

"Caledonia" forms a part, in a way calculated to deceive the public into the belief that the water sold by defendants is mineral water from plaintiffs' springs. He also directed a reference as to damages. The first member of the mandatory part of the judgment should stand against the defendants Tune & Son, but not against any of the other defendants. There was no evidence that they, or any of them, sold or desired or intended to sell their water as, or under the name of, "Caledonia Water," or that any of the defendants, Tune & Son included, intended or desired to lead their customers to suppose that they were getting water which came from the plaintiffs' springs. For the same reasons, the 2nd, 3rd, and 4th members of the mandatory part of the decree were objectionable and should be struck out. There was no evidence that any of the defendants, except Tune & Son, as already mentioned, advertised or sold their water as coming from the springs owned or leased by plaintiffs, or enclosed in any bottles, barrels, or packages having any mark or label contrived to represent their water as coming from the plaintiffs' springs, or used or applied in Ontario to the defendants' water the words "Caledonia Water" or "Water from Caledonia Springs." They have used the phrase "Water from the new Springs at Caledonia" as descriptive of their water, and they justify their doing so. The Chancellor thought that it was not correct for defendants to speak of the water sold by them as from "new springs," because it was reached by means of boring and drilling, and rises from an artesian well, while the plaintiffs' water issues naturally from the earth, and is and has long been the spontaneous outflow of mineral springs. But the defendants' wells are flowing wells. The water springs up spontaneously from the earth through the orifices drilled or bored by defendants. The word "springs" is the natural and appropriate word to use to designate the flowing well of defendants, and they do no more than exercise their legal right in designating them as springs. The Chancellor also found fault with the use by defendants of the word "Caledonia." The defendants have an undoubted right to describe their water correctly and truthfully. It is a saline mineral water. It is derived from new springs, and these springs are in the township of Caledonia, and at a place called Caledonia Springs. If defendants' water is likely to be more sought after and more marketable, and if the business of selling it is likely to be more profitable, by reason of the situation of the springs, and their nearness to the famous old springs, the defendants are entitled to the benefit of that. The Chancellor also thought there was inaccuracy in saying