

*Licensing the Orapiu Road Board to use and occupy a Part of the Foreshore and Land below Low-water Mark of Orapiu Bay, Waiheke Island, as a Site for a Wharf, and prescribing Dues and Rates to be taken and charged for the Use of the Wharf.*

BLEDISLOE, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 15th day of September, 1930.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS by Order in Council dated the eleventh day of September, one thousand nine hundred and fifteen, and published in the *New Zealand Gazette* No. 109, of the sixteenth day of the same month, William Nepean McIntosh of Onehunga, was licensed to use and occupy, for a period of fourteen years computed from the eleventh day of September, one thousand nine hundred and fifteen, a part of the foreshore and land below low-water mark in Orapiu Bay, Waiheke Island, in order to maintain thereon a wharf erected in accordance with plan M.D. 4496, and deposited in the Office of the Marine Department at Wellington :

And whereas the said license was, with the previous consent of the Minister of Marine, transferred on the twenty-first day of May, one thousand nine hundred and twenty-eight, to the Orapiu Road Board (who, with its successors and assigns is hereinafter referred to as "the Board") :

And whereas the said license has expired, and the Board has applied for a fresh license, and it is desirable to grant the same in pursuance of the provisions of the Harbours Act, 1923 (hereinafter called "the said Act"), and to prescribe the dues and rates to be taken and charged 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 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 Board 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 Board to use and occupy that part of the foreshore and land below low-water mark as shown on plan marked M.D. 4496, so deposited as aforesaid, for the purpose of maintaining the said wharf, such license to be held and enjoyed by the Board upon and subject to the terms and conditions set forth in the First Schedule hereto, and doth prescribe that the dues set forth in the Second Schedule hereto shall be charged and taken by the Board 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 that part of the foreshore occupied by the said wharf as shown on the plan marked M.D. 4496 and deposited as aforesaid.

3. In consideration of the concessions and privileges granted by this Order in Council the Board shall pay to the Minister the sum of £1, and thereafter an annual sum of £2 10s. in advance, payable on the 1st day of April in each year, the first of such annual payments to be made on the Board being supplied with a copy of this Order in Council.

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

5. The Board shall maintain the above-mentioned wharf in good order and repair, and shall at all times exhibit therefrom and maintain at the Board'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.

6. 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 Board in

New Zealand, a notice in writing of any defect or want of repair in such wharf, requiring the Board, within a reasonable time to be therein prescribed, to repair the same, the Board shall with all convenient speed cause such defect to be removed or such repairs to be made.

7. Nothing herein contained shall authorize the Board 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.

8. The rights, power, and privileges conferred by or under this Order in Council shall continue to be in force for fourteen years computed from the eleventh day of September, one thousand nine hundred and twenty-nine, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority ; and the Board shall not assign, charge, or part with any such right, power, or privilege without the written consent of the Minister first obtained.

9. The said rights, powers, and privileges conferred under or by virtue of this Order in Council may be at any time resumed by the Governor-General, and the Board may be required to remove the wharf at the Board's cost, without payment of any compensation whatever, on giving to the Board 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 Board in New Zealand.

10. The Board 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 Board's part.

11. In case the Board 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 foreshore and 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 Board 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 Board 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.

12. 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 Board 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 Board 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 Board.

13. The payment of the sums specified in clause 3 hereof shall be sufficient evidence of the acceptance by the Board of the terms and conditions of this Order in Council.

SECOND SCHEDULE.

SHIPPING WHARFAGE.

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

1. For all goods landed on the said wharf, a rate of 2s. 6d. per ton, weight or measurement, at the option of the Board.
2. For every head of cattle or horses landed upon or shipped from the said wharf, 2s. 6d. per head.
3. For every yearling or calf so landed upon or shipped from the said wharf, the sum of 1s. per head.
4. For every head of sheep or small cattle so landed upon or shipped from the said wharf, the sum of 6d. per head.