

ascertain the amount to be paid in manner provided by the Act of 1872 and the other Acts to which it refers, and I shall be obliged by your making arrangements therefore at your earliest convenience.

"C. H. Borlase, Esq.,

"I have, &c.,

"Solicitor to the Municipal Council, Wanganui."

"F. M. BETTS.

10. I believe that, on or about the twenty-ninth day of October, one thousand eight hundred and seventy-five, my said solicitor received from the Solicitor of the said Borough of Wanganui a letter, of which the following is a copy:—

"Wanganui, 29th October, 1875.

"DEAR SIR,—

"Re *Waterworks*."

"I am instructed by the Borough Council to inform you that, at a Committee meeting held yesterday afternoon, it was determined not to continue the proceedings to acquire from Mrs. Hair the land upon which the Virginia Lake rests. It is proposed to carry the water-pipes into the lake within that portion thereof which is included within the road area, and not to carry them beyond. By doing this it is thought that Mrs. Hair's property will suffer very little, if any, damage.

"Yours faithfully,

"F. M. Betts, Esq., Solicitor, Wanganui."

"CHAS. H. BORLASE.

11. Except the said notice of the twenty-seventh day of January, one thousand eight hundred and seventy-five, referred to in the fourth paragraph of this my affidavit, I believe that no notice of the intention of the Council of the said borough to construct waterworks for the said borough has ever been published, and I am advised, and believe, that the plans deposited by them, as stated in the said notice, were incomplete and irregular.

12. Except the said notice of the twenty-seventh day of January, one thousand eight hundred and seventy-five, mentioned in the sixth paragraph of this my affidavit, no notice to treat was ever served upon me by or on behalf of the said borough, and I am advised that the said notice of the twenty seventh day of January, one thousand eight hundred and seventy-five, is irregular and invalid.

13. I deny that any part of the land covered by the waters called Virginia Waters belongs to any other person than myself; and I deny that any person or persons has or have ever acquired, or is or are now entitled to, any easement in respect of the said waters, or of the land covered by the same, or any part thereof.

14. I verily believe that all the works undertaken and executed by the Council of the Borough of Wanganui for supplying the said borough with water, so far as the same affect my land and Virginia Water aforesaid, were illegal, and I say that the same have caused me much damage and injury.

15. I believe that all the works undertaken by the said Council for the purpose of carrying the waters of Westmere Lake into Virginia Water, and the consent of the said William Hogg Watt to the performance of the said works, have been done and given since the first day of January, one thousand eight hundred and seventy-seven; and I believe that the same works cannot be carried out without doing me much damage.

JANE HAIR.

Sworn at Wanganui, this nineteenth day of June, one thousand eight hundred and seventy-seven, before me,—

GEORGE HUTCHISON,

A Solicitor of the Supreme Court of New Zealand.

*Affidavit of F. M. Betts.*

I, FRANCIS MATTHEW BETTS, of the Town of Wanganui, solicitor, swear,—

1. I am the solicitor for the plaintiff in this action.

2. I have read the affidavit of the plaintiff sworn this day before George Hutchison, solicitor, and I say that the allegations therein contained, so far as they relate to me, and the correspondence between me and the Solicitor for the Borough of Wanganui therein contained, are true.

F. M. BETTS.

Sworn at Wanganui, in the Provincial District of Wellington, this nineteenth day of June, 1877, before me,—

GEORGE HUTCHISON,

A Solicitor of the Supreme Court of New Zealand.

*Affidavit of H. H. Travers.*

I, HENRY HAMERSLEY TRAVERS, of the City of Wellington, solicitor, swear,—

1. I am agent for Francis Matthew Betts, the present solicitor for the plaintiff in this action.

2. On or about the twenty-third day of May, 1877, the defendant delivered a plea in this action, of which a copy is hereunto annexed and marked "A."

3. On or about the twenty-ninth day of May, 1877, I caused to be delivered to the defendants a replication, of which a copy is hereunto annexed and marked "B."

HENRY H. TRAVERS.

Sworn at the said City of Wellington, this twenty-second day of June, 1877, before me,—

W. B. EDWARDS,

A Solicitor of the Supreme Court of New Zealand.

TUESDAY, 10TH JULY, 1878.

(Before his Honor the Chief Justice and his Honor Mr. Justice Richmond.)

JUDGMENT.

THE Chief Justice delivered judgment in this case, as follows:—