same act, which provides for "glass beads, loose, unthreaded, or unstrung, ten per centum ad valorem." A simple question of fact is thus presented where the burden is upon the importers to prove that the importations consist of unstrung glass beads. This question of fact was tried out before the board of appraisers and they have found that the articles in question are "manufactures of glass," and are not unstrung glass beads. As I recollect the evidence the only testimony before the board was to the effect that these are strung beads; in fact a mere ocular examination of them demonstrates that they are strung beads. As there is no evidence to the contrary the court would hardly be justified in overruling the decision of the board. If it were a disputed question of fact on evenly balanced testimony their decision should stand, but as it is the weight of evidence is clearly on the side of the collector. The decision of the board of appraisers is, therefore, affirmed.

In re BING et al.

(Circuit Court, S. D. New York. April 26, 1894.)

No. 959.

CUSTOMS DUTIES — REVIEW OF BOARD OF APPRAISERS' DECISIONS—WEIGHT OF EVIDENCE.

The court will not disturb the finding of facts of the board of general appraisers as to the nature of goods imported, even if against the weight of evidence, where the board had sufficient evidence to warrant their finding.

This was an application by F. Bing & Co., importers of certain merchandise, for a review of the decision of the board of general appraisers at New York as to the rate of duty on such merchandise.

Albert Comstock, for importers.
W. C. Low, Asst. U. S. Atty., for collector.

COXE, District Judge (orally). The question here is not of law, but of fact. It is whether or not Exhibit A is "spun silk," under paragraph 410 of the act of October 1, 1890. Even if it were also a question as to what the trade name of Exhibit A was at the time of the passage of the last tariff act, it seems to me that the Van Blankensteyn decision (5 C. C. A. 579, 56 Fed. 474), controls both propositions. The board came to their conclusion on the facts presented to them, and I cannot say it is so against the weight of evidence that the court should set it aside. If this case were an appeal from the decision of a referee the court, although it might have reached a different conclusion had the case been tried originally before it, would not, under familiar rules, disturb the report. The question is whether the finding of the board should be set aside as practically against the weight of evidence. I think the board had sufficient evidence to warrant their finding and their decision is, therefore, affirmed.

DENNISON MANUF'G CO. v. UNITED STATES.

(Circuit Court, S. D. New York. March 14, 1895.)

CUSTOMS DUTIES—CLASSIFICATION—CREPE OR CREPE TISSUE.

Merchandise imported and invoiced as "crepe" or "crepe tissue," which, according to the finding of the board of general appraisers, sustained by the evidence, "is made in a tissue-paper mill, invoiced, advertised, and sold as tissue," and "is tissue paper," is dutiable under Act Oct. 1, 1890, paragraph 419, which covers "all tissue paper * * * made up in any form," and cannot be placed under paragraph 422, referring to "all other paper not specially provided for."

This was an application by the Dennison Manufacturing Company, importer of certain merchandise invoiced as "crepe" or "crepe tissue," for a review of the decision of the board of general appraisers sustaining the decision of the collector of the port of New York as to the rate of duty on such merchandise.

The collector assessed the importations under paragraph 419 of the act of 1890, as "tissue paper." The importer insisted that they should have been classified either under paragraph 422, as "other paper not specially provided for in this act," or under paragraph 425, as "manufactures of paper."

C. H. MacDonald, for importer.

James T. Van Rensselaer, Asst. U. S. Atty., for collector.

COXE, District Judge. The board found that the merchandise in question invoiced as "crepe" or "crepe tissue," "is made in a tissue-paper mill, is invoiced as tissue, advertised as tissue, and sold as tissue" and "is tissue paper." Additional testimony was taken in this court, but it is cumulative in character and does not materially change the issue. There is evidence to sustain the findings of the board, and, even if it be conceded that the preponderance of testimony is the other way, still the court would not be warranted in reversing their judgment. It will be observed that the language of paragraph 419 is very broad. "All tissue paper * * * made up in any form." It covers tissue paper of all varieties. The process by which the imported paper is made is not known, but it is proved that similar paper is made in this country by passing tissue paper through a machine which crimps or crinkles it. One of the witnesses for the importer gave the following common-sense definition: "Tissue paper is a thin paper; that is all there is to tissue paper; a thin paper." There is testimony to the effect that the imported merchandise is in fact tissue paper, that it was commercially known as crepe tissue paper and was so designated in the trade, even by the importing company itself. It is not against the evidence to find that in a smoothed-out condition it is a kind of heavy-weight tissue paper. Subject this paper to a crimping process and it becomes crimped tissue paper. It is crinkled, to be sure, but it is tissue paper still, and consequently is specially provided for under paragraph 419. The change thus produced might suffice to place the paper under a more specific paragraph, if one existed, but it is not sufficient to take it