

*Laws of Her Majesty's Province of United Canada*, passed in the year 1846. Montreal:  
Stewart Derbishire & George Desbarats, 1846.

9 Victoria – Chapter 4

**An Act to consolidate and amend the Laws relating to the Provincial Penitentiary. 18th May, 1846.**

Whereas it is expedient to consolidate and amend the several Acts now in force relative to the maintenance and government of the Provincial Penitentiary of Canada, and to make further provision for the same: 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, and 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 Provincial Penitentiary of Canada shall be under the direction of a Board of five Inspectors, to be appointed by the Governor of this Province, to hold their office during pleasure, the present Inspectors remaining in office, and holding the same during pleasure, notwithstanding the passing of this Act; and that the said Board of Inspectors shall, from time to time, choose one of their number to be their President, and shall have full power and authority to make all necessary rules and regulations respecting; the discipline and police of the said Penitentiary, which rules and regulations the officers and others employed therein shall be bound to obey: Provided always, that the Warden of the said Penitentiary shall attend at all meetings of the said Board, whenever thereto required by the President thereof.

II. And be it enacted, That the Inspectors of the said Penitentiary shall have power, and it shall be their duty, from time to time, to examine and inquire into all matters connected with the government, discipline and police of the said Penitentiary, the punishment and employment of the prisoners therein confined, the financial concerns and contracts for work, and the purchases and sales of the articles provided for such Penitentiary, or sold on account thereof, and to make such rules and regulations for all or any of the foregoing purposes, as they shall see fit, not inconsistent with this Act or with any other Law of this Province; which rules and regulations shall forthwith be reported by their Clerk to the Governor, and may at any time be disallowed by him, and that they may, from time to time, require written reports from the Warden, in relation to any or all of the said matters.

III. And be it enacted, That it shall be the duty of the said Inspectors to inquire into any improper conduct which may have been alleged to have been committed by any of the Officers or other persons employed in the said Penitentiary, and for that purpose they shall have full power to issue subpoenas to compel the attendance of witnesses, and the production of papers and writings before them; and that any person who may have been duly summoned to attend and give evidence before the said Board, in pursuance of this Act, and shall refuse or neglect to appear in pursuance of such summons, shall, upon conviction thereof before one Justice of the Peace, be liable to be fined in such sum not exceeding five pounds, as to the Justice shall seem meet, and in

default of payment thereof, together with the costs, a warrant may be issued by such Justice to levy the same by distress and sale of the goods of the party offending, (the overplus, if any, to be returned to the owner,) and if no sufficient distress can be found, then the party convicted may be committed to the Common Gaol for any term not exceeding one calendar month, unless payment be sooner made; and that any witnesses who shall appear before them may be examined on oath, to be administered by the President of the Board of Inspectors, and that any witness or witnesses who shall wilfully and corruptly forswear themselves, shall, on conviction thereof, suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury.

IV. And be it enacted, That it shall be the duty of the Warden of the said Penitentiary to admit the Inspectors, or any of them, into every part of the said Penitentiary, to exhibit to them, on demand, all the books, papers, writings and accounts pertaining to the said Penitentiary, or to the business, management, discipline and government thereof, and to render them every facility in his power to enable them to discharge their duties.

V. And be it enacted, That the Board of Inspectors shall keep regular minutes of its meeting and proceedings, which shall be signed by the members of the Board present thereat, and preserved in the Penitentiary; and oftener when necessary, (and the President of the Board shall call any special meeting, which he is hereby authorized to do,) and then to inspect the same; and they shall annually, on or before the first day of November, make a report to the Governor of this Province, (copies whereof shall be laid before the Legislature,) of the state and condition of the said Penitentiary, of the prisoners confined therein, of the monies received and expended, and generally of all their proceedings during the past year: Provided always, that no Inspector of the said Penitentiary shall be Warden thereof, or be in any way concerned in the business or duties of such Warden thereof, or be in any way concerned in the business or duties of such Warden, or hold any other appointment connected with the Penitentiary, nor shall it be competent for any of the Inspectors, individually, to give directions to the Warden, in his management of the Penitentiary, or otherwise than by resolution in writing adopted when they are sitting at the Board, as herein provided for.

