

of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, and with the concurrence of the Chief Justice of New Zealand and of four other Judges of the Supreme Court of New Zealand, doth hereby, as from the date when this Order in Council takes effect, revoke rule eighty-nine of the rules made under the said Act on the twenty-first day of March, one thousand eight hundred and ninety-three, and published in the *Gazette* of the twenty-third day of March then instant, and in lieu thereof doth hereby make the rule set forth in the Schedule hereto; and doth hereby declare that this Order in Council shall take effect on and after the thirteenth day of June, one thousand nine hundred and twenty-seven.

SCHEDULE.

RULE 89: A bankruptcy notice shall be served, and the service thereof shall be proved, in the like manner as is by the said Act and by the Bankruptcy Rules, 1893, prescribed for the service and proof of service respectively of a creditor's petition.

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

Licensing Carr, Pountney, and Co., Ltd., to use and occupy a Part of the Foreshore at Wharekawa, Firth of Thames, as a Site for a Hopper.

CHARLES FERGUSSON, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this [9th day of May, 1927.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS, there being no Harbour Board empowered to grant the license hereinafter mentioned, Carr, Pountney and Co., Ltd., of Auckland (who, with its successors and assigns, is hereinafter referred to as "the company"), has applied to the Governor-General in Council for a license under the Harbours Act, 1923 (hereinafter called "the said Act"), to occupy a part of the foreshore at Wharekawa, Firth of Thames, as a site for a hopper, to be built in the position and in accordance with plans (sheets 1 and 2) marked M.D. 6334, and deposited in the office of the Marine Department at Wellington:

And whereas it has been made to appear to the Governor-General in Council that the work will not be or tend to the injury of navigation, and the said plan has, prior to the making of this Order in Council, been approved by the Governor-General in Council:

And whereas it is desirable that a license should be granted and issued to the company under the said Act for the purpose aforesaid, on the terms and conditions hereinafter expressed:

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, in pursuance and exercise of the power and authority conferred upon 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 on which the said hopper is to be erected, as shown on plans marked M.D. 6334, deposited as aforesaid, for the purpose of maintaining the said structure thereon, such license to be held and enjoyed by the company upon and subject to the terms and conditions set forth in the Schedule hereto.

SCHEDULE.

1. In these conditions the terms—

"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 that part of the foreshore occupied by the said hopper as shown on the plan marked M.D. 6334 (sheet 2).

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 £10 in advance, payable on the 1st day of April each year, the first of such yearly payments to be paid on the company being supplied with a copy of this Order in Council.

4. 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 hopper without payment.

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

6. The company shall maintain the above-mentioned hopper 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 by the Minister.

7. Any person authorized by the Minister may at all reasonable times enter upon the said hopper 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 hopper, 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 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 hopper 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 April, 1927, 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, and the company may be required to remove the hopper at the company's cost, 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 hopper 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 hopper for a period of thirty days;
- (3) Be in any manner wound-up or dissolved;
- (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 other proceeding whatsoever; 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 hopper 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 hopper to be removed and the site so restored, and may recover the costs incurred by the said removal and restoration from the company.

15. The erection of the said hopper shall be sufficient evidence of the acceptance by the company of the terms and conditions of this Order in Council.

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