

3540. Misbranding of Freckeless. U. S. v. John Emmett Barry (J. E. Barry & Co.). Plea of guilty. Fine, \$10. (F. & D. No. 5512. I. S. No. 141-e.)

On October 5, 1914, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against John Emmett Barry, trading under the firm name and style of J. E. Barry & Co., Paris, Tex., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about April 27, 1912, from the State of Texas into the State of Missouri, of a quantity of an article of drug called "Freckeless" which was misbranded. The product was labeled: "Serial No. 20841 Price 50 cents A superior skin food and massage cream Freckeless Label registered For the removal of freckles, tan, etc. J. E. Barry & Co., Paris, Texas. The Superior Skin Food & Massage Cream, prepared upon scientific principles. As harmless as it is sure. Serial No. 20841. For the removal of Freckles, Tan, Sunburn and other Facial blemishes without the least injury to the skin. Does not cause a growth of superfluous hair. The use of Freckeless, freckeless skin soap and freckeless toilet powder in the treatment of the complexion brings about results that are invariably pleasing and gratifying. See directions on bottom of box. Directions, with the tips of the fingers apply a small quantity of Freckeless to the face, massaging thoroughly for several minutes. In the morning wash face in cold water, lathering well with Freckeless Soap. Repeat each night until desired result is produced. The occasional use of Freckeless will maintain a healthy, clear complexion. We recommend Freckeless Toilet Powder as being absolutely pure and harmless. J. E. Barry & Co., Paris, Texas, Serial Number 20841."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that the product was an ointment consisting largely of petrolatum, carrying in suspension about 10 per cent of bismuth subnitrate and 12 per cent of ammoniated mercury.

Misbranding of the product was alleged in the information for the reason that the label thereon bore the following statement, to wit, "As harmless as it is sure," which said statement was false and misleading in that it purported and represented to purchasers of said article that the same was free from any and all ingredients generally recognized as harmful, poisonous, and deleterious to the human system, whereas, in fact, said article was not free from substances which are generally recognized as harmful, poisonous, and deleterious to the human system, but was manufactured in part from and contained as one of its ingredients a certain substance, generally recognized as harmful, poisonous, and deleterious to the human system, to wit, ammoniated mercury. Misbranding was alleged for the further reason that said article of drug bore as a part of the label thereof the following statement, to wit, "A superior skin food," which said statement was false and misleading in that it purported and represented that said article of drug was food for the skin and contained ingredients capable of acting as a food for the skin, whereas, in truth and in fact, said article was not a food for the skin and did not contain any ingredient or combination of ingredients capable of acting as a food for the skin.

On October 19, 1914, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$10.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., January 13, 1915.