

*Vesting the Management of certain Wharves in the Otamatea County Council.*

CHARLES FERGUSSON, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 13th day of January, 1928.

Present :

THE HONOURABLE W. DOWNIE STEWART, PRESIDING IN COUNCIL.

WHEREAS by section one hundred and eighty-six of the Harbours Act, 1923 (hereinafter called "the said Act"), it is enacted that the Governor-General in Council may vest the management of any wharf, the property of His Majesty the King, in any local authority upon such terms and conditions as the Governor-General in Council thinks fit :

And whereas it is thought desirable to vest in the Otamatea County Council (hereinafter called "the Council," in which term is to be construed, unless the context requires a different construction, its successors or assigns) the management of the wharves at Maungaturoto, Batley, and Bickerstaffe, erected in accordance with the plans marked M.D. 2374, 4058, and 3738, and deposited in the office of the Marine Department at Wellington, on the terms and conditions hereinafter set forth in the First Schedule hereto, and to make regulations and prescribe the dues and rates which shall be taken by the said Council for the use of such wharves :

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, and 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, doth hereby vest the management of the said wharves in the Council, subject to the conditions set forth in the First Schedule hereto, and doth hereby make the following regulations with respect to the said wharves, and doth hereby prescribe that the dues and rates specified in the Second Schedule hereto shall be taken and charged by the Council for the use of the said wharves.

FIRST SCHEDULE.

CONDITIONS OF MANAGEMENT.

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 the part of the foreshore and land below low-water mark adjacent thereto, necessary for the maintenance of the said wharves at the site shown on the plans marked M.D. 2374, 4058, and 3738.

3. All His Majesty's subjects shall at all reasonable times, and upon payment of the proper dues, have free and full liberty to use the above-mentioned wharves and rights of ingress and egress thereto and therefrom.

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, over, and out of the said wharves without payment.

5. The Council shall maintain and keep the above-mentioned wharves, and all erections on or in connection with the wharves in good order and repair ; and shall at all times exhibit therefrom, and maintain at the Council's own cost, suitable and necessary lights for the guidance of vessels : Provided that no new light shall be exhibited until after it has been approved by the Minister.

6. All dues and rates received on account of the said wharves by the Council shall be applied to keeping the said wharves and all erections on or in connection with such wharves in good order and repair.

7. Any person authorized by the Minister may at all reasonable times enter upon the said wharves and any buildings erected on the wharves or in connection therewith, and view the state of repair thereof ; and upon the Minister leaving at or posting to the last known address of the Council in New Zealand a notice in writing of any defect or want of repair in such wharves or buildings, requiring the Council, within a reasonable time to be therein prescribed, to make good or repair the same, the Council shall, with all convenient speed, cause such defect to be removed or such repairs to be made.

8. The ballast of all vessels loading at the said wharves shall be taken away by the Council 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.

9. The Council shall not erect, or suffer to be erected, on the said wharves any building or structure whatever, except with the consent of the Minister.

10. The Council shall keep a separate account of the receipts and expenditure on account of such wharves and premises, and shall cause such account to be balanced to the 31st day of March in every year, and shall send a copy of such account when balanced to the Minister, and shall supply any particulars in reference thereto as may be required by the Minister.

11. The Council shall appoint all officers necessary for the working and management of the said wharves.

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

13. The rights, powers, and privileges hereby conferred shall continue in force until the 27th day of August, 1930, computed from the date hereof, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority ; and the Council shall not assign, charge, or part with any such right, power, or privilege without the previous written consent of the Minister first obtained.

14. The rights, powers, and privileges conferred under or by virtue of this Order in Council may be at any time resumed by the Governor-General without payment of any compensation whatever on giving to the Council 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 Council in New Zealand.

15. The Council shall be liable for any injury which may be caused at the said wharves to any vessel or boat through any default or neglect on the part of the Council.

16. In case the Council shall—

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

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

then, and in either 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 Council or other proceedings whatsoever ; and publication in the *New Zealand Gazette* of an Order in Council containing such revocation shall be sufficient notice to the Council and to all persons concerned or interested that this Order in Council, and the licenses, rights, and privileges thereby granted and conferred, have been revoked and determined.

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

SECOND SCHEDULE.

REGULATIONS.

1. IN these regulations, if not inconsistent with the context,—

"Council" means the Otamatea County Council :

"Boat" means any open, decked, or half-decked boat attached to or used in connection with any ship or other vessel lying in or belonging to or visiting the Kaipara Harbour, and also any such boat used for the purposes of business or pleasure by residents of the district of Kaipara, in which the means of propulsion is either exclusively by oars or partly by oars and partly by sails :

"Master" means and includes the person actually in charge of any vessel, whether or not he is certificated :

"Vessel" means and includes every description of launch or ship whether used in navigation or in any way kept or used as a hulk or storeship, or for any other purpose whatsoever, whether business or pleasure, and not coming within the above definition of "boat" :

"Wharf" has the same meaning as in the Harbours Act, 1923 :