VI. And be it enacted, That the officers of the said Penitentiary, shall be as follows: One Warden or Principal Superintendent, one Clerk, one Physician and Surgeon, one Chaplain, one Head-Keeper, one Keeper to every thirty convicts confined in the Penitentiary, one Matron and one Assistant Matron; the Warden, Clerk, Surgeon, and Chaplain, to be appointed by the Governor of this Province, and to hold their offices during pleasure, and the remainder of the officers to be appointed and removed by the Warden of the said Penitentiary, subject to the approval of the Board of Inspectors: Provided always, that the officers already appointed shall continue to hold their offices during pleasure: And provided also, that the Inspectors shall have power to suspend or remove, for sufficient cause, any of the officers now or hereafter to be appointed other than those appointed by the Governor: Provided also, that if there shall arise any difference, between the Board of Inspectors and the Warden touching the appointment or removal of any such officer, the same shall be referred for the decision of the Governor.

VII. And be it enacted, That the Warden shall have authority to employ, from time to time, such number of Watchmen for the guarding of the said Penitentiary, (and to remove the said Watchmen when necessary,) as may by direction of the Inspectors be deemed sufficient for the safe-keeping of the convicts confined therein.

VIII. And be it enacted, That the Warden and Clerk shall severally execute bonds to Her Majesty with sufficient sureties, that is to say, the Warden in the penal sum of two thousand pounds, and the Clerk in the penal sum of five hundred pounds, conditioned for the faithful performance of the duties of their respective offices according to law, which bonds shall be filed in the office of the Provincial Secretary; and the said Warden, Clerk, Head-Keeper, Keepers, Watchmen, Matron and Assistant Matron, shall severally take and subscribe before the President of the said Board of Inspectors the following oath of office, such oath to be filed in the office of the Clerk of the said Penitentiary:

“I, A. B., do promise and swear, that I will faithfully, diligently and justly serve and perform the office and duties of \_\_\_ of the Provincial Penitentiary, according to the best of my abilities: So help me God.”

IX. And be it enacted, That it shall be the duty of the said Warden, or in his absence of the Head-Keeper, to attend constantly at the Penitentiary, except when performing some other necessary duty of his office, and under the rules and regulations which may be made as aforesaid, to exercise a general supervision and control over the government, discipline and police of the said Penitentiary; to give the necessary directions to the officers and others employed therein, and to examine daily into the state of the Penitentiary, and the health, conduct and safe-keeping of the Prisoners; to use every means to furnish such prisoners with employment, the most beneficial to the public, and the best suited to their various capacities, and to superintend all the manufacturing and mechanical business that may be carried on within the Penitentiary; to receive the articles so manufactured; and to sell and dispose of the same for the benefit of the Province, when the labour of the convicts is not let out by contract: Provided always, that the Warden shall be, and is hereby authorized to act in all cases not provided for by law, or by such rules or regulations, during the interim of the sitting of the Board of Inspectors, in such manner as he may deem to be most for the advantage of the Penitentiary: And provided also, that the said Warden shall be bound to report to the said Inspectors at their next subsequent meeting, all matters wherein he has acted during the absence of the Board, and which specially come under the cognizance and direction of the Inspectors.

X. And be it enacted, That all transactions and dealings, on account of the said Penitentiary, shall be conducted by and in the name of the Warden, who shall be capable, in law, of contracting, suing and being sued in all Courts and places, and in all matters concerning the said Penitentiary, by his name of office of “The Warden of the Provincial Penitentiary of Canada,” and by that name the said Warden shall be, and is hereby authorized to sue for and recover all sums of money that may be or become due from any person to the Province on account of the said Penitentiary, and by that name he and his successors in office shall have perpetual succession; and it shall be the duty of the said Warden to enforce the payment of all debts due to the institution under his

charge, as soon, and with as little expense to the Province as possible, but he may, with the approbation of the Inspectors, accept of such security from any debtor, on granting time, as may be conducive to the interests of the Province.

XI. And be it enacted, That whenever any controversy shall arise relative to any claim or demand which any person may have against the said Warden relative to any claim or demand which the said Warden may have against any person, on account of the said Penitentiary, such controversy may be referred to the arbitration of two or more persons mutually chosen by such Warden and the person with whom such controversy may exist, or by the arbitrators so appointed as an umpire.

XII. And be it enacted, That whenever the Inspectors of the said Penitentiary shall so direct, it shall be the duty of the Warden to make contracts from time to time for the labour of the convicts confined therein, or of any of the said convicts, with such person and upon such terms as may be deemed by the said Warden most beneficial to the Province; and all contracts so to be made shall be reduced to writing, and a counterpart or copy of every such contract shall be filed with the Clerk of the Penitentiary.

