COXE, District Judge (orally). The article imported in this case is acetanilid. The collector levied duty on one importation as a "medicinal preparation, of which alcohol is not a component part," and on another as a "chemical compound or salt," under paragraphs 75 and 76, respectively. The importer protested, insisting that in both instances it should have been classified under paragraph 19, which provides for "all preparations of coal tar, not colors or dyes." It is conceded that the article in question is a coal-tar preparation, not a color or dye. The importer also insists that the evidence establishes the fact that it is not a medicinal preparation. Without passing upon the question of fact thus presented, the court holds as matter of law, conceding the proposition that it is a medicinal preparation, that the paragraph pointed out by the importer is more specific than the collector's paragraph, and, therefore, that the importations should have been admitted as a preparation of coal tar. Numerous decisions of this court uphold this construction. This conclusion leads to a reversal of the decision of the board of general appraisers.

UNITED STATES v. AMSTER.

(Circuit Court, S. D. New York. February 7, 1896.)

No. 2,122.

CUSTOMS DUTIES—CLASSIFICATION—EMBROIDERIES.

Articles upon which the only embroidery consisted of a single initial letter were not dutiable as "embroideries," etc., under paragraph 373 of the act of 1890. U. S. v. Harden, 15 C. C. A. 358, 68 Fed. 182, applied.

Appeal on behalf of the United States from a decision of the board of general appraisers which reversed the action of the collector in assessing duty upon the importations in question.

J. T. Van Rensselaer, Asst. U. S. Atty.

Benjamin Barker, Jr., for defendant.

COXE, District Judge (orally). The only question involved in this controversy is whether or not the articles imported are embroidered within the provisions of paragraph 373 of the act of 1890. If they are not, it must be conceded that the importer is right in classifying them under paragraph 371 of the same act. The only embroidery upon any of the articles is the initial letter "A." I think the decision in the case of U. S. v. Harden, 15 C. C. A. 358, 68 Fed. 182, is controlling. The court there holds that the embroidery of a single letter is so limited in extent and of such comparative narrowness as not to require that the article so marked should be regarded as an article embroidered. The decision of the board of general appraisers is affirmed.

STRAUSS et al. v. UNITED STATES.

(Circuit Court, S. D. New York. February 6, 1896.)

No. 2,154.

Customs Duties—Classification—Toys.

Paragraph 436 of the act of 1890, and paragraph 321 of the act of 1894, in relation to toys, are identical in terms, except that the latter act imposes a duty of 25 per cent., instead of 35 per cent., and also provides that "this paragraph shall not take effect until January 1st, 1895." *Held*, that it was the manifest intent that the old paragraph should continue in force until the new one went into effect, and hence toys were dutiable thereunder until January 1, 1895.

Appeal by the importers from a decision of the board of general appraisers which sustained the action of the collector in assessing duty upon the merchandise in suit.

Everit Brown, for plaintiffs.

Henry C. Platt, Asst. U. S. Atty., for defendant.

COXE, District Judge (orally). The subject of controversy in this case is toys, manufactured of paper. Toys, eo nomine, have been known in various tariff acts since 1842. Paragraph 436 of the act of 1890 and paragraph 321 of the act of 1894 are in identical terms, except that the latter imposes a duty of 25 per cent. instead of 35 per cent. and also contains at its end the following language: "This paragraph shall not take effect until January first, 1895." The toys in question were imported upon the 18th of September, 1894. The contention of the importer is that in the interim toys, not being specially designated in the act of 1894, must be assessed under various paragraphs of the act having relation to the materials of which they are constructed. It seems very clear that it was the intention of congress that toys should, until January 1, 1895, pay the duty provided for in the act of 1890; until the new duty was imposed the old duty should prevail. This is a consistent and reasonable construction and the other construction which would throw them into a large number of general classes imposing different rates of duty is an unreasonable one. The decision of the board of general appraisers is affirmed.

UNITED STATES v. SCHEFER et al.

(Circuit Court, S. D. New York. February 7, 1896.)

No. 1,347.

Customs Duties—Sufficiency of Protest—Waiver by Collector.

The act of the collector in stating, in his return to the board of appraisers, that the requirements of the law have been complied with by the importers, does not operate as a waiver of objections upon the ground of an insufficient protest. The protest being a statutory necessity, it is beyond the power of the collector to waive it.

Appeal on behalf of the United States from a decision of the board of general appraisers which reversed the action of the collector in assessing duty upon the merchandise in question.