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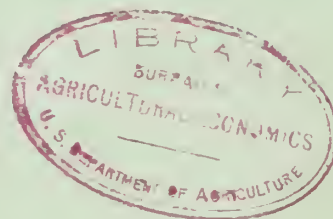


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UNITED STATES DEPARTMENT OF AGRICULTURE
Bureau of Agricultural Economics

STATE AND FEDERAL LEGISLATION AND DECISIONS
RELATING TO OLEOMARGARINE

Brief Summary



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under the direction of
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Washington, D. C.
Revised January 1939

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Definition of oleomargarine in Act of 1930

Section 2 of the Act entitled "An Act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine", approved August 2, 1886, as amended, is amended to read as follows:

"Sec. 2. For the purposes of this Act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as 'oleomargarine', namely: All substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish oil or fish fat, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat; -- if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk, water, or other liquid, and containing moisture in excess of 1 percentum or common salt. This section shall not apply to puff-pastry shortening not churned or emulsified in milk or cream, and having a melting point of one hundred and eighteen degrees Fahrenheit or more, nor to any of the following containing condiments and spices: salad dressings, mayonnaise dressings, or mayonnaise products nor to liquid emulsion, pharmaceutical preparations, oil meals, liquid preservatives, illuminating oils, cleansing compounds, or flavoring compounds."

This Act shall take effect twelve months after the date of its enactment. (U. S. Statutes at large, 71st Cong., 1929-31, vol. 46, pt. 1, p. 1022, chap. 882, July 10, 1930, Public No. 540.)

Interpretative Regulation

Regulations No. 9, 1925 (rev. April 1936) of the Bureau of Internal Revenue refer in Article 10 to the above definition and state that "The use of other materials or ingredients than those enumerated in the statute is not prohibited, provided they are not deleterious. . . The percentage of enumerated materials in the finished product makes no difference."

STATE AND FEDERAL LEGISLATION AND DECISIONS RELATING TO OLEOMARGARINE 1/

In considering Federal legislation and the effect of the Federal acts relating to oleomargarine, it is important to have in view also the existing State regulations. Every State except Arizona has some kind of oleomargarine legislation. The taxes and regulations of the several States in addition to those imposed by the Federal Government have a significant bearing upon the production and consumption of oleomargarine. In some States regulations are so moderate as to have little effect, whereas in others taxes are practically prohibitive. The production and consumption of oleomargarine per capita in the United States have never been large, but in recent years they probably would have been considerably larger than they have been if several States were not imposing high taxes and severe regulations in addition to those imposed by the Federal Government.

Federal legislation with reference to oleomargarine has been aimed primarily at preventing its sale as butter and to accomplish this has imposed differential taxes and regulations against the manufacture and sale of yellow oleomargarine. The Federal stamp tax on the manufacture and sale of uncolored oleomargarine is only nominal - 1/4 cent a pound. In spite of the higher dealer taxes and the 10 cents per-pound stamp taxes on yellow oleomargarine, a few wholesalers and retailers continue to pay the taxes for the privilege of selling it. Additional license fees, excise taxes, and restrictions imposed by the several States affect the uncolored as well as the colored oleomargarine. Some States absolutely prohibit the sale of oleomargarine of any shade of yellow, and several States tax all oleomargarine 10 cents per pound or more in addition to the imposing of annual license fees. It has been frankly stated by proponents of this newer legislation that it is designed to protect the dairy industries.

Because of the significance of State legislation, a survey was undertaken in 1936 to show the tendencies in the legislation passed since 1929 together with the legislation previously enacted that is still in force, and a brief survey of the historical background of Federal and State oleomargarine legislation from its beginnings in this country.

The first part of the survey presents a table showing all the excise taxes, license fees and duties levied by the Federal Government and by the States. General Federal and State laws and regulations are summarized, and some of the significance of the taxes and regulations imposed during the past 10 years is indicated by showing the number of retail dealers in 1927-28, when there were no State excise taxes compared with the number in 1936-37 after taxes were imposed in half or more of the States.

The second part of the survey gives a very brief historical summary of a few of the most important phases of oleomargarine legislation from its beginning in 1871. - - - - -

1/ This survey was made by Anne Dewees, Associate Agricultural Economist, as part of the general survey of the Fats and Oils Situation under the direction of O. C. Stine, in Charge, Division of Statistical and Historical Research.

STATE AND FEDERAL LEGISLATION IN FORCE JANUARY 1939

Since 1929 about two-thirds of the States of the Union have enacted tax or license fee legislation restricting the manufacture and sale of oleomargarine. (See p. 6-7)

The experiments of Montana and California in 1895 and 1925 (see p. 22, 24) may be considered the forerunners of the era of restrictive excise taxes which began in 1929 when Utah placed a 5 cents per pound excise tax on uncolored oleomargarine and 10 cents on yellow oleomargarine. In 1931, 10 States followed Utah's lead and adopted oleomargarine excise taxes, and by June 1935 half the States had some kind of excise taxes on oleomargarine. There were no new State taxes imposed between June 1935 and January 1939, although California passed a tax law that was rejected by referendum. Kentucky's law was repealed. (See p. 22, 24)

State excise taxes

The State excise tax laws enacted may be summarized as - (a) Measures looking toward protecting the butter or other animal fat industries against competition from any other fats and oils whether domestic or foreign and (b) those aimed at protecting domestic food fats and oils (whether butter or oleomargarine) from competition with foreign oils.

(a) In the first group are laws in 9 States taxing all uncolored oleomargarine. Of these, Idaho, Iowa, and Utah levy 5 cents per pound (Idaho and Utah making it 10 cents on colored), Oklahoma, North Dakota, South Dakota, and Tennessee 10 cents per pound and Washington and Wisconsin 15 cents per pound.

Another type of discrimination appears in the oleomargarine taxes of Minnesota (1933), Nebraska (1931), and Wyoming (1931), important cattle producing States outside the cotton belt. These States penalize cottonseed oil as well as foreign oils by imposing an excise tax on all oleomargarine not containing animal fat. In order to be free from tax the oleomargarine must contain as much as 65 percent animal fat in Minnesota, 50 percent in Nebraska, and 20 percent in Wyoming. The tax in Minnesota and Nebraska also applies to oleomargarine containing foreign oils.

(b) In the years between 1918 and 1933, coconut oil assumed a constantly increasing importance in the manufacture of oleomargarine and in the latter year constituted 75 percent of all the fats used. Opposition to this was reflected not only in a Federal excise tax of 3 cents per pound placed on coconut oil 1/ in 1934, but also in State protective measures. In the 3 years 1933-35, 14 States 2/ impose excise taxes (13 at the rate of 10 cents and one at 12 cents-per-pound) on oleomargarine containing certain foreign ingredients. The laws do not mention foreign fats but specify that oleomargarine made from certain products is exempt from the tax. In 7 States the specified products are, oleo oil, oleo stock, oleostearine, neutral lard, corn, cottonseed, peanut, and soybean oils, and milk fat. The others vary the list slightly. (See p. 7)

1/ i.e., on the first domestic processing of oil from the Philippines or other United States possessions.

2/ The law passed by California was rejected by referendum vote. (See p. 24)

State license fees

During this period many States increased, or for the first time imposed, license fees upon those manufacturing oleomargarine.

Sixteen States now require manufacturers, wholesalers, retailers, restaurants, hotels, and boarding houses making, vending, or serving oleomargarine to operate under licenses. In Pennsylvania, North Carolina, Wisconsin, and Montana the maximum fee is \$1,000; in Idaho the maximum fee is \$200; in Connecticut, Mississippi, Nebraska, and California the maximum fee is \$100; in Colorado and Vermont, \$25 is the upper limit; while in Tennessee, Oklahoma, Minnesota, North Dakota, and Utah, the maximum ranges from \$1 to \$10. (See p. 6)

Miscellaneous provisions of State oleomargarine laws

There are many general regulatory State laws governing the color, labeling, packaging, sale and use of oleomargarine. Most States are strict in requiring that oleomargarine shall be so clearly labeled that the purchaser will know what product he is buying. Many States also require that particular notification shall be given to patrons by public eating places and boarding houses serving oleomargarine. Arkansas and Missouri even require that the dishes be labeled with the term "oleomargarine".

The use of oleomargarine is prohibited in State institutions in about half the States and the sale of yellow oleomargarine is prohibited in about two-thirds of the States. (See p. 8)

General Federal regulations

In addition to imposing oleomargarine stamp taxes, excise taxes, duties, and occupational license fees the Federal Government promulgates labeling and color regulations; the Meat Inspection Service supervises the manufacture of oleomargarine containing any animal fat; the Food and Drugs Act applies to vegetable oleomargarine and the Federal Trade Commission has prepared fair trade practice rules. (See p. 9-10)

Relation of Federal and State taxes

Article 70 of the Bureau of Internal Revenue Regulations on oleomargarine taxes (No. 9, revised April 1936) gives the following comment on the relation of State and Federal laws:

"Payment of special tax under Federal law confers no right or privilege to conduct business contrary to State law. The holder of a special-tax stamp issued by the Federal Government may still be punishable under a State law prohibiting or regulating the manufacture or sale of oleomargarine. On the other hand, compliance with State law affords no immunity under Federal law. Persons who engage in business in violation of the law of a State are, nevertheless, required to pay special tax as imposed under the internal-revenue laws of the United States."

