Court to condemn the misbranded articles was not impaired or diminished by the former proceeding. United States v. Research Laboratories, 9 Cir., 126 F. 2d 42, 45.

"(2) The findings of the District Court are supported by the evidence and its judgment is in accordance with the applicable law.

"The judgment is affirmed."

On January 27, 1943, the case instituted in the District of Nevada and the other action at Houston, Tex., having been consolidated and removed to the District Court for the Northern District of California, and the claim and answer of the Sekov Corporation having been withdrawn, judgments of condemnation and forfeiture were entered and it was ordered that the clerk return the files to the respective districts, together with copies of the decrees of condemnation, forfeiture, and destruction, in order that the marshals for those districts might destroy the product. In April 1944, a decree was entered ordering that the product at Houston, Tex., be destroyed.

1003. Adulteration and misbranding of Nelson's Antacid Powder and misbranding of B-M Cold Caps and Fero-Tona. U. S. v. 30½ Dozen Vials of B-M Cold Caps, 12½ Dozen Bottles of Fero-Tona, and 17 Packages of Nelson's Antacid Powder. Default decrees of condemnation and destruction. (F. D. C. No. 9593. Sample Nos. 6597-F to 6599-F, incl.)

On March 22, 1943, the United States attorney for the Eastern District of Missouri filed libels against 30½ dozen vials of B-M Cold Caps, 12½ dozen bottles of Fero-Tona, and 17 packages of Nelson's Antacid Powder at St. Louis, Mo., alleging that the articles had been shipped in interstate commerce, from Cleveland, Ohio, by the Great Lakes Laboratories, on or about May 25 and November 6, 1942, and January 2, 1943; and charging that they were misbranded and that the Antacid Powder was also adulterated. The Cold Caps and the Fero-Tona were labeled in part: "Distributed by Ber-Mel [or "Mels"], Inc. Cleveland, Ohio."

Examination of the Cold Caps showed that they consisted essentially of acetanilid 1.72 grains and aspirin 4.47 grains per capsule, together with caffein, laxative plant drugs, including aloin, capsicum, and alkaloids extracted from belladonna. The product was alleged to be misbranded (1) in that it was dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, and suggested in the labeling, "One capsule every 2 or 3 hours with a glassful or more of water," since, when taken in such manner, it supplied a quantity of acetanilid which was dangerous to health; (2) in that the statement in its labeling, "For Temporary Relief of Minor Colds, Flu," was false and misleading since it would not afford temporary relief from flu or all the symptoms of minor colds; (3) in that it was fabricated from two or more ingredients and its label failed to bear a statement of the quantity or proportion of atropine, hyoscine, or hyoscyamine contained therein; (4) in that its labeling failed to bear adequate directions for use, since the directions which appeared upon the label provided for the administration of excessive amounts of acetanilid, and were therefore not adequate; and (5) in that its labeling failed to warn that frequent and continued use of a preparation containing acetanilid might be dangerous, causing serious blood disturbances, anemia, collapse, or dependence upon drugs, that frequent or continued use of a preparation containing belladonna alkaloids should be avoided, that the article was to be used cautiously if dryness of the throat occurred, and its use discontinued if rapid pulse or blurring of vision occurred, and that frequent or continued use of a laxative might result in dependence on laxatives.

Examination of the Fero-Tona showed that it consisted essentially of hexamethylenamine, potassium iodide, ferric chloride, laxative plant drugs, and strychnine sulfate. The bottle was contained in a carton much larger than necessary, since the bottle was surrounded by a liner occupying 11.8 percent of the volume of the carton, and there was 1½ inch head space above the bottle. It was alleged to be misbranded (1) in that the statements appearing in its labeling which represented and suggested that it was effective as a diuretic and was effective to aid important organs of the body to function properly were false and misleading since the article was not so effective; (2) in that its labeling failed to bear adequate directions for use, since the directions which appeared in the labeling provided for the continuous administration of a laxative and recommended for children the use of a preparation containing strychnine, and were therefore not adequate; and (3) in that its labeling failed to warn that a laxative should not be taken in case of nausea, vomiting, abdominal pain, or other symptoms of appendicitis, that frequent or contained use might result in dependence upon

