To Amend the Education Law, in Relation to Authorizing Religious Instructions
State of New York - Executive Chamber

Albany, April 9, 1940

Memorandum filed with Assembly Bill, Int. No. 606, Pr. No. 1986, entitled:
"An ACT to amend the education law, in relation to authorizing religious instruction."

APPROVED.

Under this bill the State Commissioner of Education shall establish rules under which children may on certain occasions be permitted to leave school for the purpose of attending their religious observances and receiving religious education.

For some time it has been the practice in many localities in the State to excuse children from school a certain period each week for religious instruction. The Board of Regents has recognized the right of local school boards to do this. The Court of Appeals unanimously held in the case of People ex rel Lewis v. Graves (245 N. Y. 195) in 1927 that the practice was within the letter and the spirit of our Constitution and laws. In so holding, the Court of Appeals pointed out: "Neither the Constitution nor the law discriminates against religion. Denominational religion is merely put in its proper place outside of public aid or support."

However, at the present time, there is no uniformity of practice throughout the State. Nor is any officer or agency of the State authorized or charged with the responsibility of adopting rules under which absences for religious observance or instruction may be permitted. This bill will assure some uniformity and permanency by placing the authority and responsibility upon the State Commissioner of Education to adopt such rules.

A few people have given voice to fears that the bill violates principles of our government. These fears in my opinion are groundless. The bill does not introduce anything new into our public school system nor does it violate the principles of our public educational system.

The bill is approved.

(Signed) HERBERT H. LEHMAN