

public aspect of parochial school education from its private (religious) aspect and held, in effect, that whatever benefit might accrue to the institution from the aid given, such was incidental to the public benefit conferred upon the citizen-pupil and therefore constitutionally without significance. Per Hughes, C.J., the Court stated:

The schools, however, are not the beneficiaries of these appropriations. They obtain nothing from them, nor are they relieved of a single obligation because of them. The school children and the state alone are beneficiaries The legislation does not segregate private schools or their pupils, as its beneficiaries, or attempt to interfere with any matters of exclusively private concern. Its interest is education, broadly; its methods comprehensive. Individual interests are aided only as the common interest is safeguarded.⁴⁴

It is true that at the time of the *Cochran* decision the Supreme Court had not specifically held the first amendment applicable to the states through the fourteenth amendment.⁴⁵ But the great point of the *Cochran* opinion is this: it establishes flatly that the teaching of secular subjects in a parochial school is the performance of a public function and that such program may therefore be governmentally aided. It was not until the *Everson* case, discussed *infra*, that the Court considered the impact of the first amendment on legislation which met the public purpose requirements of the fourteenth amendment.

In *Everson v. Board of Educ.*,⁴⁶ the Supreme Court held constitutional a New Jersey statute which provided that reimbursement to parents might be made out of public funds for transportation of their children to (*inter alia*) Catholic parochial schools on buses regularly used in the public transportation system. The decision was made in the face of first amendment objections to the New Jersey program which had been directly raised. As can be seen, this holding is directly relevant to the issues stated on pages 401 and 411 of this study. The underlying principle of the case is plain: government aid may be rendered to a citizen in furtherance of his obtaining education in a church-related school. Justice Black, for the majority, stated:

It is undoubtedly true that by the New Jersey program children are helped to get to church schools. There is even the possibility that some of the children

⁴⁴ *Id.* at 375.

⁴⁵ Eighty-five years previously the Court, in a case involving a claim of a denial by Louisiana of rights under the free exercise clause of the federal constitution, had held that "the Constitution makes no provision for protecting the citizens of the respective States in their religious liberties." *Permoli v. Municipality No. 1 of the City of New Orleans*, 3 How. (44 U.S.) 589, 609 (1845).

⁴⁶ 330 U.S. 1 (1947).