

and avers that the bringing and running of the waters of Westmere Lake into Virginia water will greatly damage the plaintiff.

Wherefore the plaintiff claims that the defendants may be restricted by the injunction of this honorable Court from running the waters of Westmere Lake aforesaid into Virginia Water, and for such further and other relief as to this Court shall seem meet.

Affidavit of the Plaintiff.

I, Jane Hair, of Wanganui, in the Provincial District of Wellington, swear,—

1. That I am in the lawful possession of a piece of land covered with water, forming part of sections numbered respectively 16 and 17, in the Wanganui District, in the Provincial District of Wellington, on the right bank of the Wanganui River, and commonly known as Virginia Water, and which is surrounded by other parts of the said Sections numbered respectively 16 and 17, a plan of which said land so covered with water is hereunto annexed and marked "A."

2. That at the distance of about two hundred and three chains from Virginia Water aforesaid is a lake named Westmere, the waters of which flow to the sea without passing into Virginia Water.

3. That the water of Virginia Water is pure and wholesome water, but I believe the water of Westmere Lake is impure, and is resorted to by horses, cattle, and swine, and other animals.

4. That the defendants have threatened to construct an aqueduct from Westmere Lake aforesaid to Virginia Water for the purpose of carrying water from Westmere Lake aforesaid into Virginia Water, whereby the level of Virginia Water will be much increased in height and the water thereof will be polluted.

5. That the defendants have prepared specifications for the construction of such aqueduct, and have, by advertisement published in newspapers published and current in the Town of Wanganui, called for tenders for the execution of the said works, as the following is, as I verily believe, a portion of the specification of the said works as prepared and submitted for public tender by the defendants:—

"The work required to be done consists of the forming and filling in of a channel from a peg on the southern bank of the Westmere Lake, about a chain east of its outlet, to one on the edge of the Virginia Water at its south-eastern extremity, a total distance of two hundred and three chains, and laying a line of six-inch glazed socket pipes therein.

"He will have to commence the work within three days after notice that the first lot of tiles are ready, and must complete the work within sixty days from the date of the commencement, under a penalty of five pounds for each week or part of a week during which he fails to complete the work. Should the work be completed within the sixty days a bonus of two pounds per day will be paid for every day within the time above mentioned.

"The pipes for the work will be supplied by the Wanganui Borough Council, and will be delivered to the contractor at the Corporation Wharf or other place in town determined by the Council."

6. That I never granted to the defendants any right, title, license, or authority whatsoever to bring or run the waters of Westmere Lake, or any other waters, into Virginia Water; and I verily believe that the bringing and running of the waters of Westmere Lake into Virginia Water will cause me very great damage.

7. That I do not know upon what grounds the defendants justify, or pretend to justify, the act proposed to be done by them as aforesaid.

8. That I verily believe that, unless forthwith restrained by the injunction of this honorable Court, the defendants will conduct the waters of Westmere Lake to, and pour the same into, Virginia Water as aforesaid.

JANE HAIR.

Sworn at the Town of Wanganui, this third day of April,
1877, before me,—

SAML. F. FITZHERBERT,
A Solicitor of the Supreme Court of New Zealand.

Affidavit of Mr. H. Travers.

I, Henry Hamersley Travers, of the City of Wellington, solicitor, swear,—

1. I have been informed and verily believe that workmen employed by the defendants in the execution of the works mentioned in the declaration have already commenced cutting a drain near to Virginia Water, for the purpose of conveying the waters of Westmere Lake into Virginia Water, before the expiration of the time given to the defendants to plead to this action, unless the defendants be at once restrained by the injunction of this honorable Court from proceeding therein.

HENRY H. TRAVERS.

Sworn at the City of Wellington, this seventh day of April,
1877, before me,—

J. G. ALLAN,
A Solicitor of the Supreme Court of New Zealand.

Order for Provisional Injunction.

On Saturday, the seventh day of April, 1877.

On reading the writ and declaration in this action, and the affidavit of John Bates of the service thereof, and the affidavits of the plaintiff and of Henry Hamersley Travers, all of which were filed in this Court on this seventh day of April, one thousand eight hundred and seventy-seven, it is ordered, that a provisional injunction be issued under the seal of this Court, restraining the defendants, pending the further order of this Court, from running the waters of Westmere Lake into the waters of Virginia Water.

(L.S.)

By the Court.