"There is another way in which goods not the plaintiff's may be sold as and for the plaintiff's. A name may be so appropriated by user as to come to mean the goods of the plaintiff, though it is not, and never was, impressed on the goods . . . so as to be a trade-mark properly so-called. Where it is established that such a trade name bears that meaning, I think the use of that name or one so nearly resembling it as to be likely to deceive, may be the means of passing off those goods as and for the plaintiff's. . . . And I think it is settled by a series of cases that both trade-marks and trade names are in a certain sense property, and the right to use them passes with the goodwill of the business to the successors of the firm which originally established them, even though the name of that firm be changed so that they are no longer strictly correct." *Robin* v. *Hart*, 23 N.S. 316; *Reddaway* v. *Banham*, [1896] A.C. 199.

In *Pabst* v. *Ekers*, above referred to, it was held, by the Superior Court for Quebec, reversing the decision of Davidson, J., that protection would be granted against a competitor using the same or some similar name only upon proof either of fraud or deception as regards such use and of prejudice resulting therefrom. It may be doubted in view of the authorities cited below whether this is good law. In the court below, Davidson, J. granted an injunction on the ground that a rival has no right to use a similar name in such a way as is calculated to mislead purchasers into the belief that his goods are another's. This appears to us to be the correct view of the law. Fraud need not be proved. *Cf. Reddaway* v. *Banham* (1896), A.C. 199; *Powell* v. *Birmingham, etc., Co.*, [1896] 2 Ch. 54, [1897] A.C. 710. The Superior Court's decision could, however, be supported on another ground; that the plaintiffs had no right to the trade name in question as it was a name *publici juris* when adopted by them.

Deception must be probable.—Though fraud need not be shewn, it is however, necessary that deception of the public is probable before relief will be granted. *Goodfellow* v. *Prince* (1887), 35 Ch. D. 9; *California Fig Syrup Co.* v. *Taylor* (1897), 14 R.P.C. 564. Moreover, where the goods are clearly so alike as to be calculated to deceive "no evidence is required to prove the intention to deceive. . . . The sound rule is that a man must be taken to have intended the reasonable and natural consequences of his acts and no more is wanted. If, on the other hand, a mere comparison of the goods, having regard to the surrounding circumstances, is not sufficient, then it is allowable to prove from other sources that what is or may be apparent innocence was really intended to deceive." *Saxlehner* v. *Apollinaris Co.*, [1897] 1 Ch. 893, per Kekewich, J.; *cf. Watson* v. *Westlake*, 12 O.R. 449.

Name of company.—As to cases where the name imitated is that of a company, it is laid down that very clear evidence of probability of deception will be required. *London Assurance Co.* v. *London and Westminster Assurance Co.* (1863), 32 L.J. Ch. 664; *Lee* v. *Haley* (1869), L.R. 5 Ch. 155; *Colonial Life Assurance Co.* v. *Home & Colonial Assurance Co.* (1864), 33 Beav. 548. In British Columbia it has been decided that the name "British Columbia Permanent Loan & Savings Company" is not so similar to "The Canada Permanent Loan and Savings Company" as to be calculated to deceive the public. *Canada Permanent* v. *B.C. Permanent* (1898), 6 B.C.R. 377.