

Neglected Children and Youthful Offenders.

A.D. 1896.

To sue for wages and earnings.

To take legal proceedings on behalf of ward in other cases.

To appoint authorised agent.

Moneys of Wards, how dealt with.

Deductions for maintenance, &c.

any part thereof, in the name and on behalf of such ward enter into and upon all or any of the lands in respect of which any rents or profits may be unpaid, and for the same rents and profits and the costs and expenses incurred by or incidental to the nonpayment thereof distrain, and the distresses then and there found dispose of in due course of law, and take and use all lawful proceedings and means for recovering and receiving the said rents and profits, and for evicting and ejecting defaulting tenants and occupiers from all or any of the said lands, and determining the tenancy or occupation thereof, and for obtaining, recovering, and retaining possession of all or any of the lands held or occupied by such defaulters :

- iii. Sue for and recover any wages or earnings due to any such ward :
- iv. In the name and on behalf of any such ward, commence and prosecute all actions, suits, claims, demands, and proceedings touching any lands, estate, interest, or rights of any such ward or of his tenants therein or thereto, or touching any matter or thing whatsoever in which any such ward or his real or personal estate or effects may be in any way interested, affected, or concerned :
- v. Appoint and remove at his pleasure any attorney or agent under him in respect of all or any of the matters aforesaid, upon such terms and for such remuneration as the Minister may think fit.

28 Subject to any Regulations as to earnings of wards of the Department, all moneys received by the Secretary as guardian of the estate of any ward shall be held by him—

- i. To repay any expenses, the amount of which shall be approved by the Minister, lawfully incurred by the Secretary in executing the trusts or powers reposed in him by this Act for or on account of the said ward or his estate :
- ii. Subject to any such authorised deduction to pay the same into the Treasury, at *Hobart*, in the manner and at the intervals from time to time prescribed by the Governor in Council ; and every such payment shall be accompanied by the Secretary's declaration that it includes all moneys received by him (not being earnings of any ward directed to be otherwise dealt with by the Regulations) since the date of the last payment made by him, excepting only any authorised deduction as aforesaid for expenses, the details of which, accompanied by proper and sufficient vouchers, shall be declared to by the Secretary and accompany the payment.

The Secretary shall, in every case where the authorised expenses exceed the moneys received, make a statement concerning the estate of the ward to the Treasurer, accompanied by a declaration, once at least in every year.

Every declaration to be made by the Secretary shall be in the form prescribed by the Regulations.

29 The Treasurer shall deduct from every payment as aforesaid into the Treasury—(i.) such an amount as may from time to time be fixed

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by the Governor in Council, not exceeding Five Pounds per cent. ; and (II.) but not from the personal earnings of any ward, such weekly sum as the Minister may direct, for the past or continued maintenance of the ward for whom the said moneys have been received ; and the Secretary shall certify the amount to be deducted on that account whenever he makes a payment into the Treasury as hereinbefore directed. A.D. 1896.

All deductions so as aforesaid made by the Treasurer shall be passed to the credit of the Consolidated Revenue, except as to maintenance money in cases provided for in Part V. of this Act, and any balance then remaining in the Treasury shall be placed by the Treasurer to an account in the Post Office Savings Bank opened in his name on account of the ward for whom the moneys were received.

30 When any person shall be entitled to receive any money out of the funds standing to the credit of the Treasurer on account of any ward of the Department, the Secretary may certify to an account in favour of the person so entitled upon his subscribing a declaration that such account is true and just in every particular, and that the estate of the ward is legally liable to satisfy his claim, and thereupon the Treasurer shall forthwith satisfy the claim to the extent of the said fund. Payment to persons entitled.

31 The accounts of the Secretary of the moneys of any ward of the Department shall be subject and liable to all the provisions of "The Audit Act, 1888," in the same manner in all respects as if such accounts had been specifically mentioned therein. Accounts to be subject to 52 Vict. No 43.

PART V.**COMMITTAL TO THE CARE OF PRIVATE PERSONS.**

32 Any private person, and any institution formed by private persons empowered in that behalf, desirous of taking charge of a neglected child or neglected children gratuitously, may be from time to time approved by the Governor in Council as a person or institution to whose care neglected children may be committed under this Act ; and the Governor in Council may revoke such order ; and every order approving of any institution, and every revocation of any such order, shall be published in the *Gazette*. Power to the Governor in Council to approve private persons or institutions to have the care of neglected children.

