

Laws of His Majesty's Province of Upper Canada, passed in the year 1857. Toronto: Stewart Derbshire & George Desbarats, 1857.

20 Victoria – Chapter 168

An Act to incorporate the North Western Steam Navigation Company of Canada. Assented to 10th June, 1857.

Whereas the trade now carried on between and upon the Great Lakes situate to the westward and north-westward of Lake Ontario, is of great and growing importance, and it is advisable that facilities should be afforded for extending the same, and for the direction thereof through this Province, to the benefit, among others of any present or future railway companies, and carrying trade of this Province, by the incorporation of a Company with the powers and authorities and in manner hereinafter contained; And whereas the persons hereinafter mentioned have petitioned the Legislature of this Province praying that they may be incorporated with such other persons as may become associated with them as a company under the name and style of the North Western Steam Navigation Company of Canada, for the purpose of constructing, chartering, owning and navigating on such Lakes, steamboats, propellers and other vessels, and therewith carrying on business by carriage of freight and passengers and of forwarding from such lakes, and procuring to be forwarded thereto and therefrom, freight and passengers, and it is proper to grant the prayer of the said petitioners as hereinafter provided: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. John Hutchison, Angus Morrison, Lewis Moffatt, E. F. Whittemore, Thomas Dick, J. Gordon Brown, J. G. Worts, George Wilson and Alfred Brunei, together with such person or persons as shall, under the provisions of this Act become proprietors of any share or shares of stock in the Company hereby authorized to be formed, and their several and respective heirs, executors, administrators and assigns being proprietors of any share or shares of the said stock of the said Company, are and shall be a Company for the purposes and with the powers and authorities hereinafter expressed, and shall, for that purpose be one body politic and corporate, by the style and title of the "North Western Steam Navigation Company of Canada," and by that name shall sue and be sued, implead and be impleaded in all Courts whether at law or in equity, and shall have perpetual succession, with a Common Seal which may be by them changed or varied at their pleasure.

II. The said Company may and they are hereby authorized and empowered from and after the passing of this Act, to construct, acquire, charter and maintain and navigate on Lakes Huron, Michigan and Superior, or either of them, and the waters, bays, navigable connections and rivers thereof, any steam or other vessels for the purposes of carriage or forwarding, on such terms, as the said Company may deem advisable for their pecuniary profit or otherwise, of goods, freight or passengers on and between such lakes, waters, bays, connections and rivers thereof, and any ports thereof, now or hereafter to be constructed or opened, situate within this Province, or any State of the United States of America; and to carry and forward on such terms and conditions as to reward therefor, pecuniary profit or otherwise, as to the said Company may seem advisable, on and between such lakes or any of them, and on the waters, bays, navigable connections and rivers thereof, and between, to or from any

such ports thereof, any goods, chattels, freight or passengers whatever, and to contract under such terms as to pecuniary profit therefor to the said Company or otherwise, as to the said Company may seem advisable, with any bodies, politic or corporate, now or hereafter to be incorporated, owners or shippers of goods, passengers or other persons whomsoever, for the forwarding or carriage by them the said Company, or by any such bodies, carriers or persons, or by any other body and bodies, politic or corporate, now or hereafter to be incorporated, public carrier or any person or persons whomsoever, of any goods, chattels, freight or passengers whatever, at any time or times at or after the time or times of making any such contract or contracts as the said Company may require, to or from any such ports, and to or from any intermediate locality lying between any place whence goods, freight or passengers may be required to be carried or forwarded and any such port, or lying between any such port and the ultimate place of destination, of such goods, freight or passengers; and any contract made in pursuance of the powers herein contained by and between the said Company and any other body politic or corporate, now or hereafter to be incorporated and empowered to carry as aforesaid, public carriers, owners, shippers or persons aforesaid, shall be mutually binding between the parties thereto, and be capable of being enforced according to the terms thereof; and to insure any property of the said Company, or which may have been trusted to their charge for any purpose against loss to the said Company by perils of navigation, accidents by fire, or otherwise, as to the said Company may seem expedient, and to carry on and transact all such business and do all such matters and things as may be incidental to the carrying out the objects of the said Company, or the powers and authorities herein contained or necessary or expedient to the more effectual or profitable prosecution thereof, and to sell, mortgage or dispose of the stock or property of the said Company, or any part thereof, from time to time, when and as may be deemed expedient, and to enter into any contracts or arrangement with any bodies politic or corporate, or other persons whomsoever for the joint or better execution of such objects, powers or authorities or otherwise, for the benefit of the said Company.

