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Ontario
CHAPTER 388.

The Gaols Act.

1. In this Act,—

(a) "Inspector" shall mean an inspector appointed under The Public Institutions Inspection Act;

(b) "Minister" shall mean the member of the Executive Council charged for the time being with the administration of this Act. R.S.O. 1927, c. 351, s. 1; 1931, c. 23, s. 25.

2. All gaols in Ontario shall be prisons of the Supreme Court. R.S.O. 1927, c. 351, s. 2.

GAOLS IN PROVISIONAL JUDICIAL DISTRICTS.

3.—(1) Every gaol erected in a provisional judicial district under the authority of the Lieutenant-Governor in Council, or any building so declared so to be by the Lieutenant-Governor in Council, shall be a common gaol of the district.

(2) The common gaols and the industrial farms in the several districts shall be respectively common gaols and industrial farms for all the districts, and any court or magistrate may direct the committal to any of them, either for safe custody or for punishment of any person who may be lawfully committed by such court or magistrate to the common gaol or industrial farm of the district in which the order for committal is made. R.S.O. 1927, c. 351, s. 3.

4. Any person imprisoned in a lock-up in a district may be transferred by order of an inspector to the common gaol in the district town of the district. R.S.O. 1927, c. 351, s. 4.

5. The Lieutenant-Governor may appoint a gaoler of every common gaol, who shall perform all the duties and be under and subject to all the liabilities that the gaolers of the common gaols in counties perform and are subject to and shall give such security for the due performance of the duties of his office as the Lieutenant-Governor in Council from time to time prescribes, and every such gaoler shall be paid out of money appropriated by this Legislature and voted by the
Assembly for that purpose, such sums of money annually as
the Lieutenant-Governor in Council may think reasonable for
the services performed. R.S.O. 1927, c. 351, s. 5.

6.—(1) In case of a vacancy, the sheriff shall appoint some
proper person to act as gaoler until an appointment is made
by the Lieutenant-Governor in Council.

(2) The Lieutenant-Governor in Council may, upon the
application of the sheriff, declare that the public interests
do not require that another gaoler of the gaol at the district
town shall be appointed, and thereupon the sheriff shall be
ex-officio gaoler of such gaol, and shall perform all the duties
and shall be subject to all the liabilities of the office. R.S.O.
1927, c. 351, s. 6.

ESTABLISHMENT AND MAINTENANCE OF GAOLS.

7. Every gaol shall be constructed and built according to
a plan to be approved of by the inspector, and sanctioned by
the Lieutenant-Governor in Council, and no gaol built after
the 4th day of March, 1868, in any county, otherwise than
according to a plan so approved and sanctioned, or which does
not, after its completion, receive the approval of the inspector,
shall be deemed to be in law the gaol of such county. R.S.O.
1927, c. 351, s. 7.

8. The inspector, before deciding upon the plan of a gaol
most proper to be adopted, or approving a gaol after its com-
pletion, shall take into consideration,—

(a) the nature and extent of the ground upon which the
gaol has been or is to be built;
(b) its relative situation to any street and buildings, and
to any river or other water supply;
(c) its comparative elevation and capability of being
drained;
(d) the material of which it has been or is to be con-
structed;
(e) the necessity of guarding against cold and dampness,
and of providing properly for ventilation and light for
each corridor;
(f) the proper classification of prisoners, having regard
to age, sex, and cause of confinement;
(g) the best means of ensuring their safe custody with-
out the necessity of resorting to severe treatment;
(h) the due accommodation of the gaoler and turnkeys, so that they may have ready access to the prisoners and conveniently oversee them;

(i) the prevention of any intercourse between prisoners and persons without the walls of the building;

(j) the prevention of nuisances from whatever cause, and the necessity of providing proper and sufficient sanitary conveniences;

(k) the combining provision, as well for the reformation of convicts, as far as may be practicable, as for their employment, in order that the gaol may really serve as a place of correction;

(l) the admission of prisoners to air and exercise without the walls of the building; and

(m) the enclosure of the yard and premises with a secure wall. R.S.O. 1927, c. 351, s. 8.

