

7. The defendants have not entered or trespassed upon any portion of the plaintiff's lands, nor have they ever threatened nor do they intend so to do, for the purpose of the construction of the said proposed aqueduct nor will the said aqueduct or any portion thereof be constructed upon any portion of plaintiff's land.

8. The defendants deny that the bringing of the said regulated supply from the said Westmere Lake into the said Virginia Waters will cause any damage whatsoever to the plaintiff.

9. "The Municipal Corporations Waterworks Act, 1872," has been duly brought into operation in the Borough of Wanganui, Province of Wellington, by an Ordinance of the Superintendent and Provincial Council of Wellington, made and passed in the twenty-sixth session of the said Council, and being numbered three of the Acts of the said session.

10. The said Virginia Waters are situated within a district duly taken within the meaning of the said "Municipal Corporations Waterworks Act, 1872," for the purposes of the water supply of the said Borough of Wanganui, before the commission of any of the said alleged grievances, and said works complained of by the plaintiff in this action were being executed in pursuance of the powers conferred by the said Act.

11. In the exercise of the powers given to the defendants by the said Act, it was the duty of the defendants to do as little damage as can be, and in all places where such could be done to restore or otherwise provide for the use of adjoining lands watering-places, in place of such as had been taken away and interrupted by the defendants in the carrying out of the undertaking to supply water to the said Borough of Wanganui.

12. Before the commission of any of the alleged grievances by the defendants set forth in the declaration, the defendants, in the carrying out of the said undertaking, had taken away and interrupted watering-places then being lawfully used for adjoining lands, and the restoration of the said Virginia Water to its usual and proper level would restore such watering-places so taken away and interrupted as aforesaid, and would diminish or entirely remove all damage to persons having lawful rights and easements in the waters of the said Virginia Water.

REPLICATION.

THE following replication was delivered on the 29th day of May, 1877 :—

The plaintiff, by Henry Hamersley Travers, her solicitor, says,—

I. As to the defendants' first plea—1. That she takes and joins issue thereon.

II. As to the defendants' second plea—

1. That she denies that any part of the land covered by the waters of the lake called Virginia Water was, at the time in the second plea mentioned, the property or in the possession of any other person than the plaintiff.

2. That she admits that, before and at the time in the second paragraph of the second plea mentioned, a portion of the waters of Virginia Water was being conducted to the Borough of Wanganui, but she denies that the same were lawfully so conducted.

3. That she admits that, by reason of the taking of the waters from Virginia Water, as in the second plea alleged, the waters of the said lake became lowered as in the third paragraph of the third plea alleged.

4. That she denies that any persons other than herself had any lawful right to use, or lawfully used, watering-places in connection with the waters of the said lake either for adjoining lands or otherwise.

5. That she denies all other material allegations in the second plea.

APPLICATION FOR DISSOLUTION OF INJUNCTION.

THE following notice of motion to dissolve injunction was delivered on the 28th day of May, 1877 :—

In the Supreme Court of New Zealand, Wellington District. Between Jane Hair, plaintiff, and the Mayor, Councillors, and Burgesses of the Borough of Wanganui, defendants.

Take notice that, on Tuesday, the nineteenth day of June, one thousand eight hundred and seventy-seven, or as soon hereafter as counsel can be heard, the defendants will move the Supreme Court, at the Supreme Courthouse, Wellington, at eleven o'clock in the forenoon, that the injunction granted in this cause *ex parte*, on the seventh day of April last past, may be dissolved, and that the order or rule of Court granting the same may be discharged, with costs of this motion to be paid by the plaintiff, on the following grounds :—

1. That the plaintiff has no equity.

2. That the plaintiff has not shown any urgency in the case sufficient to justify an *ex parte* application for injunction.

3. That no such urgency in fact existed.

4. That the plaintiff concealed from the learned Judge who granted such injunction material facts, which ought to have been disclosed to him.

5. That the plaintiff should have set forth, in her declaration, the facts showing that her alleged lawful possession of the said parcel of land covered with water was lawful.

6. That the plaintiff misrepresented to the Court material facts, by falsely stating or implying that the said Virginia Water is surrounded by plaintiff's land, whereas in fact said water is only partially on land in the possession of the plaintiff.

7. That the plaintiff improperly concealed from the Court that the defendants were acting in the premises under and in pursuance of statutory powers which they are not alleged to have in any way misused.

8. And upon the grounds set forth in the affidavit of William Hogg Watt, sworn in this cause the twenty-eighth day of May, one thousand eight hundred and seventy-seven.

Dated this twenty-eighth day of May, A.D. 1877.

To the plaintiff, Mrs. Jane Hair, and to
F. M. Betts, Esq., her Solicitor.

CHAS. H. BORLASE,
Solicitor for the above-named defendants.