence and special meetings of officers, members, committees, and boards of said retail associations and corporations, the questions of proper classification of the trade, and violations of the rules by manufacturers, wholesalers, and retailers have been and are now discussed and action taken to control such trade along the lines of unreasonable restriction heretofore alleged.

Such matters as pertain to sales by manufacturers and wholesalers to consumers and encroachment by one retailer on the territory of another retailer have been and are in turn brought up for discussion and disposition in meetings by the various defendant members of said Eastern States Retail Lumber

Dealers' Association, where the allied interests of all the aforesaid defendant retail associations and corporations and their respective members have been for several years last past and are now represented.

At such meetings, and by correspondence and other means, information of the violation of the rules of the defendant association as herein described has been and is exchanged between the aforesaid defendant associations and corporations and their members. In this way material was and is gathered for the preparation of the below-mentioned "blacklist."

(a) *Black lists.*

During the times herein alleged the several defendant associations and corporations and their officers and members hereinbefore described as defendants, with intent to perpetuate and as a means of perpetuating and maintaining the aforesaid conspiracy, adopted and used as part of the illegal conspiracy aforesaid a systematic and continuous course of illegal blacklisting certain wholesale dealers in and manufacturers of lumber and lumber products carrying on the business of manufacturing, buying, and selling lumber and lumber products in the several States of the United States and in shipping lumber and lumber products for transportation in, through, and out of the several States of the United States heretofore mentioned by the method and means as follows:

Each defendant retail dealers' association and corporation heretofore mentioned agreed through their

said authorized officers, directors, and trustees to exchange information one with the other respecting sales by the wholesale dealers and manufacturers in the manner heretofore related to contractors and builders and other consumers doing business in the respective States and territory covered by each of the said defendant retail associations and corporations, and it was then and has since been and is now the practice for each of the said defendant retail associations, through their authorized officers, directors, and trustees, to furnish, receive, and exchange such information one with the other and to publish the same by means of a printed "black list" and by other correspondence to their members. The said black lists were so published and distributed by authorized officers of said defendant associations and corporations and received with the full knowledge and approval of the individual members of said defendant retail associations and corporations and with the full knowledge that they contained the name and address of the wholesale dealers and manufacturers in all parts of the United States who had quoted prices to or had shipped to or sold to a consumer of lumber or lumber products. These said black lists were all of the same general tenor, purpose, and effect, and it was well known to all the members of said defendant associations and understood by them and their officers and directors that, in accordance with the unlawful conspiracy herein mentioned, no retail dealer being a member of any of the defendant associations

and corporations should buy any lumber from any wholesale dealer or manufacturer whose name appeared on said lists. A copy of one of the lists, the same being typical, as aforesaid, of that used by all defendant retail associations, is annexed hereto and marked "Exhibit J."

This "blacklist" is known in the retail lumber trade in which defendants are engaged as the "official report" or "statement to members," and has been issued at irregular intervals of one, two, three, or four months for many years last past, the last issue now known being in December, 1910. It has and does now contain the names of wholesalers and manufacturers who have violated the rules of the defendant retail associations in the manner heretofore alleged. The said "blacklist" has been discussed, revised, and approved by the delegates to the said Eastern States Retail Lumber Dealers' Association in convention assembled and by the members of the aforesaid associations and corporations, defendants in this suit, and at different times has been circulated and sent to other associations not members of the said Eastern States Retail Lumber Dealers' Association.

At the annual meeting of the said Eastern States Retail Lumber Dealers' Association, held at Philadelphia, Pa., on March 2, 1909, it was decided that the "statement to members" should be issued in the approved form, but by the Eastern States Retail Lumber Dealers' Association instead of by the individual associations. Pursuant to this action the said "black-

list" was prepared in New York City and mailed to the secretaries of the various defendant associations for correction and approval, with a circular letter. This list and letter are attached hereto and marked "Exhibits U and V." This list was not distributed in that form, but, by order of the president of the last-named association and with approval of its officers, the secretaries were informed, in April, 1909, that such lists would again be issued as before, viz, by each individual association and corporation. The authorized, used, and executed plan for the preparation of said blacklists has been since about 1903 and up to the issuance of the last list in December, 1910, as follows: Each secretary of each of said retail associations informs, by mail or otherwise, the defendant, J. D. Crary, secretary of the New York Lumber Trade Association, at New York City, of whatever changes should be made in said list, so that the names of wholesalers and manufacturers who had sold lumber to consumers in violation of the rules of any of said defendant associations and corporations would be published on said list. In revising said list for periodical publication as aforesaid, the said Crary then prints on one list the names and addresses of all the wholesalers and manufacturers so reported by any and all of the unit defendant retail associations; thereupon a sufficient number of such lists are printed to distribute at least one each to every member of each of the aforesaid retail associations and corporations and the name and title of each association or corporation are printed

on a sufficient number of said lists to supply the membership of each of said associations, and these in turn are sent by said Crary to each secretary of each aforesaid retail association and corporation, who distributes said lists to the individual members thereof. Copies of and extracts from several of these "blacklists" are attached hereto and marked "Exhibits W, X, Y, Z."

Your petitioner alleges that these lists have been so printed and distributed, as heretofore described, and that the defendants have thereby in such publication notified the dealer members of said associations and corporations that the persons and firms named on said "blacklists" should not be permitted to sell lumber and lumber products to any of the dealer members of said associations and corporations, and the defendant dealers and the members of the defendant associations and corporations aforesaid, in pursuance of the aforesaid scheme of blacklisting, refused and do now refuse to purchase of or receive lumber from any of the dealers whose names are published on said blacklists as aforesaid. The practical and certain effect of said illegal scheme of blacklisting has been and is now to eliminate any and all competition for the trade of the consumer as between the manufacturer and wholesale dealer and the retail dealer, as aforesaid, and to prevent and restrain the dealer members of the said associations and corporations from buying any lumber from any of the manufacturers and wholesale dealers whose names appeared on said "blacklist;"

all of which is unlawful and accomplishes, by way of conspiracy and, in support and perpetuation of the said conspiracy by way of contract and combination, a direct restraint upon the trade of said parties in trade and commerce among and between the several States of the United States.

(b) *Territorial division.*

The operation in the trade as carried on by said defendant dealers, by which one retailer solicits or sells lumber in the territory already supplied by another retail yard is termed "poaching," and whenever a retail dealer quotes prices, solicits trade, or sells lumber in another territory than that immediately surrounding his own yard and in wholesale lots and at wholesale prices he is termed, in the retail trade, a "scalper."

It is a well-recognized rule among the defendant retail dealer members of said defendant associations that there shall be no such encroachment upon the territory of another dealer, and such understood rule has been established by a long-continued and persistent system of education covering a period of years, promoted in discussion in joint conventions of the aforesaid Eastern States Retail Lumberman's Association, and by correspondence and by resolutions and discussions in meetings of the members, delegates, and officers of the aforesaid defendant retail associations and corporations. At a regular annual meeting of the Eastern States Retail Lumber Dealers' Association, held at Philadelphia,

Pennsylvania, March 3, 1909, it was resolved, among other things, that members found guilty of "poaching" would be expelled, and it was also voted to publish and issue a list of "poachers." A full copy of said resolution is annexed hereto and marked "Exhibit AA."

Petitioner alleges that the necessary and intended effect of the aforesaid scheme and acts of the defendants has been for several years last past, and is now unreasonably to restrict and destroy competition among retail lumber dealers who might otherwise do, and in fact at times have done, a business in selling lumber and transporting the same from one State to another State in the United States, and to so unreasonably restrain the said trade of such retailer in interstate trade and commerce in lumber, and unreasonably to restrain and prohibit the right of the consumer to buy lumber in any other State than that in which he resides or uses lumber and at any price less than that fixed by the local retail merchant, all of which has created and does now create, by way of conspiracy, a direct and unreasonable restraint upon trade and commerce in lumber among the several States of the United States, and is unlawful.

V.

JURISDICTION.

Petitioner avers that the conspiracy to restrain the interstate trade and commerce in lumber and lumber products herein described still exists and will continue

to exist unless enjoined by a decree of this court; that the defendants are carrying out the same within the State and southern district of New York, and that many of the things herein complained of have been committed in whole and others in part within said State and district and are now being committed therein; that the office and principal place of business of the defendants, the Eastern States Retail Lumber Dealers' Association, the New York Lumber Trade Association, and the Building Material Men's Association and their defendant officers and members, are in said State and district.

VI.

PRAYER.

In consideration whereof, and inasmuch as your orator can only have adequate relief in the premises in this honorable court, where matters of this nature are properly cognizable and relievable, your orator prays:

1. That it be adjudged that the defendants above named have entered into and are now engaged in a conspiracy in restraint of trade and commerce among the several States in lumber and lumber products, such as the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies" denounces as illegal; and that the defendants be enjoined and prohibited from doing anything in pursu-

ance or in furtherance of the same within the jurisdiction of the United States.

2. That the Eastern States Retail Lumber Dealers' Association and its officers and members as aforesaid be declared to be carrying on an illegal conspiracy within the meaning of said act of Congress of July 2, 1890; and that said association, its officers, agents, delegates, directors, and members be restrained and prohibited from doing anything in pursuance of or in furtherance of perpetuating the same.

3. That each of the aforesaid associations and corporations, their officers, directors, and members as aforesaid, defendants herein, be perpetually enjoined from doing any act in pursuance of or for the purpose of carrying out such conspiracy or any combination or contract in pursuance of the same, and from entering into or continuing any similar conspiracy, and from agreeing, combining, and conspiring and acting together to prevent each and any of them from carrying on interstate trade and commerce in lumber and lumber products in free and open competition with all others in such trade.

4. That each of the aforesaid associations and corporations, their officers, directors, and members, defendants herein, be perpetually enjoined from doing any act in pursuance of any conspiracy, and entering into any contract or combination in assistance thereof, to prevent any contractor and builder, or other consumer of lumber and lumber products,

and any manufacturer, wholesale dealer, or jobber in lumber or lumber products, from engaging in such interstate trade and commerce in lumber in buying, selling, and transporting such lumber in said trade in any of the States and Territories of the United States and the District of Columbia.

6. That the United States may have such other and further relief as the nature of the case may require and the court deem proper in the premises.