XIII. And be it enacted, That the prisoners confined in the said Penitentiary shall be supplied with provisions by contract, which contract shall be made by the Warden annually, unless the Inspectors shall otherwise direct, with, such persons as may be willing to accept the lowest terms, at a fixed price per day for each ration, to be furnished, the articles of food, and the quantities of each kind to be prescribed by the Inspectors and inserted in the contract; and for the purpose of ascertaining who will furnish supplies on the lowest-terms, the Warden shall cause a notice to be published in three of the newspapers printed in the Midland District, stating the particular supplies wanted, the manner in which they are to be delivered, and the time during which proposals will be received by such Warden for furnishing the same; the proposals to be offered pursuant to such notice, shall specify the lowest price per ration per day, and the contracts, shall be made with those persons whose terms shall be most advantageous to the Province, and who shall give satisfactory security for the performance of their contracts: Provided always, that should it be deemed by the Warden that such tenders as may be offered are not satisfactory, he may, with the consent of the Inspectors, decline the same, and advertise anew.

XIV. And be it enacted, That the necessary Medicines and other Hospital Stores for the use of the Penitentiary, shall be purchased from time to time, as may be requisite, by the Warden, upon, requisitions therefor being furnished to him by the Surgeon of the Penitentiary.

XV. And be it enacted, That the Warden shall purchase such materials and other articles as may be necessary to be manufactured or used in the Penitentiary, and to be paid for by the said Warden, out of any money in his hands belonging to the Province; and whenever any supplies or materials shall be purchased for the Penitentiary, it shall be the duty of the Warden to take bills or accounts thereof at the time of such purchase, and the Clerk shall compare such bills with the articles delivered, and if found to be correct, shall enter them in books provided for that purpose; and whenever any services shall be rendered on account of the said Penitentiary, it shall in like

manner be the duty of the Warden to take bills thereof, and receipts therefor in duplicate at the time of making payment for the same, every such bill to be entered by the Clerk in the books of the Penitentiary, unless he shall have reason to believe that such bills are erroneous.

XVI. And be it enacted, That no Inspector, Warden, or other Officer or person employed at the Penitentiary shall be directly or indirectly interested in any contractor purchase, for, by, or on account of the said Penitentiary, under the penalty of one hundred pounds, to be recovered by action of debt in any of Her Majesty's Courts in this Province, which penalty when recovered shall be paid into the hands of Her Majesty's Receiver General, for the public uses of the Province.

XVII. And be it enacted, That it shall be the duty of the said Warden to keep a regular and correct account of all monies received by him from any source whatever by virtue of his office, including all monies taken from convicts or received as the proceeds of property taken from them, and of all sums paid by him, and the persons to whom, and the purposes for which the same were paid, and to make out monthly and deliver to the Board of Inspectors, a Return of all monies received by him on account of the Penitentiary, during the preceding month, specifying from whom received and to whom paid, and on what account, and stating also the balance in his hands at the time of rendering such account.

XVIII. And be it enacted, That the said Warden shall annually close his account on the first day of October in every year, and on or before the first day of November thereafter shall render to the Governor, to be laid before the Legislature, a full and true account of all monies received by him on account of the Penitentiary, and of all monies expended by him for the uses thereof, with sufficient vouchers for the same, and also an Inventory of the goods, raw materials, and other property of the Province on hand; and to the several returns, accounts and inventories required to be rendered by this and the last preceding clause, there shall be annexed an affidavit of the Warden and Clerk of the Penitentiary, stating that the same are correct and true in every respect, to the best of their knowledge and belief.

XIX. And be it enacted, That the Warden shall on or before the first day of November in every year, lay before the Inspectors of the Penitentiary, a Report exhibiting a comprehensive view of the transactions of the Penitentiary during the preceding year, of the number of convicts confined therein, the various branches of business in which they are employed, the number employed in each branch, and the profits to the Province, if any, arising therefrom.

XX. And be it enacted, That neither the Warden nor any other officer or person employed in the Penitentiary shall receive any perquisite or emoluments for his, her or their services, other than the compensation allowed by this Act, except that the Warden and Head-Keeper shall be provided with a dwelling at or near the Penitentiary, and shall be furnished with fuel and candles for their use.

