

The Provincial Statutes of Canada, passed in the year 1841. Kingston: Stewart Derbishire & George Desbarats, 1841.

4 & 5 Victoria – Chapter 69

An Act to render the Penitentiary erected near Kingston, in the Midland District, the Provincial Penitentiary for Canada. 18th September, 1841.

Whereas it is expedient that the Penitentiary erected near Kingston, in the Midland District, be made the Provincial Penitentiary for this Province of Canada, so that convicts lawfully sentenced by any Court in that part of this Province called Lower Canada, to be imprisoned in the Penitentiary, may be conveyed to and confined in the Penitentiary aforesaid, during the term for which they may be respectively so sentenced; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Penitentiary shall hereafter be, and be called the Provincial Penitentiary of Canada; and that whenever any convict shall be lawfully sentenced by any Court in that part of this Province called Lower Canada, to be imprisoned in the Penitentiary, then the sentence shall be understood to mean the said Provincial Penitentiary, and the Sheriff having the lawful custody of the convict at the time of the conviction, shall upon an order from the Court before which the conviction shall have taken place, cause such convict to be conveyed by such persons as the Sheriff shall appoint, authorize and empower for that purpose, to the said Provincial Penitentiary, and shall cause him or her to be delivered into the custody of the Warden thereof, together with a certified copy of the sentence passed upon such convict, which shall for that purpose be furnished to the said Sheriff by the proper Officer with the order of the Court, as aforesaid; and the said Warden shall receive such convict into the said Penitentiary and shall safely keep him or her therein subject to the discipline thereof, until such sentence be executed or such convict be discharged in due course of Law: and the certificate of the Warden or assistant Warden of the delivery of such convict shall be a sufficient discharge and voucher to the said Sheriff, whose lawful and reasonable expenses incurred in the conveyance of such convict to the Penitentiary, aforesaid, shall be allowed him in his accounts with the Provincial Government, in the same manner and under the same provisions as other expenses by him lawfully incurred, and payable out of the public monies of the Province.

II. And be it enacted that the person or persons appointed, authorized and empowered by any Sheriff to convey any such convict, as aforesaid, to the said Penitentiary, shall, until the convict shall be delivered to the Warden thereof, and in all Districts or parts of this Province through which it may be necessary so to convey such convict, have the same authority and power over and with regard to such convict, and to command the assistance of any persons in preventing his or her escape, or in retaking him or her in case of an escape, as the Sheriff would himself have if lawfully conveying such convict from one part to another of the District in which he or she was convicted.

III. And be it enacted, that all the enactments and provisions of a certain Act of the Legislature of the late Province of Upper Canada, passed in the fourth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to provide for the maintenance and government of the Provincial Penitentiary erected near Kingston, in the Midland District*, with regard to convicts imprisoned in the said Penitentiary shall apply to convicts imprisoned therein under the authority of this Act.

IV. And be it enacted, that from and after the passing of this Act, the name of office of the Warden of the said Penitentiary, shall be “The Warden of the Provincial Penitentiary of Canada,” by which name he shall be capable of suing and being sued in all Courts and places within this Province, in all matters concerning the said Penitentiary.

V. And be it enacted, that so much of the Act last above cited as authorizes the appointment of a Deputy Warden of the said Penitentiary, shall be and is hereby repealed; and it shall be lawful for the Inspectors appointed or to be appointed under the authority of the said Act, or for a majority of them from time to time to appoint, and to remove, an Assistant-Warden of the said Penitentiary, who shall act under the control and superintendence of the Warden, and according to the direction he shall receive from him, and shall, whenever there shall exist a vacancy in the office of Warden, or when the Warden shall be absent from the Penitentiary, have all the powers which by the said Act were in like cases vested in the Deputy-Warden.