To the end, therefore, that the United States of America may obtain the relief to which it is justly entitled in the premises, may it please your honors to issue writs of subpœna directed to the said defendants as follows:

The Eastern States Retail Lumber Dealers' Association: Richard S. White, William C. McBride, Louis A. Mansfield, William B. Gaines, B. E. Perkins, William T. Galliher, Charles H. Tibbetts, John R. Perrine, Jesse D. Crary, James S. Davis, George A. Smock, J. F. Glasby, James M. Reilly, A. Schumaker, W. H. Judd, Clarence H. Carpenter, G. Waldo Parrott, William P. Vaughn, H. W. Sears, C. P. Chase, Ernest N. Bagg, Charles P. Maule, Fisher Dalrymple, E. M. Yerks, Tracy Cowan, Lee L. Harrell, Henry P. Duker, George H. Poehlmann;

The New York Lumber Trade Association: Russell J. Perrine, John F. Steeves, Frederick W. Starr, Charles F. Fischer, David M. Resseguie, John L. Cutler, William P. Youngs, Isaac P. Vanderbeek, Guy

Loomis, William S. Wandel, Hammond Talbot, Gulian Ross, Richard S. White, Rowland McClave, Louis Bossert, James H. Pittenger, John Eagan, William H. Simonson, Abner P. Bigelow, Albro J. Newton, Christopher W. Wilson, Elbert M. Wiley, Peter A. Smith, John J. Cooney, Edwin D. MacMurray, Waldron Williams, George C. Lavery, William F. Clark, John C. Creveling, William S. Van Clief, Allan H. Church, Treadwell D. Carpenter, Patrick Moore, Thomas J. Crombie;

A. K. Bennett, I. W. Searing, Charles W. Ennis, A. B. Ayres, H. V. Meeks, W. W. Smalley, M. F. Ellis, S. S. Thompson, S. Fred Bailey, W. D. Gulick, W. E. Tuttle, I. Newton Rudgers, Isaac E. Hutton, Warren Somers, James Crowell, H. P. Dillistin, R. W. Kennedy, E. H. Booth, M. J. Kimball, G. W. Dickensheet, Irving A. Collins, P. J. Devlin, officers and directors of the New Jersey Lumbermen's Protective Association;

The Building Material Men's Association of Westchester County: John F. Dinkle, Robert Haviland, F. M. Dain, J. A. Mahlstedt, Alonzo Guest, C. P. Young, E. N. Leete;

Herbert P. Robinson, Benjamin Stoker, S. A. Yorks, Amos Y. Leshner, Herbert E. Weitzel, Frank L. Luckenbach, Charles H. Wisler, John E. Lloyd, Charles M. Strickler, James A. Richardson, Charles M. Chestnut, I. N. Troth, officers and directors of the Retail Lumberman's Association of Philadelphia;

The Lumber Dealers' Association of Connecticut: F. A. Lines, E. J. Lake, W. H. Goddard, Frank H. Saxton, Harry C. Turner, John O. Fox, Horace S. Hatch, Howard L. Platt, Louis A. Lampson, W. B. Beckley, H. W. Damon, A. R. Plumley, F. H. Barnes;

The Massachusetts Retail Lumber Dealers' Association: L. A. Williston, W. H. Sawyer, W. A. Fuller, M. L. Foster, C. K. Ferry, F. K. Southworth, Charles P. Chase, Edwin Bradley, Edward S. Decker, J. L. Temple, Frank Palmer, William B. Gaines;

The Lumber Dealers' Association of the State of Rhode Island: Willard D. Lansing, John F. Galena, George D. Lansing, Louis Roberts, Jeremiah F. O'Driscoll, Forrest J. Perkins, Samuel C. Cottrell. Henry A. Grimwood, jr., Edward W. Duff;

The Retail Lumbermen's Association of Baltimore, Md.: Harry J. Matthews, John J. Duffy, Samuel H. Helfrich, A. Frank Gilbert, George Schumaker, Benjamin C. Bayne, John D. Virdin, John W. Geis;

William T. Galliher, W. A. H. Church, George E. Walker, Thomas W. Smith, John W. Tolson, and Samuel Ross, officers and directors of the Lumber Exchange of the District of Columbia;

and each and every one of them, commanding them and each of them to appear herein and answer, but not under oath (answer under oath being hereby expressly waived), the allegations contained in the foregoing petition, and abide by and perform such order and decree as the court may make in the

premises, and upon hearing hereof to permanently enjoin the defendants as hereinbefore prayed.

And your petitioner will ever pray, etc.

HENRY A. WISE,

United States Attorney

for the Southern District of New York.

GEORGE W. WICKERSHAM,

Attorney General.

JAMES A. FOWLER,

Assistant to the Attorney General.

CLARK MCKERCHER,

Special Assistant to the Attorney General.

FELIX FRANKFURTER,

Assistant United States Attorney.

EXHIBIT A.

BY-LAWS OF THE EASTERN STATES RETAILERS.

We publish below the by-laws of the Eastern States Retail Lumber Dealers' Association, as adopted at a meeting held at Providence, R. I., on February 21, 1903.

ARTICLE I.

Name and territory.

The name of this organization shall be the Eastern States Retail Lumber Dealers' Association, and the territory embraced by it shall be that covered by the association admitted to membership.

ARTICLE II.

Objects.

The objects of this association shall be to promote and foster a unity of action in all matters pertaining to the legitimate conduct of the retail lumber trade, to encourage friendly relations between the several associations whose members are members of this association, to correct abuses and irregularities from which the trade suffers, to secure and disseminate any and all proper information for the mutual convenience, benefit, or protection of its membership.

ARTICLE III.

Restrictions.

No rules, regulations, or by-laws shall be adopted which will in any manner stifle competition, limit production, regulate prices, restrain trade, or provide for the pooling of profits; no coercive measures shall be practiced or adopted toward any retailer or wholesaler; nor shall any discriminatory practices on the part of this association be used or

allowed against any retailer or wholesaler for the reason that he may or may not be a member of any association, and no promises or agreements of any kind shall be requisite to membership in this association other than those contained in this constitution, nor shall any penalties be imposed for any cause whatsoever.

ARTICLE IV.

Officers.

SECTION 1. The officers of this association shall consist of a president, vice president, secretary, who shall also act as treasurer, who shall be elected by ballot at each annual meeting, and with two other members, who shall also be elected at each annual meeting, shall constitute the board of directors, and a majority of the votes cast shall be necessary to a choice. All officers shall hold office until their successors are duly elected and qualified. No officer shall have power to make or enter into any contract, obligation, or agreement on behalf of the association until such contract, obligation, or agreement shall have been submitted to, and received the indorsement, approval, or sanction of a majority of the membership. No officer shall obligate the association for any expenditure of money above the sum of \$25 without the approval of a majority vote.

SEC. 2. Until the first annual meeting the vice president, secretary, and treasurer need not be members of the board of directors.

ARTICLE V.

Duties of officers.

Each officer of the association shall perform the duties usually devolving upon the occupant of such office. It shall be the duty of the secretary to perform such labors on behalf of the association as he may be called upon in the interim between meetings and to carry out all matters upon which action has been taken in meeting, unless otherwise ordered.

ARTICLE VI.

Meetings.

The association shall hold two regular meetings each twelve months, the annual meeting on the first Wednesday in October, in the city of New York, and the second meeting at such time and place as may be determined upon. Special meetings may be called by the president when considered necessary, or whenever the representatives of the three associations shall unite in asking that such a meeting be called. Notices of all meetings shall be given to the members of this association at least five days before the date set for such meeting.

ARTICLE VII.

Membership.

SECTION 1. The members of this association shall be composed of three members, one of whom shall be the secretary of each of the following associations: The New York Lumber Trade Association, the New Jersey Lumbermen's Protective Association, the Lumber Dealers' Association of Connecticut, the Lumber Dealers' Association of Rhode Island, the Massachusetts Retail Lumber Dealers' Association, the Retail Lumbermen's Association of Philadelphia, and of three members, one of whom shall be secretary of such other regularly organized bodies representing the retail lumber dealers' interests as shall be elected by a majority vote at any regular meeting of this association.

SEC. 2. All members shall enjoy equal privileges except that upon the final vote on all questions and at elections, and on amendments, shall be decided under the unit rule, the three members of each association being entitled to only one vote for such three members.

ARTICLE VIII.

Committees and delegates.

Whenever action may require the appointment of committees to perform special work, or necessity calls for the appointment of a delegate, or delegates, the president shall be

authorized to notify the members of this association, stating in writing the object for such appointment, and upon receiving a majority vote favorable thereto he shall have power to act in the making of such appointment as he may deem proper.

ARTICLE IX.

Settlements of disputes.

Any and all claims referred to this association for settlement shall be submitted in writing unless otherwise decided, with such accompanying documentary evidences as the parties thereto may consider necessary, and all parties interested must agree to accept the decision of this association as final.

ARTICLE X.

Expenses.

To meet the expenses incurred by this association, an annual fee of \$10 shall be paid by the members of each association jointly at the annual meeting, and all other expenses shall be pro rata, based on the amount received from annual dues for the previous year by the association of which they are members.

ARTICLE XI.

Amendments.

Amendments to these articles may be made at any meeting by a two-thirds vote of the members present, provided notice of such amendment shall have been included in the call for the meeting.

ARTICLE XII.

Quorum.

A quorum of this organization for the transaction of business shall consist of not less than one of the members of three of said associations.

EXHIBIT B.

OFFICIAL BULLETIN OF THE NEW JERSEY LUMBERMEN'S
PROTECTIVE ASSOCIATION.

President, M. F. Ellis, Bernardsville; vice president, G. A. Smock, Asbury Park; treasurer, S. S. Thompson, Elizabeth, N. J.; secretary, James M. Reilly, 764 Broad Street, Newark.

Membership.

Active.—Walker Bros. Lumber Co.; Buchanan & Smock Lumber Co.; Hannum Lumber Co.; Somers Lumber Co.; the Atlantic City Lumber Co.; West Side Lumber Co.; Hopping, McHenry & Frost; Consumers Coal & Ice Co.; Conkling Lumber Co.; A. W. Booth & Bro.; the Woodward Co.; Henry Salmon & Son; L. D. Cook Co.; George N. Ingersoll; James Latta & Son; Cook & Haigh; Slayback-Van Order Co.; C. H. Coles & Sons Co.; Volney G. Bennett Lumber Co.; Geo. Ogden & Son; W. J. Tyler; John J. Demarest; Robert Rindell; Cresskill Lumber Co.; Dover Lumber Co.; the Park Union Lumber Co.; East Orange Lumber Co.; Willette & Lawless Lumber Co.; J. & S. S. Thompson; W. J. Boehm; Mulford Coal & Lumber Co.; F. L. & A. Heidritter; the Prentice Co.; Tuttle Bros.; J. B. Case; Statesir Lumber Co.; Alonzo Brower; Gerritsen & Stewart Lumber Co.; Stinson & Dickensheet; Ellis Tiger Lumber Co.; Grantwood Lumber & Supply Co.; E. W. McClave & Sons; Hackensack Coal & Lumber Co.; Edward Kernan Co.; John C. Farr; Lawson & McMurray (Inc.); Perrine & Buckelew; Baldwin Lumber Co.; Dodge & Bliss Co.; Collins, Lavery & Co.; Woodstock Co.; Vanderbeek & Son; Kenvil Lumber & Coal Co.; the A. J. Loomis Co. (Ltd.); Davis-Smith Lumber Co.; Chandler & Maps; Brewster & Son; Green & Pierson; Jos. M. Smith Lumber Co.; Bruen & Morris; Cartan & Devlin; Collins & Pancoast; W. O. Persons; I. Newton Rudgers Lumber Co.; J. S. Collins & Son; C. W. Ennis & Co.; Newark Lumber Co.; A. B. Ayers; Bailey & Alling; Brohm & Buhl Lumber Co.; Clark & Co.; D. Ripley & Sons' Lumber Co.; the J. F. Glasby Co.; Murphey-Hardy Lumber Co.; W. A. Jones & Son; Bockhoven Bros. Co.; James Crowell; the Essex Lumber Co.; Rolfe Material & Supply Co.; Howell Lumber Co.;

Cooper & Demarest; Hart & Iliff; Irvy Myers; W. E. Chambers; A. M. Matthews & Co.; George Spottiswoode & Co.; John O'Rourke; Parkyn & Sons (Inc.); Sheely-Hensel Coal & Lumber Co.; Anderson Lumber Co.; S. M. Birch Lumber Co.; Dillistin Lumber Co.; Hamilton Lumber Manufacturing Co.; Jackson-Bergen Co.; Westervelt Lumber Co.; Van Winkle-Bromley Lumber Co.; Vreeland Lumber Co.; Florence Bros.; Richard Benson; Samuel Hall; the Reardon Co.; J. H. Hagerty Lumber Co.; H. G. Deardorff; Boice, Runyon & Co.; J. D. Loizeaux Lumber Co.; J. M. Van Note & Son; Robert F. Oram & Co.; Ira C. Ayers; Fred Rufner; Nickerson & Hopper Lumber Co.; Isaac E. Hutton; A. Z. Bogert; B. K. & G. W. Stickle; Bachman-Veght Co.; J. P. Cooper & Co.; Boynton-Chalmers Lumber Co.; Hotchkiss & Muchmore; Sargent Bros.; Smith-Schoonmaker & Co.; H. B. Halsey & Co.; N. W. Clayton; T. B. Miller Co.; Stephens Bros.; Tenaflly Lumber Co.; the Gardner & Meeks Co.; R. W. Kennedy Lumber Co.; Wilson & Stokes Lumber Co.; W. R. Doyle; Osborne & Marsellis; Kimball, Prince & Co.; Walter E. Turner; Waldwick Coal & Lumber Co.; W. D. Gulick; Crickenberger Lumber Co.; J. S. Irving & Co.; Tuttle Bros.