XXI. And be it enacted, That it shall be the duty of the Warden annually on or before the first day of October in each year, to make a Report to the Governor of the names of the convicts discharged in the preceding year from the said Penitentiary, either by pardon, death, or upon the

expiration of the term for which they were respectively to be confined,—the Districts in which they were tried,—the crimes for which they were convicted,—the terms of time for which they were severally committed,—the ages and description of their persons,—and in cases of pardons, the terms unexpired of the time for which such convicts were respectively sentenced, when such pardons were granted, and the conditions, if any, upon which they were granted.

XXII. And be it enacted, That it shall be the duty of the Head-Keeper to act under the control and superintendence of the Warden, and according to the directions he shall receive from him, and that he 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 of the Warden so far as the same relate to the safekeeping of the prisoners, and the discipline of the Penitentiary.

XXIII. And be it enacted, That it shall be the duty of the Physician or Surgeon of the said Penitentiary, to keep Registers of all the sick convicts placed under his care, stating the diseases with which they are or were afflicted, distinguishing those confined in Hospital or otherwise, and also a Register of the deceased convicts, stating their names, ages, time and cause of death, and all other circumstances which he may deem necessary, which Registers shall always remain at the Penitentiary and be open for inspection.

XXIV. And be it enacted, That the Physician or Surgeon shall attend at the Penitentiary once every day, at a stated hour to be prescribed by the Inspectors, and in cases of emergency shall repair thereto as often as may be necessary; and that he shall also attend at the Penitentiary whenever he may be required so to do by the Warden, to the exclusion of all private practice.

XXV. And be it enacted, That the Chaplain shall give his attendance daily at the Penitentiary, for such number of hours as the Inspectors shall direct, during which he shall be occupied in giving spiritual advice to the convicts under his charge; and that he shall attend at the hour of nine o'clock in the morning of every Sunday, Good Friday, and Christmas Day to read prayers and preach a sermon to such convicts.

XXVI. And whereas a large proportion of the convicts confined in the said Provincial Penitentiary are of the Roman Catholic religion: Be it therefore enacted, That the Roman Catholic Bishop of Kingston, or his Coadjutor, or ecclesiastical person administering the Diocese, may from time to time direct the attendance of a Roman Catholic Priest at the Penitentiary for the purpose of performing Divine Service, according to the rites and ceremonies of that Church, to the convicts of that Faith, for which duty he shall be paid the sum of one hundred and twenty-five pounds per annum: Provided always, that such Priest shall be, as to the term of his attendance for the discharge of his duties, at all times subject to the rules and regulations established or to be established for the government of the Penitentiary: Provided also, That it shall be lawful for the Board of Inspectors to make rules and regulations for the admission, at proper and convenient times, of the Clergymen or Ministers of any denomination of Christians, for the religious instruction of such convicts as may belong to the same denomination as any such Clergyman, respectively.

XXVII. And be it enacted, That all Books of Account, Registers, Returns, and other documents and papers relating to the affairs of the Penitentiary, shall be considered as public property and remain therein; and the Warden of the said Penitentiary shall preserve therein, at least one set of copies of all Official Reports made to the Legislature respecting the same, for which purpose, and to enable the Warden to distribute such Official Reports in exchange for the like documents from other similar Institutions, he shall be furnished by the Clerk of the Legislative Assembly, with fifty copies of such Reports for distribution, when such Reports shall be printed by order of the said Legislative Assembly.

XXVIII. And be it enacted, That hereafter the Officers and other persons employed in the Penitentiary shall receive the undermentioned sums, per annum, severally stated against each, that is to say: the Warden, five hundred pounds; the Clerk, one hundred and fifty pounds; the Surgeon, two hundred pounds; the Chaplain one hundred and twenty-five pounds; the Head-Keeper, one hundred and twenty-five pounds; the Keepers, each one hundred pounds, and twelve pounds ten shillings each for house-rent; the Watchmen, three shillings and six pence per diem; the Matron, seventy-five pounds; the Assistant-Matron, fifty pounds.

XXIX. And be it enacted, That all convicts in the Penitentiary, other than such as are confined in solitude for misconduct therein, shall be kept constantly employed at hard labour during the day time, except when incapable of labouring by reason of sickness or bodily infirmity, and except on Sunday, Christmas Day, and Good Friday, and that it shall be the duty of the Warden to keep each prisoner singly in a cell at night, and also during the day time when unemployed: Provided always, that nothing herein contained shall be construed to oblige any convict of the Roman Catholic persuasion, to labour on any of the following obligatory holidays of that church, that is to say: Circumcision, Epiphany, Annunciation, Ascension, Corpus Christi, Saint Peter and Saint Paul, All Saints, and Conception.

