

*Licensing Edward Glenlivet Elliot and Frederick Waller to use and occupy a Part of the Foreshore and Land below Low-water Mark of Tamaki River, Auckland Harbour, as a Site for a Wharf, and prescribing Dues for the Use thereof.*

BLEDISLOE, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 12th day of December, 1930.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS by Order in Council dated the twenty-second day of November, one thousand nine hundred and fifteen, and published in the *New Zealand Gazette*, No. 135, of the twenty-fifth day of the same month, Edward Glenlivet Elliot, and Frederick Waller, of Auckland (who, with their executors, administrators, and assigns, are hereinafter referred to as "the licensees") were licensed to use and occupy, for a period of fourteen years, computed from the twenty-second day of November, one thousand nine hundred and fifteen, part of the foreshore and land below low-water mark of Tamaki River, Auckland Harbour, in order to erect and maintain thereon a wharf in accordance with plan marked M.D. 4495, and deposited in the office of the Marine Department at Wellington :

And whereas the licensees have applied for a fresh license under the Harbours Act, 1923 (hereinafter called "the said Act"), and it is advisable to grant the same :

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 licensees 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 licensees to use and occupy that part of the foreshore which is particularly shown and delineated on the plan M.D. 4495, so deposited as aforesaid, for the purpose of maintaining thereon a wharf erected in accordance with the said plan, such license to be held and enjoyed by the licensees upon and subject to the terms and conditions set forth in the First Schedule hereto, and doth hereby prescribe that the dues and rates specified in the Second Schedule hereto shall be taken and charged by the licensees for the use of the said wharf.

FIRST SCHEDULE.

1. In these conditions and terms—

"Foreshore" means such part 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. 4495.

3. In consideration of the concessions and privileges granted by this Order in Council the licensees shall pay to the Minister the sum of £1, and thereafter an annual sum of £1 in advance, payable on the 1st day of April each year.

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 wharf without payment.

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

6. The licensees shall maintain the above-mentioned wharf in good order and repair, and shall at all times exhibit therefrom, and maintain at the licensees' 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 wharf and view the state of repair thereof ; and upon such Minister leaving at or posting to the last known address of the licensees in New Zealand a notice in writing of any defect or want of repair in such wharf, requiring the licensees within a reasonable time, to be therein

prescribed, to repair the same, the licensees shall, with all convenient speed, cause such defect to be removed or such repairs to be made.

8. Nothing herein contained shall authorize the licensees 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 licensees 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 in force for fourteen years from the twenty-second day of November, 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 licensees shall not assign, charge, or part with any such right, power, or privilege without the previous 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 licensees 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 licensees in New Zealand.

12. The licensees 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 licensees' part.

13. In case the licensees shall—

- (1) Commit or suffer a breach of the conditions hereinafter set forth, or any of them ;
- (2) Cease to use or occupy the said wharf for a period of thirty days ;
- (3) Become bankrupt, or be brought under the operation of any law for the time being in force relating to bankruptcy ; 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 licensees 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 licensees, 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 licensees 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 the revocation or expiry, as the case may be ; and if the licensees fail 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 licensees.

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 net 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 the 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 licensees.

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.

5. If any ship shall use the said wharf for the discharge of any goods or cargo after the usual working-hours or on wharf holidays, such ship shall pay to the licensees for the use of the said wharf a charge at the rate of 1s. per ton on all goods or cargo so discharged from such ship.