Associate.—John S. Loomis Co.; Austin & Ireland Lumber Co.; Hardy, Voorhees & Co.; William S. Van Clief.

Associate membership list (wholesale lumber dealers).

George F. Sloan & Bro.; E. B. Foss & Co.; Mixer & Co.; Haines & Co.; Goodyear Lumber Co.; Munger & Bennett; La Bau & Baker; White, Frost & White; Gouverneur E. Smith & Co.; Stevens-Eaton Co.; Swain, Allcock & Swain; W. M. Crombie & Co.; E. H. Daley; Davidson Lumber Co. (Ltd.); Arthur E. Lane; A. T. Peale Lumber Co.; S. I. Wood; Stone & Hershey; W. J. Oathout; R. S. Coryell Lumber Co.; McLean Bros.; R. T. Jones Lumber Co.; Justice P. Taylor & Co.; Pennsylvania Door & Sash Co.; Schofield Bros.; J. S. Kent Co.; Halfpenny & Hamilton; William H. Fritz & Co.; Willson Bros. Lumber Co.; Bemis & Vosburgh; E. V. Babcock & Co.; Beecher & Barr; Cherry River Boom & Lumber Co.; Mershon, Eddy, Parker Co.; Rice & Lockwood Lumber Co.; A. C. Dutton Lumber Co.; the Eastern Lumber Co.; John Coleman; Joseph C. Rightor.

EXHIBIT C.

MEMBERS OF RETAIL LUMBER DEALERS' ASSOCIATION OF PHILADELPHIA.

Daniel Adams; Anderson & Slonaker; Alexander Adaire; Allen, Elwood Lumber Co.; Charles Benton; Estate of Daniel Buck; Jos. H. Cillins & Son; Charles Este Co.; Charles F. Felin & Co.; Frank C. Gillingham & Son Co.; Geissel & Richardson; Haney-White Co.; Edwin F. Henson & Co.; Harbert, Russell & Co.; Hindle Lumber Co.; Howard Ketcham; Wm. M. Lloyd Co.; Lukens Bros.; W. H. Lear; W. H. Lilly; J. Gibson McIlvain & Co.; Miller, Robinson & Co.; Watson Malone & Sons; Charles P. Maule; Samuel H. Magargal; Louis A. Nagle & Co.; Geo. Nass & Son; Henry Palmer; Pearson Bros.; Smedley Bros. Co.; George W. Stoker & Co.; Wm. L. Shew & Co.; H. H. Sheip Manufacturing Co.; Torpin, Richard & Co.; Thompson, Lewis & Co.; Ternan & White; S. B. Vrooman & Co.; Charles H. Wisler; Wister, Heberton & Co.; P. Elmer Weitzel & Co.; Yellow Pine Co. of Philadelphia; Hall Bros. & Wood.

EXHIBIT D.

MEMBERS OF LUMBER EXCHANGE OF DISTRICT OF COLUMBIA.

Thomas W. Smith; Samuel Ross; Thomas R. Riley; Church & Stephenson; W. A. H. Church; Lee L. Herrell; William H. Dyer; John W. Tolson; W. A. Pierce; William T. Galliher; Maddox & Hayden; J. E. Libbey & Son; Eisinger Bros.; Johnson & Wimsatt; G. H. Adams; Joseph L. Crupper; George E. Walker; Martin Wiegand.

EXHIBIT E.

REPORT COMMITTEE ON TRADE RELATIONS, N. W. L. D. A.

BOSTON, *March 1, 1899.*

In making this report of the result of the first year's work of the committee on trade relations, we wish first to refer to the events which led up to the creation of this committee. In February, 1898, certain wholesale dealers in North Tonawanda, realizing the great loss they were suffering, both in

volume of trade and percentage of profits, caused by the competition of a class commonly known as scalpers, called for a general meeting of the Tonawanda Lumbermen's Association to discuss the question. The result was the passage of a resolution condemning the business of the scalper and an agreement of all members present at the meeting not to sell to any scalper who was reported to be selling to a class of trade not legitimate.

At the last annual meeting of this association at Cleveland, a letter was received from the New York Lumber Trade Association, presented by Mr. J. D. Crary. This letter, after referring to the losses occasioned both to the wholesale and retail dealers by scalpers, says: "The remedy for this evil, in our opinion, lies in concerted action by the retailer and wholesaler against the offenders, and to this end we ask you to appoint a committee, with power to confer with this committee, to see what united action can be taken in the matter."

The result was that by practically a unanimous vote the National Wholesale Lumber Dealers' Association established the committee on trade relations.

Unavoidable delays prevented our holding our first meeting until the following July, at which time there developed the idea that the committee on trade relations was to act as a classification committee. Such a construction would positively have prevented this committee from doing anything toward the intended end, for it was readily seen that their work could only be successful by commencing after classification was decided.

One of the greatest causes of friction between the wholesale and retail associations in the past has been the question of classification of the trade, each side taking the stand that to them belonged the right to classify. Evidently, then, no mutual work could be done until this difference was overcome by some agreement between the National Wholesale Lumber Dealers' Association and the various retail organizations, which would provide for absolute final classifications wherever necessary.

Our first meeting for this purpose was with the committee on wholesale selling consumers of the New York Lumber Trade Association, held in New York October 11. The result of this conference was the adoption by the New York

Lumber Trade Association and the National Wholesale Lumber Dealers' Association of the following resolution:

"Whenever a dispute as to the classification of any consumer is concerned the chairman of the committee on wholesale selling consumers of the New York Lumber Trade Association shall arrange for a joint arbitration between said association and the National Wholesale Lumber Dealers' Association by a committee consisting of one member of the New York Lumber Trade Association, to be appointed by the chairman of the committee on wholesale selling consumers, and one member of the National Wholesale Lumber Dealers' Association, to be appointed by that association; and in the case of disagreement by this committee, a third member of said committee shall be decided upon by the two members already serving, and the decision of this committee shall be final concerning such classification, it being understood that concerns decided to be carpenters and builders shall never be held a legitimate customer for the wholesaler to sell."

Up to the present time the New York Lumber Trade Association is the only retail organization that has positively agreed with our association for joint final classification, but our committee has negotiated with the New Jersey Lumbermen's Protective Association and the Lumber Dealers Association of Connecticut, and are very much pleased to report that after a conference with the committee on trade relations of the New Jersey Retail Association, in which plan of work as hereafter outlined was discussed, we received the following letter from them:

NEWARK, N. J., *February 3, 1899.*

CHAIRMAN COMMITTEE ON TRADE RELATIONS,
National Wholesale Lumber Dealers' Association.

DEAR SIR: It is a pleasant duty to inform you that our committee on trade relations agreed with you as to the urgent necessity of a movement by the combined lumber trade, as discussed at our informal conference on the first instant. The New Jersey association can assure you of their earnest cooperation to bring about the ends aimed for on the broad lines outlined by ourselves at the conference.

I am with respect, very truly,

JAMES M. REILLY, *Secretary.*

Our work so far, therefore, has been to provide a plan for joint final classification.

We have at all times realized that this was but the first step to be taken, and in all our conferences with representatives of the retail organizations we have discussed the next work necessary. Joint final classification is a good measure, as when adopted it removes the cause of friction in the past between the retail associations and the National Wholesale Association. But without further obligations on the wholesalers and retailers it can not accomplish what we are seeking to attain. So the committee recommends that the National Wholesale Lumber Dealers' Association provide in its by-laws for the expulsion from membership of all members who sell the trade that is jointly classified as not legitimate trade for the wholesaler, and that in return for this action by the National Wholesale Lumber Dealers' Association all retail dealers' associations provide some measure to induce the members to buy their stock only from such wholesale dealers as are members in good standing of the National Wholesale Association.

A careful consideration of this plan we think will convince everyone that the possibilities for good results are large and only limited by the action of all in interest. The National Wholesale Association can not accomplish the desired result alone, nor can the retail association, nor is it probable that both together can entirely eliminate the competition of illegitimate operators. But if the wholesale interests not now members of the National Wholesale Association will join through the association in saying to the retail dealers, We will not sell to anyone who seeks to injure your proper business; and, if in return, the retail dealers will to as great an extent as practicable buy of the members of the National Wholesale Association, it seems apparent that good results must follow.

We have been met in this proposition many times by the statement, You can not get men, first, to promise to do what you ask, and next, after promising, to carry out their promises. In answer to this we have only to say, if that is so, then abolish your committee on trade relations, abolish your wholesale and retail associations, and let everyone go in and

plunder each other to their full ability. But we do not believe that the large majority of lumber dealers are so blind to their own interests or so weak in their determination as to come to such a conclusion, and so we have recommended to you a plan which we trust will open a discussion that will eventually result in a victory for proper business principles.

If successful in the work so far outlined, there are other questions for the National Wholesale Association to take up. The wholesalers to-day suffer a loss by the action of some manufacturers (who do not operate wholesale distributing yards) in selling direct to retailers a portion of their product, by the action of some retailers in buying from such manufacturers a portion of their supply, by the action of some commission men, brokers, and inspectors, in endeavoring to do a business which is a positive injury to the legitimate wholesalers. The wholesaler is just as much a necessity in the trade as the manufacturer, retail dealer, or consumer, and his business must be protected from improper competition, just as much as any other division, to the end that a proper profit may accrue to all, consistent with the amount of capital, energy, and ability employed.

EXHIBIT F.

BOSTON AGREEMENT.

