

The Commonwealth of Massachusetts



FRANCIS W. SARGENT
GOVERNOR

EXECUTIVE DEPARTMENT
STATE HOUSE, BOSTON 02133

August 3, 1973

To the Honorable Senate and House of Representatives:

I am returning herewith, without my approval, House Bill No. 4890 entitled "AN ACT ALLOWING FOR A MOMENT OF MEDITATION FOR SCHOOL PRAYER IN THE PUBLIC SCHOOLS."

This legislation would insert the words "or prayer" into s. 1A of G.L. c.71. Thus our statute would provide that at the commencement of the first class of each day in all grades in all public schools the teacher in charge "shall announce that a period of silence not to exceed one minute in duration shall be observed for meditation or prayer...".

The objective of the proponents of this legislation is readily understandable and is certainly well-intentioned. Nevertheless, I must return this bill without my approval because I have been advised by the Attorney General that

The amendment proposed by H-4890 is unconstitutional under the First Amendment to the Constitution of the United States. Commissioner of Education v. School Committee of Leyden, 358 Mass. 776,780. Compare Abington School District v. Schempp, 374 U.S. 203, at 281. (Concurring opinion, Brennan, J.); 1969/1970 Opinions of the Attorney General, 57 at 60.

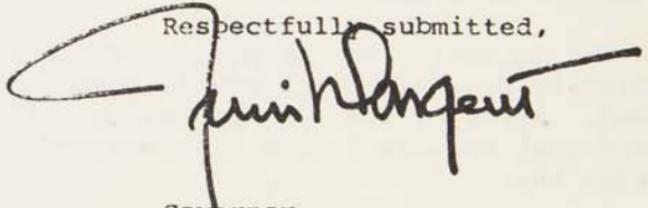
The Attorney General's opinion indicates that the goal sought by this legislation could not be obtained. Approval of such legislation would apparently only serve to further prolong a continuing controversy and once again require judicial resolution.

I need not review here the lengthy judicial history of the local regulations and state statutes which were prompted by the historic decision of the U.S. Supreme Court in Abington School District v. Schempp, 374 U.S. 203. The legal status today of efforts to provide for such observances as are contemplated by this bill was summarized by our Supreme Judicial Court in its opinion in the celebrated case Commissioner of Education v. School Committee of Leyden, 358 Mass 776,780:

The Supreme Court thus far has not limited the broad language with which (as in the Schempp case) it has held invalid substantially nondenominational and neutral religious observances on public school property. Until and unless such a limitation takes place (even if there is minimal State encouragement of only insubstantial school religious exercises), it would serve no useful purpose to attempt to draw any fine distinction between those observances which have hitherto been proscribed by the Supreme Court and the Leyden practices now presented for our scrutiny.

For the above reasons, I cannot in good conscience approve the measure and I return the bill without my approval.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "Francis W. Parker". The signature is written over the text "Respectfully submitted," and extends across the width of the page.

Governor
Commonwealth of Massachusetts