

MEMO BY THE HON. MINISTER OF JUSTICEAuthority to the Hon. Minister of Justice under section 31 of the Constitution in certain cases

There are at the moment two pending cases of St Philip Neri School (ante Approved School) pupils recommended by the Approved School Board for discharge in pursuance of the Approved School Regulations. These regulations provide that if the Board recommends the discharge of a pupil before the expiration of his term the Director shall transmit the Board's recommendation to the Governor through the Minister under whose jurisdiction the School is.

The Governor's power to order the discharge of a pupil stems from section 9 of the Approved Schools Ordinance (Cap. 75) and now falls to be exercised on the advice of the Cabinet or a Minister acting under the general authority of the Cabinet (section 31 of the Constitution).

Another matter which is cognate to the above relates to the discharge from the Hospital for Mental Diseases (including the grant of leave as practised heretofore) of patients remitted to the Hospital by a decree of a criminal court. According to law, this is ultimately ordered by the Governor and again does not appear to be a subject which need engage the attention of the whole Cabinet.

The proposal is that the Hon. Minister of Justice should be authorised by the Cabinet to advise the Governor in all cases of discharge of pupils from the St Philip Neri School and of inmates of the Hospital for Mental Diseases whose custody has been ordered by a criminal court as aforesaid. The matter is urgent as at present it affects the liberty of two pupils of the said School.

26th October, 1962.