At a joint meeting held in Boston March 1 and 2, 1899, of delegates from the New York Lumber Trade Association, the New Jersey Lumbermen's Protective Association, the Connecticut Retail Dealers' Association, the New York State Retail Dealers' Association, the Pennsylvania Retail Dealers' Association, the Philadelphia Retail Dealers' Association, the Missouri and Kansas Association, the Northwestern Lumbermen's Association, and the Illinois Association of Lumber Dealers, with the members of the National Wholesale Lumber Dealers' Association, it was unanimously voted to adopt the following:

First. That the National Wholesale Lumber Dealers' Association take up and formulate rules to classify the trade into sections, as follows:

1. Manufacturers.

2. Wholesale dealers or agents.

3. Retail dealers and other legitimate customers of the wholesale trade.

The retail trade to be classified according to the rules governing such trade in the various States at the present time, provided that in cases that may arise where the wholesaler and retailer do not agree before a sale shall be effected, the matter shall be submitted to a conference committee composed of one member from the retail association interested, one member from the National Wholesale Lumber Dealers' Association, and, in event of these two not being able to agree, they shall decide upon a third member of the committee, and the decision of such committee shall be final.

Second. That the National Wholesale Lumber Dealers' Association take up and consider the pronounced and recognized evils from which both branches are suffering, viz:

1. Sales by manufacturers and wholesalers to consumers.

2. Sales by brokers, agents, and commission men to consumers.

3. Sales and quotations by the so-called retail dealers to consumers, through agents, and by methods used by the wholesaler in soliciting trade from the retailers.

4. That the National Wholesale Lumber Dealers' Association consider and devise a plan which will enable them, with the cooperation of the retail trade, to control all such concerns.

5. That the National Wholesale Lumber Dealers' Association provide a plan whereby all wholesale dealers, manufacturers, commission men, agents, and brokers reported by a State association for selling to the consumers shall be reported to the wholesale trade and manufacturers and required to conform to legitimate rules of business.

The following resolution was also adopted:

"That it is the sense of this meeting that, in the event of the National Wholesale Lumber Dealers' Association complying with the requests adopted here to-day, the retail dealers will pledge themselves, so far as possible, to buy only of members in regular standing of the National Wholesale Lumber Dealers' Association."

EXHIBIT G.

REPORT OF TRADE RELATION COMMITTEE.

* * * So the first year's work of this committee, ably assisted by the committee on wholesale selling consumers of the New York Lumber Trade Association and their secretary, Mr. Crary, has resulted in creating between the National Wholesale Lumber Dealers' Association and the various retail dealers' associations mentioned the great essentials to all trade-relations work, namely, confidence and joint action; and the outcome of this was the Boston agreement. The first work which the Boston agreement called for was the classification of the various branches of the trade. The committee thought best to temporarily pass subdivisions Nos. 1 and 2 of section 1 and to devote themselves to determining what was legitimate trade for the wholesalers to sell to. The agreement provided that this branch should be classified according to the rules governing such trade in the various States at the present time, with a proviso for settlement by joint conference of all cases where the National Wholesale Association classification did not agree with that of the local retail association. So the secretaries of all retail associations parties to the Boston agreement were requested to notify the secretary of the National Wholesale Association whenever in their judgment any wholesaler was selling a trade which the retail association did not consider legitimate. Upon receipt of such request the secretary of the National Wholesale Association provided a classification committee for each individual case. If the decision of such committee agreed with the decision of the retail association nothing further was necessary except to record the decision. If the two classification committees disagreed, each went to a conference committee.

* * * * *

We feel that the progress made and herein reported is secure and on a firm foundation, but we particularly call your attention to the further requirements of the Boston agreement, so the subject may have your best thought and judgment and that this association will be growing in its ability to grasp and intelligently decide all questions of trade relations. These requirements are:

First. That we extend our classifications so that we will cover all the provisions of the Boston agreement, and not only jointly determine who is proper and legitimate trade for the wholesalers to sell to, but who it is legitimate for the retailers to buy from; who it is legitimate for the manufacturer to sell to, and to establish a plan for recording all persons engaged in any form of scalping.

Second. We will again refer to that portion of the Boston agreement which says: It is the sense of this meeting that in the event of the National Wholesale Lumber Dealers' Association complying with the request adopted here to-day, the retail dealers will pledge themselves, so far as possible, to buy only of members in regular standing of the National Wholesale Lumber Dealers' Association.

Third. The recent reports of the annual meetings of various retail associations show that the retailers are looking to the National Wholesale Lumber Dealers' Association for support in all questions pertaining to trade relations. This is a pleasure to know, for your committee thinks it is proper that all persons between the wholesalers and retailers should be referred to and adjusted by the National Wholesale Association for the wholesalers and the State retail associations for the retailers.

Fourth. We refer to section 3 of the second provision in the Boston agreement, which says: Sales and quotations by the so-called retail dealers to consumers through agents and by methods used by wholesalers in soliciting trade from the retailers.

Fifth. The work of this committee has entailed on the association unusual expenses, and as the work progresses these expenses will increase. The committee should not be limited in its future work by lack of money. We ask your consideration of this question, so that at the proper time this necessary support will be furnished.

EXHIBIT H.

BALTIMORE AGREEMENT.

Memorandum of mode of procedure for the carrying out of the Boston agreement:

At a joint meeting of delegates from the following-named retail associations: New York Lumber Trade Association,

represented by John F. Steves and J. D. Crary, of New York; New Jersey Lumbermen's Protective Association; represented by N. E. Buchanan, of Asbury Park; Alfred B. Ayres, W. A. Jones, and J. M. Reilly, of Newark; and R. W. Kennedy, of Trenton; the Lumber Dealers' Association of Connecticut, represented by Charles D. Barnes, of Southington; W. H. Judd, of Stamford, and I. A. Mansfield, of New Haven; the Retail Dealers' Association of the State of New York, represented by S. H. Beach, of Rome, and Spencer Kellogg, of Utica; Pennsylvania Retail Association, represented by Richard Torpin, J. G. McIlvaine, C. H. Thompson, and also Harry Humphries and Charles P. Maule; Northwestern Association, represented by W. H. Hunter, of La Salle, Ill.; Missouri and Kansas Association of Lumber Dealers, represented by James Costello, of Liberty, Mo., and Harry A. Gorsuch, of Kansas City; and the committee on trade relations of the National Wholesale Lumber Dealers' Association, composed of Pendennis White, Carleton M. Smith, C. H. Bond, William B. Millard, and Hugh McLean, held in Baltimore, March 8, 1900, the following resolutions were offered and unanimously approved:

"Whereas the agreement known as the Boston agreement has been in effect for one year; and

"Whereas the above-mentioned delegates from retail associations and the members of the committee on trade relations of the National Wholesale Lumber Dealers' Association appreciate the benefits to be derived from a continuance of the work specified in the Boston agreement; and

"Whereas certain hardships have been occasioned the members of said associations by delays in classifying the various branches of the trade, and in order to obtain the best results under that agreement it seems advisable to more clearly define and outline a plan for developing the work of classifying: Now, therefore, be it

"*Resolved*, That whenever a member of the National Wholesale Lumber Dealers' Association desires to sell to a trade which has not been classified as legitimate trade for the wholesaler, he shall notify the secretary of the National Wholesale Lumber Dealers' Association of the facts in the case and request a joint classification, and it shall thereupon be the duty of the associations interested to each immediately

appoint classification committees that will act with all possible promptness, and in event of the classification committee disagreeing, a conference shall at once be appointed as provided for in the Boston agreement, and such conference committee shall report its determination with as little delay as the facts will permit of; also be it

"*Resolved*, That whenever the secretary of the National Wholesale Lumber Dealers' Association is asked by a member of said association if it is legitimate to sell a trade upon which no classification has been jointly established, the secretary of the National Wholesale Lumber Dealers' Association shall immediately request of the retail association interested a joint classification, and the work of determining such classification shall proceed in accordance with the provision contained in the foregoing resolution; and be it also

"*Resolved*, That, pending a report of the classifications or conference committees the members of the National Wholesale Lumber Dealers' Association shall not sell to the trade being classified; and be it further

"*Resolved*, That the retail associations parties to the Boston agreement will not report to their members any members of the National Wholesale Lumber Dealers' Association who abide by the rules of said association and the Boston agreement, and in no event will they report to their members any members of the National Wholesale Lumber Dealers' Association until they shall have been given an opportunity to be heard, and either justify their action or agree not to continue the offense."

EXHIBIT I.

PITTSBURG AGREEMENT.

Joint session of the committee on trade relations of the National Wholesale Lumber Dealers' Association, composed of Pendennis White, chairman; Carlton M. Smith, Tonawanda; John N. Scatcherd, Buffalo; F. R. Babcock, Pittsburg; E. H. Coane, Philadelphia; R. B. Wheeler, Philadelphia; and the delegates from the following retail associations:

Pennsylvania State Association: W. M. James, president, Steelton; S. H. Sturtevant, Wilkes-Barre; T. J. Snowden, secretary, Scranton.

Connecticut State Association: Everett J. Lake, president, Hartford; Charles L. De Forest, New Haven; Louis A. Mansfield, New Haven.

New York State Association: S. H. Beach, treasurer, Rome; Spencer Kellogg, Utica; N. G. Waterbury, president, Whitesboro.

Philadelphia City: Harry Humphries; Richard Torpin, president; W. Henry Smedley.

Northwestern Association: A. W. Morse, Minneapolis.

Illinois State Association: J. T. McGrath, president, Polo; George W. Hotchkiss, secretary, Chicago.

New York Lumber Trade Association: John H. Ireland.

Union Association of Lumber Dealers: J. Wilson, jr., president, Wapakoneta, Ohio; F. M. Smith, secretary, Newark, Ohio; E. S. Nail, Mansfield, Ohio.

Wisconsin Retail Lumber Dealers' Association: Nels Holman, president, Deerfield; Paul Lachmund, secretary, Sauk City.

Indiana Retail Lumber Dealers' Association: R. K. Williams, secretary, Hartford City.

Missouri, Kansas and Oklahoma Association of Lumber Dealers: Harry Gorsuch, secretary, Kansas City, Mo.; Mr. Richard Torpin, of Philadelphia, chairman; Mr. Louis A. Mansfield, of Connecticut, secretary.

The secretary read this resolution passed at the morning session of the retail delegates:

"The delegates from the retail associations request from the committee on trade relations a specific statement as to what they have done to limit the supplies of those wholesalers who are reported by these associations as selling to consumers."

Mr. White, chairman of the committee, briefly but satisfactorily answered the request.

Later, a resolution drawn by Mr. Everett J. Lake, of Connecticut, and Mr. Spencer Kellogg, of New York, was presented, which is as follows:

"*Resolved*, (1) That the attention of the individual members of the National Wholesale Lumber Dealers' Association be especially called to the efforts now being put forth by their

officers, trustees, and committees to aid the various retail associations in preventing the sales of lumber by wholesalers direct to ineligible consumers.

"(2) That the individual members of the National Wholesale Lumber Dealers' Association be respectfully and earnestly requested to cooperate in this work.

"(3) That we recommend as the best means of attaining the ends desired that the members of the National Wholesale Lumber Dealers' Association, as far as possible, refrain from selling or in any way furnishing lumber to wholesale firms or individuals, not members of their association, who are known to transact their business contrary to the joint agreements between the National Wholesale Lumber Dealers' Association and the various retail associations."

Mr. Pendennis White then read the report of the committee on trades relations, which was discussed at length.

