

with the provisions of this Act, be, and the same are hereby repealed.

[Approved by the Governor, March 11, 1828.]

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## CHAP. CXVIII.

An Act providing for the Government and Regulation of the State Prison.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Government of the State Prison, situated in Charlestown, in the County of Middlesex, shall be vested in three Inspectors, a Warden, Deputy Warden, Chaplain, Physician, Clerk, Superintendant of the Stone Department, who shall also be one of the Overseers, eight Turnkeys, who shall also be Overseers, and six Watchmen, together with such additional number of Turnkeys and Watchmen, as the Inspectors, upon the representation of the Warden, may at any time deem necessary and proper, during the erection of the new Prison, and no longer.

Government of  
the Prison.

SEC. 2. *Be it further enacted,* That the Governor, by and with the advice and consent of the Council, shall appoint and commission three able and discreet persons, to be Inspectors of said Prison, one of whom shall be designated as Chairman, by his commission, to hold their offices during the pleasure of the Executive, not exceeding four years under one appointment; the Warden, Chaplain, and Physician shall be appointed and commissioned by the Governor, with the advice and consent of the Council, and shall hold their offices during the pleasure of the Executive; all the other Officers shall be appointed by the Warden, subject to the approba-

Inspectors shall  
be appointed.

Proviso.

tion of the Inspectors, and shall hold their offices during the pleasure of the Warden and Inspectors : *Provided, however,* that if the Inspectors shall not give their consent to the removal of any officer, the Warden may appeal to the Governor and Council, who are hereby authorized and empowered to make such removal,

Warden shall have the care of the Prison.

Powers and duties of the Warden.

SEC. 3. *Be it further enacted,* That the Warden shall have the care and custody of, the Prison, and the lands, buildings, implements, stock, provisions, and other property appurtenant or belonging to the same, or the precincts thereof ; he shall also have the care and custody of the convicts confined in the Prison, and shall govern and employ them, pursuant to their sentences respectively, and in conformity to the laws of the Commonwealth and the rules and regulations of the Prison, and for this purpose, he may command all the Officers of the Prison, except the Inspectors, Chaplain, and Physician. He shall serve all process within the precincts of the Prison, and return the same, and such process shall be directed to him accordingly, and he shall be Treasurer of the Prison, and receive and pay out all money granted to the same, and he shall cause to be kept a regular account of all the concerns of the establishment, and it shall be his duty, twice a year, and as soon as may be after the last day of March and the last day of September, to make out a detailed account, closed on said days, of all the expenses and disbursements, and of all the receipts and profits of the Prison, with good and sufficient vouchers, and shall present the same, after having been approved by the Inspectors, to the Treasurer of the Commonwealth, who shall audit and settle the same, and keep it in his office, for the inspection of the Legislature ; and said Warden shall also, on said days, make out a statement of the general affairs of the Prison, and lodge the same in the office of the Secretary of the Commonwealth, for the inspection of the Executive and Legislative Departments of the Government. All contracts on account of the Prison shall be made with the Warden,

and when approved by the Inspectors, shall be binding in law ; and the Warden, or his successor in office, may sue or be sued thereon to final judgment and execution, and the action shall not abate by a vacancy in the office of Warden, but it shall be lawful for any successor, appointed during the pendency of any action upon such contract, to take upon himself the prosecution or defence thereof, and upon due notice from the adverse party, it shall be his duty so to do. The Warden shall from time to time suggest to the Inspectors such alterations in the by-laws of the Institution, as he shall think proper ; and all appointments of officers made by him shall be immediately reported to the Inspectors. He shall give bond to the Commonwealth, in the sum of twenty thousand dollars, with sufficient sureties, to be approved by the Governor and Council, conditioned that he shall faithfully perform all the duties incumbent on him as Warden of the said Prison. And the books of accounts of, and all other documents in relation to the concerns of the Prison, shall at all times be subject to the inspection of the Board of Inspectors, whose duty it shall be at each monthly meeting to examine such books and accounts, and the vouchers relating thereto.

Warden shall  
give bond.

SEC. 4. *Be it further enacted,* That when the office of Warden shall by any means be vacant, or the Warden shall be unable to attend to the duties of his office, or be absent from the Prison, the Deputy Warden shall have all the power and authority, and be subject to all the duties and liabilities of the Warden.

SEC. 5. *Be it further enacted,* That the Deputy Warden, Clerk, Superintendant of the stone department, Overseers and Watchmen, shall perform such duties, in and about the care and custody of the Prison and the property thereto belonging, and in and about the care, custody, government, employment, and discipline of the prisoners confined therein, as shall be required of them, by the Warden, in conformity to the Laws of the Commonwealth, and the rules and regulations of the Prison.