III. It shall be lawful for the said Company to purchase, rent, take, hold, make and enjoy to them and their successors, such lands, wharves, docks, warehouses, offices and other buildings as they may find necessary or convenient for the purposes of the said Company, but not for any other purpose, and to sell, let, mortgage or dispose of the same when not wanted for the purposes of the said Company, and others to purchase and acquire in their stead; Provided always, that the value of such lands, wharves, docks, warehouses, offices and other buildings within this Province at the time when the said Company shall enter into possession thereof, shall not exceed in the whole the sum of one hundred thousand pounds.

IV. It shall be lawful for the members of the said Company, to raise and contribute among themselves at any time, and from time to time, the sum of Two Hundred and Fifty Thousand Pounds, Sterling money of Great Britain and Ireland, and the sums so raised shall be the Capital Stock of the said Company, which shall be divided and held in shares of ten pounds each of money aforesaid, and the said shares may, after the first instalment thereon shall have been paid, subject however to and on such terms and conditions, and at such places as may be prescribed by any By-laws to be made by the Directors of the said Company, in regard to transfers of shares, be transferred by the respective persons subscribing for or holding the same to any other person or persons, and such transfer shall be entered or registered in a book or books to be kept for that purpose by the said Company; Provided always, that no Shareholder shall be entitled to transfer any share until he shall have paid all calls for

the time being due on every share held by him; And provided always, also, that until fifty thousand pounds of such Capital Stock shall be subscribed the said Company shall not commence business under this Act, but may nevertheless take any step or proceedings hereunder, that may be in any manner incidental to or requisite to the subscription of stock, making calls therefor, and enforcing payment or forfeiture thereof, and any By-laws may be made under any powers herein contained in relation to such stock, calls, subscription, payment and forfeiture.

V. The payment of the said shares of stock shall be made by calls for each share in manner following, that is to say: the sum of ten per cent, for each share on allocation thereof, and the residue by instalments in such sums and at such times as the Directors of the said Company may from time to time determine until the entire payment of the said stock; Provided that no such instalment shall exceed five per cent, nor become payable in less than thirty days next after notice of call therefor to be published in the *Canada Gazette*.

VI. The business and affairs of the said Company shall be conducted and managed, and its powers exercised by seven Directors to be appointed by the Shareholders at the annual meetings of the Company by the Shareholders there present or by proxy as hereinafter provided, and which Board of Directors in the first instance and until others shall, under the provisions of this Act, be elected by the Shareholders as hereinafter provided, shall consist of the said E. F. Whittemore, Lewis Moffat, Angus Morrison, Thomas Dick, J. Gordon Brown, John Hutchison and Alfred Brunei, a majority of which Directors or of those to be appointed as aforesaid, shall constitute a quorum for transaction of business.

VII. The Directors of the said Company shall have full power and authority to make, prescribe, alter, amend, repeal and re-enact all such by-laws, rules, regulations and ordinances as shall appear to them proper and needful, touching the well ordering of the Company, the acquirement, management and disposition of its stock, property, estate and effects, and of its affairs and business, but for such purposes a majority of the whole body of the Directors shall be present and assisting, and the said Directors shall have power in manner aforesaid, to make, prescribe, alter, amend, repeal or re-enact by-laws, rules, regulations and ordinances touching the following matters:

1. The mode and places in which the Capital Stock or shares thereof, may be subscribed for, or taken or transferred, whether within this Province or otherwise;
2. The calling up and payment from time to time of the Capital of the said Company, and of the increase thereof, and of the calls thereof, as hereinafter provided, and the conversion of the shares thereof, into Stock;
3. The issue of the certificates to the respective Shareholders of the said Company of their shares or stock therein, and the registration thereof, and of the addresses of the Shareholders for the purposes of the Company, and the mode of transfer of the said shares and the places either within or without this Province, where transfers may be made, and the terms and conditions whereon the same may be made;

4. The forfeiture or sale of shares or stock for non payment of calls or other liability of the shareholders: Provided always, that such forfeiture shall not be held to be conclusive against such liable shareholders, until after the actual sale of the shares declared to be forfeited, or the enforcement of the judgment for the payment of the calls in arrear as the case may be;
5. The set off of all debts due to the said Company from any of the shareholders against such shares and stock and dividends or payments to which they may be entitled, which set off is hereby empowered to be made;
6. The transfer of shares or stock and the mode thereof, and the places either within or without this Province, where the same may be made, and the approval and control by the Directors of such transfer, and of the proposed transferees, and as to the remedies against transferees, and the terms and conditions whereon such transfers may be made;
7. The Declaration and payment of profits of the said Company, and dividends in respect thereof;
8. The formation and maintenance of a Sinking or Reserve Fund;
9. The remuneration of the Directors and the appointment, removal and remuneration of all such Managers, Agents, Officers, Clerks, or servants of the Company, as they shall deem necessary for carrying on the business of the said Company, and the security, if any, to be taken from such parties respectively for the due performance of their respective duties, and also the indemnity of such parties, and the election, removal and re-election of a Chairman of the said Company;
10. The calling of General, Special or other Meetings of the said Company and Directors in this Province or elsewhere, and the mode of taking votes and regulating proxies of Shareholders;
11. The making and entering into Deeds, Bills, Notes, Agreements, Contracts, Charter parties, Policies of Insurance, and other documents and engagements to bind the Company, and whether under the seal of the Company or not;
12. The borrowing or advancing of money, for promoting the purposes and interest of the Company, and the securities to be given by or to the said Company for the same;
13. The keeping of minutes of the proceedings, and the accounts of the said Company, and making the same conclusive and binding on the Shareholders, and rectifying any errors which may be made therein;
14. The audit of accounts and appointment of Auditors;
15. The giving of Notices by or to the Company;
16. The dissolution and winding up of the Company.

VIII. All such By-laws, Rules, Regulations and Ordinances shall be valid and have effect in the same way as if the same had been contained and enacted in this Act, until the same are altered or repealed by a majority of the Directors or by the majority in value of Shareholders, voting at an Annual or other Special or General Meeting, to whom power is hereby given so to alter or repeal the same.

IX. A copy of all such By-laws as aforesaid or of any one or more of them, sealed with the Seal of the Company, shall be evidence in all Courts of Law or Equity of such By-laws or By-law, and that the same were or was duly made and are or is in force; and in any action or proceeding at Law or in Equity between the Company and any Shareholder, it shall not be necessary to give any evidence to prove the Seal of the Company, and all documents purporting to be sealed with the Seal of the Company shall be taken to have been duly sealed with the Seal of the Company.

X. The Directors of the said Company shall and may from time to time issue to each of the Shareholders respectively, certificates under the Common Seal of the Company, of the number of shares to which he is entitled, and each person, body politic or corporate, to whom any share or shares shall be assigned or who may become holders thereof, or subscribers, for any share or shares, shall sign or give an acknowledgment in writing of his or their having taken such share or shares, which acknowledgment shall be kept by the Directors, and shall be conclusive evidence of acceptance of such share or shares, and that the person or bodies aforesaid, signing it, has taken upon himself or have taken upon themselves the liability of Shareholders in respect to such share or shares.