It was voted to add the following resolution to the existing agreements between the National Wholesale Lumber Dealers' Association and the retail associations:

"*Resolved*, That whenever delay in establishing classifications is caused by failure of any retail association to act in the manner provided for by the joint agreements the secretary of the National Wholesale Lumber Dealers' Association shall, after 30 days have expired from the date of his original request for classification, notify the retail association so delaying that they (the retail association) have a further limit of 10 days only.

"Upon the expiration of the said 10 days the secretary of the National Wholesale Lumber Dealers' Association may notify their members wishing classifications that they may sell to the firm or party under consideration until such classification is established by joint conference, provided the classification of the National Wholesale Lumber Dealers' Association is that they are legitimate trade, but this shall not in any way be construed to apply to delays which may be caused by the National Wholesale Lumber Dealers' Association."

All the associations present, 11 in all, voted "yea."

EXHIBIT J.

NEW JERSEY LUMBERMEN'S PROTECTIVE ASSOCIATION.

Official report, No. 91.—February, 1904.

Don't hang this up in your office. Half of the sales to contractors can be traced to exposing this list.

Irregular shipments.—In reporting irregular shipments members are requested to supply the following information if obtainable: The number and initials of car, the name of consumer to whom car is consigned, the initials or name of shipper, the date of arrival of car, the place of delivery, the point of origin. James M. Reilly, secretary.

No. 91.

SECRETARY'S OFFICE, BOARD OF TRADE ROOMS,
Newark, N. J., February, 1904.

To Members:

The following wholesale dealers are reported as selling or quoting direct to consumers:

(Here follows a list of one hundred and more wholesale lumber dealers doing business in several States.)

Removed since last report: Hilton & Dodge Co., New York City (2); John Spry, Chicago (1).

Special.—Some of the wholesalers on this list have stated to the secretary that they have been given or shown copies of the lists by members of the association. Members are hereby reminded that all communications from the secretary should be considered confidential. If you have a wholesaler who is a friend that you think has been improperly listed, take it up with the secretary. Don't give this list to any person, and don't show it. It is for your information and for the information of the other members of the association only.

EXHIBIT K.

TRADES RELATION COMMITTEE REPORT.

The severing of our Boston agreement with several retail associations last March brought immediately to the office many assurances from our members of the desire to be well

and correctly informed on any questions bearing on the legitimate trade, and it has been a pleasure to find that almost without exception our members have gone out of their way to demonstrate their desire to be absolutely fair in the classification of trade, and while we have continued to classify along exactly the same lines as heretofore, and while the same spirit of fairness has characterized our committees, and while we have classified more concerns as retail customers than as wholesale customers, not a complaint has been heard. On the contrary, many retailers have expressed themselves as being pleased at the manner in which the wholesalers have demonstrated their desire to be right. Sixty-seven requests for classifications were carried over from last year; forty-three classifications have been requested this year. These required the appointment of as many committees of three each; thus 110 committees have acted in this capacity during the year, resulting as follows: Twenty-one decisions have been in favor of the wholesalers; twenty-four have been classified as not being within the class whose requirements entitled them to purchase at wholesale; twenty-one were settled through the office to the satisfaction of our members and apparently to all concerned. At the suggestion of the secretary, after careful investigation, 22 applications for classification have been withdrawn, making a total of 88 acted upon and closed, leaving 22 requests for classification, some of which are two years old, still in the hands of committees or unsettled. These are difficult cases, and it has been hard to satisfactorily adjust them. In one case it was necessary to arbitrate with the State association as provided for by the Boston agreement, and it was decided in our favor. Another case two years old was reopened, and was also decided in our favor. Two reclassifications have been demanded by our members, one of which was decided against us. The other is still under advisement. By a very careful scrutiny of inquiries, and by investigating in the regular way through the bureau, we have been able to forestall the necessity of actual classification in many cases. Several of these have been by request of retail associations, still in agreement with us.

During the year we have had but few complaints from retail associations against our members, and we believe that

with but two exceptions these have been adjusted satisfactorily. Practically all of these were caused by unconscious indirect sales to consumers, salesmen, and small commission men, and for which our members can hardly be held responsible. In fact, the question of the irresponsible scalper is still with us. However, in a general way, as seems to be voiced by many reports from retail associations, members, and from personal interviews there seems to prevail a very harmonious feeling between wholesalers and retailers, and confidence the one in the other is not shaken, although not always of one mind as to the best method of procedure.

EXHIBIT L.

List C.—No. 3.

NEW YORK, November 11, 1905.

To the Members:

The following persons or firms have been protested or classified to us by the respective organized retail lumber trade associations operating in the districts covered by said associations as being consumers, such as carpenters and builders, and not retail dealers of the class whose requirements entitle them to purchase lumber at wholesale.

This protest and classification is communicated to you by order of the board of trustees, and will continue unless or until objection is made, as being in error, by a member or members of this association, at which time evidence shall be required and a classification of said party be made by the executive committee, or by a special committee appointed to consider the case:

New Jersey.—Cranford, C. L. Bell; Edgewater, Palisade Lumber Co.; Elizabeth, Eugene Conord & Son, Michael Burns; Harrison, W. W. Snyder; Montclair, J. S. & L. Carlson; New Milford, Cooper & Demarest; Newark, H. A. Courtright, Frederick Kilgus, Trivett & Walters, West Newark Planing Mill Co.; Paterson, David Henry Building Co., A. B. Van Houten & Son, P. S. Van Kirk & Co.

New York.—New York City, General Supply & Contracting Co.

EXHIBIT M.

NEW YORK.

Kindly advise me in strict confidence, for the benefit of this bureau, what you know of the moral standing and financial responsibility of ————. Are they lumber dealers or proper customers of the wholesale trade? If not, please advise us promptly.

The source of information will not be disclosed.

Thanking you in advance for a favorable consideration of this request, and awaiting your reply, I am,

Yours, respectfully,

_____,
Superintendent.

If a stock company, under what State laws are they incorporated?

Who are the officers; what is the capital stock, and how much is paid up?

If not a company, give firm names.

Are these people buying of the wholesale dealers, and are they legitimate trade?

What do you consider is their net worth?

What has been your business experience with them?

EXHIBIT N.

[Bureau of information (mercantile reports). National Wholesale Lumber Dealers' Association. E. F. Perry, supt., 66 Broadway, New York City. Board of managers of the bureau: W. G. Frost, chairman, New York City; W. A. Bennett, Cincinnati, O.; F. S. Morse, Springfield, Mass.; W. P. Roper, Norfolk, Va.; G. H. Davenport, Boston, Mass.; Alex. Willson, Pittsburg, Pa. W. W. Schupner, department manager.]

NEW YORK, March 10, 1911.

Kindly advise us in strict confidence, for the use of this bureau, what you know of the moral standing, financial responsibility, and business methods of ————.

The source of information will not be disclosed. This assurance, together with the fact that our information comes from the experience of practical business men has given the bureau its high reputation for efficiency.

Thanking you in advance for your favorable consideration of this request, and awaiting your reply, we are,

Yours, respectfully,

NATIONAL WHOLESALE
LUMBER DEALERS' ASSOCIATION.

Give recent information, using this sheet for reply.

EXHIBIT O.

Bureau of Information of the National Wholesale Lumber Dealers Ass'n. Authorized by the association for the use of its members, has as subscribers almost the entire wholesale lumber trade. Board of Managers of the "Bureau," Theo. S. Fassett, chairman, North Tonawanda, N. Y.; George F. Craig, Philadelphia, Penna.; W. B. Mershon, Saginaw, Mich.; H. B. Shepard, Boston, Mass.; C. H. Bond, Oswego, N. Y.; Frank C. Rice, Springfield, Mass. Main office, 66 Broadway, Rooms 124-5-6. E. F. Perry, superintendent.]

NEW YORK, November 18, 1899.

To the members of the association:

Upon submission to the classification committee of an inquiry as to whether Bishop & Briner, New York City; Hemmer Bros., Newark, N. J.; W. L. Lockhart & Co., Boston, Mass.; E. F. Flood & Co., Newark, N. J.; G. W. Anderson, Hunter, N. Y.; Clark Manufacturing Co., Providence, R. I.; are legitimate customers of the wholesale trade, under the principles recognized by this association, said committee has carefully investigated and expressed the opinion that the above are within the class of dealers whose requirements entitle them to buy of the wholesaler.

This decision is communicated to you by order of the board of trustees.

Yours, very truly,

COMMITTEE ON TRADE RELATIONS.

E. F. PERRY, *Secretary*.

YES.

EXHIBIT P.

National Wholesale Lumber Dealers' Association, 66 Broadway, Rooms 124, 125, and 126.
E. F. Perry, secretary. Telephone, No. 3164 Cortlandt.]

NEW YORK, August 1, 1900.

To the members of the association:

Upon submission of the question to our classification committees as to whether the parties named herewith should be considered legitimate customers of the wholesale trade, under the principles recognized by this association, said committees have carefully investigated and expressed the opinion that they are not within the class whose requirements necessitate their buying of the wholesaler.

This decision is communicated to you by order of the board of trustees.

Yours, very truly,

COMMITTEE ON TRADE RELATIONS.

E. F. PERRY, *Secretary*.

NO.

(Here follows a list of 78 names of individuals and firms, manufacturing concerns, and contractors in the States of New York, New Jersey, Pennsylvania, and Connecticut.)

EXHIBIT Q.

No. 1.—National Wholesale Lumber Dealers' Association,
January 1, 1902.

Advance Thresher Co., Battle Creek, Mich.; Max Alpert, Brooklyn, N. Y.; American Bridge Co., Philadelphia, Pa.; Babcock & Wilcox, Westerly, R. I.; Brown & Nearing, Syracuse, N. Y.; Wm. H. Buckley, Spring Lake, Mich.; Bunday Lumber Co., Linesville, Pa.; Clark Manufacturing Co., Providence, R. I.; Chas. Bailey & Son, Bath-on-Hudson, N. Y.; Carnegie Steel Co., Pittsburg, Pa., etc.; Culver & Blair, Wellsboro, Pa.; Chamberlain & Phillips, Auburn, N. Y.; Cooper & McKee, Brooklyn, N. Y.; J. C. Dodge, Providence, R. I.; Durant-Dort Carriage Co., Flint, Mich.; Dun & McCarthy, Auburn, N. Y.; C. P. Darling & Co., Providence, R. I.; De La Vergne Refrigerator Machine Co., New York City; Deering Harvester Co., Chicago, Ill.; Henry Disston & Sons, Philadelphia, Pa.; Phillip Drinkans & Son, Detroit, Mich.; Eastern Ship Building Co., Groton, Conn.; Household Sewing Machine Co., Providence, R. I. (hardwood only); Hower & Stender, Scranton, Pa.; Ingram & Co., New Brighton, Pa.; International Paper Co., New York City; H. S. Kerbaugh, 1013 Harrison Building, Philadelphia, Pa.; C. G. Lum, Bakers, N. Y.; Lisk Manufacturing Co., Canandaigua, N. Y.; Martin Carriage Works, York, Pa.; McCormick Reaper Co., Chicago, Ill.; J. J. Marvin, Columbus, Ohio; Minneapolis Office & School Furniture Co., Minneapolis, Minn.; Marsh & Clark, Watervliet, N. Y.; McIntosh, Seymour & Co., Auburn, N. Y.; Millville Manufacturing Co., Philadelphia, Pa.; Jas. J. Neary, Belleville, N. J.; The New Birdsall Co., Auburn, N. Y.; Osborne Marsellis Co., Upper Montclair, N. J.; Otis Elevator Co., Works, Yonkers, N. Y.; The D. M. Osborne, Auburn, N. Y.; Osgood Scale Co., Binghamton, N. Y.; Philadelphia & Reading Coal & Iron Co., Philadelphia, Pa.; R. Prescott & Son, Keesville, N. Y.; C. A. Porter, Auburn, N. Y.; Pennsylvania Steel Co., Philadelphia, Pa.; Pennsylvania Salt Manufacturing Co., Philadelphia, Pa.;

