pockets when transportation to a public school would have been paid for by the State."[61] Transportation benefited the child, just as did police protection at crossings, fire protection, connections for sewage disposal, public highways and sidewalks. Thus was born the "child benefit" theory.[62]

The Court in 1968 relied on the "child benefit" theory to sustain state loans of textbooks to parochial school students.[63] Using the secular purpose and effect tests,[64] the Court determined that the purpose of the loans was the "furtherance of the educational opportunities available to the young," while the effect was hardly less secular. "The law merely makes available to all children the benefits of a general program to lend school books free of charge. Books are furnished at the request of the pupil and ownership remains, at least technically, in the state. Thus no funds or books are furnished to parochial schools, and the financial benefit is to parents and children, not to schools. Perhaps free books make it more likely that some children choose to attend a sectarian school, but that was true of the state-paid bus fares in *Everson* and does not alone demonstrate an unconstitutional degree of support for a religious institution."[65]

From these beginnings, the case law on the discretion of state and federal governmental assistance to sectarian elementary and secondary schools as well as other religious entities has multiplied. Through the 1970s, at least, the law became as restrictive in fact as the dicta in the early cases suggested, except for the provision of some assistance to children under the "child benefit" theory. Since that time, the Court has gradually adopted a more accommodating approach. It has upheld direct aid programs that have been of only marginal benefit to the religious mission of the recipient elementary and secondary schools, tax benefit and scholarship aid programs where the schools have received the assistance as the result of the independent decisions of the parents or students who initially receive the aid, and in its most recent decisions direct aid programs which substantially benefit the educational function of such

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[61] 330 U.S. at 17. It was in *Everson* that the Court, without much discussion of the matter, held that the Establishment Clause applied to the states through the Fourteenth Amendment and limited both national and state governments equally. Id. at 8, 13, 14–16. The issue is discussed at some length by Justice Brennan in Abington School Dist. v. Schempp, 374 U.S. 203, 253–58 (1963).

[62] *See also* Zorach v. Clauson, 343 U.S. 306, 312–13 (1952) (upholding program allowing public schools to excuse students to attend religious instruction or exercises).

[63] Board of Education v. Allen, 392 U.S. 236 (1968).

[64] *See* discussion under "Court Tests Applied to Legislation Affecting Religion," *supra*.

[65] 392 U.S. at 243–44 (1968).