33 Every order approving any institution as an institution to the care of which neglected children may be committed hereunder, shall name some person as the Manager thereof, and when from time to time the Manager of any such institution is changed, every new Manager shall be submitted to the Governor in Council for his approval ; and the order approving of such Manager shall be published in the *Gazette*, and any copy of the *Gazette* purporting to contain any such order shall be conclusive evidence that the person named therein on that behalf is the Manager of any such institution. Managers of institutions to be approved by the Governor in Council. Gazette evidence of their appointment.

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Power to Judge, Justices, &c. to commit children to the care of approved person instead of the Department.

Approved person or manager of approved institution to whose care children are committed to become guardians of their persons.

34 Any neglected child may by any Judge, or any Justices empowered to commit any child to the care of the Department, be committed to the care of any person or institution for the time being approved by the Governor in Council as aforesaid, upon such person or the Manager of such institution (as the case may be) consenting in writing to accept the care of such child.

35 Whenever any child is committed to the care of any person or institution as aforesaid, such person, unless the order of the Governor in Council approving such person otherwise provides, or the Manager of such institution, shall, until the order approving such person or institution as aforesaid be revoked, become the guardian of the person of such child to the exclusion of the father and every other guardian until such child attains the age of Eighteen years, or such greater age not exceeding Twenty-one years as the Governor in Council may direct, unless such child is sooner discharged, and such person shall have the sole right to the custody of such child, and such Manager shall have the sole right to the custody of such child as on behalf of such institution, subject in both cases to the provisions of this Act and to the Regulations of the Governor in Council in force hereunder.

New Managers of approved institutions to succeed to the guardianship.

36 Upon the publication of any order of the Governor in Council hereunder in the *Gazette* approving of any person as the Manager of any such institution in the place of any other person, the Manager so approved shall become the guardian of the person of every child, of whose person the Manager in whose place he is so approved was the guardian under the provisions of this Part of this Act, in the place of the Manager in whose place he is so approved.

Child not to be committed to care of approved person or institution if father, &c. object, or so as to be educated in a different religion.

37 No child shall be committed to the care of any person or institution if the father or any other person having the right to direct in what religion the child shall be educated object, or so that any child may be educated in a religion different from that in which it would be the duty of any guardian of such child appointed by the Supreme Court to direct the child to be educated.

Approved person or institution to permit children to be visited and inspected.

38 Every person or institution to whose care any child may be committed under the provisions of this Part of this Act, and every person intrusted with the care of any such child by any such person or institution, shall from time to time permit such child to be visited, and any place where such child may be or resides to be inspected by the Inspector or any person authorised in that behalf by or under the Regulations.

Transmission of guardianship upon death of approved person or revocation of approval of person or institution.

39 Upon the death of any person having the care of any child by virtue of any order made under this Part of this Act, or upon the revocation of the order approving of any such person or of any institution, the Governor in Council may appoint some other person or institution approved as aforesaid in place of the person so dying, or the person or institution mentioned in the revoking order, and thereupon the same consequences shall ensue as though an order were at once made by a Judge or by Justices under the provisions of this Part of this Act committing the care of every such child to the care of the person or institution so newly appointed, and in the meantime, unless and until such other person or institution be so appointed, the same consequences shall ensue as if upon the date of such death, or of the

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revocation of such order, an order had been made hereunder committing every such child to the care of the Department. A.D. 1896.

A person or institution may be appointed in the place as well of a person or institution originally approved as aforesaid, as of any person or institution appointed in the place of such first appointed person or institution.

The order appointing an institution in the place of another institution shall be published in the *Gazette*.

40 Upon the revocation of any order approving of any person or institution as a person or institution to whose care neglected children may be committed, such person or the manager of such institution shall cease to be guardian of any child under the provisions of this Part of this Act, whether such child be under the care of such person or institution by virtue of any order made under this Part of this Act, or of any writing signed as aforesaid by the father or mother of such child. Guardianship of approved person or institution to cease on revocation of approval.

41 Every order committing a child to the care of any approved person or institution hereunder may be in such form as may be prescribed by the Regulation, or to the like effect; and such order, or any office copy thereof, without any warrant, shall be a sufficient authority for any constable to take such child to such person or institution. Form of order committing child to care of approved person or institution.

