

Imitation Butter—Use of Name.

Chapter 199 of the Laws of 1919 construed to prohibit the use of the words "Troco Nut Butter Company" on cartons or packages containing imitation butter for sale in this State, and not made entirely from milk fat.

Chester C. Davis, Esq.,
Commissioner of Agriculture,
Helena, Montana.

My dear Mr. Davis:

You have submitted to this office the question as to whether the name "Troco Nut Butter Company" may be used by this company on cartons or packages in which imitation butter is offered for sale.

Section 12 of Chapter 77 of the Laws of 1913 provides as follows:

"No person shall manufacture or sell or expose for sale as butter, any substance out of vegetable or animal fats or oils (not from milk or cream), colored in imitation of butter or any shade of yellow.

"All products made and sold or exposed for sale as butter substances and made either wholly or in part from any fat or oil other than from pure unadulterated milk or cream, shall be plainly marked, stamped or labeled on every package, so made, sold or exposed for sale, in plain black letters, one-

half inch vertical dimensions, 'Oleomargarine.' Hotels or restaurants using imitation butter shall place placards, plainly legible from all parts of the dining-room, marked 'Oleomargarine' or 'Renovated Butter,' as the case may be, 'used here.' "

In 1919 this section was amended by Section 9, Chapter 199 of the 1919 Laws, by reenacting the portion above quoted and adding thereto the following:

"Hereafter the word 'butter' shall not be printed or used either alone or in conjunction with any other words upon any carton, package or other receptacle containing any substitute for butter such as margarine, or any other substance not made entirely from milk fat."

In 1921 the Legislature repealed practically all of Chapter 199 of the 1919 Laws except Section 9 above referred to, and in Section 17 of Chapter 216 of the 1921 Laws the following provisions appear:

"That butter sold in the State of Montana, whether manufactured on a farm or in a creamery, must have the maker's name clearly written or printed on the package in which it is sold, and upon each pound package of butter so sold or offered for sale, the words 'net weight sixteen ounces' shall appear."

That portion of Chapter 216 of the 1921 Laws above referred to has reference to butter made from milk fat and has no application to imitation butter.

Section 9 of Chapter 199 of the 1919 Laws, above, prohibits the use of the word "butter" on any carton, package or other receptacle containing any kind of substitute for butter or any substance not made entirely from milk fat.

It is therefore my opinion that the use of the words "Troco Nut Butter Company" on cartons or packages containing imitation butter for sale in this State, and not made entirely from milk fat, is prohibited.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.