gious use of the tests was sustained even though the Court recognized the incidental benefit to the schools.[104]

The "child benefit" theory, under which it is permissible for government to render ideologically neutral assistance and services to pupils in sectarian schools without being deemed to be aiding the religious mission of the schools, has not proved easy to apply. Several different forms of assistance to students were at issue in *Wolman v. Walter*.[105] The Court approved the following: standardized tests and scoring services used in the public schools, with private school personnel not involved in the test drafting and scoring; speech, hearing, and psychological diagnostic services provided in the private schools by public employees; and therapeutic, guidance, and remedial services for students provided off the premises of the private schools. In all these, the Court thought the program contained adequate built-in protections against religious use. But, though the Court adhered to its ruling permitting the states to lend secular textbooks used in the public schools to pupils attending religious schools,[106] it declined to extend the precedent to permit the states to lend to pupils or their parents instructional materials and equipment, such as projectors, tape recorders, maps, globes and science kits, even though the materials and equipment were identical to

---

[104] Committee for Public Educ. & Religious Liberty v. Regan, 444 U.S. 646 (1980). Justices Blackmun, Brennan, Marshall, and Stevens dissented. Id. at 662, 671. The dissenters thought that the authorization of direct reimbursement grants was distinguishable from previously approved plans that had merely relieved the private schools of the costs of preparing and grading state-prepared tests. *See* Wolman v. Walter, 433 U.S. 229, 238–41 (1977).

[105] 433 U.S. 229 (1977). The Court deemed the situation in which these services were performed and the nature of the services to occasion little danger of aiding religious functions and thus requiring little supervision that would give rise to entanglement. All the services fell "within that class of general welfare services for children that may be provided by the States regardless of the incidental benefit that accrues to church-related schools." Id. at 243, quoting Meek v. Pittenger, 421 U.S. 349, 371 n.21 (1975). Justice Brennan would have voided all the programs because, considered as a whole, the amount of assistance was so large as to constitute assistance to the religious mission of the schools. 433 U.S. at 255. Justice Marshall would have approved only the diagnostic services, id. at 256, while Justice Stevens would generally approve closely administered public health services. Id. at 264.

[106] Meek v. Pittenger, 421 U.S. 349, 359–72 (1975); Wolman v. Walter, 433 U.S. 229, 236–38 (1977). *Allen* was explained as resting on "the unique presumption" that "the educational content of textbooks is something that can be ascertained in advance and cannot be diverted to sectarian uses." There was "a tension" between *Nyquist*, *Meek*, and *Wolman*, on the one hand, and *Allen* on the other; although *Allen* was to be followed "as a matter of stare decisis," the "presumption of neutrality" embodied in *Allen* would not be extended to other similar assistance. Id. at 251 n.18. A later Court majority revived the *Allen* presumption, however, applying it to uphold tax deductions for tuition and other school expenses in Mueller v. Allen, 463 U.S. 388 (1983). Justice Rehnquist wrote the Court's opinion, joined by Justices White, Powell, and O'Connor, and by Chief Justice Burger.