

Licensing George Arthur Hammond, Bernard Edward Shepherd, and William Charles Barrett, as Trustees, to use and occupy a Part of the Foreshore at Takamatua, Akaroa Harbour, as a Site for a Wharf, and prescribing Dues for the use of same.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 20th day of September, 1939.

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 George Arthur Hammond, Bernard Edward Shepherd, and William Charles Barrett, as trustees for the inhabitants of the district (hereinafter called "the trustees," which term shall include their administrators, executors, and assigns, unless the context requires a different construction), to use and occupy a part of the foreshore and land below low-water mark at Takamatua, Akaroa Harbour, as shown on plan marked M.D. 3541, approved on the first day of August, one thousand nine hundred and ten, and deposited in the office of the Marine Department at Wellington, for the purpose of erecting and maintaining thereon a wharf as shown on the said plan, such license to be held and enjoyed by the trustees 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 hereto shall be charged and taken by the trustees for the use of the said wharf.

FIRST SCHEDULE.

1. In these conditions the terms—

"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 land below low-water mark adjacent thereto necessary for the maintenance of the said wharf at the site shown on the plan marked M.D. 3541.

3. In consideration of the concessions and privileges granted by this Order in Council, the trustees shall pay to the Minister an annual rental 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 persons in the Government service acting in the execution of their duties, shall at all times have free ingress, passage, and egress into, through, over, and out of the said wharf without payment.

6. The trustees shall maintain the said wharf in good order and repair; and shall at all times exhibit therefrom and maintain at the trustees' 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 trustees in New Zealand a notice in writing of any defect or want of repair in such wharf requiring the trustees within a reasonable time, to be therein prescribed, to repair the same, the trustees shall with all reasonable speed cause such defect to be removed or such repairs to be made.

8. Nothing herein contained shall authorize the trustees 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 master of each 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 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 trustees 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, and the trustees may be required to remove the said wharf at the trustees' own cost, without payment of any compensation whatever, on giving to the trustees 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 trustees in New Zealand.

12. The trustees 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 trustees' part.

13. In case the trustees 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;
- (3) Fail to pay the sums specified in clause 3 of these conditions; or
- (4) Become bankrupt, or be in any manner brought under the operation of any Act for the time being in force relating to bankruptcy—

then, and in any of the said cases, 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 trustees or other proceedings whatsoever; and publication in the *Gazette* of an Order in Council containing such revocation shall be sufficient notice to the trustees 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 trustees 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 trustees fail so to do, the Minister may cause the said wharf to be removed and the site so restored, and may recover from the trustees the costs incurred by the said removal and restoration.

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

SECOND SCHEDULE.

WHARFAGE DUES.

All goods and merchandise not otherwise specified, weight, or measurement, per ton	..	..	1	8
Minimum charge	..	..	0	2
Calves, one year old and over, each	..	..	1	2
Calves, under one year old, sheep, lambs, goats, and pigs, per score (20)	..	..	3	4
Minimum charge, each	..	..	0	6
Carriages, two-wheeled, each	..	..	2	6
Carriages, four-wheeled, each	..	..	5	0
Carts and drays, each	..	..	2	6
Cheese, fruit, and grass-seed, per ton	..	..	1	0
Minimum charge	..	..	0	2
Coal, per ton	..	..	1	0
Dressed timber, doors, mouldings (T. and G. or plain), per 100 ft. superficial	..	..	0	4
Firewood, per cord	..	..	1	0
Horses and cattle, each	..	..	2	6
Palings, per hundred	..	..	0	6
Posts and rails, per hundred	..	..	1	6
Roofing-shingles, per thousand	..	..	0	4
Sand and gravel, per cubic yard	..	..	0	6
Timber (rough sawn), piles, and squared logs, per 100 ft. superficial	..	..	0	2
Wool or sheep-skins, in bales, per bale	..	..	0	4

RESHIPMENTS.

When any goods which have already paid wharfage dues at Akaroa are reshipped, no charge whatever shall be made for outward wharfage: Provided that when such goods are reshipped a declaration shall be forwarded with the waybill that such goods have paid wharfage, and stating the date when, and by whom, and in what ship such goods were imported.