Table 1.- Oleomargarine: State and Federal taxes, license fees, and duties as of January 1, 1939

| State | Date effective | State excise taxes 1/ | | Annual State license fees 2/ | | Date of law | Manu- : Retail: and | | Hotels, |
|---------|----------------|---|---------------|--|------------------------------------|-------------|------------------------|--------------|-------------------|
| | | All (x)= colored, : kinds:(y)=uncolored | Tax per pound | Contain- : ing : foreign : animal : fats | Not con- : taining : animal : fats | | factur- : ers : salers | board- : ing | |
| | | Cents | Cents | Cents | Cents | | Dollars:Dollars | Dollars | |
| Ala. | June 1935 | | | | | | | | |
| Ark. | Feb. " | | | a/ 10 | | | | | |
| Calif. | --- | | | a/ 10 | | | | | |
| Colo. | Apr. 1933 | | | b/ 10 | | 1923: | 100: | 50: | 2 |
| Conn. | --- | | | | | 1931: | 25: | 25: | --- |
| Fla. | June 1935 | | | c/ 10 | | 1933: | 100: | 50: | 3 |
| Ga. | Mar. " | | | d/ 10 | | --- | | | |
| Idaho | Mar. 1931 | | x=10, y= 5 | | | 1929: | --- | 200: | 50: |
| Iowa | " " | 5 | | | | --- | | | |
| Kans. | June 1933 | | | b/ 10 | | --- | | | |
| La. | Sept. 1934 | | | a/ 12 | | --- | | | |
| Maine | Mar. 1935 | | | a/ 10 | | --- | | | |
| Minn. | July 1933 | | | e/ 10 | e/ 10 | 1931: | 1: | 1: | --- |
| Miss. | --- | | | | | 1920: | --- | 100: | --- |
| Mont. | --- | | | | | 1925: | --- | 1,000: | --- |
| Nebr. | May 1931 | | | f/ 15 | f/ 15 | 1925: | 100: | 25: | --- |
| N. Mex. | Feb. 1935 | | | c/ 10 | | --- | | | |
| N. C. | May " | | | a/ 10 | | --- | | | |
| N. Dak. | Mar. 1931 | 10 | | | | 1931: | 10: | 5: | --- |
| Okla. | " " | 10 | | | | 1931: | 10: | 10: | H.R.-2 |
| Pa. | --- | | | | | 1899: | 1,000: | 500: | 100 :H&R-50, B-10 |
| S.C. | Apr. 1934 | | | a/ 10 | | --- | | | |
| S. Dak. | Feb. 1931 | 10 | | | | --- | | | |
| Tenn. | Apr. " | 10 | | | | 1931: | 5: | 3: | 2 :H-3, R-2, B-1 |
| Tex. | Dec. 1934 | | | a/ 10 | | --- | | | |
| Utah | May 1929 | | x=10, y= 5 | | | 1929: | --- | 5: | --- |
| Vt. | --- | | | | | 1931: | --- | 25: | --- |
| Wash. | Mar. 1931 | 15 | | | | --- | | | |
| Wis. | June 1935 | 15 | | | | 1931: | 1,000: | 500: | 25 :H&R-25, B-5 |
| Wyo. | " 1931 | | | g/ 10 | | --- | | | |

Continued -

2/ See also p. 22-25

1/ See p. 7 for notes.

Table .- Oleomargarine: State and Federal taxes, license fees and duties as of January 1, 1939 - Contd

Federal taxes, fees, and duties - in addition to State charges:

| | |
|---|-------------|
| "Occupation" taxes, annual | |
| Manufacturers of oleomargarine | \$500 |
| Wholesale dealers handling - | |
| Yellow | \$430 |
| Uncolored | \$200 |
| Retail dealers handling - | |
| Yellow | \$ 48 |
| Uncolored | \$ 6 |
| Domestic oleomargarine, stamp taxes | |
| Paid by manufacturer - | |
| Yellow | 10¢ per lb. |
| Uncolored | 1¢ " " |
| Imported oleomargarine | |
| Stamp tax (paid by importer) | 15¢ per lb. |
| Duty (in addition to stamp tax) | 14¢ " " |

- - - - -

Footnotes -

- a/ On oleomargarine sold, offered or exposed for sale, or exchanged in the State, containing any fat or oil other than any of the following: oleo oil, oleo stock, oleostearine, neutral lard, corn oil, cottonseed oil, peanut oil, soybean oil, or milk fat.
- b/ Like Alabama with soybean oil omitted from exceptions.
- c/ Like Alabama with beef and sheep fats added to exceptions.
- d/ Like Alabama with pecan oil added to exceptions.
- e/ On "each pound of oleomargarine containing less than 65 percent of animal fats and/or oils and upon each pound of oleomargarine containing any fats or oils other than animal fats and/or oil, milk fat, peanut, cottonseed or corn oil, sold, offered or exposed for sale or given or delivered to a consumer".
- f/ The Federal tax is credited against the State tax up to 15 cents; since the Federal tax is 10 cents on colored oleomargarine and $\frac{1}{2}$ cent on uncolored the tax becomes 5 cents and 14 $\frac{1}{2}$ cents respectively. On all "imitation butter", provided "any oleomargarine or imitation butter containing more than 50 percent of animal fats or animal oils produced in the United States and containing no imported oils or fats. . . shall not be included in the term imitation butter for tax purposes" prior to or at time of sale and delivery.
- g/ On "vegetable oleomargarine. . . containing. . . in excess of 1 percentum of water and less than 20 percentum of any animal fat. . . sold or exposed for sale or distributed in the State".

General State regulations

There are many State regulations in addition to taxes and license fees. In some States the wording of the laws is not clear. The following summary expresses consensus of opinion in so far as it could be determined.

General laws: Arizona has no specific oleomargarine law, but has general food laws. All other States have some kind of general laws defining oleomargarine, governing packaging or marketing, notifying patrons, etc.

Color: The sale of yellow oleomargarine is prohibited in 32 States:

| | | | |
|--------|-------|---------|----------|
| Ala. | Maine | N. J. | S. C. |
| Calif. | Md. | N. Y. | S. Dak. |
| Conn. | Mass. | N. C. | Utah |
| Del. | Mich. | N. Dak. | Vt. |
| Fla. | Minn. | Ohio | Wash. |
| Idaho | 1/Mo. | Okla. | 2/W. Va. |
| Ill. | Mont. | Oreg. | Wis. |
| Iowa | N. H. | Pa. | Wyo. |

Use: The use of oleomargarine in charitable, penal, or other institutions receiving assistance from the State is prohibited in 20 States:

| | | | |
|---------|---------|---------|-------|
| Calif. | Kans. | 6/Nebr. | Okla. |
| 3/Conn. | Ky. | 7/N. H. | Pa. |
| Idaho | 5/Mich. | N. Y. | Tenn. |
| 4/Ill. | Minn. | N. Dak. | Wash. |
| Iowa | Mont. | Ohio | Wis. |

Notifying patrons: Arkansas and Missouri require that hotels and restaurants serving oleomargarine shall label the containing dishes and many States require the posting of conspicuous signs stating that oleomargarine is served.

Specific labeling: The majority of State laws agree in requiring that oleomargarine be labeled in a manner that will inform the purchaser that the substance is not butter, often stipulating that the word "oleomargarine" shall appear in letters of a specified size in black ink on a white ground, and many require that all dairy terms or pictures be omitted from packages in which oleomargarine is packed.

-
- 1/ Color prohibited (R.S. 1919, par. 12005). This may have been repealed by sec. 10223. Lawyers disagree on interpretation.
 - 2/ Prohibited by regulation of Public Health Council.
 - 3/ Except some prisons and county jails.
 - 4/ May use only 25 percent oleomargarine or butter substitutes.
 - 5/ In some institutions other than penal.
 - 6/ Prohibited in charitable and other specified institutions.
 - 7/ Colored oleomargarine shall not be used.

Federal regulations

The Oleomargarine Act passed in 1886, six times amended, (see p.26), defined butter, oleomargarine, and "yellow in color", and makes oleomargarine that is yellow in color due to the use of naturally yellow ingredients taxable at the same rate as the artificially colored product; makes regulations concerning manufacture, sale, packaging, import, and export; prohibits false and deceptive labels; provides for imposing fines for defrauding or attempting to defraud or for failure to do any of the things required by law; and charges the Bureau of Internal Revenue with enforcing the law, collecting the taxes and making needful regulations for carrying the Act into effect.

Labeling and color regulations: In accordance with authority embodied in the Oleomargarine Act of 1886 the Bureau of Internal Revenue requires that: Every package of oleomargarine must be marked with the word "oleomargarine" in letters three-quarters of an inch high. 1/

The Act does not specifically prohibit the packing of small quantities of coloring matter in manufacturers' original packages. . . 2/. Regulations permit the printing of instructions for coloring oleomargarine on cartons or wrappers, provided there is included a statement as to who may color the product without incurring liability under the law. The following may color oleomargarine yellow without incurring a license liability of \$600 per annum as an oleomargarine manufacturer and a tax liability of 10 cents per pound: 1/

A private individual for use of his own family, household servants, and non-paying guests.

All institutions under complete control of the United States, a State or political subdivision thereof, for use of inmates or employees of such institutions.

Cooperative clubs or fraternities for use of members where boarding expenses of members are pro-rated and meals are not served to other persons for compensation.

Production regulations: Oleomargarine must contain not less than 80 percent fat, whether animal or vegetable, according to M.I.S. regulations 3/ and a ruling of the Food and Drug Administration 4/. The Meat Inspection Service of the United States Department of Agriculture supervises the manufacture of oleomargarine containing any animal fat. Oleomargarine is also subject to the Federal Food and Drugs Act.

1/ United States Bureau of Internal Revenue. Regulation no. 9, rev. April 1936, art. 29 (b) (i); art. 21(b).

2/ United States Treasury Department. Treasury Decision 1502, May 26, 1909.

3/ Regulations governing meat inspection. B.A.I. order 211 revised - Regulation 18, sec. 5, par. 3 and 4; and amendment 9 to B.A.I. order 211, revised - Regulation 18, sec. 6 par. 14.

4/ Food and Drug Administration. Notice to packers of vegetable oleomargarine, approved June 6, 1935.

Prohibition in Federal institutions: Appropriation Acts of the War Department, Veterans' Administration, and Department of Interior (includes Freedmen's Hospital, Bureau of Indian Affairs, and St. Elizabeths Hospital) generally carry provisos that no part of the money appropriated shall be used for the purchase of oleomargarine or butter substitutes for other than cooking purposes. Oleomargarine for use in Federal institutions is free from tax. 1/

Trade practice rules for oleomargarine manufacturing industry promulgated by the Federal Trade Commission, Sept. 27, 1938: These rules do not in any respect supplant or relieve anyone of the necessity of complying with, the legal requirements of the pure food laws or other provision of law.

A very brief summary of rules is indicated in the following excerpts:

Group I: It is unfair trade practice: To make any false or deceptive statement by way of advertisement or otherwise; to use false or deceptive marking; to substitute oleomargarine which does not conform to formula specifications or samples upon which the purchase order is based; to misrepresent milk or fat content; to sell or distribute oleomargarine manufactured in conformity with formula specifications violative of applicable Federal or State laws or regulations; to employ commercial bribery; to unlawfully interfere with a competitor's right to purchase raw materials and supplies from whomsoever he chooses or to sell his product to whomsoever he chooses; to defame a competitor by false representations; to use false invoicing with the purpose of deceiving purchasers; to induce the breach of contracts between competitors and their customers by any false or deceptive means whatsoever; to willfully entice away the employees of competitors with the effect of unduly hampering their business; to make false or misleading price quotations; to sell oleomargarine below the seller's cost with the intent of injuring a competitor or to sell it as a "loss leader"; to discriminate in price in any respect or knowingly to induce discrimination in price contrary to the Clayton Act, or to give rebates, refunds, discounts, etc.