Duties of Deputy  
Warden, Clerk,  
&c.

Duties of the  
Chaplain.

Duties of the  
Physician.

SEC. 6. *Be it further enacted,* That it shall be the duty of the Chaplain of the Prison to perform Divine service therein, and also to visit the sick, and instruct the convicts in their moral and religious duties, and his whole time shall be devoted to the objects of his appointment. And it shall be the duty of the Physician to visit the Hospital once a day, and as much oftener as may be necessary, to prescribe for sick convicts, and also to attend to the regimen, clothing and cleanliness of the prisoners in the Hospital Department; and his orders in writing for supplies in that department, shall authorize the Warden to procure the same. He shall keep a record of all orders given by him for supplies, designating the articles, and shall keep a journal of the patients in the Hospital, designating the time of entry of each, and the time of discharge or death, the nature of his complaint and prescriptions.

Duties of the  
Inspectors.

SEC. 7. *Be it further enacted,* That the Inspectors shall make, ordain and establish such rules and regulations, not repugnant to the laws of the Commonwealth, as they may from time to time see fit for the government of the Prison, the direction of the officers, the employment and discipline of the convicts, and the custody and preservation of the property therein; and said Inspectors shall, as soon as may be, cause a copy of all rules and regulations established by them; to be laid before the Governor and Council, who may modify or annul the same, or any part thereof. The Prison shall be visited by the Inspectors, or some one of them at least, as often as once a week, and by them as a board, as often as once a month, for the purpose of inspecting the books and all other concerns of the Prison; seeing whether the laws, rules and regulations are duly observed; whether the officers are competent and faithful, and whether the convicts are properly governed and employed; and it shall be their duty to report to the Governor and Council, all omissions and violations of duty in the Warden, Chaplain, and Physician, and to remove, as before provided,

all unsuitable officers, holding their appointments at the will and pleasure of the Inspectors and Warden; and it shall be the duty of the Inspectors to cause a copy of all rules and regulations, certified by the Clerk of the Prison, to be delivered to the Warden, as soon as may be, after the same shall have been approved by the Governor and Council; and also to make a detailed report of the concerns of the Prison to the Governor and Council, on the last day of September annually.

SEC. 8. *Be it further enacted*, That the Warden and Deputy Warden shall reside within the limits of the prison ground, as soon as accommodations can be made; and the Inspectors shall each receive one hundred dollars a year, the Warden fifteen hundred dollars, the Deputy Warden eight hundred dollars, the Chaplain five hundred dollars, the Physician two hundred dollars, the Clerk eight hundred dollars, the Superintendant of the Stone Department eight hundred dollars, the Turkeys each five hundred dollars, and the Watchmen each three hundred dollars, in quarterly payments, to be made by the Warden out of the Treasury of the Prison, in full compensation for their services respectively, and no other perquisite or reward whatever shall be allowed them; neither shall the Warden, or any other officer appointed by him with the approbation of the Inspectors, during the term of their continuance in office, be employed in any other business for his own emolument, than that which is required of him in the discharge of the duties of his office.

Salaries of Officers.

SEC. 9. *Be it further enacted*, That all convicts in confinement, under lawful sentence of Court, in the Prison, shall be restrained and employed therein, under the regulations and discipline of the Prison, pursuant to their respective sentences; and all criminal convicts hereafter sentenced to confinement to hard labour for life, or any other term, or to solitary imprisonment and hard labour, shall and may be imprisoned; restrained, and employed in and within the precincts of said Prison; and the Court before whom such conviction may be, are

Convicts to be employed, &c.

hereby authorized and empowered, by warrant, under their seal, directed to the Warden of said Prison, to cause all such convicts, as soon as may be, after sentence, to be removed from any Gaol in the respective Counties of the Commonwealth to the State Prison; and the said Warden, and all Sheriffs and Keepers of Gaols, are hereby required strictly to observe and obey the directions contained in such warrant; and it shall be the duty of the Clerk of any such Court to make out such warrant, as soon as may be, and deliver the same to the Sheriff of the County where such convict may be, and he is hereby directed to cause the same to be transmitted and delivered to the Warden of said Prison, who shall, by himself, or such person as he may appoint for that purpose, forthwith cause the same to be executed and returned according to the precept thereof; and it shall be the further duty of the said Clerks, to make out and annex to such warrant, in all cases, an attested copy of the record of the conviction and sentence upon which such warrant shall be issued as aforesaid, and transmit the same, with said warrant, to the Warden of said State Prison, to be by him kept and filed with the said warrant.