42 No warrant shall be necessary to authorize the detention of any child in the care of any approved person or institution hereunder, but if the right to the custody of such child be called in question by *Habeas Corpus* or otherwise, it shall be sufficient to give in evidence the order committing such child to the care of such person or institution, and to show that such child is detained by the authority of such person or institution, or the Manager of such institution. Warrant for detention of child by approved person or institution.

43 If any person or institution having the care of any child by virtue of any order made under the provisions of this Part of this Act, or the Manager of any such institution, desire for any cause sufficient in the opinion of any Two Justices to be relieved of the care of such child, such Justices may order such child to be committed to the care of the Department. Power to transfer child to the care of the Department for Neglected Children.

44 No person who, whether as Manager of any institution or otherwise, is guardian of the person of any child by virtue of any order under the provisions of this Part of this Act, shall remove such child or suffer such child to be removed out of *Tasmania*, without the consent of the Minister being first obtained. Child not to be removed out of *Tasmania*.

45 Any person or institution having the care of any child by virtue of the provisions of this Part of this Act shall be entitled to receive from the Treasurer out of any moneys paid into the Treasury by the Secretary as guardian of the estate of the child such maintenance money as the Minister may from time to time direct, and shall also be entitled to any maintenance moneys which may be received or recovered under the provisions of Part VIII. of this Act from any parent of any such child. Maintenance money.

46 Where any child being then destitute has been, without objection on the part of its father or other guardian, received into any Children received into and maintained in asylums.

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without objection on the part of their fathers or guardians for Two years not removable without the consent of the Committee or order of the Governor in Council.

school or institution for the care and management of destitute children, the By-laws of which have been approved of by the Governor in Council, and maintained at the expense of such institution for a period of Two years and upwards, the father or other guardian of such child shall not be entitled to remove such child out of the custody of such institution or the managing body thereof without the consent of such managing body or the order of the Governor in Council unless such father or guardian can show that he was ignorant that such child was being so maintained, and that he has not been guilty of negligence with regard to such child during the period such child has been so maintained; and the managing body of such institution shall have the custody of the person of such child until such child attains the age of Eighteen years.

PART VI.

YOUTHFUL OFFENDERS, INDUSTRIAL AND TRAINING SCHOOLS.

(a.) Provisions relating to Industrial Schools.

In whom the management of Industrial School vested.

47 The management and control of any Industrial School under this Act may be vested in a body of Governors elected by the donors or subscribers thereto; and the number of the said Governors, and the mode of their election, may be regulated by the constitution of the School as determined by the said donors or subscribers.

Industrial School may be certified.

48 The Minister may, upon the application of the Governors of an Industrial School, examine into the condition and regulations thereof, and may by writing under his hand certify that such School is fitted for the reception of such children as may be sent there in pursuance of this Act; and thereupon the School shall be deemed a certified Industrial School.

Order of Com-mittal.

49 The order of Justices sending a child to an Industrial School may be in the form in the Schedule (2.). The School shall be some Industrial School, whose Certificate has not been withdrawn or resigned, the Governors of which are willing to receive the child; and the reception of the child by the Governors shall be deemed to be an undertaking by them to teach, train, and feed him during the whole period for which he is liable to be detained in the School, or until the withdrawal or resignation of the certificate of the School takes effect, or until the payment of money promised from the Treasury (or judicially imposed on the parent or guardian) is discontinued. The order shall be a sufficient warrant for the detention of the child there, and shall specify the time for which he is to be detained, being such time as to the Justices seems proper for his teaching and training; but nothing in this Act contained shall be deemed to render it compulsory upon the Governors of an Industrial School to receive any child.

Enquiry into management.

50 If complaint be made to the Minister that any Industrial School is mismanaged, the Governor in Council may appoint a Commission of not less than Three fit and competent persons to enquire into the management and condition of the School complained of, and on

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receiving from them a Report that it is not so conducted as to be entitled to a continuance of its certificate, and specifying the defects complained of, then the Minister shall, by writing under his hand, require the Governors of such School within One month from the date and service of such notice at the School premises to remedy all such defects; and failing this the Minister may, by notice under his hand addressed to and served upon the Governors thereof, or left at the said School with the Director of or Superintendent thereof, declare that the certificate of the School is withdrawn as from a time specified in the notice, not being less than Six months after the date thereof, and at that time the certificate shall be deemed to be withdrawn accordingly, and the School shall thereupon cease to be an Industrial School within the meaning of this Act.

