

ada and points in the States the name and device of the "Rising Sun" have appeared on the fences, so that the eyes of nearly all who travel by these railways must have been struck by them.

[Here let us pause to remark that, having travelled some ourselves, we can bear testimony to the fact that the "Rising Sun Stove Polish" is certainly advertised with a vengeance, in the manner described.]

In 1878 defendant put upon his packages a vignette or picture, intended, so plaintiff alleges, to represent something like the sun, with rays striking out from it. The two cuts had a certain resemblance to each other, and the two names of "Sunbeam" and "Rising Sun" might easily be confounded together by the public generally. Evidence was before the Court that retail dealers sold each for the other interchangeably, believing both to be the same article, and telling their customers so. "We are selling it every day," said one witness; "'Sunbeam' and 'Rising Sun,' it is all the same." Packages of each were exhibited and filed in Court, and plaintiff's contention was that defendant's "Sunbeam" label was a palpable imitation of the "Rising Sun" design. The following English precedent was cited by Mr. Kerr:—

"In the case of *Read v. Richardson*, the plaintiffs and the defendants were bottlers of beer for export, the plaintiffs' label consisting of a bulldog's head on a black ground surrounded by a circular band on which were the words 'READ BROTHERS, LONDON, THE BULLDOG BOTTLING,' and the defendants' label representing a rough terrier's head on a black ground, surrounded by a red circular on which were the words 'CELEBRATED TERRIER BOTTLING, E. RICHARDSON.' The plaintiffs' beer was well known in the colonies as the '*Dog's Head*' beer, and they alleged that the defendants, by exporting to certain colonies beer with the terrier's-head label, led to their beer being substituted and taken for the plaintiffs' beer. *Held*, that the plaintiffs were entitled to an interim injunction restraining the continuance of the terrier's head in the label on the bottles of beer exported to such colonies by the defendants. Cotton L. J., asked, why,—if defendants label was not calculated to be passed off on unwary or ignorant purchasers,—did the defendants, of all things, fix on a dog's head? And, in the case now before your Honour, I ask why, of all things, did Martin fix upon this device of the sun, if not influenced by a determination to deceive consumers into believing that the article he manufactured was the same as that of the plaintiffs' manufacture?"

Mr. Robertson, for the defence, contended that the plaintiff's trade mark, not having been registered in Canada until 1879, he had, before that time, no rights at all in Canada in respect of such trade mark, the learned counsel founding his argument upon the 31 Victoria, chap. 55 and the 42 Victoria, chap. 55; and that, further, the defendant had obtained a right to use his trade mark in Canada, by reason, not only of his having in 1876 registered the name of his stove polish, but because he had, moreover, for two years before 1879 used in connection therewith the ornamental figure representing the sunbeam. He argued further, that there was a palpable difference between the two designs,—that while the defendant's was a representation of a sunbeam, the plaintiff's pictured a sun rising between two mountains and over a body of water. It was not a question, he submitted, as to whether shopkeepers had stated that the two polishes were one and the same; the question was whether there was an imitation with the intention of deceiving ordinary purchasers, and was there such an imitation as would

deceive an ordinary purchaser? The learned counsel then proceeded to show from the evidence that the witnesses more or less admitted that when the two different packages,—the plaintiff's package and the defendant's package,—were placed together, one could not ordinarily be mistaken for the other.

Judgment was reserved by the Court.

【WAITING A MARKET.—TWO MILLION TONS PIG IRON.

In the Glasgow iron district 105 blast furnaces were reported at work at the close of 1881, against an average of 116 for the year. A year ago the number in blast was 124. It is thought that if, as reported, American buyers are restricting or cancelling orders, more shutting down may have to be done than was believed three months since. The total production of pig by the Glasgow furnaces in 1881 was 1,176,000 tons, or 635 tons more than in 1880. The total home consumption was 397,000 tons, or 130,000 tons more than in 1880. The exports were 578,000 tons, or 93,000 tons less than in the preceding year, so that the net increase in consumption was only 47,000 tons. The total stock of iron in store and makers' hands was 940,000 tons, or 21,000 tons more than in 1880. It will certainly require a great deal of shipbuilding and a liberal export demand to make an impression on this stock without lower prices or reduced output. The end of December there were in the United Kingdom 916 furnaces built, of which 563 were in blast and 353 idle. And there was then, in all Great Britain, an accumulation of two million tons of pig iron on hand and unsold, an enormous quantity, all "in sight" and ready for shipment to any quarter of the globe the instant that price and demand might permit. At present American makers dare not raise prices, for fear of their market being immediately swamped with this vast accumulation, which the British iron masters are virtually holding over them *in terrorem*. Even a moderate rise, continued for only a few weeks, might bring this transatlantic accumulation in upon their market like a flood, and hence they are very cautious about raising prices, even with the brisk demand at present and in prospect.

A TOO FRIENDLY PROPOSAL.

American legislators sitting at Washington propose to do us a kindness which we would rather dispense with. A motion has been made for the abolition of the fifty cents per ton duty on iron ore, with the avowed design of encouraging its importation from Canada. We would a great deal rather see our treasures of iron ore smelted at home, for the employment and the profit of our own people instead of being shipped out of the country to feed American furnaces. We verily believe that one of the best things Congress could do for us would be to raise their duty on iron ore to five dollars per ton, and so stop altogether this draining away of our valuable raw material, which takes away from the Dominion an extensive basis of work and wages, making a gift of it to the United States. Failing that act of friendly consideration on their part, the