Warden shall receive persons convicted before the U. S. Court.

SEC. 10. *Be it further enacted,* That it shall be the duty of the Warden to receive such persons as may be convicted before any Court of the United States, at any term thereof, holden within this Commonwealth, and sentenced to confinement and hard labor by any such Court, and all such convicts safely to keep and employ pursuant to their sentences, until they shall be discharged by due course of law of the United States.

Convicts for a limited time, how punished for assault, &c.

SEC. 11. *Be it further enacted,* That if any convict committed to State Prison, under sentence for a limited time, shall assault any Inspector, the Warden, or other person employed in the direction or custody of said State Prison, or shall attempt by violence to escape therefrom, every such convict so further offending, upon due conviction thereof before the Supreme Judicial Court, shall, and may

be punished by solitary imprisonment, not exceeding one year, in addition to any former like sentence, or to precede the fulfilment of any former sentence to hard labour, as the case may be, and at the discretion of said Court, may be further punished by hard labour, for a term not exceeding ten years, to commence after such solitary imprisonment, or after any former sentence shall be fulfilled, as the case may be.

SEC. 12. *Be it further enacted*, That if any convict committed to the said State Prison under sentence of confinement to hard labor during life, shall assault any Inspector, the Warden, or other person employed in the government thereof, or shall forcibly attempt to break from the said prison, every such convict, so offending, upon due conviction before the Supreme Judicial Court, shall, and may be punished by solitary confinement not exceeding one year, at the discretion of said Court, and shall be afterwards there holden in custody upon such former sentence; and every convict, being under confinement as aforesaid, who shall escape from said prison, shall, for every such offence, be further sentenced to solitary imprisonment for a term not exceeding one year.

Punishment of convicts for life for assault, &c.

SEC. 13. *Be it further enacted*, That all convicts, sentenced to hard labour, and confined in said Prison, shall be constantly employed for the benefit of the Commonwealth, and no communication between them and persons without the Prison shall be allowed, and all intercourse among them, as far as practicable, shall be prevented; and as soon as the state of the prison will permit, each convict, not in the hospital, shall be confined, in the night time, in a separate cell; and no convict shall hereafter leave the prison without a decent suit of clothes; and the Warden, at his discretion, may pay to such convict a sum of money, not exceeding five dollars, if deserved by good conduct.

Convicts to be constantly employed, &c.

SEC. 14. *Be it further enacted*, That each convict shall be allowed, for his yearly clothing, one pair of thick pantaloons, one thick jacket, one pair of

Yearly clothing.

thin pantaloons, one thin jacket, two pair of shoes, two pair of socks, three shirts, and two blankets, all of a coarse kind ; but the Warden, with the consent of the Inspectors, may, for sufficient cause, allow some additional articles of clothing.

Daily suste-  
nance.

SEC. 15. *Be it further enacted,* That the daily sustenance of the convicts, not in the Hospital, shall consist of the following rations : one pound of number one beef, or twelve ounces of number one pork, ten ounces of rye meal, ten ounces of Indian meal, and three quarters of a gill of molasses for each prisoner, and for every hundred rations, two and a half bushels of potatoes, two quarts of vinegar, four quarts of salt, and two ounces of black pepper, and during six months of the warmest season of the year, four quarts of molasses and twelve ounces of hops to each convict ; and no snuff or tobacco, or any other article of subsistence, either of food or drink, except water, shall in any manner be allowed them. The subsistence and diet of the convicts in the Hospital shall be regulated by the Physician, whose requisitions therefor shall always be in writing, and shall in no case be given for a longer term of time than a week. The Inspectors may provide for the substitution of fresh beef for salt beef, for a part of the time, not exceeding two days in each week, if they should deem it expedient so to do.

Articles to be  
contracted for  
by the year.

SEC. 16. *Be it further enacted,* That the principal articles used at the Prison, such as rations, fuel, stone, iron, steel, and also the transportation and truckage, shall be contracted for by the year ; and before any such contract shall be made, the Warden shall have given public notice in two newspapers at least, that such articles are required, and that proposals will be received, to contract for them, a sufficient time to give information to such persons as may wish to furnish them ; and the person offering the best terms shall be entitled to the contract, unless it shall be found that no offer is so low as the market price of the article wanted, in which case the said offer shall not be accepted ; and the

Warden, by and with the consent of the Inspectors, shall proceed to make a contract for the articles wanted, in the best manner for the interest of the Commonwealth: *Provided*, that it shall be the duty of the Inspectors to cause to be recorded all the proposals which they may receive for the supply of any article. No officer of the Prison shall be concerned in any such contract, and all proposals shall be made under seal, and opened at the same time by the Warden in the presence of the Inspectors, and all persons making such contracts, shall give bonds in a suitable penalty, for the due performance of the same.