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Withdrawal of certificate.

51 The Treasurer may from time to time contribute, out of money provided by the Parliament for the purpose, such sums as the Governor thinks fit from time to time to order towards the custody and maintenance of children detained in Industrial Schools certified under this Act: Provided that such contributions shall in no case exceed the sum of Five Shillings per head per week; and in the case of children detained on the application of their parents, step-parents, or guardians, shall in no case exceed Two Shillings and Sixpence per head per week.

Contribution from Treasury.

(b.) Training Schools and Youthful Offenders.

52 The Minister may, upon the application of the Managers of any Training School for the better training of youthful offenders, examine into the condition and regulation of the School, and may, by writing under his hand, certify that such School is fitted for the reception of such youthful offenders as may be sent there in pursuance of this Act, and the same shall be deemed a certified Training School. No substantial addition or alteration shall be made in or to the buildings of any Training School without the approval in writing of the Minister.

Mode of certifying Training Schools.

53 The Court or Justices before whom a youthful offender is charged may either order such offender to be forthwith removed to and detained in a Training School for a period of not less than Three years and not more than Five years, or else may sentence such offender to be imprisoned for the term of Ten days or a longer term, and to be sent at the expiration of his term of imprisonment to a Training School and to be there detained for a period of not less than Three years and not more than Five years: Provided always, that a youthful offender under the age of Ten years shall not be sent to a Training School unless he has been previously charged with some crime or offence punishable with penal servitude or imprisonment, or sentenced by a Judge of a Supreme Court.

Offenders under certain ages may be sent to Training Schools.

54 Where any offender shall under the preceding Section be sentenced to be imprisoned and to be sent at the expiration of his period of imprisonment to a Training School, the particular school to which the youthful offender is to be sent may be named either at the time of his sentence being passed, or within Seven days thereafter by the Court or Justices who sentenced him, or in default thereof, at any time before the expiration of his imprisonment, by any Visiting Justice of the gaol to which he is committed.

Mode of naming school to which offender to be sent.

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Removal of offenders to certified Training School.

55 Every gaoler having in his custody any youthful offender sentenced to be sent to a Training School shall, at the appointed time, deliver the offender into the custody of the Superintendent or other person in charge of the School in which he is to be detained, together with the warrant or other document in pursuance of which the offender was imprisoned and is sent to such School.

Officers to have powers, &c. of Constables.

56 Every Officer of a Training School authorised by the Managers of the School, in writing under their hands or the hand of their Secretary, to take charge of any youthful offender sentenced to detention under this Act, for the purpose of conveying him to or from the School, or of bringing him back to the School in case of his escape or refusal to return, shall for such purpose and while engaged in such duty have all such powers, authorities, protection, and privileges for the purpose of the execution of his duty as a Training Officer as any Constable duly appointed has within *Tasmania*.

Power to Minister to send offenders to Training Schools on conditional pardon.

57 Where, after the passing of this Act, a youthful offender is sentenced to penal servitude or imprisonment, and is pardoned on condition of his placing himself in some Training School, the Minister may direct him, if under the age of Sixteen years, to be sent to a Training School the Managers of which consent to receive him for a period of not less than One year and not more than Five years; and thereupon such offender shall be deemed to be subject to all the provisions of this Act as if he had been originally sentenced to detention in a Training School.

Liabilities of Managers of Training School.

58 The Managers of any Training School may decline to receive any youthful offender proposed to be sent to them under this Act, but when they have once received him they shall be deemed to have undertaken to educate, clothe, lodge, and feed him during the whole period for which he is liable to be detained in the School, or until the withdrawal or resignation of the certificate takes effect, or until the contribution out of money provided by Parliament towards the custody and maintenance of the offenders detained in the School is discontinued, whichever shall first happen.

Power of Minister to contract with Managers of Training Schools.

59 The Minister may contract with the Managers of any Training School for the reception and maintenance therein of youthful offenders whose detention in a Training School is directed by a Court or Justices, in consideration of such payment as may be from time to time agreed on; and the Treasurer is hereby empowered, out of any moneys which would be applicable to the maintenance of such offenders if they were committed to gaol, to pay the amount so agreed upon.