XI. In case the said Directors shall deem it more expedient in any case to enforce the payment of any unpaid instalment than to forfeit or sell the said shares therefor, it shall or may be lawful for the Company to sue for and recover the same from such Shareholder with interest thereon in any action in any Court having civil jurisdiction to the amount claimed; and in any such action it shall be sufficient to allege that the defendant is the holder of one or more shares (stating the number of shares) and is indebted to the Company in the sum to which the call in arrear may amount, and to maintain such action it shall be sufficient that the signature of the defendant to such acknowledgment as hereinbefore mentioned or the corporate Seal thereto of any corporate body who may be defendant shall be proved, and that the calls in arrear have been made: and a certificate under the Seal of the Company or signed by any one or more of the Directors shall be sufficient evidence of the calls having been duly made and being in arrear and the amount due in respect thereof; Provided that nothing herein contained shall in any way affect the right of the said Company to forfeit the shares of any Shareholders for non-payment of calls or subscriptions, whether after or before such judgment for recovery thereof.

XII. The Capital Stock of the said Company is hereby directed and appointed to be laid out and applied in the first place for and towards the payment, discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and the preliminary expenses attending the establishment of the said Company, and all the rest, residue and remainder of such money, for and towards carrying out the objects of this undertaking, and the other purposes of the Company, and to no other use, intent or purpose whatsoever.

XIII. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the said shares may be subject, and the receipt of the party in whose name any such share shall stand in the Books of the Company shall, from time to time, be a discharge to the Company for any dividend or other sum of money payable in respect to such share, notwithstanding any trusts to which such share may then be subject, and whether or not the Company have had notice of such trusts, and the Company shall not be bound to see to the application of money paid upon such receipt.

XIV. When any share shall have become transmitted in consequence of the bankruptcy or insolvency of any Shareholder, the assignee of such Shareholder shall not be entitled, and in case of such transmission in consequence of the death or marriage of a female Shareholder, the executors or administrators, tutors, curators or husband as the case may be, of such Shareholder shall not, except so far as may be otherwise provided by By-laws, be entitled to receive any of the profits of the Company, or to vote in respect of such shares as the holders thereof, but nevertheless, after the production of such declaration or other evidence of such transmission as may be required in that behalf by any By-law of the Company, such assignees, executors, administrators, tutors, curators or husband, as the case may be, shall have power to transfer the share or shares so transmitted in the same manner and subject to the same regulations as any other transfer is to be made.

XV. The chief place of business of the said Company shall be at the City of Toronto, and the Directors of the said Company may from time to time, and at all times hereafter, establish such and so many agencies and under such regulations for the management thereof, and the removal of the same, as to them shall seem proper.

XVI. So soon after the passing of this Act, as fifty thousand pounds of the said Stock shall have been subscribed for, and five per cent paid up thereon, and on the first Monday in February in each year thereafter, there shall be a meeting of holders of shares in the Company, at the City of Toronto, whereat, amongst other matters to be there settled, shall be chosen annually, seven Directors in manner hereinafter mentioned; and all elections of Directors shall be by ballot, and the seven persons who shall have the greatest number of votes shall be Directors; and if it shall happen that two or more persons have an equal number of votes, the Shareholders shall determine the election of such parties having such equal number by another or other votes till a choice is made; and if a vacancy shall at any time happen among the Directors by death, resignation or otherwise, such vacancy shall be filled up by some other person, to be chosen by a majority of the Directors; and the said seven Directors shall form the Board of Directors, and shall hold office until the appointment of others in their lieu and stead, and any Director shall be eligible for re-election as Director, and a majority of the Directors shall form a quorum; Provided always, that no person shall be qualified to act or be elected or appointed as Director, unless he hold at least twenty shares in the Stock of the said Company, and shall have paid up all calls on such shares, and non-residence within this Province shall not disqualify any person from becoming a Director, but a majority of the Directors shall be resident within this Province; And in case it shall happen that an election of Directors should not be made on any day or time when, pursuant to this Act, it ought to have been made, the said Company shall not be deemed to be dissolved, but the Directors for the time being shall hold office and exercise all the powers and authorities of Directors till the appointment of others in their lieu and stead, which appointment may be made as aforesaid at any

general meeting of Shareholders, either on the first Monday of such month aforesaid next ensuing, and in the next year after such default in election shall have been made, or at such earlier day as the Directors for the time being may appoint, by any By-law to be made for that purpose, at least sixty days prior to the day to be appointed, of which By-law and the day and place thereby appointed, public notice shall be given for at least fifty days in some two or more newspapers to be published in the said City of Toronto; and any such meeting may be adjourned at such meeting to any other time.