XXX. And be it enacted, That the clothing and bedding of the convicts shall be of coarse materials, manufactured, when it can be done, in the Penitentiary; they shall be supplied with a sufficient quantity of inferior and wholesome food, and it shall be the duty of the Warden to furnish, at the expense of the Province, a Bible to each convict in the Penitentiary who can read, on the requisition of the Clergyman having charge of the spiritual instruction of such convict.

XXXI. And be it enacted, That whenever any convict shall offer violence to an officer or other person employed in the Penitentiary, or to any convict, or do or attempt to do any injury to the building or any workshop, or any appurtenance thereof, or attempt to escape, or resist or disobey any lawful command, the officers of the Penitentiary, or either of them, shall and may use all suitable means to defend themselves, to enforce the observance of discipline, to secure the person of the offender, and to prevent any such escape.

XXXII. And be it enacted, That if any convict confined in the Penitentiary shall escape or attempt to escape therefrom, such offence shall be a misdemeanor, for which he or she shall be liable to be further imprisoned in the said Penitentiary for a period not exceeding seven years after the expiration of the sentence previously passed upon him or her; and after conviction before the

Court of Quarter Sessions for the Midland District, and the offender may be arrested on the charge on the oath of any officer of the Penitentiary, and the warrant of a Justice of the Peace, for the said District, immediately after the expiration of the term for which lie was previously sentenced.

XXXIII. And be it enacted, That it shall be the duty of the said Warden to take charge of any property which any convict shall have with him at the time of entering the Penitentiary, and to preserve the same for the benefit of such convict or his representatives; and the said Warden shall deliver the same to such convict when released; and in case of the death of any convict in the Penitentiary, if no legal representative shall demand such property within one year, then the same shall be applied to the use of the Province: Provided nevertheless, that in all cases wherein any convict has been sentenced to an imprisonment of a longer duration than three years, it shall not be incumbent on the Warden to preserve the clothing of any such prisoner for his special use.

XXXIV. And be it enacted, That whenever any convict shall be discharged from the Penitentiary, either by pardon or expiration of sentence, it shall be the duty of the Warden to furnish such convict with necessary clothing, not exceeding the value of two pounds, and such sum of money not exceeding one pound, as the said Warden may deem proper and necessary.

XXXV. And be it enacted, That no person shall, without the consent of the Warden, bring into or convey out of the Penitentiary any letter, writing, or other article, to or from a convict, nor shall any officer or other person employed therein write any letter on behalf of a convict; and whoever shall violate either of the provisions of this clause shall be deemed guilty of a misdemeanor, and he shall be liable to be fined or imprisoned, or both, at the discretion of the Court before which he or she may be convicted for the same.

XXXVI. And be it enacted, That no officer or other person employed in the Penitentiary shall be allowed to carry on any trade or calling for the purpose of profit or emolument, other than the situation held by him in the said Penitentiary: Provided always, that the Surgeon and Chaplain thereof may be allowed to exercise their respective professions independently of their duties in the Penitentiary.

XXXVII. And be it enacted, That the following persons shall have the authority to visit the Penitentiary at pleasure, namely: the Governor, the Members of the Executive Council, the Members of the Legislature, the Judges of the several Courts of Queen's Bench, and the Attorneys and Solicitors General; but no other person shall be permitted to enter within the walls where the prisoners are confined except by the special permission of the Warden, and under such regulations as the Inspectors shall prescribe.

XXXVIII. And be it enacted, That whenever any convict shall be delivered at the Penitentiary, it shall be the duty of the officer, having such convict in charge, to deliver to the Warden a certified copy of the sentence from the Clerk of the Court before which such convict shall have been tried, stating the date of the sentence passed upon the convict, and such officer shall take from the Warden, or in his absence, from some other officer of the Penitentiary, a certificate of the delivery



of such convict; and whenever any convict confined in the Penitentiary shall escape therefrom, it shall be the duty of the Warden to take all proper measures for the apprehension of such convict, and for that purpose the Warden may offer a reward not exceeding fifty pounds for the apprehension and delivery of such convict.