9.—(1) If the inspector at any time finds that the common gaol in any county or city is out of repair or is unsafe or unfit for the confinement of prisoners, or is not constructed or maintained in conformity with the provisions of section 8, or does not afford sufficient space or room for the number of prisoners usually confined therein, he shall forthwith report the fact to the Lieutenant-Governor, and shall at the same time furnish a copy of such report to the council of such county or city.

(2) The council shall thereupon appoint a special committee to confer with the inspector, and to arrange with him as to the repairs, alterations or additions that may be deemed necessary to remedy the defects reported upon, and to report the same to the council.

(3) If the inspector and the committee do not agreed upon what repairs, alterations and additions are necessary, the matter shall be referred to the Lieutenant-Governor in Council to decide, and his decision shall be reported to the council.

(4) It shall be the duty of the council, by by-law, to provide for the making of the repairs, alterations or additions so arranged for and reported or decided upon, and for the appropriation of any money that may be required for that purpose, and in default thereof the council may be proceeded against at the instance and prosecution either of the Attorney-General for Ontario or of any private prosecutor, to compel the making by the council of such repairs, alterations or additions.
(5) The inspector and the special committee of the county or city council shall, in arranging the particulars of the necessary repairs, alterations or additions, have due regard to the plan of the gaol and to the ability of the council to meet the expense thereof, and in the case of alterations or additions, shall make the same as few and inexpensive as, in their opinion, the requirements of this Act and of the public service will admit. R.S.O. 1927, c. 351, s. 9.

**Vacancy in Office of County Gaoler.**

10.—(1) Where a vacancy occurs in the office of gaoler of any county gaol, and the number of prisoners who have been confined in such gaol during the three years ending on the 31st of December immediately preceding the occurrence of such vacancy did not exceed an average six per diem in any of such years, it shall be the duty of the inspector, to issue and transmit to the county council his certificate to that effect, and he shall also notify the sheriff of the county that the gaol may be made subject to the provisions of this section.

(2) The council may, after the receipt of such certificate, and within three months after the occurrence of such vacancy, or at the next meeting of the council thereafter, by resolution declare that the public interests do not require the appointment of a gaoler.

(3) The sheriff may thereupon agree with the council to act as gaoler and for the remuneration to be allowed him for the performance of the duties of gaoler, and in that event it shall not be necessary for the sheriff to appoint a gaoler, but he shall himself be ex officio the gaoler and shall, with such assistance as he deems necessary perform all the duties and be subject to all the responsibilities of the office.

(4) Pending the action of the council, the sheriff may either make a temporary appointment of a gaoler, or may elect himself to perform the duties of the gaoler, in which case he shall be ex officio gaoler and shall perform all the duties and shall be subject to all the liabilities of the office.

(5) If the council does not within the time thereby limited, pass the resolution mentioned in subsection 2, the sheriff shall forthwith thereafter appoint the temporary gaoler or some other proper person to be the gaoler.

(6) The temporary gaoler or the sheriff, while acting under subsection 4, shall be paid at the same rate of salary as was paid to the gaoler who held the office previous to the occurrence of the vacancy. R.S.O. 1927, c. 351, s. 10.
TRANSFER OF PRISONERS TO GAOL OF AN ADJOINING COUNTY.

11.—(1) Where the number of prisoners confined in the gaol of any county during two years does not exceed an average four per diem for either of such years and the inspector reports to the Lieutenant-Governor that it would be proper that an agreement should be made for keeping the prisoners of such county in the gaol of an adjoining county, the council of the first mentioned county may agree with the council of the adjoining county for keeping and maintaining such prisoners in the gaol of the adjoining county.

(2) The two years shall be the two years ending on the 31st day of December, immediately preceding the making of the agreement. R.S.O. 1927, c. 351, s. 11.

12. If such agreement is made, the Lieutenant-Governor in Council may sanction the same and shall issue a proclamation declaring that from a day to be named therein, the gaol of the adjoining county shall also be the common gaol of the first mentioned county, and it shall so continue from that day until the Lieutenant-Governor in Council issues a proclamation terminating the agreement. R.S.O. 1927, c. 351, s. 12.

13.—(1) No such first mentioned proclamation shall be issued unless there is direct railway communication between the county towns of the two counties, nor until the inspector has reported that a sufficient lock-up for the safe custody of prisoners held or committed for trial in the first mentioned county or in custody prior to their committal for trial or pending their removal to the county goal, the reformatory for Ontario or penitentiary has been provided in or near the county town of the first mentioned county.

