

No. 850

United States District
Court

United States

v.

Colgate and Company

A true bill

J. Morris

Forster

Filed Dec. 2^d. 1918.

Joseph S. Brady
Clerk

IN THE DISTRICT COURT OF THE UNITED STATES,
EASTERN DISTRICT OF VIRGINIA.

Fall Term, 1918

INDICTMENT.

The grand jurors of the United States of America, duly impaneled, sworn and charged to inquire in and for the eastern district of Virginia, and so inquiring, upon their oaths, do find and present as follows:

Throughout the period of three years immediately preceding the return of this indictment Colgate & Company (hereinafter called the defendant) was a corporation organized and existing under the laws of the State of New Jersey, having its general offices, factories and sales-rooms at Jersey City in said State, and there engaged in producing laundry soaps, toilet soaps and other toilet articles, and in selling and shipping such products to wholesale and retail dealers in the eastern district of Virginia and throughout the United States. Throughout the said period of time the said wholesale dealers respectively resold and reshipped large quantities of such products, received by them from the defendant, to retail dealers both within and without the respective States in which the wholesale dealers so received such products. Throughout the said period of time the aforesaid retail dealers respectively resold and transported and delivered large quantities of such products, received by them from the said wholesale dealers and from the

defendant, to the consuming public both within and without the respective States where the said retail dealers so received such products. The above-described sales, resales, shipments and deliveries of the products of the defendant constituted trade and commerce among the several States of the United States.

During the aforesaid period of time, within the said eastern district of Virginia and throughout the United States, the defendant knowingly and unlawfully created and engaged in a combination with said wholesale and retail dealers, in the eastern district of Virginia and throughout the United States, for the purpose and with the effect of procuring adherence on the part of such dealers (in reselling such products sold to them as aforesaid) to resale prices fixed by the defendant, and of preventing such dealers from reselling such products at lower prices, thus suppressing competition amongst such wholesale dealers and amongst such retail dealers, in restraint of the aforesaid trade and commerce among the several States, in violation of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890.

Pursuant to the aforesaid combination and in furtherance of its objects the following things were done: Defendant distributed amongst the wholesale and retail dealers in its products letters, telegrams, circulars and lists showing uniform wholesale prices and uniform retail prices to be charged for its aforesaid products. It urged the said wholesale and retail dealers, by letters and circulars and orally, to adhere to the prices thus indicated in reselling such products. It informed the said wholesale and retail dealers, by letters and circulars and orally, that it would refuse to sell its

products to any dealer who did not resell such products at the prices thus indicated. It requested the said wholesale and retail dealers, orally and by letters, to inform it of sales by dealers, at wholesale and retail, at prices other than those indicated as aforesaid. Induced by such requests, many such dealers informed defendant of sales by other dealers at prices other than those indicated as aforesaid. Defendant thus secured from many such dealers information as to many such sales. It also investigated and discovered, through its representatives, agents, and employees, other sales by dealers in its products, at wholesale and retail, at prices other than those indicated as aforesaid. It placed the names of dealers, wholesale and retail, whom it ascertained to have made such sales at prices other than those indicated as aforesaid on lists which it called "Suspended Lists." It requested the dealers whom it ascertained to have made such sales to give it assurances and promises that they would in future resell its products at the prices which it indicated. It uniformly refused to sell its products to dealers who had made sales at prices other than those indicated as aforesaid until such dealers gave assurances and promises that they would thereafter resell its products at the prices which it indicated. Induced by such requests and by such refusals, many dealers, wholesale and retail, who had sold such products at prices other than those indicated as aforesaid gave to defendant assurances and promises that they would thereafter resell such products at the prices indicated by defendant. Defendant thus procured many such assurances and promises from dealers in the eastern district of Virginia and throughout the United States, and, upon receiving such assurances and promises, sold its products to the dealers who

gave such assurances and promises. Defendant requested similar assurances and promises from dealers, wholesale and retail, to whom it had not previously sold its products, upon opening accounts with such dealers, and many such dealers, induced by such requests, gave ^{such} assurances and promises to defendant, and defendant thereupon sold its products to such dealers. It freely sold its products to dealers with whom it had established accounts and who had not resold such products at prices other than those indicated as aforesaid.

By reason of the foregoing, wholesale dealers in the aforesaid products of the defendant in the eastern district of Virginia and throughout the United States, with few exceptions, resold, at uniform prices fixed by the defendant, the aforesaid products, sold to them by the defendant, and refused to resell such products at lower prices to retail dealers in the States where the respective wholesale dealers did business and in other States. For the same reason retail dealers in the aforesaid products of the defendant in the eastern district of Virginia and throughout the United States resold, at uniform prices fixed by the defendant, the aforesaid products, sold to them by the defendant and by the aforesaid wholesale dealers, and refused to sell such products at lower prices to the consuming public in the States where the respective retail dealers did business and in other States. Thus competition in the sale of such products, by wholesale dealers to retail dealers, and by retail dealers to the consuming public, was suppressed, and the prices of such products to the retail dealers and to the consuming public in the eastern district of Virginia and throughout the United States were maintained and enhanced.

Amongst other dealers, wholesale and retail, in the products of the defendant, in the eastern district of Virginia, who engaged in the aforesaid combination with the defendant, were John A. Gill Grocery Co., Inc., Dunnavent & Cook, and Gill Brothers Co., all doing business at Petersburg, Virginia, who, at that place, on or about February 6 or 7, 1917, agreed with the defendant to resell its products at the prices fixed by it as aforesaid.

And so the grand jurors, upon their oaths, do find and present that Colgate & Company, within the period of three years immediately preceding the return of this indictment, in the eastern district of Virginia, in the manner aforesaid, unlawfully engaged in a combination in restraint of trade and commerce among the several States, against the peace and dignity of the United States and contrary to the statute in such case made and provided.


United States Attorney.
