

158 U.S. 564. Concerning these cases and some others cited by plaintiff, the Judge held that they were not reconcilable on principle with the *Mogul S.S. Case* and others of like character which he considered to have been rightly decided. See also *Cumberland Glass Mfg. Co. v. Glass Blowers Association (N.J.)*, 46 Atl. Rep. 258; *Sinshenner v. U. G. W. of A.*, 28 N.Y.S. 321; *Davis v. Engineers*, 51 N.Y.S. 180; *Tallman v. Gaillard*, 57 N.Y.S. 419; *National P. Association v. Cumming*, 65 N.Y.S. 946. In this view the Judge refused an injunction, except to restrain the acts which have been hereinbefore designated as unlawful. The above decision has received the favourable comment and general approval of the Bar here.

San Francisco.

R. MASSON SMITH.

## ENGLISH CASES.

### EDITORIAL REVIEW OF CURRENT ENGLISH DECISIONS.

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#### PASSING OFF GOODS AS THOSE OF THIRD PARTY—DECEIT—FUNCTIONS OF JUDGE AND WITNESS.

*Payton v. Snelling* (1901) A.C. 308, is reported apparently for the sake of certain observations of Lord Macnaghten on the respective functions of a judge and witness in actions of deceit for passing off goods by the defendant as those of the plaintiff. His Lordship condemned the practice of asking witnesses in such cases leading questions as to whether a person going into a shop as a customer would be likely to be deceived, and maintains that is not a matter for the opinion of the witness but for the judge, who, looking at the exhibits before him and paying due attention to the evidence adduced, is not to surrender his own independent judgment to that of any witness.

#### CONTRACT—CONSTRUCTION—AGENCY—VENDOR AND PURCHASER.

*Livingstone v. Ross* (1901) A.C. 327, is a decision of the Judicial Committee of the Privy Council (Lords Hobhouse, Robertson, and Lindley, and Sir Ford North) affirming a judgment of the Court of Queen's Bench of Quebec. The action was for specific