

*Licensing the Northern Wairoa Co-operative Dairy Company (Limited) to use and occupy a Part of the Foreshore and Land below Low-water Mark at Mangawhare, Northern Wairoa River, as a Site for a Wharf and Coal-bins.*

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 13th day of May, 1936.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Harbours Act, 1923, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby license and permit the Northern Wairoa Co-operative Dairy Company (Limited), (hereinafter called "the company," which term shall include its successors and assigns unless the context requires a different construction), to use and occupy all those parts of the foreshore and land below low-water mark at Mangawhare, Northern Wairoa River, shown on plans marked M.D. 3104, 4701, 3518, and 5206, and deposited in the office of the Marine Department at Wellington, for the purpose of the use of the wharf and coal-bins as shown on the said plan for a further term of fourteen years computed from the sixteenth day of January, one thousand nine hundred and thirty-six, such license to be held and enjoyed by the company upon and subject to the terms and conditions set forth in the First Schedule hereto, and, in further pursuance of the power conferred upon him by the said Act, and of all other powers enabling him in that behalf, and with the like advice and consent, His Excellency the Governor-General of the Dominion of New Zealand doth hereby make the regulations for the said wharf, and prescribe that the dues and rates set forth in the Second Schedule hereto shall be taken by the company 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 and land below low-water mark occupied by the wharf and coal-bins, as shown on plans marked M.D. 3104, 4701, 3518, and 5206.

3. In consideration of the concessions and privileges granted by this Order in Council, the company shall pay to the Minister the sum of £1, and thereafter an annual sum of £4 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 company being supplied with a copy of this Order in Council.

4. All persons shall at all reasonable times, upon payment of the 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, over, and out of the said wharf and coal-bins without payment.

6. The company shall maintain the above-mentioned wharf and coal-bins 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 guidance of vessels ; provided that the company shall exhibit no light 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 coal-bins 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 wharf and coal-bins, 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. The company shall appoint all wharfingers and other officers and servants required for the management and working of the said wharf.

9. 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 any regulation of the Minister of Customs, or with any provisions of the Harbours Act, 1923, or its amendments, or any regulation made thereunder, and that are now or may hereafter be in force.

10. The masters of all vessels discharging ballast at the said wharf shall have all such ballast taken away 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.

11. The rights, powers, and privileges conferred by or under this Order in Council shall continue to be in force for fourteen years from the 16th January, 1936, 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 previous written consent of the Minister first obtained.

12. 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 company six 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.

13. The company shall be liable for any injury which the said wharf or coal-bins may cause any vessel or boat to sustain through any default or neglect on the company's part.

14. 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 wharf and coal-bins for a period of thirty consecutive 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, and privilege, may be revoked and determined by the Governor-General in Council without any notice to the company or other proceedings whatsoever ; and publication in the *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.

SECOND SCHEDULE.

REGULATIONS.—WHARFAGE FEES AND DUES.

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

"Boat" means and includes any open, decked, or half-decked boat used for the purpose of business or pleasure, and in which the means of propulsion are either wholly or partly manual, or steam, or oil power :

"Company" means the Northern Wairoa Co-operative Dairy Company (Limited) :

"Cream-boat" means the steamer carrying the cream for delivery to the dairy company :

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

"Vessel" means and includes every ship of whatsoever size and rig, although the same may not be included in the term "boat" :

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

"Wharfinger" includes every person actually in charge of the wharf for the time being.

2. (1) In the absence of any special regulations to the contrary, the time the master of any vessel shall be permitted to occupy a berth at the wharf for the purpose of either loading or discharging cargo shall be not more than one day for vessels under 100 tons register, and one day additional for every further 100 tons register of the vessel or part thereof.

(2) Upon the completion of the loading or discharging of the vessel, or upon the termination of the time allowed hereunder, whichever sooner occurs, the master shall forthwith remove his vessel from and vacate the berth occupied by it.

3. (1) The master of any vessel loading or discharging at the wharf shall be deemed accountable for the proper slinging and landing of all goods, and responsible for any damage that may occur either from the breakage of slings or from the goods being improperly slung or improperly handled.

(2) It shall be the duty of the master to cause proper tarpaulins to be stretched from the wharf to the vessel loading or discharging as aforesaid, and to be there maintained while cargo or ballast is being handled or shipped.