Withdrawal of certificate.

60 The Minister, if dissatisfied with the condition of a Training School as reported to him by the Inspector, may withdraw the certificate, and may, by notice under his hand addressed and sent to the Managers of such School, declare that the certificate is withdrawn as from a time specified in the notice, being not less than Six months after the date of the notice.

Effect of withdrawal of certificate of Training School.

61 Whenever the certificate is withdrawn from or resigned by the Managers of a Training School, no youthful offender shall be received into such School after the date of the receipt by the Managers of the School of the notice of withdrawal, or after the date of the notice of

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resignation (as the case may be); but the obligation of the Managers to educate, clothe, lodge, and feed any youthful offenders in the School at the respective dates aforesaid shall, excepting so far as the Minister may otherwise direct, be deemed to continue until the withdrawal or resignation of the certificate takes effect, or until the contribution out of money provided by Parliament towards the custody and maintenance of the offenders detained in the School is discontinued, whichever shall first happen. A.D. 1896.

62 When the withdrawal or resignation of the certificate of a Training School takes effect, the youthful offenders detained therein shall be, by order of the Minister, either discharged or transferred to some other Training School. Disposal of inmates of Training School on withdrawal of Certificate.

63 When any youthful offender is imprisoned in any Gaol for a term of not less than One year, he may, at any time during such term, with the consent of the Governor in Council, be apprenticed by the Minister to any trade or calling to any person willing to receive him as an apprentice, for a term not exceeding Five years. Power to apprentice offenders from gaol.

(c) Provisions relating to Industrial and Training Schools.

64 In the construction of the remaining portion of this Part of this Act— Interpretation.

“Directors” means the Governors of any Industrial School and also the Managers of any Training School, or any Three of such Governors, or any Three of such Managers :

“Inmate” means any youthful offender detained in a Training School certified as aforesaid; also any child detained in an Industrial School certified as aforesaid :

“Institution” means and includes any such certified Training School or Industrial School.

65 While any ward of the Department shall be lawfully detained in any Industrial School, or in any Training School, the powers of the Secretary as guardian, with the sole right to the custody of the person of such ward, shall be reposed in and exercised by the Governors of the Industrial School or the Managers of the Training School, as the case may be, who shall also continue to be guardians of the child during the continuance of any licence granted by them, or during the period of any apprenticeship to which they are parties, as hereinafter provided, or which has been granted or entered into under any Act hereby repealed; and the Governors of any Industrial School shall be guardians of any child surrendered to be placed at such School during the period fixed at the judicial surrender of the child, or, if no such period is fixed, until the child attains the age of Eighteen years. Guardianship while child inmate of Industrial or Training School.

66 The Directors of any Institution may, by licence under their hands, permit any inmate to live with any trustworthy and respectable person, named in the licence, willing to receive and take charge of him. Any such licence may also be revoked by the Directors of the Institution from which the inmate was licensed by writing under their hands at any time, and thereupon the inmate to whom the licence related may be required by the said Directors, by writing under their hands, to return to the Institution of which he was an inmate when licensed. The time during Placing inmates out on Licence.

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which an inmate is absent from any Institution in pursuance of a licence under this Section shall, except where such licence has been forfeited by his misconduct, be deemed to be part of the time of his detention therein, and at the expiration of the time fixed by his licence he shall be taken back to the Institution. Any inmate escaping from the person with whom he is placed in pursuance of this Section, or refusing to return to the Institution at the expiration of the time fixed by his licence, or any renewal thereof, or when required to do so on the revocation of his licence, shall be liable to the same penalty as if he had escaped from the Institution itself. But no such licence shall be granted by the Managers of a Training School without the approval of the Minister, nor by the Governors of an Industrial School, until after Eighteen months of the period of detention allotted to the inmate.

Power to apprentice offenders with their consent.

67 The Directors of any Institution may at any time after an inmate has been placed out on licence as aforesaid, if he conducted himself well during his absence from the Institution, bind him, with his own consent, apprentice to the sea, or to any trade, calling, or service, notwithstanding that his period of detention has not expired; and every such binding shall be valid and effectual to all intents.