Parsons Hardware & Lumber Co., Unionville, Conn.; The Pullman Co., Chicago, Ill.; Frank F. Rambo, Philadelphia, Pa.; A. & P. Roberts, Philadelphia, Pa.; J. K. Romaine & Co., Orange, N. J.; Reukauff Sons & Co., Philadelphia, Pa.; Russell & Co., Massillon, Ohio; Summit Lumber & Building Co., Akron, Ohio; Franklin A. Smith, Thirtieth Street below Locust, Philadelphia, Pa.; Smith Sash & Door Co., Rochester, N. Y.; Smith & Pomeroy, Kalamazoo, Mich.; Sturtevant, Larrabee & Co., Binghamton, N. Y.; Stickley & Brandt Chair Co., Binghamton, N. Y.; Geo. W. Steele, Paterson, N. J.; Tucker & Staehle, Philadelphia, Pa.; Union Coal Co., Shamokin, Pa.; W. J. Underwood, Frankford, Philadelphia, Pa.; Vinton Co. (Inc.), Detroit, Mich.; F. D. Webber, Mansfield, Ohio; Wigman Piano Co., Auburn, N. Y.; Whitall, Tatum & Co., Millville, N. J.; L. Zodikow, New York City.

(This is meant as a "No" list, and is printed in small pamphlet form marked "No. 1.")

EXHIBIT R.

No. 2.—*National Wholesale Lumber Dealers' Association, January 1, 1902.*

Albany Material & Construction Co., Albany, N. Y.; American Iron & Steel Manufacturing Co., Lebanon, Pa.; The American Thread Co., Willimantic, Conn.; Peter Aex, Mount Morris, N. Y.; Art Metal Construction Co., Jamestown, N. Y.; Atlantic Refining Co., Philadelphia, Pa.; Jas. S. Barron & Co., 24 Hudson Street, New York City; E. C. Bishop & Co., Hartford, Conn.; Bausch & Lomb Optical Co., Rochester, N. Y.; Wm. J. Boehm, Elizabeth, N. J.; Barber & Holliday, Stonington, Conn.; Barkin & Elkins, New York City; Burnham, Williams & Co., Philadelphia, Pa.; Bell Telephone Co., Philadelphia, Pa.; Central Door & Sash Co., Philadelphia, Pa.; Harry Crocker, Saratoga Springs, N. Y.; Chesboro, Whitman & Co., New York City; Wm. Cramp & Sons Ship & Engine Building Co., Philadelphia, Pa.; Cook Mercantile Trust, Philadelphia, Pa.; Camden Lumber Co., Camden, Me.; Clemmons & Co., Rochester, N. Y.; Robert Dewart, Rochester, N. Y.; Delaware & Atlantic Telephone & Telegraph Co., Philadelphia, Pa.; J.

Dall, New York City; F. W. Emerson Manufacturing Co., Rochester, N. Y.; Essex Building & Land Co., Newark, N. J.; J. W. Ferguson, Paterson, N. J.; C. & H. Gregory, Great Neck, N. Y.; Grissler & Co., 634 East Seventeenth Street, New York City; Grotten & Jennings, New York City; Marcus & Lange, Detroit, Mich.; Highspire Distillery Co. (Ltd.), Highspire, Pa.; David Henry Building Co., Paterson, N. J.; Heaton & Wood, Philadelphia, Pa.; W. C. Heller Co. (Inc.), Montclair, N. J.; J. W. Hays, New Castle, Pa.; Hoffman Construction Co., Philadelphia, Pa.; H. L. Judd, Wallingford, Conn.; The W. C. Jungclaus Co., Indianapolis, Ind.; A. C. Kelley, Metuchen, N. J.; Keystone Telephone Co., Philadelphia, Pa.; H. Wales Lines Co., Meriden, Conn.; Lapsley Bros., Blairsville, Pa.; R. R. Lloyd, Philadelphia, Pa.; Jos. V. McCloskey, 212 New Street, Philadelphia, Pa.; Maesel & Huebner, 35 Walworth Street, Brooklyn, N. Y.; Middletown City Iron Works, Middletown, N. Y.; Moreland Bros., Passaic, N. J.; Manufacturers' Contracting Co., Newark, N. J.; E. Marscheider, New York City; McKone Bros., Hartford, Conn.; W. A. Marshall, Shamokin, Pa.; Geo. A. Mills Wood-Working Co., Morristown, N. J.; H. & J. McWilliams, Bernardsville, N. J.; John Metzler, Herkimer, N. Y.; National Metal Edge Box Co., Philadelphia, Pa.; National Steel Co., Youngstown, Ohio; National Wood Manufacturing Co., New York City; Neafie & Levy Ship & Engine Building Co., Philadelphia, Pa.; O'Brien & Sheehan, Rouses Point, N. Y.; C. A. Pope Manufacturing Co., New York City; Philadelphia Roll & Machine Co., Philadelphia, Pa.; Peck Bros., Cortland, N. Y.; Plume & Atwood Manufacturing Co., Thomaston, Conn.; Pierce, Butler & Pierce Manufacturing Co., Syracuse, N. Y.; Peerless Printing Press Co., Palmyra, N. Y.; R. E. Parsons Co., Bridgeport, Conn.; Jno. Reuger, Brooklyn, N. Y.; A. M. Reynolds, Binghamton, N. Y.; H. R. Ripley, Conesus, N. Y.; Reed Manufacturing Co., Newark, N. J.; D. H. Rapp, Lancaster, Pa.; John A. Roebings Sons Co., Trenton, N. J.; W. H. Shepard & Sons, Wilkes-Barre, Pa.; Standard Supply & Equipment Co., 18 South Fifteenth Street, Philadelphia, Pa.; M. B. Schenck Co., Meriden, Conn.; J. W. Sitler, Berwick, Pa.; J. A. Schumacher & Co., Indianapolis, Ind.; N. & P. Scott, Brooklyn,

N. Y.; Wm. Sellers & Co., Philadelphia, Pa.; F. C. Snedaker, Philadelphia, Pa.; Sprague Wire Works Co., Rome, N. Y.; Sterling Blower & Pipe Manufacturing Co., Hartford, Conn.; Wilson J. Smith, Wilkes-Barre, Pa.; Still Bros., Steubenville, Ohio; Thurston & Haskell, Elmira, N. Y.; United States Frame & Picture Co., New York City; Unique Brooder Co., Clinton, N. J.; Union Traction Co., Philadelphia, Pa.; United Gas Improvemrnt Co., Philadelphia, Pa.; Vinton & Co. (builders and contractors), Detroit, Mich.; M. H. Walrath, Philadelphia Pa.; T. Whalen, Ogdensburg, N. Y.; S. S. White Dental Manufacturing Co., Staten Island, N. Y.; F. Wesel Manufacturing Co., Brooklyn, N. Y.; R. D. Wood & Co., Philadelphia, Pa.; W. J. Wharton, jr., & Co., Philadelphia, Pa.; Clarence Barclay Ward, Huntingdon, N. Y.; C. F. Wooding Co., Wallingford, Conn.; Enoch Wood, Coalton, Ohio; Gottlieb Webber, 5 La Grange Street, Brooklyn, N. Y.

(This is meant as a "yes" list, and is printed in pamphlet form, marked No. 2.)

EXHIBIT S.

No. 2.]

NEW YORK, February 11, 1902.

To the members:

The opinion of the classification committee is that—

E. Gerow, New York City,

Sloane & Moller, New York City,

are properly customers of the retail trade.

Yours, truly,

E. F. PERRY, Secretary.

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No. 2.]

NEW YORK, February 15, 1902.

To the members:

The opinion of the classification committee is that—

Wayland Portland Cement Co., Wayland and Rochester, N. Y.,

V. Ebert, Philadelphia, Pa.,

are properly customers of the retail trade.

Yours, truly,

E. F. PERRY, Secretary.

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No. 2.]

NEW YORK, February 18, 1902.

To the members:

The opinion of the classification committee is that—

Bill Posting Sign Co., Philadelphia, Pa.,

H. A. Horton, New Haven, Conn.,

are properly customers of the retail trade.

Yours, truly,

E. F. PERRY, Secretary.

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No. 2.]

NEW YORK, February 21, 1902.

To the members:

The opinion of the classification committee is that—

Metal Furniture Co., Ossining, N. Y.,

J. M. Campbell, Canton, Ohio,

are properly customers of the retail trade.

Yours, truly,

E. F. PERRY, Secretary.

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EXHIBIT T.

Circular issued by National Wholesale Lumber Dealers' Association to the trade.

The following have been reported by the various eastern associations as jobbing or selling directly or indirectly to consumers. The members of the National Wholesale Lumber Dealers' Association are requested to cooperate with the eastern associations by refusing to sell them lumber.

Aberdeen Lumber Co., Aberdeen, N. C.; American Lumber & Manufacturing Co., Pittsburg, Pa.; Atlantic Hardwood Co., New York City; E. R. Bryan, alias Wood Lumber Co., Irvonia Lumber Co., Massena Lumber Co., Philadelphia, Pa.; Burden & Couch, Cleveland, Ohio; Thos. Burton, New York City; Cary Lumber Co., Cary, N. C.; Clark, Kizer & Kipp, Cortez, Pa.; G. W. Cobb & Co., Boston, Mass.; Crane & McMahon, New York City; Edwin P. Dalrymple, Port Alleghany, Pa.; Doane & Jones Lumber Co., Elmira, N. Y.; James Donley, jr., Easton, Pa.; Duke & Smith, Norfolk, Va.; Eccleston Lumber Co., New York City; G. Elias & Bro., Buffalo, N. Y.; Eppinger

& Russell, New York City; Hiram Frisbie, Stroudsburg, Pa. William D. Gill & Son, Baltimore, Md.; Grant Green, New York City; M. V. Gress, New York City; Harris, McHenry & Baker, Elmira, N. Y.; Henderson, Hull & Co., Montgomery Pa.; Holt & Bugbee, Boston, Mass.; S. S. Hooper, Meriden Conn.; James & Abbott, Boston, Mass.; J. C. Kitchen, Columbia, N. J.; Monroe H. Kulp & Co., Shamokin, Pa.; Landis & Brenner, Franklin, Ind.; Thos. Lundy & Son, Williamsport, Pa.; Henry Maley & Co., Edinburgh, Ind.; Augustus Mellior & Co., Philadelphia, Pa.; Merriman & Merriman, Williamsport, Pa.; Miller & Miller, Philadelphia, Pa.; W. S. Neale, New Haven, Conn.; E. E. Nettleton, agent of S. J. Nettleton, Deep River, Conn.; Jas. A. Noone, New York City; B. D. Peterson, jr., Boston, Mass.; Pocahontas Lumber Co., Norfolk, Va.; Prouty & Miller, Newport, Vt.; Edgar H. Quinby, New York; W. C. Ransom, Williamsport, Pa.; H. J. Rosevelt, New York City; Wm. W. Sampson, Philadelphia, Pa.; J. A. Scobel, Cape Vincent, N. Y.; Seaman & Smyth, Williamsport Pa.; A. W. Sheldon, Fort Ann; Sheridan Lumber Co., Williamsport, Pa.; Southard & Co., New York, N. Y.; the Southern Pine Co., of Georgia, New York City; the Standard Agency Co., New York, N. Y.; J. I. Stanton & Co. (Stanton & Brewster), Painted Post, N. Y.; H. M. Stratton, New York City; T. Sullivan & Co., Buffalo, N. Y.; S. B. Towner, Albany, N. Y.; Tupper Lake Manufacturing Co., Tupper Lake, N. Y.; Vanderbilt & Hopkins, New York City; Geo. D. Wallace, Brooklyn, N. Y.; W. A. Warner, Providence, R. I.; Watson, Malone & Son, Philadelphia, Pa.; Watsontown Planing Mill Co., Watsontown, Pa.; Westchester Hardwood Co., New York City; A. Weston Lumber Co., Westons Mills, N. Y.; N. Winslow & Co., Watertown, N. Y.; Yellow Pine Co., New York and Hoboken; Geo. S. Yerkes, Philadelphia, Pa.