XXXIX. And be it enacted, That in order to suppress any revolt or meeting that may occur among the convicts in the Penitentiary, and to ensure the capture of any convict who may escape therefrom, and to assist in any emergency wherein their services may be required, it shall be lawful for the Warden to organize a Guard consisting of not more than fifty persons, inhabitants of the neighbourhood of the Penitentiary, to be under the orders of the said Warden, who, in consideration of the duties to be imposed. upon them, shall be exempt from the duties of Constable, Militiaman, or Town Officer, during the time they shall be enrolled in the Penitentiary Guard: Provided always, that the Warden shall have power to remove such persons as he may, from time to time, consider unfit to be of the number of the said Guard, and to appoint others in their stead.

XL. And be it enacted, That it shall not. be lawful for any Coroner to hold an inquest in the said Penitentiary, upon the body of any deceased convict, unless requested so to do by the Warden of the Penitentiary, but it shall be the duty of the Warden to call the Coroner in all cases of death of any convict from any cause other than ordinary sickness; and whenever a convict, under sentence of imprisonment for a term of seven years or upwards, shall die, if the body of such convict be not taken away by the friends or relatives of the deceased within twenty-four hours after the death of such convict, for the purpose of being interred, the Warden may deliver, on demand, such dead body to the Agent of any Medical or Chirurgical Society of the District in which the Penitentiary is situate; and whenever a convict, under sentence of imprisonment for a less term than seven years, shall die, it shall be the duty of the Warden to cause the body of such convict to be decently interred at the expense of the Province, and according to the forms, rites and ceremonies of the church to which such convict belonged, unless the said body shall have been taken away by the friends or relatives of the deceased within twenty-four hours as aforesaid.

XLI. And be it enacted, That in case any pestilence or contagious disease shall break out among the convicts in the said Penitentiary, or in the vicinity thereof, the Inspectors may cause the convicts, or any of them, to be removed to some suitable place of security, where such of them as may be sick shall receive all necessary care and medical assistance, and such convicts shall be returned as soon as may be to the Penitentiary, to be confined therein according to their respective sentences, if the same be unexpired.

XLII. And be it enacted, That whenever, by reason of the Penitentiary or any building contiguous thereto being on fire, there shall be reason to apprehend that the convicts confined therein may be injured or endangered by such fire, the Warden may, in his discretion, remove such convicts to the most safe and convenient place in his charge, and there confine them so long as it may be necessary to avoid such danger.

XLIII. And be it enacted, That no spirituous or fermented liquors shall on any pretence whatever be sold within the said Penitentiary; nor shall any kind of spirituous or fermented liquors be brought into the Penitentiary for the use of any Keeper or Guard on duty therein, or for the use of any convict confined therein.

XLIV. And be it enacted, That no convict shall be discharged from the Penitentiary at the termination of his or her sentence, if he or she shall then labour under any dangerous illness (unless at his or her own request) until he or she can be safely discharged.

XLV. And be it enacted, That the Warden of the Penitentiary, and all persons actually employed therein, shall be exempted, during their continuance in office, from serving on juries and from Militia duty, and also from serving as Town or Parish Officers.

XLVI. And be it enacted, That the Warden of the Penitentiary shall be by virtue of his office, and without any property qualification, a Justice of the Peace for each and every District in the Province of Canada; any law or statute to the contrary thereof notwithstanding.

XLVII. And be it enacted, That the duties formerly performed by the Commissioners for building and completing the said Penitentiary, appointed by the Act passed by the Parliament of the late Province of Upper Canada, in the third year of the Reign of His late Majesty, William the Fourth, and intituled, *An Act granting to His Majesty a sum of money to defray the expense of erecting a Penitentiary in this Province, and for other purposes therein mentioned*, shall be assumed and performed by the Board of Inspectors, and Warden now appointed, or hereafter to be appointed in conformity to this Act.

XLVIII. And be it enacted, That the said Board of Inspectors may employ some competent person as Architect and Master-builder, who shall, under the orders of the said Inspectors, superintend the erection of the several buildings and other works necessary for the completion of the said Penitentiary, and for whose services the said Inspectors are hereby empowered to pay such salary as they shall consider just and reasonable, not exceeding one hundred pounds.

XLIX. And be it enacted, That it shall be the duty of the Warden to receive into the said Penitentiary, and safely to keep therein, subject to the discipline thereof, any criminal convicted of any offence against our Sovereign Lady the Queen, sentenced to imprisonment therein by any Court of the Province, until such sentence be executed, or until such convict shall be discharged by due course of law.