Children not previously placed out on licence may be apprenticed.

68 It shall not be necessary in every case to first place an inmate out on licence, but the Directors of any Institution may, if they see fit, apprentice any inmate therein to the sea or to some trade, calling, or service for any period not exceeding Five years, although he has not previously been placed out on licence as aforesaid, provided that the Minister's consent is first obtained in the case of any youthful offender.

Apprentices in legal custody of Directors.

69 Any child apprenticed under this Act, or under any Act hereby repealed, shall during the whole term of apprenticeship be deemed to be in the legal custody of the Directors of the Institution of which he was an inmate when apprenticed; and the indentures of apprenticeship may be at any time cancelled by mutual consent of the Directors and the master of such child, or if such apprentice misbehaves or misconducts himself in his service, or if the master of the apprentice misuses or ill-treats him, the Directors may, without any warrant or authority other than this Act, and with or without the consent of the said master, cancel the indenture, and remove such child back to the Institution from which he was apprenticed, or transfer such apprentice to another person for the residue of the unexpired term of apprenticeship, or may apprentice such child anew to some other person for such term, not exceeding Five years, as they see fit; and such transfer and new apprenticeship shall be good and valid, anything in any Law to the contrary notwithstanding.

Children may be apprenticed anew.

70 Any child removed back to any Institution under the preceding Section may, at any time thereafter during the continuance of the original term for which he was bound, be apprenticed to any trade, calling, or service for any term not exceeding Five years, notwithstanding that his period of detention may have expired; and every such binding shall be valid and effectual to all intents.

Duration of indenture.

71 No child shall be apprenticed under this Act for any term extending beyond the age of Eighteen years.

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- 72** All indentures and licences existing under any of the Acts hereby repealed shall continue and be of full effect, but shall hereafter be subject to the provisions of this Act. A.D. 1896.
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Existing indentures and licence continued.
- 73** The Directors of any Institution may make Rules—
For regulating generally the management and discipline of the Institution :
For regulating the periods and times at which the Institution may be visited, and the mode of obtaining permission to visit the same ;
which Rules may be amendments of, or be in substitution for, or in addition to any existing Rules. Power to make Rules.
- All such Rules shall be submitted to, and be approved of by, the Governor in Council, and until so approved they shall have no force; and no alteration in any Rules so approved shall be valid until the same has been approved by the Governor in Council. Every such Rule shall be published in the *Gazette*, and a copy thereof shall be laid upon the Tables of both Houses of Parliament within Fourteen days after the meeting of the next ensuing Session of Parliament after the making thereof.
- All Rules heretofore made under any Act hereby repealed shall continue in force until altered under the provisions of this Act, in so far as the same are not inconsistent therewith. Existing Rules continued.
- A copy of any such Rules purporting to be signed by the Inspector shall be evidence of such Rules in all legal proceedings whatever.
- 74** The Directors, or the executors or administrators of a deceased Director (if only one) of an Institution may give notice in writing to the Minister of their intention to resign the certificate of that Institution, and at the expiration, in the case of Directors of Six months, and in the case of executors or administrators of One month, from the receipt of that notice by the Minister, the certificate shall be deemed to be resigned accordingly, unless before that time the notice is withdrawn. Certificate may be resigned.
- 75** A notice of the grant of any certificate to an Institution, or of the withdrawal or resignation of such a certificate, shall within One month be advertised in the *Gazette*. A copy of the *Gazette* containing any such notice shall be conclusive evidence of the granting, resignation, or withdrawal of any certificate. The grant of a certificate to any school as aforesaid may also be proved by the production of the certificate itself, or of a copy of the same purporting to be signed by the Inspector. Publication of the grant or withdrawal of certificate.
Proof of certificate.
- 76** Any notice may be served on the Directors of any Institution by delivering the same personally to any one of them, or by sending it by post or otherwise in a letter addressed to them or any of them at the Institution, or at the usual or last known place of abode of any Director or of their Secretary. Service of notice on Directors of any Institution.
- 77** All inmates of any existing Institution may continue to be lawfully detained therein, notwithstanding the repeal of the Acts mentioned in the Schedule hereto, but shall hereafter be subject to the provisions of this Act : Provided that the period of the detention of each such inmate shall be the period to which he is now liable, and no more. Inmates of existing Institution.