SEC. 17. *Be it further enacted*, That it shall be the duty of the Governor and Council, annually, and as much oftener as they may think proper, to visit the prison, to examine its concerns, and ascertain its condition; and it shall be the duty of the Governor, with the advice and consent of the Council, to cause such additional buildings, or alterations in existing buildings, to be made, as that there shall, at all times, be as many separate cells as there are convicts in the prison, and also such additional building, or alterations in existing buildings, as may be necessary for the accommodation of such officers as are required to reside within the limits of the prison ground. And the Governor, by and with the advice of the Council, be, and hereby is authorised, from time to time, to draw his warrants in favor of the Warden, for such sum, at any one time, as he may deem proper, for all monies which may be appropriated by the Legislature for the support of the State Prison.

Governor and Council shall visit Prison, &c.

SEC. 18. *Be it further enacted*, That convicts in solitary confinement in execution of the sentence of Court, or for the violation of the rules and regulations of the Prison, shall, during such confinement, be fed with bread and water only, unless the Physician shall certify in writing to the Warden, that the health of such convicts requires other diet.

Convicts in solitary confinement to be fed with bread and water.

SEC. 19. *Be it further enacted*, That whenever any person who shall be convicted of any crime be-

fore any Court of competent jurisdiction, the punishment whereof shall, by law, be confinement to hard labour for any term of years, shall have been before sentenced to a like punishment by any Court of this State, or any other of the United States, whether any such convict shall have been pardoned or not, he shall be sentenced to solitary imprisonment, not exceeding thirty days, and to confinement to hard labour, not exceeding seven years, in addition to the punishment by law prescribed for the offence for which he shall be tried ; and in case such convict shall have been twice before convicted and sentenced in manner aforesaid, he shall be punished by confinement to hard labour for life, and by solitary imprisonment as is herein before provided.

Convicts who have been before committed to receive additional punishment.

Warden to give information of convicts before sentenced.

SEC. 20. *Be it further enacted,* That whenever it shall appear to the Warden of the State Prison, that any convict received into the same, pursuant to the sentence of any Court, shall have been before sentenced by competent authority of this or any other State, to confinement to hard labour for term of life or years, it shall be the duty of the said Warden to make representation thereof, as soon as may be, to the County Attorney for the County of Suffolk ; and he shall, by information, or other legal process, cause the same to be made known to the Justice of the Municipal Court of the City of Boston, and for the County of Suffolk, and the said Justice shall cause the person or persons, so informed against, to be brought before him, in order that, if they deny the fact of a former conviction, it may be tried according to law, whether the charge contained in such information be true. And if it appear, by the confession of the party, by the verdict of a Jury, or otherwise, according to law, that said information is true, the Court shall further proceed to award against such convict the residue of the punishment provided in the foregoing section ; otherwise the said convict shall be remanded to prison, there to be held under his former sentence : *Provided,* such convict may have the right to appeal, as in other cases tried in said Court.

SEC. 21. *Be it further enacted,* That all necessary means may be used, under the direction of the Warden, to suppress insurrection, enforce obedience, and maintain order in the prison, or to prevent escapes therefrom; *Provided however,* that no convict shall be punished by solitary confinement more than ten days, or by more than ten stripes, without the consent of the Inspectors, which consent shall be given in writing, and with a statement of the occasion of punishment, shall be entered on the record.

Warden may use necessary means to suppress insurrection.

SEC. 22. *Be it further enacted,* That if any officer, or other person employed in said prison, shall voluntarily suffer any convicts therein confined to escape, or shall in any way consent to such escape, he shall, on conviction thereof before the Supreme Judicial Court, be punished by solitary imprisonment for a term not exceeding one year, and by confinement to hard labour for a term not exceeding twenty years, at the discretion of said Court.

Punishment of officers for suffering convict to escape.

SEC. 23. *Be it further enacted,* That if any officer, or other person employed in said prison, shall negligently suffer any convict under sentence of solitary confinement, to be at large without the cell assigned to such convict, or shall negligently suffer such convict, or any convict therein confined under sentence to hard labour, to be at large, without the precincts of said prison, or shall suffer any convict confined in said prison, to be visited, conversed with, comforted, or relieved, contrary to the rules and regulations thereof, such officer, or other person so neglecting his duty, shall, on conviction thereof before the Supreme Judicial Court, be punished by fine, not exceeding five hundred dollars.