(2) Nothing in this section shall prevent the imprisonment of any such prisoner in the gaol of the adjoining county where the committing magistrate or the sheriff in charge deems it expedient that he should be imprisoned therein.

(3) The lock-up may be either the building theretofore used as the gaol of the first mentioned county or part thereof or some other building approved by the inspector. R.S.O. 1927, c. 351, s. 13.

14. The county at whose instance such first mentioned proclamation has been issued shall bear all expenses incurred in respect of the conveying of any prisoners to or from the gaol of the adjoining county in excess of those which would have been incurred had the prisoners been detained in a gaol in the county town of the first mentioned county. R.S.O. 1927, c. 351, s. 14.
Duty of county council as to lock-up.

15. It shall be the duty of the county council to see that the lock-up is always kept in a proper condition for the reception of prisoners, and if the county council fails so to keep the same, the sheriff shall at the cost of the county do what is necessary in that behalf. R.S.O. 1927, c. 351, s. 15.

Term for which agreement to be made.

16.—(1) An agreement made under section 11 shall continue, subject to any variation of the terms thereof by mutual agreement, for five years, and shall after such five years continue until varied by agreement, or if the councils are unable to agree, until varied by arbitration under The Municipal Act, but either council may at any time apply to the Lieutenant-Governor in Council to terminate the agreement.

(2) The Lieutenant-Governor in Council may terminate the agreement upon the application of either of the council’s interested or of his own motion from a day to be named in his proclamation in that behalf and from such day the gaol of the adjoining county shall cease to be the common gaol of the first mentioned county. R.S.O. 1927, c. 351, s. 16.

Effect of proclamation as evidence.

17. The issue of a proclamation under this Act shall be conclusive evidence that the events have happened and that the conditions exist which authorize the issue thereof. R.S.O. 1927, c. 351, s. 17.

Powers of Lieutenant-Governor in Council.

18.—(1) The Lieutenant-Governor in Council shall, with respect to persons in custody undergoing imprisonment for offences against any law of Ontario or a by-law, or charged with any such offence, or for whose arrest a warrant has been issued, have all the powers conferred upon him in respect of offences against the laws of Canada by the Prisons and Reformatories Act (Canada), the provisions of which shall mutatis mutandis apply.

(2) The cost of the maintenance of a prisoner, transferred under the authority of this section, shall be paid and borne by the corporation of the county from the gaol of which he is transferred, and in case of dispute as to the amount which is payable, shall be determined by the inspector.

(3) The expenses of the transfer of a prisoner under this section or under the Prisons and Reformatories Act (Canada) shall be paid by the corporation of the county from the gaol of which the prisoner is transferred.

(4) In case of dispute as to the amount payable under subsection 2 or 3, the same shall be determined by the inspector. R.S.O. 1927, c. 351, s. 18.
19. Any person sentenced to imprisonment in the Reformatory for Ontario or in the Andrew Mercer Ontario Reformatory for Females, may be detained in the common gaol pending removal to reformatories. The proper officer requires the delivery to him of such person for conveyance to the reformatory in which he or she is to be imprisoned. R.S.O. 1927, c. 351, s. 19.

REMOVAL OF PERSONS TO PROVINCIAL INSTITUTIONS.

20.—(1) The Lieutenant-Governor in Council may appoint provincial bailiffs, male or female, who shall be employed for the purpose of conveying any person confined in any of the common gaols of Ontario or other place of custody and liable to be removed from thence to any provincial institution in which such person is lawfully directed to be confined, and also in the performance of such other duties as may be assigned to them by the inspector.

(2) The inspector may authorize the employment of a suitable person to act as a temporary bailiff, and such temporary bailiff shall have the same powers and may perform the same duties as a provincial bailiff and shall be paid for such temporary services as the Provincial Secretary may direct. R.S.O. 1927, c. 351, s. 20.

21. Any such bailiff may convey any person from the gaol or other place of custody to such provincial institution without further authority than the warrant of the inspector, which shall be issued in duplicate, and such person shall be received into institution and there detained subject to the rules, regulations and discipline thereof until discharged by due course of law or removed under competent authority. R.S.O. 1927, c. 351, s. 21.

