

Laws of Her Majesty's Province of Upper Canada, passed in the year 1838. York: Robert Stanton, 1838.

1 Victoria – Chapter 5

An Act to regulate the future erection of Gaols in this Province. Passed 12th January, 1838.

Whereas it is expedient that measures should be taken for ascertaining and determining upon the plan of a Gaol, which will be best adapted to insure the health and comfort, as well as the safe custody of the Prisoners to be confined therein, in order that by the adoption of such plan in the first instance, the expense of future alterations may be avoided, and much unnecessary suffering prevented: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That it shall and may be lawful for the Lieutenant Governor of this Province, after the passing of this Act, to appoint three Commissioners, who, together with the Chief Justice of this Province, the Vice-Chancellor, the Judges of Her Majesty's Court of King's Bench, and the Sheriffs of the several Districts in this Province, shall compose a Board of Commissioners for the purposes of this Act.

II. And be it further enacted by the authority aforesaid, That from and after the passing of this Act, every Gaol that shall be erected in this Province, shall be made and built according to a plan which shall be approved of by such Commissioners, or a majority of them; and no Gaol that shall be built in any District otherwise than according to a plan prescribed by them, or that shall not after its completion receive their sanction and approbation, shall be deemed to be in Law the Gaol of such District.

III. And be it further enacted by the authority aforesaid, That if a contract shall before the passing of this Act have been entered into, for the erection of any Gaol in this Province, which contract shall only have been partly carried into effect, or shall not have been to any extent proceeded in, the Justices or other persons superintending or directing the erection of such Building, or any who shall have entered into the contract for the same, shall immediately, on having notice of this Act, suspend all proceeding under such contract, and shall forthwith submit their contract, with the plans and specifications, to the consideration of the Board of Commissioners; and the Board shall determine as soon as may be practicable, whether it may be expedient to proceed upon such contract or to abandon the same, or to erect such Gaol wholly or in part upon a different plan; and that in case it shall be determined by the Commissioners not to proceed under the existing contract, then the amount of damages, if any, which the Contractor or Contractors may be justly entitled to receive, on account of the abandonment of such contract shall be ascertained by arbitration, and that the said Board of Commissioners shall appoint two persons, and the Contractor or Contractors two other persons, to be respectively Arbitrators in their behalf, which

four persons shall choose a fifth, and the award of such five Arbitrators, or a majority of them, shall be final; Provided always, that the proceedings of such Arbitrators shall be governed by the same rules, and the Arbitrators shall have the same power as in ordinary cases of Arbitration, and the award to be made by them shall be subject to be set aside by the Court of King's Bench, in like manner as awards made in other cases.

IV. And be it further enacted by the authority aforesaid, That the sum which may be awarded in any case shall be paid out of the funds of the District in which such Gaol was to have been built, by order of the Justices of the Peace for such District.

V. And be it further enacted by the authority aforesaid, That the Board of Commissioners appointed under the authority of this Act, before deciding in any case upon the plan of a Gaol most proper to be adopted, shall take into their consideration the nature and extent of the ground on which such Gaol is to be built; its relative situation to streets and buildings, and to any river or other water; its comparative elevation and capability of being drained; the materials of which it is to be composed; the necessity of guarding against cold and damp, and of providing properly for ventilation; the proper classification of Prisoners, having respect to their age, sex, and the cause of their confinement; the best means of ensuring their safe custody, without the necessity of resorting to severe treatment; the due accommodation of the Keeper of the Gaol, so that he may have ready access to the Prisoners, and may conveniently oversee them; the exclusion of any intercourse with persons without the walls of the building; the prevention of unwholesome nuisances from whatever cause; the combining provision for the reformation of Convicts, so far as may be practicable, and for their employment, in order that the common Gaols may really serve for places of correction according to the intention of the law; the admission of Prisoners to air and exercise without the walls of the building, when that may be proper; and the enclosure of the yards and premises with a secure wall; and that regard shall also be had to the ability of the District to meet the expense of any proposed building, and to the expediency of adopting such a plan as may most conveniently and properly admit of the erection of additional cells and apartments, when the same may be required.

VI. And be it further enacted by the authority aforesaid, That the said Board of Commissioners shall, as soon as may be convenient, frame a set of rules and regulations for the government of common Gaols in this Province, extending to the maintenance of the Prisoners in regard to diet, clothing, bedding and other necessaries; medical attendance; religious instruction; the conduct of the Prisoners, and the restraint and punishment to which they may be subjected; and also to the treatment and custody of the Prisoners generally, and to the whole internal economy and management of the Gaol, and all such matters connected therewith, as shall be thought by them expedient; which rules and regulations shall be transmitted to the Lieutenant Governor of this Province, to be laid before each House of the Legislature at their next Session, and shall not take effect until after the termination of such Session.

VII. And be it further enacted by the authority aforesaid, That the first meeting of the Commissioners to be appointed under this Act, shall be holden on the first Monday in the month of May next, and that they shall at such meeting arrange certain regular days of meeting

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thereafter, and may meet at such other times as may be thought by them convenient, at the call of the Chairman of such Board, and that a majority of the Members present at any such meeting shall be competent to transact business.

VIII. And be it further enacted by the authority aforesaid, That a yearly report of the Commissioners shall be made to both branches of the Legislature.