

Licensing Archibald Hume Watt, William Leonard Keene, Rata Murupaenga, Henare Romana, Rapata Hotorene, and Leonard Owen Morgan (as Trustees), to use and occupy a Portion of the Foreshore at Te Hapua, Parengarenga Harbour, as a Site for a Wharf, prescribing Dues for such Wharf, and revoking Order in Council of 14th September, 1931.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 21st day of January, 1937.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS there being no Harbour Board empowered to grant the license hereinafter mentioned under the Harbours Act, 1923 (hereinafter called "the said Act"), Archibald Hume Watt, William Leonard Keene, Rata Murupaenga, Henare Romana, Rapata Hotorene, and Leonard Owen Morgan, as trustees for the inhabitants of the district (hereinafter called "the licensees"), have applied to the Governor-General in Council for a license under the said Act to occupy a part of the foreshore and land below low-water mark adjacent thereto, at Te Hapua, Parengarenga Harbour, in order to erect and maintain a wharf thereon, in accordance with plan marked M.D. 7352 (2 sheets), approved on the third day of July, one thousand nine hundred and thirty-five, and deposited in the office of the Marine Department at Wellington, showing the place where such wharf is erected and the area of foreshore and land below low-water mark occupied for such purpose :

And whereas it has been made to appear to the Governor-General in Council that the proposed work will not be or tend to the injury of navigation, and the said plans have, prior to the making of this Order in Council, been approved by the Governor-General in Council without modification or addition :

And whereas it is expedient that a license under the said Act, for the purpose aforesaid, should be granted and issued to the licensees on the terms and conditions hereinafter expressed, and that dues and rates shall be prescribed for the use of the said wharf :

And whereas it is desirable to revoke the Order in Council dated the fourteenth day of September, one thousand nine hundred and thirty-one, and published in the *Gazette* on the seventeenth day of the same month, at page 2813 :

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 object for which the said license is required by the licensees 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 licensees to use and occupy that part of the foreshore and land below low-water mark adjacent thereto on which the wharf is erected, as shown on plan marked M.D. 7352, so deposited as aforesaid, for the purpose of maintaining the said wharf thereon, 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 set forth in the Second Schedule hereto shall be charged and taken by the licensees for the use of the said wharf, and doth hereby revoke the said Order in Council of the fourteenth day of September, one thousand nine hundred and thirty-one, as from the date hereof.

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 the part of the foreshore and the land below low-water mark adjacent thereto necessary for the maintenance of the wharf as shown on the plan marked M.D. 7352 (2 sheets), 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 licensees shall pay to the Minister an annual sum of 1s., payable on demand.

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, and out of the said wharf without payment.

6. The licensees shall maintain the said 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 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 regulations 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 master of every vessel 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.

10. The rights, powers, and privileges conferred by or under this Order in Council shall continue in force for the term of fourteen years, 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 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 any structure on the said premises may cause any vessel or boat to sustain through any default or neglect on the part of the licensees.

13. In case the licensees 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 consecutive days—

then, and in either such case, this Order in Council, and every license, right, power, or privilege thereby conferred, 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 *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, right, 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 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 from the licensees the costs incurred by the said removal and restoration.

15. The occupation of the wharf shall be sufficient evidence of the acceptance by the licensees of the terms and conditions of this Order in Council.

SECOND SCHEDULE.

THE master of every vessel shall pay a sum of 1d. per ton on the gross tonnage of such vessels per day for each day or part of a day a vessel shall occupy a berth at the said wharf, or 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.

1. For all goods landed on or shipped from the said wharf a rate of 2s. per ton weight or measurement, at the option of the licensees ; minimum charge, 6d.

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 landed upon or shipped from the said wharf, 1s. per head.

4. For every head of sheep or small cattle landed upon or shipped from the said wharf, 3d. per head.

C. A. JEFFERY,
Clerk of the Executive Council.