Punishment for suffering convict sentenced to solitary confinement to go at large.

SEC. 24. *Be it further enacted,* That if any person shall forcibly or fraudulently rescue, or attempt to rescue, any convict from the custody of any officer, or other person authorized or empowered by warrant of commitment as aforesaid, or from the State Prison, or from any other prison, where such convict may be lawfully committed, pursuant to any sentence of solitary imprisonment or con-

Punishment for rescue.

finement to hard labour, or shall convey to any convict in custody, or committed as aforesaid, or into said State Prison, or any other prison, any tool, instrument, weapon, or other aid, with intent to enable such convict to escape, or to procure the escape of any convict, whether such escape be effected or not, every person so offending, being duly convicted before the Supreme Judicial Court, shall, and may be punished by solitary imprisonment, not exceeding one year, and by confinement to hard labour, not exceeding ten years, or at the discretion of the Court, may be punished with a fine not exceeding five hundred dollars, and by binding to good behaviour for a term not exceeding three years, according to the nature and aggravation of the offence.

SEC. 25. *Be it further enacted*, That respecting all crimes and offences committed within the State Prison aforesaid, and the precincts thereof, the said prison and precincts shall, in all judicial proceedings, be deemed and taken to be, as well within the County of Suffolk as the County of Middlesex, and the several Courts of the said Counties, respectively, shall have concurrent jurisdiction over the same, and of all crimes and offences therein committed.

SEC. 26. *Be it further enacted*, That when any convict shall be discharged, who shall have uniformly conducted well during his confinement, the Inspectors may give him a recommendation, or assist him in procuring employment, at his request, if they shall see fit. And every convict, previous to his being discharged at the expiration of his sentence on a second commitment, shall have the letters Mass. S. P. and also the year, in figures, when his discharge shall take place, marked on the inner surface of the upper part of his left arm, by puncturing the skin, and rubbing some colouring matter on the same.

SEC. 27. *Be it further enacted*, That from and after the first day of April next, the Act entitled "An Act providing for the government and regulation

Courts in Middlesex and Suffolk Counties shall have concurrent jurisdiction over State Prison.

Inspectors may give recommendation, &c. to convicts, when discharged.

of the State Prison, passed the twenty-first day of June, one thousand eight hundred and eleven; an Act in addition thereto, passed the sixteenth day of June, one thousand eight hundred and thirteen; an Act further in addition thereto, passed the first day of March, one thousand eight hundred and fifteen; and an Act further in addition thereto, passed the twelfth day of June one thousand eight hundred; and eighteen; and an Act entitled "An Act making further provision for the punishment of Convicts, sentenced to hard labour, and the better regulation of the State Prison," passed the twenty-third day of February, one thousand eight hundred and eighteen, excepting the fifth and sixth sections thereof, so far as the said fifth and sixth sections are not altered by the nineteenth and twentieth sections of this Act; and also an Act entitled "An Act for regulating the supplies of food and other articles for the State Prison, and for letting by contract the labour of the Convicts," passed the twenty-third day of February, one thousand eight hundred and twenty-two; also, an Act entitled "An Act in addition to the several Acts for the government and regulation of the State Prison, and defining the powers and duties of the Officers of the same," passed the tenth day of March, one thousand eight hundred and twenty-seven, be, and the same are hereby repealed, saving always that all acts, matters and things done under, and pursuant to said Acts, shall remain good and valid, and all officers, agents, and servants of said Prison, who have been appointed or employed under the same, shall remain in their respective offices and places, until others are appointed and employed in their stead, in the same manner they would have done, had not said Acts been repealed,—and the powers and duties to be exercised and performed by the Directors, as is provided in an Act, entitled "An Act for the erecting another building within the limits of the State Prison in Charlestown, and for the better government thereof," passed the fifteenth day of February, one thousand eight hundred and twenty-six, shall be ex-

Acts repealed.

exercised and performed by the Inspectors, to be appointed in conformity to the provision of this Act. And this Act shall take effect, and be in force from and after the said first day of April, one thousand eight hundred and twenty eight.

[Approved by the Governor, March 11, 1828.]

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## CHAP. CXIX.

### An Act concerning Houses of Correction.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the several counties in this Commonwealth shall not be obliged to build Houses of Correction, until two years from the passage of this Act.

SEC. 2. *Be it further enacted,* That the Attorney General and Solicitor General be, and they hereby are, directed to discontinue any information filed by them against any County, or the Court of Sessions of any County, for not building a House of Correction.

[Approved by the Governor, March 11, 1828.]