EXHIBIT U.

Official report of the Eastern States Retail Lumber Dealers' Association, 18 Broadway, New York, N. Y.

Statement to members, April, 1909.—You are reminded that it is because you are members of our association and have an interest in common with your fellow members in the

information contained in this statement, that they communicate it to you, and that they communicate it to you in strictest confidence and with the understanding that you are to receive it and treat it in the same way.

The following are reported as having solicited, quoted, or as having sold direct to the consumers:

The Adler Lumber Co., Lyons, Ky.; American Lumber & Manufacturing Co., Pittsburg, Pa.; Geo. W. Appleby & Co., Jamestown, N. Y.; Atlantic Lumber Co., Boston, Mass.; H. A. Bayoth, Garland, N. C.; The Billmeyer Lumber Co., Cumberland, Md.; John Boger, Newport, Pa.; G. S. Briggs & Co., Baltimore, Md.; Brown & Co., Brunswick, Ga.; Thos. Burton, New York City; Edwin H. Buzzell, Boston, Mass.; G. W. Cobb & Co., Boston, Mass.; Chicago Millwork & Supply Co., Chicago, Ill.; W. L. Dally, Turner, N. Y.; Doane & Jones Lumber Co., Elmira, N. Y.; G. Elias & Bro., Buffalo, N. Y.; Elizabeth City Shingle Mill Co., Elizabeth City, N. C.; Ensign Lumber Co., Binghamton, N. Y.; Eppinger & Russell, New York; Esterbrook Lumber Co., Wyalusing, Pa.; Federal Lumber Co., New York and Baltimore; Fitzgerald-Spear Co., Pen Argyle, Pa.; W. R. Gardy, Philadelphia, Pa.; The Germain Co.,¹ Pittsburg, Pa.; John H. Gordon, Albany, N. Y.; Goshen Lumber Co., Goshen, Ind.; Granger & Lewis, New York; Green Lumber Co., Chicago, Ill.; E. A. Hackwell & Co., Worcester, Mass.; Horace G. Hazard & Co., Philadelphia, Pa.; E. J. Hammond Co., Boston, Mass.; Harris, McHenry & Baker, Elmira, N. Y.; J. E. Highley, Philadelphia, Pa.; E. H. Hipple & Co., Lock Haven, Pa.; G. W. Hoover, Williamsport, Pa.; Anson Husted, Tarrytown, N. Y.; James & Abbott Co., Boston, Mass.; Kelsey-Dennis Lumber Co., North Tonawanda, N. Y.; Ivors P. Lawrence, Fitchburg, Mass.; Lawrence Fisk & Co., Washington, D. C.; Lestershire Lumber & Box Co., Lestershire, N. Y.; Luther & Moore Lumber Co., Orange, Tex.; Massee & Pierce, Lynchburg, Va.; H. H. Maus & Co., Philadelphia, Pa.; McCluskey Lumber Co., Sheffield, Pa.; Mercantile Lumber Co., New York; Miller & Miller, Philadelphia, Pa.; W. S. Neale, New Haven, Conn.; Painted Post Lumber Co., Painted Post, N. Y.; Francis J. Parks, New York; Henry W. Peabody & Co.,

¹ Added since last report.

New York, N. Y.; B. D. Peterson, jr., Boston, Mass.; Prouty & Miller, Newport, Vt.; W. L. Rawson, Philadelphia, Pa.; J. M. Reamer, New York City; Risley Lumber Co., Walton, N. Y.; H. J. Roosevelt, New York City; A. W. Sheldon, Fort Ann; W. E. Smith & Co., Millmount, Pa.; Chas. H. Smith, Seeyville, Pa.; M. M. Smith, North Tonawanda, N. Y.; S. D. Smith, Albany, N. Y.; E. Sondheimer Co., Memphis, Tenn.; Strasburg Manufacturing Co., Strasburg, Va.; Talbot Bros. Co.,¹ Providence; Justice P. Taylor & Co., Philadelphia, Pa.; Thayer & Collins, Keene, N. H.; Turnbull-Joice Lumber Co., First National Bank Building, Chicago, Ill.; Geo. D. Wallace, Newark, N. J.; P. B. Walton, Williamsport, Pa.; W. A. Warner, Providence, R. I.; Watsontown Planing Mill Co., Watsontown, Pa.; Wayne Lumber Co., New York, N. Y.; Webber Lumber Co., Fitchburg, Mass.; F. E. Whitney, New York.

REMOVED SINCE LAST REPORT.

Atlantic Hardwood Co., New York City; Cleveland Window Glass Co., Cleveland, Ohio; C. & W. Lumber Co., New York, N. Y.; Eccleston Lumber Co., New York City; I. C. Fuller, Wyalusing, Pa.; B. F. Hiestand & Son, Marietta, Pa.; Hoover-Dohl Lumber Co., Wilkes-Barre, Pa.; Henry A. Hunsicker, Coopersburg, Pa.; H. M. Hunsicker, Philadelphia, Pa.; Hurdman & Elmit, Ottawa, Canada; Meadow Mountain Co., Wilmington, Del.; Augustus Mellior & Co., Philadelphia, Pa.; Geo. A. Ross & Co., Detroit, Mich.; Jos. F. Slattery, Brooklyn, N. Y.; Spot Cash Cooperage Co., Bay City, Mich.

Members upon learning of any instance of persons soliciting, quoting, or selling direct to consumers should at once report same, and in so doing should, if possible, supply the following information: The number and initials of car, the name of consumer to whom car is consigned, the initials or name of shipper, the date of arrival of car, the place of delivery, the point of origin.

As we are associated for mutual protection, we should not go into territory where our associates have yards and sell or offer to sell lumber at a price lower than we sell it in our home territory.

EXHIBIT V.

Letter to secretaries of separate trade associations.

[Member of "The Eastern States Retail Lumber Dealers' Association." Telephone call, 1208 Broad. Rooms 303 and 304 Welles Building, 18 Broadway. James Sherlock Davis, President; John F. Steeves, 1st Vice President; Russell Perrine, 2d Vice President; Charles F. Fischer, Treasurer; J. D. Crary, Secretary.]

THE NEW YORK LUMBER TRADE ASSOCIATION, New York, March 26, 1909.

DEAR SIR: I herewith send you the official list as corrected to go out April 10. I would be glad if you would note any changes which you may think necessary and return to me promptly.

Understanding that the list is to be issued from this office, a list of those to whom you want it sent should be mailed at once, in order that I may have stencils made for the addressograph machine.

I assume that the expense of issuing this list, including printing and postage, is to be borne pro rata by each of the associations which are members of the Eastern States Association. Kindly let me know if this is your understanding, and in due course, about every three months, I will send bill to cover the same.

Yours, truly, J. D. CRARY, *Secretary.*

EXHIBIT W.

*The New York Lumber Trade Association, 18 Broadway,
New York, N. Y.—Official report, October, 1904.*

IRREGULAR SHIPMENTS.

In reporting irregular shipments, members are requested to supply the following information if obtainable: The number and initials of car, the name of consumer to whom car is consigned, the initials or name of shipper, the date of arrival of car, the place of delivery, and the point of origin.

This association was formed for the mutual protection of its members, and while we do not wish to restrict honorable competition, we recognize the fact that the soliciting of orders or sale of lumber by a member of this association to a customer in an adjacent district where another member of

this association has a yard, at a less rate than they sell their home customers, is contrary to the spirit and object of this association.

Any difference arising among the members on the question covered in the foregoing resolution shall be submitted to the board of directors for arbitration or adjustment.

To members:

The following are reported as having solicited, quoted, or as having sold direct to the consumers:

Aberdeen Lumber Co., Aberdeen, N. C. (3); the Adler Lumber Co., Lyons, Ky. (2); American Lumber & Manufacturing Co., Pittsburg, Pa. (6); Atlantic Hardwood Co., New York City (2); Jas. S. Barron & Co., New York City (1); Berwick Lumber & Timber Co., Atlanta, Ga. (3); Brown & Co., Brunswick, Ga. (6); E. R. Bryan, alias Wood Lumber Co., Irvonia Lumber Co., Massena Lumber Co., Philadelphia, Pa. (3); Burden & Couch, Cleveland, Ohio (4); Thos. Burton, New York City (2); Edwin H. Buzzell, Boston, Mass. (8); Cary Lumber Co., Cary, N. C. (1); Clark, Kizer & Kipp, Cortez, Pa. (3); G. W. Cobb & Co., Boston, Mass. (4); H. R. Corwin, Middletown, N. Y. (1); Chicago Millwork & Supply Co., Chicago, Ill. (3); Crane & McMahon, New York, N. Y. (1-2); Edwin P. Dalrymple, Port Allegheny, Pa. (3); Doane & Jones Lumber Co., Elmira, N. Y. (1-2 4-3); James Donley, jr., Easton, Pa. (1); Duke & Smith, Norfolk, Va. (2); Enos, Turner & Henry, Pittsburg, Pa. (1); Eccleston Lumber Co., New York City (2); G. Elias & Bro., Buffalo, N. Y. (2-5-1-3); Hiram Frisbie, Stroudsburg, Pa. (3); I. C. Fuller, Wyalusing, Pa. (3); Wm. D. Gill & Son, Baltimore, Md. (3); Granger & Stubbs Lumber Co., New York City (1); E. B. Hallowell & Co., Philadelphia, Pa. (6); Harris, McHenry & Baker, Elmira, N. Y. (2); Hiestand & Son, Watts, Pa. (3); B. F. Hiestand & Son, Marietta, Pa. (3); E. H. Hipple & Co., Lock Haven, Pa. (1); Felix Hoffman, New York City (2); Holt & Bugbee, Boston, Mass. (2); S. S. Hooper, Meriden, Conn. (4); Henry A. Hunsicker, Coopersburg, Pa. (3); H. M. Hunsicker, Philadelphia, Pa. (1); Irvonia Lumber Co., Philadelphia and

