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28 Victoria – Chapter 39

An Act to incorporate the Carleton (Saint John) Ship Building and Trading Company. Passed 8th June, 1865.

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Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. George M. Davis, Robert R. Allan, James Drake, William H. Shaw, Henry W. Frith, Samuel Robinson, John B. Beatteay, Samuel L. Britain, John Ansley, and Thomas Allan, their associates, successors, and assigns, shall be and they are hereby declared to be a body politic and corporate, by the name of "The Carleton (Saint John) Shipbuilding and Trading Company," and by that name shall have all the general powers and privileges made incident to a Corporation by Act of Assembly of this Province, for the purpose of building Ships or Vessels, and freighting, chartering, trading with, or selling the same, and of conducting and carrying on such other business as may be incident thereto. The shipyards of the said Company, and all buildings erected or purchased by it for the purposes aforesaid, shall be situated in that part of the City of Saint John known as Carleton aforesaid.

2. The capital of the said Company shall be derived from two sources, and shall be designated permanent and accumulative: The permanent capital shall be four hundred thousand dollars of current money of New Brunswick, and shall be divided into eight thousand shares of fifty dollars each, payable at such times and in such instalments as the business of the Company may require,

and the Directors determine: The accumulative capital shall be made up from the premiums upon shares sold by the Company, and from the half-yearly net earnings of all vessels owned by the Company, as follows, that is to say,—After payment of or due provision for the debts and liabilities of the Company, and before declaring any dividend, an amount not exceeding five per centum on the first cost of each vessel shall, during the first ten years after her completion, be reserved as part of such accumulative capital, which capital shall be applied in the first place to the payment of any charges or losses upon such vessel beyond ordinary wear and tear, and to the building of other vessels, and fitting out the same.

3. The said Company shall have full power and authority to take, receive, hold, possess and enjoy in fee simple, any lands, tenements, or real estate, to any amount not exceeding twelve thousand dollars, for the purposes for which it is incorporated, and to lease, sell and exchange the same from time to time as may be requisite.

4. The first meeting of the said Company shall be held in Carleton, in the City of Saint John, and shall be called by the said George M. Davis, or in case of his death, neglect, or refusal, by any two of the persons named in the first Section, by giving notice thereof in one or more of the public newspapers published in the City of Saint John, at least ten days previous to such meeting, but no person shall take part in or vote thereat, unless he shall have paid in (to the person or persons calling it) two per cent on the whole amount of stock in the said Company subscribed by him; at such meeting or any adjournment thereof, the stockholders legally qualified may proceed to make bye laws and regulations, and elect Directors, and the Directors so chosen shall serve till the first annual meeting, or until others are elected in their stead, and shall have full power and authority, as shall all subsequently elected Directors, to appoint such agents, officers and clerks as may be necessary for the management of the affairs of the said Company, subject to the provisions of this Act.

5. A general meeting of the shareholders of the said Company shall be held annually in Carleton aforesaid, on the third Monday in January, for the purpose of choosing Directors, who shall remain in office one year from that day, or until others are elected in their stead; as soon as convenient after their election, the Directors shall choose one of their number President of the Company for the ensuing year. In the absence of the President from any meeting, the Directors may appoint one of their number Chairman.

6. The number of Directors shall be seven, of whom four (including always the President) shall be re-elected each year; five of the Directors shall form a quorum for the transaction of business.

7. No person shall be eligible as a Director unless he shall hold at least five shares of the permanent capital stock of the Company, be twenty one years of age, and shall have paid up at least twenty five per cent on such shares, and all other instalments on the stock held by him which may have been called in.

8. On every occasion when the votes of the shareholders are to be given, each shareholder shall have one vote for each of the first four shares held by him, one vote for every two additional

shares up to ten, making seven votes for the first ten shares, and one vote on every four additional shares beyond ten; provided only, that no share shall be voted upon on which the whole or part of any instalment called in shall be due and unpaid; absent shareholders may vote by proxy, but all proxies must be held by shareholders, who must produce sufficient authority in writing, and no shareholder shall be entitled to hold more than three proxies.

9. The Directors may issue shares to be paid for by monthly instalments; each applicant for such shares to be subject to the approval of the Directors; the amount of such monthly instalments, and the time of payment, to be regulated by bye laws to be made by the Directors; but no person shall be allowed to subscribe for or to hold more than two such shares, on which the fall amount thereof shall remain unpaid at any one time; and all persons on having shares allotted to them, whether payable by monthly instalments, or upon call, shall forthwith make a payment to the Treasurer, or other person entitled to receive it, of two per cent on each share.

10. The shares of the said Company shall be applied for and allotted, and shall also be transferable according to such regulations and in such mode and form as shall be appointed by the bye laws to be made by the Directors; but no transfer of stock shall be complete or effectual until registered in a book to be kept by the Directors for that purpose, and in no case shall any part of a share less than the whole, or any share on which any thing may be due and unpaid, be transferable; and whenever any shareholder shall have transferred all his shares in the said Company, he shall cease to be a member thereof.