Group II: Compliance with the trade practice provisions embraced in these Group II rules is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, per se, constitute violation of law.

It is the judgment of the industry that cost records should be kept; that lawful contracts should be performed in letter and in spirit; that the greater consumption of raw materials produced by American agriculture should be encouraged and promoted.

1/ Bureau of Internal Revenue regulations no. 9, rev. April 1936, art. 11, p. 4.

SOME RESULTS OF STATE LEGISLATION ENACTED 1929-35

Reliable consumption data for States or sections are not available. For earlier records we have the report of the study 1/ made in 1918-19 by the Department of Labor and the National War Labor Board. This survey shows per capita consumption of oleomargarine and other butter substitutes in the North Central States as 3.4 pounds, that is, more than twice as large as for the United States as a whole, and more than three times as large as for any other section. The Bureau of Dairy Control of the California Department of Agriculture reported 21,251,622 pounds of oleomargarine sold in California in the year ended June 30, 1928, or $4\frac{1}{2}$ pounds per capita.

In appraising the current situation the ratio of retail dealers to population seems to be the best indication of consumption and changes in consumption since the State excise laws were passed, but should be used with caution as other factors enter in. Pronounced reduction in the number of retail dealers in a State after the State has imposed taxes indicates that such taxes have had a measure of effectiveness in reducing consumption. The tabulation on next page shows the number of retail dealers licensed to sell uncolored oleomargarine in 1927-28 when no excise taxes existed and again in the year ended June 1937 after excise taxes were effective in half of the States.

The table is arranged to show the changes that have taken place in groups of States having different types and rates of tax. (See p. 12, 13)

Some of the shifts and changes seem to be very significant. The largest decrease in the number of retail licenses was in the group of States imposing excise taxes on all oleomargarine. The drop averaged $51\frac{1}{2}$ percent in States having a 5 cent tax, 91 percent in States levying a 10 cent excise tax and 99.3 percent in States having a 15 cent tax. That is, an excise tax of 10 to 15 cents per pound on all oleomargarine seems to be very restrictive or completely prohibitive depending on other economic conditions and regulations.

The 3 States taxing oleomargarine that contains less than a required amount of animal fat showed an average decrease of 41 percent in the number of dealers. However, the requirement of only 20 percent of animal fat in order to avoid the tax, in Wyoming, appears not to have been restrictive as the number of licenses in that State increased about 26 percent. In Nebraska, however, where the exemption from tax requires the use of 50 percent animal fat, dealer licenses were reduced 16 percent, while in Minnesota with requirements of 65 percent animal fat the reduction amounted to 60 percent.

The group imposing taxes on oleomargarine containing imported ingredients includes all the cottonseed-producing States but Mississippi and Oklahoma, and the law of Oklahoma taxes all oleomargarine. In these States there was about a 60 percent increase in the number of dealer licenses.

In the group of 24 States and District of Columbia showing no oleomargarine excise tax, the average increase amounted to about 11 percent. The average for the United States as a whole amounts to less than one percent increase in the number of licensed retail dealers since 1928.

1/ United States Department of Agriculture, Yearbook 1924, p. 1127.

Table 2.- Retail dealers licensed to sell uncolored oleomargarine: Number before State excise taxes were imposed compared with the number after excise taxes were imposed grouped by different types of tax

| In States having excise taxes on all uncolored oleomargarine | | | | | |
|--|---------|---------|------------|------------|-------|
| State | 1927-28 | 1936-37 | Excise tax | Percentage | |
| | Retail | Retail | per pound | change in | |
| | dealers | dealers | | dealers | |
| | Number | Number | Cents | Percent | |
| Idaho 1/ | 699 | 6 | 5 | - | 99.1 |
| Iowa | 7,400 | 3,989 | 5 | - | 46.1 |
| Utah 1/ | 733 | 286 | 5 | - | 61.0 |
| Total (5¢) | 8,832 | 4,281 | | - | 51.5 |
| N. Dak. | 764 | --- | 10 | - | 100.0 |
| S. Dak. | 1,523 | 48 | 10 | - | 96.8 |
| Tenn. | 2,363 | 320 | 10 | - | 86.5 |
| Okla. | 3,498 | 344 | 10 | - | 90.2 |
| Total (10¢) | 8,143 | 712 | | - | 91.3 |
| Wash. | 3,986 | 11 | 15 | - | 99.7 |
| Wis. | 5,007 | 3 | 15 | - | 99.9 |
| Total (15¢) | 8,993 | 14 | | - | 99.8 |
| Total | 25,973 | 5,007 | | - | 80.7 |

In States having excise taxes on oleomargarine containing imported oils^{2/}

| Ala. | 1,339 | 2,420 | 10 | + | 74.2 |
|---------|--------|--------|----|---|-------|
| Ark. | 1,432 | 2,163 | 10 | + | 51.0 |
| Colo. | 2,362 | 2,315 | 10 | - | 2.0 |
| Fla. | 2,283 | 3,870 | 10 | + | 69.1 |
| Ga. | 1,601 | 3,257 | 10 | + | 103.4 |
| Kans. | 7,278 | 5,516 | 10 | - | 24.2 |
| La. | 1,602 | 2,691 | 12 | + | 68.0 |
| Maine | 1,435 | 1,966 | 10 | + | 37.0 |
| N. Mex. | 194 | 539 | 10 | + | 177.8 |
| N. C. | 821 | 2,878 | 10 | + | 250.5 |
| S. C. | 432 | 1,689 | 10 | + | 291.0 |
| Tex. | 2,341 | 7,681 | 10 | + | 228.1 |
| Total | 23,175 | 36,985 | | + | 59.6 |

1/ 10¢ on colored.

2/ The laws read that the tax is to be levied on oleomargarine containing any fat or oil other than specified domestic oils, as cottonseed, soybean, corn, peanut or oleo oils, etc.

Table 2 .- Retail dealers licensed to sell uncolored oleomargarine: Number before State excise taxes were imposed compared with the number after excise taxes were imposed grouped by different types of tax - Contd

| In States having excise taxes on oleomargarine not containing animal fats, ^{1/} and on oleomargarine containing imported fats (except Wyoming) | | | | | |
|---|--|--|----------------------------------|---|--|
| State | 1927-28 Retail dealers Number | 1935-37 Retail dealers Number | Excise tax per pound Cents | Percentage change in dealers Percent | |
| Minn. | 5,416 | 2,144 | 10 | - 60.4 | |
| Nebr. | 3,410 | 2,849 | 14-3/4 | - 16.5 | |
| Wyo. | 275 | 346 | 10 | + 25.8 | |
| Total | 9,101 | 5,339 | | - 41.3 | |
| In States having no oleomargarine excise taxes | | | | | |
| Ariz. | 551 | 726 | | + 36.7 | |
| Calif. | 12,236 | 11,353 | | - 7.2 | |
| Conn. | 399 | 1,313 | | + 46.1 | |
| Del. | 341 | 401 | | + 17.6 | |
| D. C. | 443 | 929 | | + 109.7 | |
| Ill. | 15,436 | 16,116 | | + 4.4 | |
| Ind. | 10,306 | 9,743 | | - 5.4 | |
| Ky. | 3,954 | 3,789 | | + 93.9 | |
| Md. | 1,058 | 3,271 | | + 67.1 | |
| Mass. | 4,529 | 4,563 | | - 1.4 | |
| Mich. | 10,516 | 11,833 | | + 12.6 | |
| Miss. | 302 | 626 | | + 107.3 | |
| Mo. | 6,956 | 8,451 | | + 21.0 | |
| Mont. | 5 | 26 | | + 420.0 | |
| Nev. | 63 | 111 | | + 76.2 | |
| N. H. | 699 | 1,014 | | + 45.1 | |
| N. J. | 5,817 | 4,769 | | - 13.0 | |
| N. Y. | 13,986 | 13,255 | | - 5.2 | |
| Ohio | 16,298 | 16,677 | | + 2.3 | |
| Oreg. | 2,530 | 2,493 | | - 1.5 | |
| Pa. | 4,177 | 4,073 | | - 2.4 | |
| R. I. | 604 | 974 | | + 61.3 | |
| Vt. | 196 | 352 | | + 79.6 | |
| Va. | 1,824 | 4,068 | | + 123.0 | |
| W. Va. | 2,094 | 6,233 | | + 197.7 | |
| Total | 114,830 | 127,174 | | + 10.7 | |
| Total all (48) | | | | | |
| States and D. C. | 173,079 | 174,505 | | + 0.8 | |

Excise taxes from table ; number of dealers from Annual Report of the Commissioner of Internal Revenue, 1923, p. 113 and 1937, p. 122; percentages computed.

^{1/} Minnesota taxes oleomargarine containing less than 65 percent animal fat; Nebraska, less than 50 percent, and Wyoming, less than 20 percent.

Shift in materials used

Tax legislation has been a factor in causing shifts in materials used in oleomargarine manufacture. The first oleomargarine was made largely from oleo oil and this oil continued to be the principal ingredient until 1920. The earliest change was the addition of neutral lard, followed by the addition of some butter. 1/ Vegetable oils were introduced as early as 1875 as shown by U.S. Patent No. 173,591 granted for an improvement in the process of making artificial butter using "fats from fruits and nuts - peanut, sweet almond and olive oil". United States patents indicate that cottonseed oil may have been used in very limited quantities as early as 1882. It was used in increasing quantities from 1900 to 1915, in the latter year it contributed 30 percent of the fats and oils used.

Coconut oil was not used in significant quantities until 1916 and reached its peak in 1933 when it furnished 75 percent of all fats and oils used in oleomargarine manufacture, and in the same year cottonseed oil furnished only 9 percent. Within the period 1933 to June 1935, when so many States passed laws levying excise taxes on oleomargarine containing foreign ingredients, and the Federal excise tax of 3 cents per pound was placed on coconut oil, the percentage of cottonseed oil used in oleomargarine increased from 9 to 32 percent and the actual volume increased from 18,000,000 to 100,000,000 pounds, whereas the imported coconut oil percentage decreased from 75 to 56 percent even though the actual quantity increased 24,000 pounds.