Irvonia, Pa. (1); James & Abbott, Boston, Mass. (4); J. C. Kitchen, Columbia, N. J. (1); Monroe H. Kulp & Co., Shamokin, Pa. (1); Landis & Brenner, Franklin, Ind. (4); Ivors P. Lawrence, Fitchburg, Mass.; A. J. Lertch, Middletown, Pa. (3); Henry Maley & Co., Edinburg, Ind. (4); Augustus Mellior & Co., Philadelphia, Pa. (3); Merriman & Merriman, Buffalo, N. Y. (1); W. L. Miller, New York City (2); Miller & Miller, Philadelphia, Pa. (3); Wm. K. Moore, Philadelphia, Pa. (1); Montgomery Door & Sash Co., Montgomery, Pa. (3); W. S. Neale, New Haven, Conn. (4); E. E. Nettleton, agent of S. J. Nettleton, Deep River, Conn. (4); Jas. A. Noone, New York City (2); A. C. Oliver, Toronto, Canada, New York City (3); D. S. Pate Lumber Co.,¹ Chicago, Ill. (4); Painted Post Lumber Co., Painted Post, N. Y. (1); B. D. Peterson, jr., Boston, Mass. (4); Prouty & Miller, Newport, Vt. (4); Pierce & Aikers Co., Lynchburg, Va. (1); Edgar H. Quinby, New York (1); W. L. Rawson, Philadelphia, Pa. (1-2); J. M. Reamer & Co., New York City (1-2); Reamer Lumber Co., New York City (1-2); H. J. Roosevelt, New York City (2); J. A. Scobel, Cape Vincent, N. Y. (5); W. L. Scott & Co., Norwich, N. Y. (1); A. W. Sheldon, Fort Ann, N. Y. (2); Southard & Co., New York, N. Y. (2-4); The Southern Pine Co. of Georgia, New York City (1); W. E. Smith & Co., Millmount, Pa. (3); Chas. H. Smith, Seeyville, Pa. (1); M. M. Smith, North Tonawanda, N. Y. (1); S. D. Smith, Albany, N. Y. (1); J. I. Stanton & Co. (Stanton & Brewster), Painted Post, N. Y. (4); T. Sullivan & Co., Buffalo, N. Y. (2); S. B. Towner, Albany, N. Y. (4); Tupper Lake Manufacturing Co., Tupper Lake, N. Y. (5); F. Van Wormer, Ceres, N. Y. (1); Geo. D. Wallace, Brooklyn, N. Y. (1-2); W. A. Warner, Providence, R. I. (4); Watsontown Planing Mill Co., Watsontown, Pa. (3); Webber Lumber Co., Fitchburg, Mass. (4); A. Weston Lumber Co., Weston Mills, N. Y. (1-5); L. B. Wood & Co., Grand Valley, Pa. (1); Geo. S. Yerkes, Philadelphia, Pa. (1).

Keep this for reference and destroy previous report.

Don't hang it up in your office.

¹ Added since last report.

EXHIBIT X.

Official report of the New York Lumber Trade Association, 18 Broadway, New York, N. Y.

Statement to members, December, 1910.—You are reminded that it is because you are members of our association, and have an interest in common with your fellow members in the information contained in this statement, that they communicate it to you; and that they communicate it to you in strictest confidence and with the understanding that you are to receive it and treat it in the same way.

The following are reported as having solicited, quoted, or as having sold direct to the consumers:

The Adler Lumber Co., Lyons, Ky.; Alexander Bros. Lumber Co., Cleveland, Ohio; Geo. W. Appleby & Co., Jamestown, N. Y.; H. A. Bayoth, Garland, N. C.; W. H. Bicknell, jr., Brooklyn, N. Y.; John Boger, Newport, Pa.; Broadtop Lumber Co., Clearfield, Pa.; Brown & Co., Brunswick, Ga.; Thos. Burton, New York City; Edwin H. Buzzell, Boston, Mass.; G. W. Cobb & Co., Boston, Mass.; W. L. Dally, Turner, N. Y.; Doane & Jones Lumber Co., Elmira, N. Y.; G. Elias & Bros., Buffalo, N. Y.; Ensign Lumber Co., Binghamton, N. Y.; Esterbrook Lumber Co., Wyalusing, Pa.; Federal Lumber Co., New York and Baltimore; John H. Gordon, Albany, N. Y.; Goshen Lumber Co., Goshen, Ind.; Granger & Lewis, New York; Green Lumber Co., Chicago, Ill.; E. A. Hackwell & Co., Worcester, Mass.; E. J. Hammond Co., Boston, Mass.; Harris, McHenry & Baker, Elmira, N. Y.; E. H. Hipple & Co., Lock Haven, Pa.; Holcomb & Caskey Lumber Co., New York, N. Y.; G. W. Hoover, Williamsport, Pa.; Hotchkiss Bros. Co., Torrington, Conn.; Anson Husted, Tarrytown, N. Y.; Indiana Quartered Oak Co., New York; James & Abbott Co., Boston, Mass.; Wm. E. Johnson, Grantwood, N. J.; George J. Kennedy, New York; Ivors P. Lawrence, Fitchburg, Mass.; Lestershire Lumber & Box Co., Lestershire, N. Y.; Lumber Service Co., New York; McClusky Lumber Co., Sheffield, Pa.; Mercantile Lumber Co., New York; Miller & Miller, Philadelphia, Pa.; W. S. Neale, New Haven, Conn.; Painted Post Lumber Co., Painted Post, N. Y.; Francis J. Parks, New York; Henry W. Peabody &

Co., New York, N. Y.; B. D. Peterson, jr., Boston, Mass.; Post & Henderson, Oswego, N. Y.; Prouty & Miller, Newport, Vt.; W. L. Rawson, Philadelphia, Pa.; J. M. Reamer, New York City; Risley Lumber Co., Walton, N. Y.; H. J. Roosevelt, New York City; A. W. Sheldon, Fort Ann, N. Y.; Frank E. Sheldon, Newark, N. J.; W. E. Smith & Co., Millmount, Pa.; Chas. H. Smith, Seelyville, Pa.; M. M. Smith, North Tonawanda, N. Y.; S. D. Smith, Albany, N. Y.; South Atlantic Lumber Co., Greensboro, N. C.; Strasburg Manufacturing Co., Strasburg, Va.; H. M. Stratton, New York; Talbot Bros. Co., Providence, R. I.; Thayer & Collins, Keene, N. H.; Union Lumber Co., Newark, N. J.; Watsontown Planing Mill Co., Watsontown, Pa.; Wayne Lumber Co., New York, N. Y.; Webber Lumber Co., Fitchburg, Mass.; F. E. Whitney, New York.

Members, upon learning of any instance of persons soliciting, quoting, or selling direct to consumers should at once report same, and in so doing should, if possible, supply the following information: The number and initials of car, the name of consumer to whom car is consigned, the initials or name of shipper, the date of arrival of car, the place of delivery, the point of origin.

Removed since last report.—American Lumber & Manufacturing Co., Pittsburg, Pa.; The Billmeyer Lumber Co., Cumberland, Md.; Chicago Millwork & Supply Co., Chicago, Ill.; J. E. Highly, Philadelphia, Pa.; Kelsey-Dennis Lumber Co., North Tonawanda, N. Y.; E. Sondheimer Co., Memphis, Tenn.; Turnbull-Joice Lumber Co., First National Bank Building, Chicago, Ill.; Whiting Lumber Co., Philadelphia, Pa.; J. A. Wilkinson, Bristol, Tenn.

As we are associated for mutual protection, we should not go into territory where our associates have yards and sell or offer to sell lumber at a price lower than we sell it in our home territory.

EXHIBIT Y.

Official report of the Lumber Dealers' Association of Connecticut, 505 Grand Avenue, New Haven, Conn.

Statement to members, December, 1910.—You are reminded that it is because you are members of our association, and have an interest in common with your fellow members in the

information contained in this statement, that they communicate it to you, and that they communicate it to you in strictest confidence and with the understanding that you are to receive it and treat it in the same way.

The following are reported as having solicited, quoted, or as having sold direct to the consumers:

(Here follows the same list as shown on Exhibit K.)

EXHIBIT Z.

Official report—the New Jersey Lumbermen's Protective Association, 764 Broad Street, Newark, N. J.

Statement to members, December, 1910.—You are reminded that it is because you are members of our association, and have an interest in common with your fellow members in the information contained in this statement, that they communicate it to you; and that they communicate it to you in strictest confidence and with the understanding that you are to receive it and treat it in the same way.

The following are reported as having solicited, quoted, or as having sold direct to the consumers:

(Here follows the same list as shown on Exhibit K.)

EXHIBIT AA.

Mr. Davis also offered the following preamble and resolution:

"Whereas the poaching evil continually grows and has become a serious detriment to the lumber business in general, and has in many localities become a positive menace to the existence of retail yards therein; and

"Whereas the practice of poaching is contrary to the long-established customs of fair trade and dealings in the lumber business, and threatens to undermine the standing and stability of said lumber trade; and

"Whereas the word 'poaching' is understood to mean the practice of retail dealers in interfering with wholesale dealers and transacting what is practically a wholesale business: Therefore be it

"Resolved by the E. S. R. L. Dealers' Association in annual meeting assembled, That such practice of poaching is hereby reprehended and condemned as an evil tending to overthrow

the business of the retailer and to bring the lumber trade in general into disrepute; and be it further

"Resolved, That in disregarding wholly what has always been recognized as fair and equitable relations between yard dealers, the poacher himself is, because of such business conduct, a menace to the trade and is therefore undesirable as a member of a lumber trade association; and be it further

"Resolved, That it is the duty of each association member of the E. S. R. L. D. Association to stamp out such practice of poaching by its members, and to that end, if necessary, expel from membership such members as persistently and notoriously continue in said practice of poaching, and that the secretary of this association send a copy of this resolution to each secretary, to the press, and to the wholesale manufacturers' associations."

This was unanimously adopted after discussion.

Voted: That a list of poachers be issued by this association, as submitted by the various members thereof.

EXHIBIT BB.

We are all in favor of high prices and fixed high prices
* * * we should fix the status of the poacher and keep it fixed, and his place should be with the scalper and the illegitimate dealer wherever he may be found. The narrowness of such a view as this will be pointed out and the most mean and acrimonious cry against it will come from the operator who is selling wherever he can and to whoever he pleases, seemingly without reason and always without care as to custom or channel for distribution. He is a maverick, roaming at will over our land, drinking of the clearest stream, and feeding in the best pastures. He must be caught and branded. No association should permit him membership and no individual should under any condition or at any time permit trading with him, neither buying nor selling, and, simple as the process may seem, you may depend upon it if applied, his will be a short shrift. In this connection it is a pleasure to be able to state that our association is on terms of friendly intercourse with existing associations covering all of the branches of the industry and that these relations with the retailers, especially the several organizations

representing the business in the North and East, where an active and large part of the business of the members of this association is carried on, are in all particulars mutually satisfactory. While no written agreement or legislation of binding character has been sought by either interest as the basis of an alliance since the withdrawal from the Boston agreement, yet the situation is one of thorough accord and appreciation of the rights and obligations of each, and all matters can be and are being handled by the officers and through the the officers of the various associations with frankness and confidence, and, naturally, with good results. In so far as it lies in our power this condition, which makes for the friendship and the pleasure and profit of the business, shall be made to continue.