11. The Directors may from time to time make and collect such assessment or assessments of an equal rate upon all the subscribed shares of the Company, (not payable by monthly instalments) as may be necessary for carrying on the business of the Company, and when any such assessment is made the Treasurer shall give notice thereof in one of the newspapers published in the City of Saint John, requiring payment thereof to be made at the office or principal place of business of the said Company, within fifteen days from the date of such notice; and if such assessment shall not then be paid by any shareholder upon the share or shares held by him, it shall and may be lawful for the Directors, in the name of the said Company, either to sue such shareholders for the amount thereof in any Court of Law or Equity having competent jurisdiction, and recover such amount with interest from the last day on which the same was payable, or to proceed to sell any share or shares on which such assessment may be due and unpaid, at public auction to the highest bidder, first giving twenty days public notice thereof in any such newspaper as above mentioned, and on such sale a new certificate shall be made out to the purchaser. If, after paying to the said Company the amount of such assessment, interest thereon, and advertising and all other expenses, there shall be any residue, it shall be paid over to the former holder of such share, or his legal representative; or if upon any share the monthly instalments or any assessment shall be allowed to remain, due and unpaid for the space of three months, such share may be declared forfeited by resolution of the Directors, and the amount paid thereon be appropriated to a fund to be called the "Reserve Fund" of the said Company.

12. On the trial or hearing of any suit brought to recover the amount of any assessment upon a share or shares, the production of the Register of Shareholders shall be *prima facie* evidence of the

defendant being a shareholder, and of the number and amount of his shares, at the time such assessment shall have been ordered; and after proof that such assessment was actually made and due notice thereof given, of which production of the newspaper containing the same shall be sufficient proof, it shall be unnecessary to prove any other matter or thing.

13. The joint stock and property of the said Company alone shall be liable for its debts and engagements, but no shareholder shall be liable to be assessed beyond the full subscribed value of any share or shares held by him.

14. All regular and special meetings of the Company shall be called by public notice given by the President or any four of the Directors, stating the time and place of such meeting; such notice to be inserted in a newspaper published in the City of Saint John at least ten days before the time of meeting.

15. In case of a vacancy among the Directors by death, resignation, or disqualification, transfer of stock, or from any other cause, the remaining Directors shall elect any eligible shareholder in his stead, and the Director so chosen shall serve until another be chosen in his stead at the annual meeting of the Company.

16. No dividend shall be paid to any shareholder by whom any assessment or monthly instalment shall at the time of such dividend being declared be due and unpaid, but such dividend, or so much thereof as may be necessary, may be placed by the Directors to the credit of the amount so due by such shareholder.

17. The said Company shall not commence operations or enter into any contracts or engagements until at least twelve thousand dollars of capital shall be subscribed, and at least twenty five per centum thereof paid up, and that a certificate thereof under oath by the President of the Company shall be duly filed in the Provincial Secretary's Office.

18. It shall be the duty of the Directors from time to time to make estimates of the cost of construction and outfit of such vessels, designed for such purposes or trades as they shall deem most advisable, and to submit such estimates when made to the annual meeting of the shareholders, or any special meeting to be called for the purpose; if such estimates or any modification of them be approved by a majority of votes at such meeting, the Directors shall forthwith proceed with the work, and after having applied as much as they think desirable of the accumulative capital in hand to such purpose, shall be at liberty to make and offer for sale any additional issue of shares which may be necessary to produce sufficient capital (within the limit prescribed by this Act) to carry on the same, with power to fix the minimum price of such shares, so as to make them at the time of issuing of equivalent value to the then existing shares of the Company.

19. Separate and detailed accounts shall be kept of the cost of construction, of the running expenses, and of the earnings of each vessel.

20. The Directors shall, at the annual meeting in each year, lay before the shareholders for their information, previously to the election of new Directors, an exact and particular statement of the whole affairs of the Company, shewing its debts, liabilities and assets, the number and kind of vessels owned and building by it, and their value, and the quantity and value of outfit and materials, real estate and other property of the Company; also the annual surplus of profit (if any) remaining after deduction of expenses and losses, and provision for dividend, which statement shall be signed by three at least of the Directors, and attested by the President and Secretary, or Manager.

21. The Directors shall make and declare half yearly dividends of the surplus, income and profits, to be made up to the first day of January and July of each year; but no dividends shall be declared or payable on any assessment or instalment which shall have been paid in less than three months previously to the time of making up a dividend; nor shall any dividend be declared until all debts and liabilities of the Company are paid or provided for.

22. Any surplus of profits after making up the half yearly dividend as aforesaid, amounting to less than a quarter per centum, together with such sums as may be forfeited as aforesaid, shall be placed to the credit of a fund to be called the "Reserve Fund," which shall be kept separate from the general funds of the Company and be applied to the education of such persons as the Directors may from time to time select, in the art of navigation, and such other English branches as may be necessary for seamen and master mariners to be employed by the said Company; such persons first giving a bond to the Company in an amount to be fixed by the Directors, to serve an apprenticeship in the Company's service for such period, and on such terms and conditions as may be agreed upon at the time of his beginning to be educated by the said Company; and for the purpose of affording such education, the Directors shall be at liberty to apply the said Reserve Fund in any way deemed by them best calculated to attain such object.

23. No Director shall receive or be entitled to any salary or emolument for his services, but the President shall have such compensation as the shareholders at any meeting of the Company shall appoint.