

*Licensing the Northern Steamship Company (Limited) to use and occupy a Part of the Foreshore of Cowes Bay, Waiheke Island, as a Site for a Wharf, and prescribing Dues and Rates for the Use of such Wharf.*

CHARLES FERGUSSON, Governor-General  
ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 16th day of August, 1926.

Present :

THE RIGHT HONOURABLE J. G. COATES, P.C., PRESIDING IN COUNCIL.

WHEREAS by Order in Council dated the thirtieth day of September, one thousand nine hundred and twelve, and published in the *New Zealand Gazette* No. 77, of the tenth day of the following month, the Northern Steamship Company (Limited), who with its successors and assigns is hereinafter referred to as "the company," was licensed to use and occupy a part of the foreshore and land below low-water mark at Cowes Bay, Waiheke Island, as shown on plan marked M.D. 2198, and 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 the said plan, and deposited as aforesaid, for the term of fourteen years, computed from the twenty-second day of September, one thousand nine hundred and twelve, and dues and rates were prescribed for the use of the said wharf :

And whereas the said company has applied for a fresh license under the Harbours Act, 1923 (hereunder called "the said Act"), for a further term of fourteen years, and it is advisable to grant the same, and to prescribe the dues and rates which shall be charged and taken for the use of the said wharf :

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 company 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 company to use and occupy that part of the foreshore and of the land below low-water mark immediately contiguous thereto which is particularly shown and delineated on the plans so deposited as aforesaid, for the purpose of maintaining the said wharf thereon, such license to be held and enjoyed by the company upon and subject to the terms and conditions set forth in the First Schedule hereto, and doth prescribe that the dues and rates set forth in the Second Schedule hereto shall be charged and taken by the company for the use of the said wharf.

#### FIRST 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 maintenance of the said wharf as shown on the plan M.D. 2198, 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 company shall pay to the Minister the sum of £2 10s., and thereafter an annual sum of £5 in advance, payable on the 1st day of April in each year, the proportionate part of such rental in respect of the period from the 1st day of August, 1926, until the 31st March following to be paid on the company being supplied with a copy of this Order in Council.

4. All persons shall, at all reasonable times, upon payment of 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 officers in the Government service acting in the execution of their duty, shall at all times have free ingress, passage, and egress into, through, and out of the said wharf without payment.

6. The company shall maintain the above-mentioned wharf in good order and repair ; and shall at all times exhibit therefrom and maintain at the company's 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 registered office of the company in New Zealand a notice in writing of any defect or want of repair in such wharf requiring the company, within a reasonable time to be therein prescribed, to repair the same, the company shall with all convenient speed cause such defect to be removed or such repairs to be made.

8. Nothing herein contained shall authorize the company 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 company 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 to be in force for fourteen years from the 1st day of August, 1926, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority ; and the company 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, without payment of any compensation whatever, on giving to the company 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 registered office of the company in New Zealand.

12. The company 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 company's part.

13. In case the company 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.) Be in any manner wound up or dissolved ; or
- (4.) Fail to pay the sums specified in clause 3 of these conditions.—

then, and in any of the said cases this Order in Council, and every license, right, power, or privilege, may be revoked and determined by the Governor-General in Council without any notice to the company or any proceeding whatever ; and publication in the *New Zealand Gazette* of an Order in Council containing such revocation shall be sufficient notice to the company, 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 company 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 company 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 company.

#### SECOND SCHEDULE.

##### SHIPPING WHARFAGE.

EVERY person who shall use this wharf with any vessel shall pay for the use thereof as follows, that is to say :—

For every vessel, a sum of 1d. per ton on the gross tonnage of such vessel per day for each day or part of a day a vessel shall occupy a berth alongside any vessel lying at the said wharf, or shall lie at the said wharf undergoing repairs, or fitting-out only, or shall lie off the said wharf with a line attached thereto.

##### GOODS WHARFAGE.

Every person who shall use this wharf for landing or shipping any goods shall, before using the same, pay dues as follows, that is to say :—

- (1.) For all goods landed on this wharf, a rate of 2s. 6d. per ton, weight or measurement, at the option of the company.
- (2.) For every head of cattle or horses landed upon or shipped from the said wharf, 2s. 6d. per head.