22. The bailiff, in the conveyance of such person to any of such provincial institutions, may secure and convey him in and through any county or district through which such bailiff may have to pass, and until such person has been delivered to and placed in such institution, such bailiff shall have, in every part of Ontario, the same power and authority over and with regard to him, and to command the assistance of any person to prevent his escape, and to recapture him in case of an escape, as the sheriff of the county or district in which he was convicted or confined would have had in conveying him from one part to another of that county or district. R.S.O. 1927, c. 351, s. 22.
23. The bailiff shall give to the sheriff or gaoler one of the duplicates of the warrant and a receipt for every person delivered to him, and shall thereupon with all convenient speed convey and deliver up such person with the other duplicate to the superintendent or other official head of such provincial institution, who shall give his receipt in writing for every such person so received by him to such bailiff, and every such person shall be kept in such institution until discharged by due course of law or removed under competent authority. R.S.O. 1927, c. 351, s. 23.

24.—(1) The county, or other municipality, in which the gaol or other place of custody is situate and from which such person is removed by such bailiff, shall be liable to pay to the Treasurer of Ontario, on demand, the expenses incurred in the removal and conveyance of such person, together with sixty per centum added thereto.

(2) Where a gaol is maintained jointly by a city and county, or in the case of a town separated from a county, the county shall be deemed to be the municipality in which the gaol is situate, and the city or town shall pay its just proportion of such expenses and additional percentage, and if not mutually agreed upon, the same shall be determined by arbitration as provided by The Municipal Act. R.S.O. 1927, c. 351, s. 24.

25. The Lieutenant-Governor in Council may direct or authorize the employment beyond the limits of the common gaol upon any work or duty, the nature of which is specified in the Order-in-Council, of any person who is sentenced to be imprisoned with hard labour in such gaol under the authority of any statute of Ontario or for the breach of a by-law of any municipal corporation or board of commissioners of police. R.S.O. 1927, c. 351, s. 25.

26. Every such prisoner shall, during such employment, be subject to the rules, regulations and discipline of the gaol, and to any regulations made by the Lieutenant-Governor in Council under the Prisons and Reformatories Act (Canada) or any Act thereby consolidated, for preventing escapes and preserving discipline. R.S.O. 1927, c. 351, s. 26.

27. No such prisoner shall be so employed, except under the strictest care and supervision of officers appointed to that duty. R.S.O. 1927, c. 351, s. 27.
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28. Every street, highway or public thoroughfare on which prisoners may pass in going to or returning from their work, and every place where they may be employed under this Act, shall, while so used, be deemed to be a part of the gaol for the purposes of this Act. R.S.O. 1927, c. 351, s. 28.

29.—(1) An account shall be kept of the amount earned by the labour of prisoners imprisoned in any common gaol, and such amount shall be divided between the Province and the county in proportion to the amount contributed by them respectively towards the care and maintenance of the prisoners.

(2) The division shall be made by such officer, or other person, and at such time as the Lieutenant-Governor in Council shall direct. R.S.O. 1927, c. 351, s. 29.

30. In the case of a county in which a city or separated town is situate, the share of such earnings which the city or town shall be entitled to receive from the county shall, in case the councils are unable to agree, be determined annually by arbitration under the provisions of The Municipal Act. R.S.O. 1927, c. 351, s. 30.

31.—(1) No gaoler, keeper or other officer of any gaol, lock-up or industrial farm shall sell, lend, use, or give away, or knowingly permit or suffer any intoxicating liquors within the meaning of The Liquor Control Act to be sold, used, lent or given away to any prisoner or to any person committed to an industrial farm, or to be brought into the same, other than as may be prescribed by or given by the direction of a legally qualified medical practitioner.

(2) No person shall give, convey or supply to any prisoner or any person confined in any gaol or industrial farm, any intoxicating liquor within the meaning of The Liquor Control Act otherwise than as authorized by this Act.

(3) Every person who contravenes this section shall incur a penalty of $100, recoverable under The Summary Convictions Act.

(4) For a second offence of the like nature by such gaoler, keeper, or other officer, he shall also forfeit his office. R.S.O. 1927, c. 351, s. 31.