

*Licensing the Christchurch Navigation and Trading Syndicate to use and occupy a Part of the Foreshore and Land below Low-water Mark at Ferrymead, Heathcote River, as a Site for a Wharf, and prescribing Dues for the Use of the Wharf.*

CHARLES FERGUSSON, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 21st day of December, 1928.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS, there being no Harbour Board empowered to grant the license hereinafter mentioned, the Christchurch Navigation and Trading Syndicate (who, with its successors and assigns, is hereinafter referred to as "the licensee"), 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 and land below low-water mark at Ferrymead, in the Heathcote River, as a site for a wharf, to be built in the position and in accordance with a plan marked M.D. 6351, and deposited in the office of the Marine Department at Wellington, and to prescribe the dues and rates to be taken and charged for the use of the said wharf :

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 licensee 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 licensee 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 licensee to use and occupy that part of the foreshore and land below low-water mark on which the said wharf is to be erected, as shown on plan marked M.D. 6351, deposited as aforesaid, for the purpose of erecting and maintaining the said wharf thereon, such license to be held and enjoyed by the licensee 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 shall be charged and taken by the licensee 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 Seaman 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 and land below low-water mark necessary for the erection and maintenance of the said wharf, as shown on the plan marked M.D. 6351, 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 licensee 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 date hereof until the 31st March following to be paid on the licensee 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 licensee shall maintain the above-mentioned wharf in good order and repair ; and shall at all times exhibit therefrom and maintain at the licensee'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 licensee in New Zealand a notice in writing of any defect or want of repair in such wharf, requiring the licensee within a reasonable time to be therein prescribed, to repair the same, the licensee shall with all convenient speed cause such defect to be removed or such repairs to be made.

8. Nothing herein contained shall authorize the licensee 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 licensee 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 date hereof, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority ; and the licensee 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 licensee 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 licensee in New Zealand.

12. The licensee 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 licensee's part.

13. In case the licensee 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 licensee 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 licensee 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 licensee 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 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 company.

SECOND SCHEDULE.

WHARFAGE.

THE wharfage charges for the use of the said wharf shall be the same as those which are from time to time prescribed to be charged and taken by the by-laws of the Lyttelton Harbour Board for the wharves under its jurisdiction.

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