

the site and restore the site to its original condition within three months from the date of revocation or expiry, as the case may be; and if the licensee fails so to do the Minister may cause the said wharf to be removed and the site so restored, and may recover the costs incurred by the said removal and restoration from the licensee.

F. D. THOMSON,
Clerk of the Executive Council.

Licensing Messrs. J. Stopher and Sons to use and occupy a Part of the Foreshore at Jock's Point, on the Wairoa River, Kaipara Harbour, as a Site for a Wharf.

CHARLES FERGUSSON, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 19th day of July, 1926.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS by Order in Council dated the ninth day of July, one thousand nine hundred and twelve, and published in the *New Zealand Gazette* No. 63, of the eighteenth day of the same month, Ellery William Toogood was licensed to use and occupy a part of the foreshore and land below low-water mark at Jock's Point, on the Wairoa River, Kaipara Harbour, as shown on plan marked M.D. 3884, deposited in the office of the Marine Department at Wellington, in order to erect and maintain a wharf thereon, to be erected in accordance with plan M.D. 3884, deposited as aforesaid, for the term of fourteen years, computed from the ninth day of July, one thousand nine hundred and twelve, on the terms and conditions therein expressed:

And whereas the said license has been, with the consent of the Minister of Marine, transferred in turn to Herbert Pratt, and then to Joseph Stopher, John Joseph Stopher, and Francis Stopher, of Dargaville (trading under the style or title of "J. Stopher and Sons"), who with their executors, administrators, and assigns are hereinafter referred to as "the licensees":

And whereas the licensees have applied for a fresh license under the Harbours Act, 1923 (hereinafter called "the said Act"), for a further term of fourteen years, and it is advisable to grant the same:

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, in pursuance and exercise of the power and authority vested in him by the said Act, and of all other powers and authorities enabling him in that behalf, and acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby approve of the purpose or object for which the said license is required by the licensees as aforesaid; and, in further pursuance and exercise of the said power and authority, and with the like advice and consent as aforesaid, doth hereby license and permit the licensees to use and occupy that part of the foreshore and land below low-water mark on which the said wharf is erected, as shown on the plan M.D. 3884 so deposited as aforesaid, for the purpose of erecting and maintaining the said wharf; such license to be held and enjoyed by the licensees upon and subject to the terms and conditions set forth in the Schedule hereto.

SCHEDULE.

1. In these conditions the term—

"Foreshore" means such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides:

"Low-water mark" means low-water mark at ordinary spring tides:

"Minister" means the Minister of Marine as defined by the Shipping and Seamen Act, 1908, and includes any officer, person, or authority acting by or under the direction of such Minister.

2. The concessions and privileges conferred by this Order in Council shall extend and apply only to the part of the foreshore and land below low-water mark necessary for the erection of the said wharf as shown on the plan marked M.D. 3884, and deposited in the office of the Marine Department as aforesaid.

3. In consideration of the concessions and privileges granted by this Order in Council, the licensees shall pay to the Minister the sum of £2 10s., and thereafter an annual sum of £2 in advance, payable on the first day of April in each year, the

proportionate part of such rental in respect of the period from the 9th day of July, 1926, until the 31st March following to be paid on the licensees being supplied with a copy of this Order in Council.

4. All persons shall at all reasonable times, upon payment of the proper dues, have free and full liberty to use the said wharf and all rights of ingress and egress thereon and therefrom.

5. His Majesty or the Governor-General, and all persons in the Government service acting and in the execution of their duties, shall at all times have free ingress, passage, and egress into, through, over, and out of the said wharf without payment.

6. The licensees shall maintain the above-mentioned wharf in good order and repair; and shall at all times exhibit therefrom, and maintain at the licensees' own cost, suitable and necessary lights for the guidance of vessels; provided that no light shall be exhibited until after it has been approved of by the Minister.

7. Any person authorized by the Minister may at all reasonable times enter upon the said wharf and view the state of repair thereof; and upon such Minister leaving at or posting to the last-known address of the licensees in New Zealand a notice in writing of any defect or want of repair in such wharf, requiring the licensees, within a reasonable time, to be therein prescribed, to repair the wharf, the licensees shall with all reasonable speed cause such defect to be removed or such repairs to be made.

8. Nothing herein contained shall authorize the licensees to do or cause to be done anything repugnant to or inconsistent with any law relating to the Customs, or any regulation of the Minister of Customs, or with any provisions of the Harbours Act, 1923, or its amendments, or any regulations made thereunder and that are now or may hereafter be in force.

9. The ballast of all vessels loading at the said wharf shall be taken away by the licensees and deposited above high-water mark, or at such place as may be approved of by the Minister or by any person appointed by the Minister for that purpose.

10. The rights, powers, and privileges conferred by or under this Order in Council shall continue in force for fourteen years from the 9th day of July, 1926, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority; and the licensees shall not assign, charge, or part with any such right, power, or privilege without the written consent of the Minister first obtained.

11. The said rights, powers, and privileges may be at any time resumed by the Governor-General, and the licensees may be required to remove the wharf at the licensees' own cost, without payment of any compensation whatever, on giving to the licensees three calendar months' previous notice in writing. Any such notice shall be sufficient if given by the Minister and delivered at or posted to the last known address of the licensees in New Zealand.

12. The licensees shall be liable for any injury which the said wharf may cause any vessel or boat to sustain through any default or neglect on the licensees' part.

13. In case the licensees shall—

(1.) Commit or suffer a breach of the conditions hereinbefore set forth, or any of them;

(2.) Cease to use or occupy the said wharf for a period of thirty days;

(3.) Fail to pay the sums specified in clause 3 of these conditions; or

(4.) Become bankrupt or be in any manner brought under the operation of any law in force for the time being relating to bankruptcy,—

then and in any of the said cases this Order in Council, and every license, right, power, or privilege thereby conferred, may be revoked and determined by the Governor-General in Council without any notice to the licensees or other proceedings whatever: and publication in the *New Zealand Gazette* of an Order in Council containing such revocation shall be sufficient notice to the licensees, and to all persons concerned or interested, that this Order in Council, and the license, rights, and privileges thereby granted and conferred, have been revoked and determined.

14. In the event of this Order in Council being revoked for any reason whatsoever, or upon the expiry of the period for which the license is granted, the licensees shall, if required by the Minister so to do, remove the said wharf entirely from the site and restore the site to its original condition within three months from the date of revocation or expiry, as the case may be; and if the licensees fail so to do the Minister may cause the said wharf to be removed and the site so restored, and may recover the costs incurred by the said removal and restoration from the licensees.

F. D. THOMSON,
Clerk of the Executive Council.