In 1937, total foreign vegetable oils contributed less than 30 percent of the fats and oils used in oleomargarine. For the coconut oil so displaced, cottonseed oil and soybean oil have been largely substituted. In November 1936, for the first time since 1916, more cottonseed oil than coconut oil was used in oleomargarine, and in 1937 domestic vegetable oils supplied almost 65 percent of the total fats and oils used. During the year 1938, however, supplies of foreign oils have been plentiful and low in price, and since January 1938 there has been a slight increase in their use in the manufacture of oleomargarine.

Production by States

Oleomargarine production has in the past been heavily concentrated in Chicago, that city accounting for from 40 to 60 percent of total production. In 1927-28, Illinois produced 48 percent of the oleomargarine, but only 33 percent in 1936-37, but Ohio, New Jersey, and California are also important producers. In the year ended June 1937, production was reported in 13 States, but the 4 States listed above produced 78 percent of the oleomargarine. Of these States, only California required license fees from manufacturers and dealers, and even these fees are small. None of them impose excise taxes on the sale of oleomargarine made from domestic materials. In Wisconsin, manufacturer's license fee of \$1,000 per annum seemed to completely eliminate manufacture. The State produced 9,000,000 pounds of oleomargarine in the year ended June 1930; the fee was imposed in 1931, in which year less than 6,000,000 pounds of oleomargarine were produced, and no production has been reported since. The first excise tax law in Wisconsin was enacted in 1932.

1/ Snodgrass, K. Margarine as a butter substitute. Stanford Univ. Food Research Inst. Fats and Oils Studies 4:132. 1930.

Revenue from taxes and license fees

Some States keep their tax records in such a way that it is very difficult or impossible to determine how much revenue is obtained from different sources. The following table was compiled in August 1938 from letters from the various States and shows available data on the annual revenue collected during 1937 or 1937-38 from State oleomargarine excise taxes and license fees. Iowa, with a 5-cent excise tax on all oleomargarine is the only State which has obtained considerable revenue from an oleomargarine excise tax. This State has in recent years realized approximately one-quarter million dollars annually from this source. Utah collected a little over \$40,000 during the last fiscal year. Other States have received much less revenue, and some none at all. States exempting domestic oils from the excise taxes collected nothing from the oleomargarine excise tax, with the exception of North Carolina, which received \$2.40.

In the case of license fees, Pennsylvania with its \$100 annual license fee on retailers received over \$400,000 from these fees in the calendar year 1937; Montana which charges oleomargarine retailers \$400 annually received nearly \$60,000 from license fees. Other States received much less. As a source of revenue, therefore, oleomargarine taxes are not important except in Iowa, Pennsylvania, and perhaps, though in less degree, in Utah and Montana.

Table 3.- Revenue from oleomargarine excise taxes and license fees, by States, 1937-38 or 1937. (See p. 6-7 for rate of taxes and fees)

| States having taxes on all oleomargarine | | | States having taxes only on certain types | | | States having license fees only | | |
|---|-----------------|-----------------|--|-----------------|-----------------|------------------------------------|-----------------|-----------------|
| : Revenue from - | | | : Revenue from - | | | : Revenue from - | | |
| State | Excise taxes | License fees | State | Excise taxes | License fees | State | Excise taxes | License fees |
| | Dol. | Dol. | | Dol. | Dol. | | Dol. | Dol. |
| Idaho | 1,430 | 330 | Ala. | 0 | --- | Calif. | | 59,150 |
| Iowa | 315,330 | --- | Ark. | 0 | --- | Conn. | | 9,700 |
| Okla. | 0 | --- | Colo. | 0 | 375 | Ky. | | 6,339 |
| N. Dak. | 503 | 14 | Fla. | 0 | --- | Miss. | | 1/ |
| S. Dak. | 4,535 | --- | Ga. | 0 | --- | Mont. | | 9,100 |
| Tenn. | 2/ 19,112 | | Kans. | 0 | --- | Pa. | | 424,701 |
| Utah | 42,335 | 1,720 | La. | 1/ | 1/ | Vt. | | 11,117 |
| Wash. | 0 | --- | Maine | 0 | --- | | | |
| Wis. 3/ | 4/ | 1 | Minn. | 0 | 1,931 | | | |
| | | | Nebr. | 0 | 3,300 | | | |
| | | | N. Mex. | 0 | --- | | | |
| | | | N. C. | 2 | 2,400 | | | |
| | | | S. C. | 1/ | 1/ | | | |
| | | | Tex. | 0 | --- | | | |
| | | | Wyo. | 2,274 | --- | | | |

1/ Data not available. 2/ Source not specified.

3/ A license fee of \$1 is charged consumers who import oleomargarine from outside the State. 4/ Amount of excise tax collected was 7 cents.

The figures given are, of course, for gross returns. The net revenue realized would be somewhat smaller. Tennessee, for example, which collected \$19,112 during the year 1937 appropriated \$12,500 for the administration and collection of oleomargarine excise taxes and license fees.

HISTORICAL BACKGROUND ^{1/}

The history of Federal and State oleomargarine legislation and legislative problems is very briefly reviewed as a background for the discussion of the 10-year period of widespread restrictive State legislation beginning in 1929.

Legal cognizance of oleomargarine in the United States covers a period of about 68 years, beginning in 1871 with the patenting of a process for manufacturing butter. ^{2/} The Mège-Mouriez process of making oleomargarine was patented in England in 1869, and in the United States in 1873.

The historical summary may be divided broadly into 5 sections. (1) Federal legislation, 1886-1930; (2) General State legislation, 1877-1902, (a) restrictive and prohibitory, 1877-1885, (b) prevention of fraud, 1886-1902; (3) Violations, enforcement problems, court decisions and orders, 1903-32; (4) State license fee laws enacted and repealed, 1882-1937; (5) Revival and defeat of prohibitory State legislation, 1923-1930.

(1) Federal special taxes, stamp taxes, tariffs and excise taxes

Special and stamp taxes: The Oleomargarine Act passed in 1886, imposed a stamp tax of 2 cents per pound on all oleomargarine, and annual special taxes of \$600, \$480, and \$48 on manufacturers, wholesale dealers, and retail dealers, respectively. It also levied a stamp tax of 15 cents per pound on all imported oleomargarine.

Amendment May 9, 1902. Discrimination between colored and uncolored oleomargarine appeared in the Federal Oleomargarine Act amendment of May 9, 1902. A stamp tax of 1/4 cent per pound was placed on uncolored oleomargarine (designated as "oleomargarine free from artificial coloration that causes it to look like butter of any shade of yellow") and 10 cents per pound on yellow oleomargarine. By this same amendment the license fees were reduced for dealers handling only uncolored oleomargarine. The annual fees for such dealers were placed at \$200 for wholesalers and \$6 for retailers. Attempts to change these rates have been unsuccessful.

Tariff rates: The Tariff Act of 1883 placed a duty of 4 cents per pound on oleomargarine. This was raised to 6 cents in 1890, reduced to 4 cents in 1894, put back to 6 cents in 1897, reduced to 2½ cents in 1913, and up to 6 cents in 1921, to 8 cents in 1922, and to 14 cents in 1930.

Excise taxes: The Revenue Act of 1934 places an excise tax of 3-cents per pound on the first domestic processing of coconut, palm, and palm-kernel oils from the Philippines or other United States possessions.

^{1/} The oleomargarine industry from its inception through 1929 has been ably dealt with by K. Snodgrass in "Margarine as a butter substitute". op. cit. This book has been invaluable in this summary.

^{2/} Letters-Patent No. 110,626, dated Jan. 3, 1871. Second ann. rept. of the New York State Dairy Commission, 1886, p. 327.

State legislation, restrictive and prohibitory, 1877-85

Before the first Federal legislation was enacted in 1886, State legislation was well under way. According to the Statistician of the Department of Agriculture, reporting on the status of State oleomargarine legislation in May 1886, 24 States in addition to the District of Columbia had enacted oleomargarine legislation. 1/ Of these measures, 17 were regulative, providing penalties for the sale of oleomargarine as butter, while 7 were prohibitory in character, aiming at the complete exclusion of the commodity from within the boundaries of the enacting State.

Preventing fraud: The first State laws dealing with oleomargarine for protection of dairymen and to prevent fraud 2/ were enacted in New York and Pennsylvania in 1877, Maryland followed with a law in 1878, and an Act was passed by Congress for the District of Columbia 3/ in 1879.

At this time the attitude in Pennsylvania seems to have been one of encouraging manufacture of oleomargarine but preventing or punishing fraud and deception. Mr. Eastburn Reeder, of Bucks County, and a member of the Pennsylvania Board of Agriculture, reporting on oleomargarine in 1877, said "When Paraf, in 1873, organized in New York City the large company called the 'Oleo-Margarin Manufacturing Company' and gave to the product made the name of oleo-margarin, they were pursuing a fair and legitimate business, to which no one could raise an objection. . . . If the manufacturers of oleo-margarin are able to produce . . . an article equal in quality to anything we butter makers are able to make . . . then let it command, as it will, an equal price in the market. Even if they, in the future, shall become able to make a product superior to ours, let that bring, as it should, a higher price. What we demand is, (and we deem it a protection to which we are fairly entitled) that they shall not be allowed to sell their goods under our name, and as our product. 4/ It should be remembered that at this time all oleomargarine was colored yellow and closely resembled butter in appearance.

The first oleomargarine laws were ineffective because administrative machinery was not adequate to enforce them. New York State was the first to remedy this defect by establishing in 1884 the office of Dairy Commissioner 5/ whose duty it was to enforce the law.

The restrictive laws did not prevent fraud and soon were followed by prohibitive laws in Missouri, New York, Pennsylvania, Maine, Michigan, and Minnesota.

1/ United States Department of Agriculture. Rept. of the Statistician, (n.s.) 29:195-209. 1886.

2/ Weist, E. The butter industry in the United States. An economic study of butter and oleomargarine. Columbia Univ. Studies in Hist., Econ. and Public Law 69:237. 1916.

3/ United States Department of Agriculture. Rept. of the Statistician, (n.s.) 29:196. 1886.

4/ Pa. State Board of Agriculture, 1st ann. rept. p. 200-201. 1878.

