

ferre with the definitive right which every man has to an injunction when he has established any trespass will be of any use. You may leave the matter as it is, but you cannot improve the position except by this method. You must interfere with the right of injunction if you are going to protect the industries at all. I am not expressing any opinion about the policy—that is for the Committee: I am only explaining to the Committee that there is no other method than this of interference with the injunction, if you are going to protect the industries. It may be asked, Why is not this the law in England? First of all, in England the waters are less rapid than they are in New Zealand, except, of course, in swamps where the flax occurs: That is the first reason. The second is this: England is so thickly populated that along the margin of every stream there are not only the landowners, but there are the villages; there are the small places that draw the water. The effluents from the English manufactories were different from ours; they contained chemicals, which were really injurious—I mean, injurious to everything that touched them. In England they said to the owners of the manufactories, “You must prevent anything from your establishments from getting into the water”; and that has been done, at enormous cost to the owners. The industries have managed to prevent any effluent from getting into the water, and it may be that that is what ought to happen here—I do not know: that is for you gentlemen. But that is the difference between New Zealand and England. The manufactories are of a different class. The population which has to be protected is of an entirely different class from ours—I mean, the villager instead of the landowner; the places using the water as against the stock using the water. When such actions were commenced in England some fifty years ago, I think the effect was that a number of the smaller factories were ruined, and stopped; and the larger ones did prevent, by destruction of the waste product, any effluent from getting into the water, and by chemical process rendered the liquid harmless. I am told—and I believe it—that the larger industries in England actually benefited largely by the prevention of their getting rid of the effluent in this manner, because they were driven to make use of the waste product, and this more than paid them for the expense they had been put to through being prevented from discharging anything into the stream. But that could not be so here—at all events, for the present; so it is entirely a question of policy. We say, make these people use all proper methods to prevent injurious effluent going into the water, and give an injunction if they do not do that; but if they do that, give damages—heavy damages if you like—in lieu of an injunction. I think the Court would give very heavy damages and make the man pay a rental for the abuse of the water. The Government, I may say, have no motive in this matter, except to offer Parliament the opportunity which they think the country should have of protection. There is one other point. The whole agitation, so far as my information goes, is from the acclimatization societies. They are already protected against sawdust being put into the water: that is not to be interfered with at all. We are not interfering with the Fisheries Act or the regulations under it. If the acclimatization societies are to govern as against the factories in this matter, it is not the view of the Administration that they should be permitted to do so. If it were genuinely a case of the settler against the manufacturer, well, the settler ought to be considered first. But if the acclimatization societies are using the settler who owns for the purpose of pretending it is a question of settler against manufacturer, then I think the manufacturer ought certainly to be preferred.

3. If we retain clause 3—and it bristles with difficulties—could there not be the right at common law to follow? Could we not give a man that right?—He has his common-law right. His remedy is in damages. He should not be entitled to an injunction unless he has proved that he has been caused actual and irreparable loss and damage that cannot be the subject of compensation.

4. If the whole value of a property would be rendered nil by reason of the pollution of the water, is it not possible for this clause to be read that the man might be compensated for the damage and forced to leave his farm or business?—In that case he would get the full value of his land as damages. His remedy is in damages. Whatever damage he has suffered he will get; if the damage is the loss of the whole of his land, he will get that. But even then, if he is caused such actual and irreparable loss and damage as cannot be the subject of compensation, he gets the injunction.

5. Does it not mean that it will be quite possible for a factory to absorb any property, whether a home, a business, or a farm, without the owner having any other resource than this Act?—No; it could not, because the Court would give him damages. Look at clause 5: “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 (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,” &c. That is to say, the Court can fix a rental which represents the injury; or, if the man does not like that, he can have it from time to time assessed. If he suffers irreparable damage he gets an injunction. If it is not irreparable, then he gets damages—not only for the past, but a continuous rental for the injury for the future. Do you not think that is all that is wanted?

6. Would it not be quite possible under this Bill for any factory-owner to acquire all the property that may be in the way of his work?—Oh, no; how could he? If the owner does not want to sell the land the factory cannot drive him out. The factory would have to pay him. It would have to stop if it was rendering the property useless: that is irreparable damage. If it is not rendering the property useless, it will have to pay the owner the full amount by which his property's usefulness is reduced. The position is that this Bill will lend a good deal of value