a laxative, that an article containing potassium iodide should not be used in case of goiter except upon the advice of a physician, that its use should be discontinued if a skin rash appears, that no more than the recommended dose of a preparation containing strychnine should be taken, that frequent or continued use should be avoided, and that its use for children and elderly persons might be especially dangerous. It was alleged to be misbranded further in that its container was so made and filled as to be misleading, since the carton was much larger than necessary for the size of the bottle.

Examination showed that the Antacid Powder consisted essentially of compounds of sodium, calcium, and magnesium, including carbonate, and that it did not contain bismuth compounds. It was alleged to be adulterated in that its strength differed from that which it purported and was represented on its label to possess, "Bismuth Salts in the form of Carbonates Subnitrates." It was alleged to be misbranded in that the following statements appearing in its labeling, "Bismuth Salts in the form of Carbonates Subnitrates are widely prescribed for gastric ulcer, gastralgia, gastritis, hyperacidity, acidosis, etc. They form a soothing, protective coating over the highly inflamed mucous membranes of the stomach; mildly astringent and sedative. Carica Papaya * * * converts all protein foods such as meats and albumens into soluble and readily absorbed peptones. Malt Diastase Converts all starchy foods into soluble dextrins and sugars. Alkalinizer * * * Acidosis, * * * Functional Stomach Disorders * * * Gastric Ulcer, Gastritis, Gastralgia, Indigestion. This preparation is built up on strictly scientific principles, offers a rational and effective method of re-establishing the normal alkalinity of the body fluids without the danger of systemic disturbance. * * * instantly neutralize all stomach acids * * * instant relief from acidity and gas pressure," were false and misleading since such statements represented and suggested that the article contained bismuth salts and was effective in the treatment of the conditions and symptoms described and stated, whereas the article did not contain bismuth salts and was not effective in the treatment of those conditions and symptoms. It was alleged to be misbranded further in that it was in package form and its label failed to bear an accurate statement of the quantity of its contents.

On April 17, 1943, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

1004. Misbranding of Stero-Uteroids. U. S. v. 5 Cartons of Stero-Uteroids. Default decree of condemnation and destruction, with provision for the release of a portion of the product to the Food and Drug Administration. (F. D. C. No. 9546. Sample No. 37824–F.)

On or about March 24, 1943, the United States attorney for the Northern District of Illinois filed a libel against 5 cartons, each containing 2 tubes, of Stero-Uteroids at Chicago, Ill., alleging that the article had been shipped in interstate commerce by Charles A. Ainsworth, of Ainsworth Specialty Co., from Kansas City, Mo., within the period from on or about July 24, 1941, to October 17, 1942; and charging that it was misbranded.

Analysis showed that the article consisted essentially of small proportions of zinc sulfate, plant material (including alkaloid-bearing drugs), and a trace of iodine incorporated in a base of ichthammol and wool fat.

It was alleged to be misbranded in that it would be dangerous to health when used in the dosage and with the frequency prescribed, recommended, and suggested in the labeling, in that the name of the article, "Stero-Uteroids," and the directions, "Apply with catheter under aseptic conditions," which appeared in the labeling of some of the packages, represented and suggested the introduction of the article into the uterus, whereas the article, when introduced into the uterus was dangerous to health. It was alleged to be misbranded further in that the statement, "Stero-Uteroids," appearing on all the packages, and "Directions: Apply with catheter under aseptic conditions. For administration by physician only," appearing on some of the packages, were misleading since the statements represented and suggested that the article was a safe medicament for introduction into the uterus, whereas it was not a safe medicament, and its label failed to reveal the material fact that if so introduced it would endanger health and life.

On May 8, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On June 30, 1943, an amended order was entered which provided for the release of a portion of the product to the Food and Drug Administration.