5/ Weist, E. op. cit., p. 241

State regulative acts for prevention of fraud particularly on the basis of color 1886-1902

The prohibitory principle embodied in many of the State oleomargarine laws was made unconstitutional by the Act of 1886. The fact that the United States Government imposed an internal revenue stamp tax on oleomargarine caused the courts to hold that Congress recognized the product as a lawful article of commerce. The decisions of the United States Supreme Court 1/ in several cases during this period were to the effect that a State might prohibit the manufacture and sale of all oleomargarine within its borders, without violating the Federal Constitution, if such prohibition did not prevent the sale by the importer of original packages introduced in interstate commerce; a State might prohibit the manufacture and sale within its borders of oleomargarine colored in imitation of butter even as against the rights of an importer under the commerce clause; but a State might not prevent the sale by the importer of all oleomargarine in original packages introduced in interstate commerce under a completely prohibitory law. 2/ Laws of States, therefore, prohibiting the admission of oleomargarine into their territory were in conflict with the constitutional interstate commerce clause, and had to be revised, and the form that the revisions took was in general prohibition of manufacture and sale of oleomargarine colored in imitation of butter.

Pink in color: The enactments of New Hampshire, August 26, 1885, 3/ Vermont in 1886, Minnesota and West Virginia in 1891 and South Dakota in 1897, 4/ requiring that oleomargarine "shall be colored pink" were affected by the New Hampshire case. In its decision on this case the Supreme Court said "Although under the wording of this statute the importer is permitted to sell oleomargarine freely and to any extent, provided he colors it pink, yet the permission to sell, when accompanied by the imposition of a condition which, if complied with, will effectually prevent any sale, amounts in law to a prohibition."

Yellow in color: New Jersey passed in 1886 (supplemented in 1887), what seems to have been the first law forbidding the sale of oleomargarine colored in imitation of natural butter. 4/ After 1893, anti-color laws were common and by 1902 more than half the States had enacted such legislation. 5/ (See p. 8)

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- 1/ Powell v. Pa. (127 U.S. 678) Apr. 9, 1888; Plumley v. Mass. (155 U.S. 461) Dec. 10, 1894; Schollenberger v. Pa. (171 U.S. 1) May 23, 1898; Collins v. N.H. (171 U.S. 30) May 23, 1898.
- 2/ Snodgrass, K. Margarine as a butter substitute. Stanford Univ. Food Research Inst. Fats and Oils Studies 4: 54. 1930
- 3/ United States Department of Agriculture. Rept. of the Statistician, (N.S.) 29:196. 1886.
- 4/ United States Department of Agriculture. Bureau of Animal Industry Ann. Rept. National and State dairy laws. . . (1897) vol. 14. Vt. p. 689, 690; Minn. p. 622; W. Va. p. 697; S. Dak. p. 685; N. J. p. 643, 645. 1898. (For N. J. see also United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1890:186.)
- 5/ United States Congress. 56th. 2d. sess. S.R. 4(2043):593-599. 1900-01.

Violations, enforcement problems, court decisions
and orders, 1903-32

For 20 years after the Federal Amendment of 1902 there was a decided lull in State laws. Only two or three States added license fees (see p. 6-22). For the purposes of this review this period may be passed over with reference only to enforcement and court decisions. Every year for many years the Bureau of Internal Revenue, charged with the Federal Oleomargarine Law enforcement, reported a large number of violations.

Difficulty arose over the wording "artificially colored", manufacturers holding, for example, that color due to the presence of naturally yellow oils such as palm oil was not "artificial". Not until the Federal Act of March 4, 1931, placed the higher special taxes and the higher stamp tax on "oleomargarine which is yellow in color" and defined "yellow in color", was this problem settled.

The Bureau of Internal Revenue Report 1/ for the year ended June 30, 1911, tells of almost 2,000 violations of the law and says: "Attention was called in the reports of 1909 and 1910 to the defects in the oleomargarine statutes as construed in the United States courts and to the deplorable situation occasioned thereby: Continued efforts to enforce this law serve but to disclose the situation more clearly. The present law imposes two rates of taxation, one 40 times as great as the other, on oleomargarine, the rate being determined by whether or not the product is artificially colored, which has proven a very poor method of determining the tax liability. . . For a time after the passage of this law the oleomargarine manufactured was, on account of the nature of the ingredients used, white, or a very light color, and the yellow color was obtained by using artificial coloring agents, such as are generally used in the manufacture of dairy butter. . .

"During the past 2 years, however, a considerable change has been brought about in the manufacture of certain grades of oleomargarine which has introduced even more difficulty in the administration of the law, and that is the discovery of the method of extracting various vegetable oils, such as peanut oil, soya-bean oil, soy-bean oil, mustard oil, etc., which carry naturally a high degree of yellow coloring and which are sufficiently neutral and nutritive to be used as one of the actual ingredients in the manufacture of oleomargarine. . .

"It is strongly urged that there should be a complete revision of the oleomargarine statutes; that the double rate of taxation should be abolished and that a flat rate be adopted in lieu thereof. . .

1/ United States Bureau of Internal Revenue. Ann. Rept. of the Comm.
of Int. Rev. 1911:17-19.

"Had the tax on oleomargarine been 2 cents a pound during the past fiscal year instead of a nominal rate of 10 cents and an actual rate of .25 a pound, the revenues would have been increased by \$1,793,100.79, a large sum expended in attempting to enforce the present statutes would have been saved, and the corruption of great numbers of American citizens, as well as a fraud on the public to an extent not generally dreamed of, would have been prevented. . . ."

In its report for 1919, the Bureau of Internal Revenue 1/ cites over 4,000 violations of the law, the majority of which were on account of failure to register and pay taxes due within the required time, and the most flagrant of them being the coloration of uncolored oleomargarine for sale as butter. For several years following no more mention of violations is made. However, the 1935 1/ report states that extensive violations of the oleomargarine act were uncovered, and it was found that the violators had effected a wide distribution of their product to the detriment of the legitimate industry.

Within this period (1903-22), two famous Supreme Court decisions opened the way for later legislation discriminating between competitive industries, by promulgating the doctrine that if on the surface acts are taxation measures the court will not examine the motive or the resulting effect. In the McCray case 2/ involving the 1902 amendment to the Federal Oleomargarine Act, the Supreme Court decision upholding the legislation as a valid exercise of the taxing power of the Federal Government said that the discretion of Congress could not be controlled or limited by the court because the latter might deem the incidence of the tax oppressive or even destructive.

In a decision on the drug act 3/ in 1919, the Supreme Court again upheld the right of Congress to impose taxes, if the act seems on its face to be a revenue measure. The decision says - "Subject to such limitations of geographic uniformity, Congress may select the subject of taxation and may exercise the power conferred at its discretion. . . the fact that other motives may impel the exercise of the Federal taxing power does not authorize the courts to inquire into the subject. If the legislation enacted has some reasonable relation to the exercise of the taxing authority conferred by the Constitution it cannot be invalidated because of the supposed motives which induced it. . . ." In the child labor tax case 4/ in 1922 the court decision invalidating the act included a statement that "the purpose of regulation may be observed from the face of the act". This latter decision has been interpreted as not reversing the position taken by the court in the oleomargarine case.

1/ United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1919: 59; 1935:18.

2/ McCray v. U.S. 195 U.S. 27. Decision rendered in 1904.

3/ U.S. v. Doremus, 249 U.S. 86. Decision rendered in 1919.

4/ Bailey v. Drexel Furniture Co., 259 U.S. 20. Decision rendered in 1922.

Federal Trade Commission "Cease and desist" orders: As to fraud and deception during this period, one writer 1/ has stated "fraud in the sale of oleomargarine as butter appears to be insignificant and advertising methods not more deceptive than in the case of other products". The Wisconsin Supreme Court found in 1926 that oleomargarine had not been sold as butter in Wisconsin for many years, that it was advertised and sold under its own merits, and that there was no fraud or deception practiced in its sale in Wisconsin. But even so the Federal Trade Commission from time to time proceeded against various oleomargarine manufacturers for alleged misleading advertising. 2/ The said manufacturers agreed to desist from the use of such words and phrases as: "churned especially for lovers of good butter"; "made in the milky way"; "fresh milk from Select-Dairies, which is weighed, tested for richness, and then pastuerized and then ripened (just as is done in all modern creameries) at an even moderate temperature. The choicest creamery butter is made in this way"; "Country Style Rolls"; "Creamery Richness - Can't be Beat"; "Fresh Churned Daily"; etc.

On the other side of the picture it is true also that the Federal Trade Commission found cause to issue orders that respondents should "cease and desist" from making false and misleading statements about oleomargarine and from unfair methods of competition. In 1925 the Commission found 3/ that in 1921 "at an officially called meeting. . . a Cooperative Creamery Association. . . a resolution was voted on and unanimously adopted calling on the dealers and meat markets of [the] County to discontinue the sale of oleomargarine, and calling on the citizens thereof 'to eliminate butter substitutes. . . inasmuch as they . . . are injurious to public health'". The Commission, from the above and other findings, concluded that the "acts and practices of the said respondents. . . are unfair methods of competition" and ordered the respondents to "cease and desist from combining. . . to hinder, obstruct or prevent the sale of oleomargarine".

In 1931 the Federal Trade Commission issued "Complaints" against false and misleading statements about oleomargarine. Orders to "cease and desist" were issued against one organization on Mar. 28, 1932, and against another Apr. 25, 1932 4/ requiring that they cease publishing or distributing any false and defamatory statements. . . stating directly or by implication that oleomargarine in the ordinary and usual process of being manufactured, or coconut oil contained in such oleomargarine, is foul, filthy, or unsanitary, or otherwise unfit for human consumption, or any direct statement or matter containing the implication that the sale of oleomargarine is a "rich man's graft".

1/ Snodgrass, K. Margarine as a butter substitute. Stanford Univ.

Food Research Inst. Fats and Oils Studies 4:106. 1930.

2/ United States Federal Trade Commission. Oleomargarine stipulations: No. 186, April 1928; No. 293, November 1928; No. 435, November 1930.

3/ United States Federal Trade Commission. Federal Trade Commission decisions, v. 9, docket no. 1080, pp. 112, 114-115, par. 5. 1925.

4/ Ibid. v. 16, docket no. 1988, pp. 101-104; docket no. 1984, pp. 142-145. 1932.

State license fees, 1882-1938 where changes or repeals have been made

Apparently the first State license fee levied on oleomargarine dealers was established by Mississippi in 1882, and, with the exception of one or two years such fees have been levied in one to 20 States from that time up to the present (January 1939). The following notes indicate the history of these fees in the various States where changes or repeals have been made prior to the present laws. For fees in effect January 1939. (See p. 6)

Colorado: An Act of Apr. 6, 1885, providing for fees of \$1,000 for manufacturers and \$500 for dealers was repealed by Act of Apr. 12, 1893, which levied tax of \$250 on manufacturers, \$125 on wholesalers, and \$25 on retailers; repealed Apr. 1, 1895. An Act of May 18, 1931, levied tax of \$25 on manufacturers and wholesalers. This was repealed Nov. 8, 1932, and reenacted in 1933.