XVII. Except in so far as it is herein otherwise provided, all transactions, questions and matters to be determined at any General Meeting of the Company, or at any Meeting of the Directors, shall be determined by the majority of the votes of the Shareholders or Directors, as the case may be, present and assisting at such meeting either in person or by proxy, and in case of any equality of votes at any such meeting, unless otherwise herein provided for, the Chairman of such meeting shall have a casting vote; Provided always that no Director shall be entitled to vote by proxy: And provided always, that Stockholders shall be entitled to the number of votes proportioned to the number of shares which he or they shall have held in his or their name at least one month prior to the time of voting, according to the following rates, that is to say: one vote for each share up to fifty inclusive, one vote more for every two other shares above fifty exclusive, and up to one hundred inclusive, one vote more for every other three shares above one hundred exclusive, up to two hundred inclusive, and one vote more for every other four shares above two hundred; Provided always, also, that no vote shall be given on any shares whereon any call may be overdue and unpaid.

XVIII. The Directors of the said Company may act as Directors in this Province or in the United Kingdom or United States of America, and shall and may appoint one or more Agents in this Province or elsewhere, and for such time and on such terms as to them shall seem expedient: and the Directors may by any By-law to be made for such purpose, empower and authorize any such Agent or Agents to do and perform any act or thing, or to exercise any powers which the Directors themselves or any of them may lawfully do, perform and exercise, except the power of making By-laws, and all things done by any such Agent by virtue of the powers in him vested by such By-law, shall be valid and effectual to all intents and purposes as if done by such Directors themselves, any thing in this Act to the contrary notwithstanding.

XIX. All acts done by any person or persons acting as Directors, shall, notwithstanding there may have been some defect in the appointment of any such person or persons, or that they or any of them were unqualified, be as valid as if every such person or persons had been duly appointed and was qualified to be a Director.

XX. If at any time any Municipal or other Corporation, civil or ecclesiastical, body politic, corporate or collegiate or community in this Province, or any where, shall be desirous of taking shares of the Capital Stock of the said Company, or otherwise promoting the success of their undertaking by loans of money or securities for money at interest, it shall be lawful for them respectively so to do in like manner and with the same rights and privileges in respect thereof, both as to voting and otherwise, as private individuals may do under or by virtue of this Act; any thing in any ordinance or act or instrument of incorporation of any such body, or in any law or usage to the contrary notwithstanding.

XXI. The Shareholders shall not as such be held liable for any claim, engagement, loss or payment, or for injury, transaction, matter or thing relating to or connected with the said Company, or the liabilities, acts or defaults of the said Company beyond the past contributions to the said Company, and the sums if any, remaining, due to complete the amount of their subscriptions to the Company.

XXII. The shares in the Capital Stock of the said Company shall be deemed personal estate, and shall be transferable as such.

XXIII. Suits at law and in equity may be prosecuted and maintained between the said Company and any Shareholder thereof; and no Shareholder of the Company, not being in his private capacity a party to such suit, shall be incompetent as a witness in such suit nor in any other suit by and against the Company, nor shall any Shareholder be an incompetent witness by reason of being a Shareholder.

XXIV. If after making trial of the proposed connection with the Ontario, Simcoe and Huron Railway at Collingwood, it shall be deemed advisable, at a special meeting of the Shareholders to be called for the purpose, (one month's notice of such meeting to be given to each Shareholder,) to connect with some other line of Railway terminating at the Shore of Lake Huron, it shall and may be lawful for the Company to place their Vessels in connection with such other line; upon condition, however, that payment be first made to the Shareholders residing in the County of Simcoe, of the amount of their paid up shares, and interest at the rate of six per cent., or such proportion thereof as may have been paid in, together with interest as aforesaid, upon each instalment from the day of payment thereof.

XXV. This Act shall be deemed a Public Act.