State aid to church-connected schools was first found to have gone over the "verge" [88] in *Lemon v. Kurtzman*.[89] The Court struck down two state statutes, one of which authorized the "purchase" of secular educational services from nonpublic elementary and secondary schools, a form of reimbursement for the cost to religious schools of the teaching of such things as mathematics, modern foreign languages, and physical sciences, and the other of which provided salary supplements to nonpublic school teachers who taught courses similar to those found in public schools, used textbooks approved for use in public schools, and agreed not to teach any classes in religion. Accepting the secular purpose attached to both statutes by the legislature, the Court did not pass on the secular effect test, but found excessive entanglement. This entanglement arose because the legislature "has not, and could not, provide state aid on the basis of a mere assumption that secular teachers under religious discipline can avoid conflicts. The State must be certain, given the Religion Clauses, that subsidized teachers do not inculcate religion . . . ." [90] Because the schools concerned were religious schools, because they were under the control of the church hierarchy, and because the primary purpose of the schools was the propagation of the faith, a "comprehensive, discriminating, and continuing state surveillance will inevitably be required to ensure that these restrictions [on religious use of aid] are obeyed and the First Amendment otherwise respected." [91] Moreover, the provision of public aid inevitably will draw religious conflict into the public arena as the contest for adequate funding goes on. Thus, the Court held, both programs were unconstitutional because the state supervision necessary to ensure a secular purpose and a secular effect inevitably involved the state authorities too deeply in the religious affairs of the aided institutions.[92]

Two programs of assistance through the provision of equipment and services to private, including sectarian, schools were invalidated in *Meek v. Pittenger*.[93] First, the loan of instructional material and equipment directly to nonpublic elementary and secondary schools was voided as constituting impermissible assistance to reli-

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[88] Everson v. Board of Education, 330 U.S. 1, 16 (1947).

[89] 403 U.S. 602 (1971).

[90] 403 U.S. at 619.

[91] 403 U.S. at 619.

[92] Only Justice White dissented. 403 U.S. at 661. In Lemon v. Kurtzman, 411 U.S. 192 (1973), the Court held that a state could reimburse schools for expenses incurred in reliance on the voided program up to the date the Supreme Court held the statute unconstitutional. *But see* New York v. Cathedral Academy, 434 U.S. 125 (1977).

[93] 421 U.S. 349 (1975). Chief Justice Burger and Justices Rehnquist and White dissented. Id. at 385, 387.