Florida: An Act of 1913 provided for a license fee of \$20 annually for wholesalers. The law was repealed effective Oct. 1, 1937.

Kentucky: A law enacted Feb. 19, 1932, established annual manufacturers license fee of \$500, wholesalers and hotels \$3, retailers and restaurants \$2, boarding houses \$1. The court decisions of 1933 invalidating the excise tax did not invalidate the fees, but Act was repealed Mar. 12, 1928.

Louisiana: The law of July 12, 1932, provides that every wholesale dealer in oleomargarine, butter. . . and other dairy products be taxed $1\frac{1}{2}$ percent of the gross receipts. Tax was levied to defray expenses of tick eradication work. Law was effective through 1938.

Massachusetts: According to Law of 1886, "conveyors of margarine in a vehicle for purpose of sale must take out licenses in the towns in which it is being sold . . . and shall pay fifty cents for each registering. . .".

Michigan: A law of May 4, 1931 provided for \$100 manufacturers' and wholesale and \$5 retail license; repealed by referendum Nov. 8, 1932.

Mississippi: An Act of Mar. 9, 1882, required payment of a privilege tax of \$50 for every person offering oleomargarine for sale. Later repealed. An act effective May 1920, provided for a tax of \$100 for wholesalers and \$5 for retailers. The "Privilege Tax Law" of 1932 increased the retail fee to \$10 which rate continues.

Montana: The first "license fee" imposed Mar. 16, 1895, was 10 cents per pound on all oleomargarine or butterine sold. This was reduced to 1 cent per pound in 1901. In 1925, quarterly fees of \$250 for wholesalers and \$75 for retailers were imposed. The Act of 1931 increased retailers fees to \$100 per quarter.

Oregon: Act of Mar. 4, 1919, requiring fees of \$500 for manufacturers, \$250 for wholesalers, \$5 for restaurants, hotels, etc., was rejected by referendum Nov. 2, 1920. Act of Mar. 6, 1931, requiring fee of \$5 each for wholesalers, retailers, and restaurants, was rejected by referendum Nov. 8, 1932.

Wisconsin: Baker and confectioner's license \$5 and "license to consume margarine not purchased from a retail dealer, \$1." This law effective Jan. 1, 1932, reduced the rates of the Act of May 8, 1931 for retailers, restaurants, hotels, and boarding houses. (See p. 6)

Revival and defeat of prohibitory State legislation and opposition to restrictive legislation, 1923-38

Out of the welter of proposals submitted to Congress and to State Legislatures in the past 15 years for regulating oleomargarine, about two and one-half dozen were finally selected for enactment, but these laws have not been without opposition that has been expressed by repealing laws, by rejecting them on referendum vote, through invalidation by court decisions, or by allowing them to remain inactive.

Beginning in 1923, prohibitory clauses were again introduced into State legislation.

Oregon: A law was passed in 1923, which provided that no dairy products could be used in butter substitutes manufactured from vegetable oils. The law was rejected, however, by referendum vote on Nov. 4, 1924. The law was looked upon as a practical prohibition of vegetable oleomargarine.

Oleomargarine tax laws were twice enacted and twice rejected by referendum vote. On Mar. 6, 1931, a 10-cents-per-pound tax was placed on all kinds of oleomargarine. The act was submitted to the legal electors of the State and it was rejected Nov. 3, 1932. Again on Mar. 15, 1933, a 4-cent tax was placed on all kinds of oleomargarine, and rejected by referendum July 21, 1933.

Washington: Here in 1923 a law similar to Oregon's law prohibiting the use of any dairy products in the manufacture of butter substitutes was passed and was defeated by referendum vote.

In March 1931, Washington imposed a tax of 15 cents per pound on all kinds of oleomargarine sold within the State but not applying to oleomargarine manufactured within the State and exported from the State. This tax was attacked as being in violation of the interstate commerce clause and as being prohibitory and confiscatory in its operations. 1/ The court specifically answered the several charges and laid stress upon the point that the power to tax was broad and inclusive and that, in general, the only redress from excessive taxation lay in appeal to the electorate.

Upon appeal to the United States Supreme Court the case was affirmed, in a decision rendered Apr. 2, 1934. 2/ This court states that "Nucoa is a nutritious and pure article of food, with a well established place in the dietary." The decision also says that "... a tax designed to be expended for a public purpose does not cease to be one levied for that purpose because it has the effect of imposing a burden upon one class of business enterprises in such a way as to benefit another class. . . [Taxes] do not lose their character as taxes because of the incidental motive. . . The statute here under review is in form plainly a taxing act, with nothing in its terms to suggest that it was intended to be anything else. . . From the beginning of our government, the courts have sustained taxes although imposed with the collateral intent of effecting ulterior ends which, considered apart, were beyond the constitutional power of the lawmakers to realize by legislation directly addressed to their accomplishment". (See p. 6)

1/ A. Magnano Co. v. Dunbar, 2 Fed. Supp. 414, 417.

2/ A. Magnano Co. v. Hamilton, 292 U.S. 40. Apr. 2, 1934.

Wisconsin: In spite of the popular defeat of such laws in Washington and Oregon the Wisconsin State Legislature passed a law in 1925 prohibiting the manufacture or sale of butter substitutes in which milk or cream was combined with other oils. No distinction was made between vegetable and animal oils. In August 1925, the Dairy and Food Commissioner was enjoined from carrying out the provisions of the law; and on Jan. 18, 1926, the act was declared unconstitutional by the Circuit Court and the Commissioner permanently enjoined from enforcing it.

The Dairy and Food Commissioner then appealed to the Supreme Court of the State, which upheld the lower court. . .in its view that the terms of the act amounted to a prohibition of the manufacture and sale of oleomargarine. It stated: "There is not a scintilla of evidence that there has ever been upon the market in commercial form a substance known as oleomargarine which did not combine milk or milk fats with some oleaginous substance." It concluded, therefore, that "there can be no doubt that Chapter 279 had for its sole purpose the prohibiting of the manufacture and sale within the State of Wisconsin of oleomargarine as that term is defined by the laws of the United States as it is ordinarily used and understood in commercial transactions." 1/

The Wisconsin tax of 6 cents per pound imposed in 1932 on all kinds of oleomargarine was raised to 15 cents in June 1935. (See p. 6)

California in 1925 passed a dairy law providing for a special manufacturing tax of 2 cents per pound on oleomargarine. This law was rejected by popular referendum vote Nov. 2, 1926.

A law imposing a tax of 10 cents per pound on oleomargarine containing other than specified domestic materials, enacted to be effective April 1935, was delayed from going into effect by referendum petition filed with the Secretary of State. It was rejected by the people Nov. 3, 1936.

Colorado: On May 18, 1931, a law was enacted placing a stamp tax of 15 cents per pound "on all oleomargarine except that which contains 45 percent or more of animal fats with a 2-percent tolerance, not including fish oils or fish fats. . ." By petition of referendum, June 26, 1931, the act was referred to the people of the State of Colorado, and disapproved Nov. 8, 1932. (See p. 6 for enactment of 1933.)

Kentucky enacted a law Feb. 19, 1932, placing a tax of 10 cents per pound on all kinds of oleomargarine. "The validity of the excise tax levied by Kentucky 2/ was early called into question by the margarine producers. It was assailed 3/ as being in violation of both the State Constitution and the Federal Constitution. The court refrained from passing upon the validity of the law under the 14th Amendment and confined itself to the question of the prohibitory nature of the tax; that is, it passed upon the question as to whether or not the act was in violation of the Constitution of Kentucky, which, when read with

1/ Snodgrass, K. Margarine as a butter substitute. Stanford Univ. Food Research Inst. Fats and Oils Studies 4:96, 97. 1930.

2/ Sullivan, R. The new margarine taxes. The Tax Magazine, 12:600-602, 630. November 1935.

3/ Field Packing Co. v. Glenn, 5 Fed. supp. 4 (Apr. 20, 1933).

the Bill of Rights, has been interpreted to forbid excise taxation high enough to prohibit legitimate business. The court admitted that the evidence presented by the defendant indicated that the margarine industry would have been, in ordinary times, able to absorb the tax and still sell its product in competition with butter, but the sharp price reductions as a result of the depression narrowed or eliminated the price differential between the two products, thereby destroying the sale of margarine in the State. The court said in part: "Under improved economic conditions it is conceivable that the tax complained of here would not be prohibitive. We are satisfied from the record that it is prohibitive now". The United States Supreme Court affirmed the decision Dec. 4, 1933, with certain modification. 1/ The law was repealed in 1938.

Oklahoma: An enactment of Mar. 11, 1931, placing a tax of 10 cents per pound on all kinds of oleomargarine, became a law without the signature of the Governor. The question of the repeal of the law was submitted to the people at the general election Nov. 8, 1932. There were 265,890 votes to repeal the act and 342,998 votes against repeal; the law was therefore kept on the statute books. (See p. 6)

The Act requires manufacturers and venders to operate under license and provides for administration by a State Dairy Commissioner, but makes no provision for enforcement thereof, either by the Dairy Commissioner, or by the Tax Commission. The Tax Commission states 2/ that "funds have not been appropriated for the purchase of stamps" and that "the law is generally disregarded". However, the law is apparently effective in reducing sales as the number of retail dealers dropped from about 3,500 in 1928 to about 350 in 1937.

An amendment to the law, exempted from taxes oleomargarine made from specified domestic fats. This amendment was passed by both houses and was approved by the Governor Apr. 20, 1937, but was defeated by referendum vote Nov. 8, 1938. Therefore, the law of 1931 still stands. (See p. 6)

New Mexico enacted a law Feb. 25, 1935, placing a tax of 10 cents per pound on oleomargarine made of materials other than specified domestic fats and oils. (See p. 6) A comment was made on the law in a letter 3/ from the State Attorney General as follows: ". . .The Act is so indefinite as a whole that we seriously doubt if it could be enforced with any degree of success. . . It cannot legally be enforced at this time as no enforcement body is mentioned in the title. . .Even though we should hold that the act is enforceable, at the same time we would be compelled to hold that the State Tax Commissioner has no money available either by this appropriation or from [other] sources whereby such enforcement could be had. . ." A later letter from the office of the Commissioner of Revenue, Aug. 8, 1938, states ". . .since the law went into effect such brands of oleomargarine have not been sold in the State."

