

Hon. Mr. Massey.

POLLUTION OF WATER.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Plaintiff in action for pollution of water by waste products not entitled to injunction, except in special cases.</p> <p>4. Conditions precedent to issue of injunction.</p> <p>5. Judgment may provide for damages for subsequent pollution.</p> | <p>6. Injunction may be granted to operate only for specified times and not continuously.</p> <p>7. Injunction heretofore granted may be dissolved and damages awarded in lieu thereof.</p> <p>8. Notwithstanding foregoing provisions, injunction may be granted if defendant fails to take proper steps to minimize pollution.</p> <p>9. Restriction of jurisdiction of Magistrate's Court.</p> |
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A BILL INTITULED

AN ACT to amend the Law relating to the Pollution of Water. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

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| <p>1. This Act may be cited as the Pollution of Water Act, 1912.</p> <p>2. In this Act, if not inconsistent with the context,—</p> | <p>Short Title.</p> <p>Interpretation.</p> |
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“ Action ” means any action or proceeding in any Court :
“ Court ” means the Supreme Court of New Zealand :

10 “ Injunction ” means an injunction or other order restraining the continuance of the pollution of water by waste products, or requiring the cessation thereof :

15 “ Waste products ” means the waste products of any butter-factory, cheese-factory, flax-mill, or sawmill, and includes refuse and chemicals, and other matter the result of the process of manufacture adopted in such factory or mill :

“ Water ” means any river, stream, lake, or other water, and includes the bed of such river, stream, lake, or other water.

<p>20 3. In any action relating to pollution of water by waste products the plaintiff's remedy shall be in damages, and he shall not be entitled to an injunction unless he shall prove to the satisfaction of the Court that such pollution has caused or is causing to him or to his property such actual and irreparable loss and damage as cannot be the subject of compensation by damages.</p>	<p>Plaintiff in action for pollution of water by waste products not entitled to injunction, except in special cases.</p>
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<p>25 4. Proof that water is rendered by waste products to be less fit for use, either by persons or animals, shall not be sufficient to entitle the plaintiff to an injunction unless it is also proved—</p>	<p>Conditions precedent to issue of injunction.</p>
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- (a.) That the quality of the water is so deteriorated by the pollution by waste products as to render it unfit for use by persons or animals ; and also
- (b.) That there is not available to the plaintiff a sufficient supply of other unpolluted water upon or immediately adjacent to his property. 5

Judgment may provide for damages for subsequent pollution.

5. (1.) In any action for pollution of water by waste products the Court may, in addition to assessing damages for injury already thereby suffered by the plaintiff from such pollution, either—

- (a.) Assess and ascertain the amount of further sums to be paid thereafter by defendant to plaintiff either annually or at other periods during the subsequent continuance of such pollution until the Court shall otherwise order ; or 10
- (b.) Direct that in the same action, and notwithstanding that judgment (in other respects final) may have been given in such action, there shall thereafter be assessed and ascertained from time to time, in such manner as the Court may direct, damages in respect of the injury that may be thereafter suffered by the plaintiff by reason of such pollution. 15

(2.) The Court shall have jurisdiction to make such judgments or orders and give such directions in any such action as may be necessary to give effect to the provisions of this Act, and to enforce by execution, attachment, or otherwise, as to the Court shall seem fit, every such judgment, order, or direction. 20

Injunction may be granted to operate only for specified times and not continuously.

6. If the Court shall in any action for pollution of water by waste products determine, having regard to the provisions of this Act, that an injunction should issue, the Court may, if it thinks fit, limit such injunction to certain periods of the year in lieu of making such injunction continuous and perpetual. 25

Injunction heretofore granted may be dissolved, and damages awarded in lieu thereof

7. Where in any action for pollution of water by waste products heretofore heard and determined the Court has granted an injunction, the Court may, upon the application of the defendant at any time within twelve months after the commencement of this Act, if it thinks fit, dissolve such injunction, and assess damages to be paid by the defendant to the plaintiff, as well for past as for subsequent injury from such pollution from time to time, as if such action had been commenced after the passing of this Act. 30

Notwithstanding foregoing provisions, injunction may be granted if defendant fails to take proper steps to minimize pollution.

8. If in any action for pollution of water by waste products it is proved to the satisfaction of the Court that such pollution is due wholly or in part to the refusal or neglect of the defendant to adopt methods which are usually and properly adopted in New Zealand in the case of a manufacturing industry of the like nature, the Court may, notwithstanding anything in this Act, grant an injunction in such action unless the defendant forthwith proceeds to effectually adopt such methods for prevention or diminution of pollution. 35 40 45

Restriction of jurisdiction of Magistrate's Court.

9. A Magistrate's Court shall not have jurisdiction to grant an injunction in any action for pollution of water by waste products.