L. And for the removal of all doubt, Be it declared and enacted, That if sentence of death has been or shall hereafter be passed upon any person by any Court in this Province, and Her Majesty's Royal Pardon shall have been or shall be extended to such person, on condition that he or she be imprisoned in the Provincial Penitentiary for life, or for any term of years in such pardon mentioned, such pardon hath and shall have the same effect as the judgment of a competent Court sentencing such person to such imprisonment for life or for such term, would have or would have had; and the production of such pardon, or a copy thereof, certified by the Provincial

Secretary, shall authorize and make it the duty of the said Warden, and of all Sheriffs, Gaolers and other Officers and others whomsoever, to deal with such person in like manner as if such sentence as aforesaid had been rendered and a certified copy thereof produced.

LI. And be it enacted, That in case any prisoner shall escape or attempt to escape out of the custody of any Officer to whom such prisoner may have been committed for the purpose of being conveyed to the Penitentiary, he shall be liable to be punished therefor, and the Officer having such charge of such prisoner, shall be liable to the pains and penalties incident thereto, for any neglect or violation of duty in respect to the custody of such prisoner.

LII. And be it enacted, That no raft, craft, boat, or vessel of any description shall be allowed to moor or anchor within three hundred feet of the shore or wharf bounding the lands of the said Penitentiary, without the permission of the said Warden being first had and obtained therefor; and any person violating the provisions of this section shall, upon conviction thereof before a Justice of the Peace, be liable to pay a penalty of five pounds, to be levied by distress and sale of the offender's goods and chattels, under the warrant of such Justice, and in default of payment of the same, with the costs thereon, and if sufficient distress cannot be found, shall be imprisoned at the discretion of the said Justice, for any period not exceeding two calendar months.

LIII. And be it enacted, That the sums necessary to pay the salaries and other expenses of the Penitentiary, shall be paid by the Receiver General of the Province, out of any unappropriated monies in his hands, forming part of the General Revenue Fund thereof, to the Warden in discharge of such Warrant or Warrants as may be issued for that purpose by the Governor of this Province for the time being; and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

LIV. And be it enacted, That in this Act, the word "Governor" is to be understood as comprehending the Governor, Lieutenant Governor, or person authorized to execute the office or functions of the Governor of the Province of Canada.

LV. And be it enacted, That the Act of the Legislature 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,—and the Act of the said Legislature, passed in the sixth year of the Reign last aforesaid, and intituled, *An Act granting a sum of money in support of the Provincial Penitentiary, and for other purposes therein mentioned*,—and the Act of the said Legislature, passed in the first year of Her Majesty's Reign, and intituled, *An Act to enable Her Majesty to remunerate Henry Smith, Esquire, Warden of the Provincial Penitentiary, for past services, performed, and disbursements made by him, and to increase the salary of that officer*,—and the Act of the said Legislature, passed in the third year of Her Majesty's Reign, and intituled, *An Act to provide for the support and maintenance of the Provincial Penitentiary*,—and the third, fourth and fifth sections of the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to render the Penitentiary erected near Kingston, in the*

*Midland District, the Provincial Penitentiary for Canada*; and all Acts or parts of Acts, or provisions of law in force in this Province, or any part thereof, immediately before the passing of this Act, which shall be inconsistent with or contradictory to this Act, or which make provision in any matter provided for by this Act, other than such as is hereby made in such matter, shall, from and after the passing of this Act be, and they are hereby repealed; but all Acts or parts of Acts repealed by them, or any of them shall, nevertheless, remain repealed; and nothing herein contained shall be construed to invalidate the appointment of any Inspector, Warden or Officer appointed under any Act or provision of law hereby repealed, but his appointment shall continue, (with the name of office, powers and duties assigned to his office by this Act, and subject to the provisions and enactments herein made, and as if he were appointed under this Act,) until he be removed or otherwise cease to hold such office: And all the provisions of this Act shall apply to any convict sentenced or to be sentenced to imprisonment in the Provincial Penitentiary, under the provisions of the Act last above cited, or of any other Act in force in any portion of this Province, as fully and effectually as the Acts hereby repealed, or any of them would have done if this Act had not been passed; nor shall any thing herein contained, repeal any unexpended appropriation of the public monies for any purpose relative to the said Provincial Penitentiary, and not provided for by this Act, and any offender against any Act hereby repealed may be prosecuted, or the prosecution may be continued, and such offender punished, as if such Act had not been repealed.