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1/ Supreme Court Decision, 290 U.S. 177. Dec. 4, 1933.

2/ Letter dated Feb. 7, 1936, from Oklahoma Tax Commission.

3/ Letter dated June 5, 1935, from New Mexico State Attorney General to Chief Tax Commissioner of New Mexico.

Reference Citations

References are divided into three sections, as follows:

1. Federal legislation and rulings.
2. State laws.
3. Abstracts, summaries, and surveys of legislation.

1. Citations to Federal legislation and rulings on oleomargarine and ingredients

Oleomargarine Act of Aug. 2, 1886 -

An Act defining butter, redefining oleomargarine and also imposing (sec. 8) a 2-cent-per-pound tax upon and regulating by special taxes and otherwise the manufacture, sale, importation, and exportation of oleomargarine. It imposed an internal-revenue tax of 15 cents per pound on all imported oleomargarine (sec. 10). (U.S. Statutes at large, 49th Cong., 1885-87, vol. 24, p. 209-213, chap. 840, Aug. 2, 1886.) See p.

Act of Oct. 1, 1890 -

To amend Act of 1886. States that "special taxes" are due upon entering business and annually on the first day of July thereafter. (U.S. Statutes at large, 51st Cong., 1889-90, vol. 26, p. 624, sec. 63, Oct. 1, 1890.)

Act of May 9, 1902 -

To amend Act of 1886. By differentiating between colored and uncolored oleomargarine and placing the 1-cent-per-pound tax on "oleomargarine free from artificial coloration that causes it to look like butter of any shade of yellow", and 10 cents per pound on other, changing the special taxes, making oleomargarine subject to the laws of the State into which it is transported, etc. (U.S. Statutes at large, 57th Cong., 1901-03, vol. 32, pt. 1, p. 193-197, chap. 784, May 9, 1902, Public no. 110.) See p.

Act of Oct. 1, 1918 - (A rider attached to an Act covering other matters.)

To amend sec. 6 of Act of 1886. By regulation of packaging, etc. (U.S. Statutes at large, 65th Cong., 1917-19, vol. 40, pt. 1, p. 1008, chap. 178, Oct. 1, 1918, Public no. 219.)

Act of July 10, 1930 -

To amend sec. 2 of Act of 1886, as amended. By redefining oleomargarine. (U.S. Statutes at large, 71st Cong., 1929-31, vol. 46, pt. 1, p. 1022, chap. 832, July 10, 1930, Public no. 540.) See p.

Act of Mar. 4, 1931 -

To amend sec. 8 of Act of 1886, as amended. Did not change the rate of stamp taxes imposed by the Act of 1902, but clarified the meaning by stating that the 10-cent per pound tax was on "oleomargarine which is yellow in color" and defining "yellow in color". (U.S. Statutes at large, 71st Cong., 1929-31, vol. 46, pt. 1, p. 1549-1550, chap. 520, Mar. 4, 1931, Public no. 876.) See p.

Act of Feb. 24, 1933 -

To amend sec. 6 of Act of 1886, as amended. Authorizing the packing of oleomargarine. . . in tin and other suitable packages. (U.S. Statutes at large, 72nd Cong., 1931-33, vol. 47, pt. 1, p. 902-903, chap. 116, Feb. 24, 1933.

Regulations relating to taxes on oleomargarine -

Bureau of Internal Revenue regulations no. 9, rev. April 1936.

Tariff Acts -

1883, schedule g, duty of 4¢ per lb.; 1890, par. 266, duty of 6¢ per lb.; 1894, par. 194, duty of 4¢ per lb.; 1897, par. 236, duty of 6¢ per lb.; 1909, par. 245, duty of 6¢ per lb.; 1913, par. 195, duty of 2½¢ per lb.; Emergency Act of 1921, duty of 6¢ per lb.; 1922, par. 709, duty of 8¢ per lb.; 1930, par. 709, duty of 14¢ per lb.

Revenue Acts -

1934. Excise tax on first domestic processing of certain fats and oils. Sec. 602, 602½. 73rd Cong. H.R. 7835. See p.

1936. Compensatory tax on merchandise containing 10 percent or more of taxable materials. Sec. 701. 74th Cong. H.R. 12395.

Regulations relating to processing tax on certain oils under sec. 602½ of the Revenue Act of 1934 -

Bureau of Internal Revenue, regulations no. 48, 1934.

The Meat Inspection Act -

Included in "An Act making appropriations for the Department of Agriculture. . ." (34 Stat. 674) approved June 30, 1906. Supplementary legislation (34 Stat. 1260) approved Mar. 4, 1907; (38 Stat. 114, 152, 159) approved Oct. 3, 1913; (41 Stat. 241) approved July 24, 1919. Administered by the Bureau of Animal Industry, United States Department of Agriculture.

Regulations governing Meat Inspection -

Bureau of Animal Industry order 211, revised 1922; and amendment no. 9, 1935.

Federal Food and Drug Act -

An Act, "For preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes", approved June 30, 1906 (34 Stat. 768), as amended by the Act approved Aug. 23, 1912 (37 Stat. 416), by the Act approved Mar. 3, 1913 (37 Stat. 732), by the Act approved Mar. 4, 1913 (37 Stat. 736), by the Act approved July 24, 1919 (41 Stat. 271), by the Act approved Jan. 18, 1927 (44 Stat. 1003), by the Act approved July 8, 1930 (H.R. 730).

Food and Drug Administration -

Regulations for the enforcement of the Food and Drug Act. S.A.A. F.D. no. 1, 10th revision, November 1930.

Food and Drug Administration -

Notice to packers of vegetable oleomargarine. Approved June 6, 1935.

Federal Trade Commission -

Trade practice rules for oleomargarine manufacturing industry. Promulgated Sept. 27, 1938.

2. Citations to State laws on oleomargarine excise taxes

The list of citations to excise or stamp tax laws is believed to be reasonably complete. A few citations to other oleomargarine laws have been included but no effort has been made to complete the list of additions.

Alabama - 10¢ excise tax, enacted June 1935. New laws, p. 118, H.B. #329.

Arkansas - 10¢ excise tax, enacted February 1935. Act #56, sec. 3, p. 128.
Requiring dishes to be labeled. Digest of statutes, 1921, chap. 69, p. 1312, #4829.

California - 10¢ excise tax, enacted April 1935. chap. 51, bill #578. Delayed from going into effect by referendum petition which was voted on Nov. 3, 1936, and the law was rejected.

License fees and color prohibited. Statutes of 1923, chap. 392.

2 cents-per-pound-special-manufacturers tax on oleomargarine.

Deering's Gen. Laws, supp. 1925-27, act 1945, sec. 12, p. 1032. Rejected by referendum vote, Nov. 2, 1926.

Colorado - 15¢ excise tax, enacted May 18, 1931. chap. 127, sec. 2, p. 622-623.
Repeal of excise tax law of 1931. Laws of 1933, rejected laws, chap. 142, p. 745.

10¢ excise tax, enacted Apr. 14, 1933, chap. 141, p. 741, sec. 2.

License fees - April 1885, S.B. 103, sec. 2, p. 282.

Repeal of provisions of 1885 and enactment of laws establishing reduced license fees - April 1893, chap. 125, sec. 2, p. 351.

Repeal of law of 1893 - April 1895, chap. 19, sec. 15, p. 61.

License fees - May 1931, chap. 127, H.B. 10, sec. 3, p. 623.

Repeal of law of 1931 - November 1932, chap. 142, p. 745.

License fees - April 1933, chap. 141, H.B. 337, sec. 3, p. 742.

Florida - 10¢ excise tax, enacted June 8, 1935, vol. 1, chap. 17095, S.B. 1038, #324, p. 714.

License fees - chap. 6421, sec. 6 of Acts of 1913, quoted in sec. 940 of Gen. Statutes of 1920 and in sec. 1211 (940) of Gen. Laws of 1927, and repealed in sec. 38, S.B. 917, effective Oct. 1, 1937. vol. 1 of 1937 Gen. Laws.

Georgia - 10¢ excise tax, enacted Mar. 21, 1935. pt. 1, title II, #208, sec. 1, p. 81-82.

Idaho - 5 and 10¢ excise tax, enacted Mar. 7, 1931. chap. 93, sec. 2, p. 158.
License fees - 1929, H.B. 126.

Iowa - 5¢ excise tax, enacted Mar. 23, 1931. chap. 150, p. 423.

Kansas - 10¢ excise tax, enacted Feb. 23, 1933, effective June 25, 1933. chap. 321, S.B. #156, p. 549.

Kentucky - 10¢ tax, enacted Feb. 19, 1932. chap. 158, H.B. 111, p. 718-722, sec. 2 and 8a.

Kentucky - Contd

Law of 1932 invalidated by decision of District Court, W.D. Ky., Apr. 20, 1933 and by Supreme Court decision (290 U.S. 177) Dec. 4, 1933. But remained on the statute books until repealed, Ky. 1938 New State Laws, p. 173, sec. 2, Mar. 12, 1938.

License fees - Feb. 19, 1932, chap. 158, H.B. 111, p. 718-722, sec. 5 and 6. Supreme Court decision of 1933 did not invalidate fees, but they were repealed when the tax was repealed, Mar. 12, 1938 (see above).

Sec. 2, 8a, 5 and 6, all quoted in Carroll's Ky. Statutes, 1936 ed., par. 4224d, 5, 9, p. 2213.

Louisiana - 12¢ excise tax, enacted July 13, 1934, effective Sept. 13, 1934.

Act #178, H.B. #68, p. 561.

Tax of 1½ percent of gross receipts enacted July 7, 1932. Sec. 1, p. 118, Act #17, H.B. #53. Called Tick Eradication Law (also taxes butter, cheese, ice cream, and other milk products).

Amended and reenacted July 12, 1934, Act #33, H.B. 159, p. 196-197.

Maine - 10¢ excise tax, enacted Mar. 16, 1935, chap. 54, sec. 1, p. 241.

Massachusetts - License fees - 1886, 317, par. 5 (see vol. 3, chap. 94, par. 52-53 of Annotated Laws of Massachusetts, published in 1933).

Minnesota - 10¢ excise tax, enacted Apr. 8, 1933, effective July 1, 1933. chap. 175, H.F. #733, p. 211.

