pounds, of senna at Wheeling, W. Va., alleging that the article had been shipped from New York, N. Y., from on or about October 6 to 20, 1942, and that it was in the possession of Sterling Drug, Inc.; and charging that it was adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of webbing, adult insects, insect larvae, insect fragments and capsules, and large quantities of insect excreta; and in that it had been held under insanitary conditions whereby it had been contaminated with filth.

It was alleged to be further adulterated in that it purported to be and was represented as a drug, senna, the name of which is recognized in an official compendium, the United States Pharmacopeia, but its quality and purity fell below the standard set forth in that compendium since it was not substantially free from insects, extraneous animal matter and animal excreta, but contained filth of the nature described above.

On January 7, 1944, the Sterling Drug, Inc., Wheeling, W. Va., claimant, having admitted that the product was adulterated as charged in the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law under the supervision of an employee designated by the Federal Security Administrator.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF DEVIATION FROM OFFICIAL OR OWN STANDARDS*

1163. Adulteration and misbranding of Phenolix Elixir Phenobarbital. U. S. v. Wayne Pharmacal Supply Co. Plea of nolo contendere. Fine, $50 and costs. (F. D. C. No. 9687. Sample No. 584–F.)

On August 27, 1943, the United States attorney for the Northern District of Indiana filed an information against the Wayne Pharmacal Supply Co., a corporation, Fort Wayne, Ind., alleging shipment of a quantity of the above-named product on or about November 10, 1942, from the State of Indiana into the State of Michigan.

The article was alleged to be adulterated in that it purported to be a drug, the name of which is recognized in the United States Pharmacopoeia, an official compendium, but its quality or purity fell below the standard set forth therein since the compendium provides that elixir of phenobarbital shall be a clear elixir and shall contain not less than 12 percent of alcohol and 450 cc. of glycerin per 1,000 cc., whereas the article was not a clear elixir, but was a liquid containing a large amount of precipitated, crystallized phenobarbital, and it contained not more than 0.15 percent of alcohol and not more than 26 cc. of glycerin per 1,000 cc.

It was alleged to be misbranded in that it was for use by man and it contained phenobarbital, a derivative of barbituric acid, a hypnotic substance, which derivative has been, after investigation, found to be, and by regulations has been designated as, habit-forming, and the label of the article did not bear the name and quantity or proportion of such derivative and, in juxtaposition therewith, the statement "Warning—May be habit forming."

On January 6, 1944, the defendant having entered a plea of nolo contendere, the court imposed a fine of $25 on each of 2 counts, plus costs.

1164. Misbranding of oxygen-carbon dioxide mixture. U. S. v. Stuart Oxygen Co. Plea of nolo contendere. Fine, $300. (F. D. C. No. 10603. Sample Nos. 13894–F, 14167–F, 39332–F.)

On December 16, 1943, the United States attorney for the Southern District of California filed an information against the Stuart Oxygen Co., a corporation, Los Angeles, Calif., alleging shipment of quantities of the above-named product from the State of California into the State of Arizona on or about July 14, 1942, and April 7 and May 11, 1943.

The article was alleged to be misbranded in that the statements appearing on the labeling of one portion of the article, which represented and suggested that it contained not less than 5 percent of carbon dioxide, and on the labeling of the remainder, which represented and suggested that it contained not less than 10 percent of carbon dioxide, were false and misleading since the article contained, in the case of the former, not more than 3.5 percent of carbon dioxide, and, in the case of the latter, not more than 7.4 percent of carbon dioxide.

On February 14, 1944, the defendant having entered a plea of nolo contendere, the court imposed a fine of $100 on each of 3 counts.

*See also Nos. 1151–1153, 1162.