geologists, the contention that the Basècles lime belongs to the Visé basin and not to the Tournai basin.

But it is not necessary to settle the question from a scientific point of view; the fact is certain, that the trade in Tournai lime, which has a universal reputation as an hydraulic lime, has to a certain extent been monopolized by plaintiffs; that Basècles lime has neither the same quality nor value. In selling for lime of Tournai Basin, a lime of inferior quality and price, defendant sought to palm off his products under guise of an assumed name, and was guilty towards the plaintiff of unfair competition. It did not matter that he used the name *chaux du Bassin de Tournai* instead of *chaux de Tournai;* his intention, and the object sought by him, leaving no doubt, and the public making no distinction between these two denominations, whereas there is a distinction between Tournai and Basècles lime.

Defendant cannot justify himself on the plea that it was upon the demand of a customer that he placed on his sacks a special mark which he never used. He should not have acceded to such a demand.

NOTE.

Browne on Trade-marks, § 43.

Unfair competition in business.—In examining cases classified in digests and books of reports as those of trade-marks, the reader is sometimes puzzled. In the absence of the slightest evidence that technical trade marks have been infringed, courts of equity have granted full and complete redress for an improper use of labels, wrappers, bill-heads, signs, or other things that are *publici juris*. The difficulty is, that wrong names are used. French speaking nations have a standard name for this kind of wrong. The term used is *concurrence déloyale*. This term may fairly be Anglicized as a dishonest, treacherous, perfidious rivalry in trade. In the German Imperial Court of Colmar in 1873 the court said that current jurisprudence understands by *concurrence déloyale* all manœuvres that cause prejudice to the name of a property, to renown of a merchandise, or in lessening the custom due to rivals in business. The euphonism employed as a head to this section will answer the present purpose. It implies a fraudulent intention, while on the contrary, an enjoinable infringement of a technical trade mark may be the result of accident or misunderstanding, without actual fraud being an element. At law, special damage, unless damage is necessarily presumed, deceit, or fraudulent intent, must be proved in all cases to warrant a recovery. This is not always so in equity, but it is both in common law and equity where the infringement is perpetrated by other modes and means than the use of any part of a trade-mark itself; and whether a trade-mark is shown to have been imitated or not, if the goods of one have been intentionally and fraudulently sold as the goods of another, and the latter has sustained damage, or the former threatens to continue acts tending to that end, a court of equity will restrain a further commission of them.