License fees - 1931, chap. 344. Also quoted in 1934 supp. to Mason's Minn. Statutes, 1927, vol. 3.

Mississippi - License fees or privilege tax - Act of Mar. 9, 1882, \$50 privilege tax, later repealed. Code of 1906, chap. 114, p. 1063, #3842, dealer tax \$5. Law 1920, chap. 104, sec. 40, amends #3842, makes wholesaler's privilege tax \$100, retailer's \$5. effective May 1, 1920. 1933 supp. to Code of 1930, chap. 89, sec. 147, increased retail tax to \$10, effective June 1, 1932, and reenacted biennially since.

Montana - 10¢ license tax, enacted Mar. 16, 1895. pt. 3, title X, chap. XIII, sec. 4064.

1¢ license fee, amended Mar. 4, 1901, H.B. #80, p. 143-145.

License fees - approved March 1925, effective July 1925. chap. 188, sec. 1, p. 363.

License fees - March 1931, chap. 87, p. 165-166.

Nebraska - 15¢ tax, enacted May 1, 1931. chap. 131, S.F. 117, p. 366, sec. 15, p. 370, provided for crediting Federal tax against State tax.

License fees - April 1919, chap. 190, S.F. #2, title III, art. X, sec. 4, p. 506-507.

New Mexico - 10¢ excise tax, enacted Feb. 25, 1935. chap. 110, H.B. 155, sec. 2, p. 240.

North Carolina - 10¢ excise tax, enacted May 7, 1935. chap. 328, H.B. 683, sec. 1, p. 395.

North Dakota - 10¢ excise tax, enacted Mar. 10, 1931. chap. 211, H.B. 96, p. 365.

Oklahoma - 10¢ stamp tax, enacted Mar. 11, 1931. chap. 24, art. 4, H.B. #68, p. 44.

The question of the repeal of the 10-cent stamp tax law of Mar. 11, 1931, was submitted to the people (Referendum Petition #55), at the general election Nov. 8, 1932; the law was kept on the statute books. (State questions submitted to the people under the initiative and referendum since Statehood. State question No. 164.)

10¢ stamp tax to apply only to oleomargarine containing imported ingredients. S.B. 217 amending 1931 law approved May 11, 1937 to be effective Aug. 10, 1937. Delayed by referendum petition. Defeated by vote of people Nov. 8, 1938, therefore the 1931 law stands unamended.

Color prohibited and license fees - March 1931, Session laws, chap. 24, art. 4, H.B. #68, sec. 4 and 5, p. 44.

Oregon - Oleomargarine not to be colored or sold as butter. Enacted in 1915, chap. 343, sec. 72, Gen. Laws of Oregon.

Dealer must keep sale book for oleomargarine. . . Enacted in 1915, chap. 343, sec. 74, Gen. Laws of Oregon.

License fees - Act of Mar. 4, 1919, placed annual license fees of \$500 for manufacturers, \$250 for wholesalers, and \$5 for proprietors of hotels, restaurants, dining rooms, or boarding houses. chap. 431, p. 795-799, Gen. Laws of Oregon.

The question of the repeal was submitted to the people at the general election, Nov. 2, 1920, and the law was rejected by referendum vote.

10¢ excise tax, enacted Mar. 6, 1931. chap. 286, p. 507, sec. 2. The Act of Mar. 6, 1931, was submitted to the legal electors of the State for their approval or rejection by petition filed May 19, 1931. The Act was rejected at the general election Nov. 8, 1932. Oregon Laws, Special and Regular Sessions [published 1933]. Acts of the 36th Legislative Assembly voted upon by referendum.

4¢ excise tax, enacted Mar. 15, 1933. chap. 442, p. 831, sec. 2. Repeal of excise tax law of 1933, by referendum July 21, 1933.

Law providing that no dairy products could be used in butter substitutes manufactured from vegetable oils. General laws, 1923, chap. 168, p. 241. Rejected by referendum vote, Nov. 4, 1924.

Color prohibited - February 1931, chap. 43, p. 48, sec. 41-324.

Pennsylvania - License tax laws of Pennsylvania, 1899, p. 241.

South Carolina - 10¢ excise tax, approved Apr. 7, 1934. Act 860 (1016), p. 1469.

South Dakota - 10¢ excise tax, enacted Feb. 25, 1931. chap. 258, H.B. 74, sec. 1, p. 319.

Color prohibited - March 1897, chap. 65 H.B. 61, sec. 2, p. 183.

Tennessee - 10¢ excise tax, enacted Mar. 21, 1931, effective Apr. 21, 1931. chap. 19, sec. 2, 10, p. 40, 45.

License fees - April 1931, chap. 19, sec. 2, 10, p. 40, 45.

Texas - 10¢ excise tax, enacted Sept. 21, 1934, effective 90 days after adjournment, adjourned Sept. 25, 1934. 3rd Session, H.B. 32, chap. 6, p. 9, sec. 2.

Utah - 5 and 10¢ stamp tax, approved Mar. 25, 1929, effective May 14, 1929. chap. 91 of 1929 laws. H.B. #88.

Amended (i.e. reenacted with slight changes included), Aug. 1, 1933, effective Aug. 5, 1933. 1933 laws, 2nd Special Session, chap. 17, p. 30, S.B. #19.

License fees - approved March 1929, effective May 1929, chap. 91, H.B. #88, p. 171.

Washington - 15¢ excise tax, approved by Governor Mar. 9, 1931. chap. 23 (S.B. 79, p. 77).

Law providing that no dairy products could be used in butter substitutes manufactured from vegetable oils. Laws of Washington, 1923, chap. 22, p. 48.

Defeated by referendum vote.

Wisconsin - 6¢ stamp tax, enacted Jan. 27, 1932. chap. 17, laws of 1932, Special Session, S.B. #39, p. 54.

15¢ excise tax, enacted June 28, 1935, effective June 29, 1935. chap. 210, p. 324, laws of 1935, S.B. #105, p. 324.

Law prohibiting the manufacture or sale of butter substitutes in which milk or cream was combined with other oils. Laws of Wisconsin, 1925, chap. 279, p. 355.

Declared unconstitutional by the Circuit Court in 1926.

License fees - May 1931, chap. 96, sec. 3, p. 217.

To amend law of 1931 - license fees changed. Special session, 1931, effective January 1932. chap. 3, p. 9, no. 13a.

Wyoming - 10¢ sales tax, enacted June 1, 1931, chap. 137, H.B. #157, Session laws 1931, sec. 1, 3, p. 792.

3. Abstracts, summaries, and surveys of legislation
chronologically arranged

A bibliography purporting to cover, with any degree of completeness, material touching on oleomargarine legislation would include hundreds of entries. The brief list supplied brings together 16 of the best general abstracts, summaries, and surveys covering the period 1877-1938.

1886. United States Department of Agriculture. Report of the Statistician, (n.s.) 29:195-211. 1886.

Shows a summary of State legislation relating to oleomargarine divided into regulative and prohibitory laws. Also a summary of foreign legislation and regulations relating to oleomargarine.

1887. Bannard, H.C. The oleomargarine law; a study of congressional politics. Political Science Quarterly. 2:545-557, December 1887.

In discussing the Oleomargarine Law of 1886, he points out that the bill was favored by groups with three differing points of view: (1) those who wanted to suppress a food they believed to be "foul in its nature and deleterious to the public health, or perhaps a positive poison", (2) those who wanted to prohibit the sale of any article that competed with butter, and (3) those who wanted to legislate against the fraudulent sale of oleomargarine as genuine butter.

- United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1887:CKXVI-CLII.

Discusses the Oleomargarine Act of 1886 as a protective measure, as a prohibitive measure, and as a sanitary measure.

1890. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1890:184-188.

Summary of State and territorial laws relating to oleomargarine in force June 17, 1890.

1891. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1891:189-192.

Supplementary report on summary of State and territorial laws up to June 30, 1891.

1894. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1894:179-180.

Analysis of conditions in the oleomargarine industry and amendments suggested for the oleomargarine statutes.

1895. Schewinitz, E.A. de. Butter substitutes. U.S. Dept. Agr. Yearbook. 1895:445-452.

Discusses manufacture, ingredients, wholesomeness, and fraudulent sale.

1897. United States Department of Agriculture. Bureau of Animal Industry. Ann. Rept. National and State dairy laws. . . (1897) 14:532-703.
1898.
 Tabulation of principal points, 532-533.
 Abstracts of State dairy laws, stating briefly the principal features, 534-555.
 State dairy laws quoted in full, 556-703.
 Federal dairy laws of Canada, 703-708.
1900. United States Department of Agriculture. Bureau of Animal Industry Bull. 26. National and State dairy laws. . . 1900.
 Tabulation of principal points, 6-7.
 Brief abstract of the principal features of national and State and Canadian dairy laws enforced through 1900, 9-36.
 Full text of dairy laws enacted since the 14th annual report of the dairy industry in 1898, and a few "which were inadvertently omitted" from that report, 37-110.
1909. United States Bureau of Internal Revenue. Ann. Report of the Comm. of Int. Rev. 1909:36.
 Urges amendments providing for a flat rate per pound excise tax and a single rate of special taxes.
1911. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1911:17-19.
 Discusses the evasion of the law and makes recommendations for its amendment with a review of the situation and description of the existing corruption and fraud and the need of a complete revision of the oleomargarine statutes.
1914. United States Bureau of Internal Revenue. Ann. Rept. of the Comm. of Int. Rev. 1914:21-22.
 Discusses fraud in connection with trying to enforce collection of tax on colored oleomargarine.
1916. Weist, E. The butter industry in the United States. An economic study of butter and oleomargarine. Columbia Univ. Studies in Hist., Econ. and Pub. Law. 69:210-264. 1916.
 Adulteration and oleomargarine, 210-233.
 Oleomargarine legislation, 234-264.
1930. Snodgrass, K. Margarine as a butter substitute. 333 p. Stanford University, Calif. (Leland Stanford Junior Univ. Food Research Ins.) Fats and Oils Studies 4. 1930.
 The one adequate work covering the field prior to 1930.
1934. Weber, G.M. Legislative weapons in inter-industry competition - oils and fats. Harvard Business Review 13:72-81, October 1934.
1937. Pabst, W.R. Butter and oleomargarine: an analysis of competing commodities. Columbia Univ. 1937.
 Chap. I, Development of the industries.
 Chap. II, Restraint of competition between butter and oleomargarine.
 Chap. III, Relationship of butter and oleomargarine.
 Chap. IV, Question of further taxation of oleomargarine.

