gion. This holding was based on the fact that 75 percent of the qualifying schools were church-related or religiously affiliated educational institutions, and that the assistance was available without regard to the degree of religious activity of the schools. The materials and equipment loaned were religiously neutral, but the substantial assistance necessarily constituted aid to the sectarian school enterprise as a whole and thus had a primary effect of advancing religion.[94] Second, the provision of auxiliary services—remedial and accelerated instruction, guidance counseling and testing, speech and hearing services—by public employees on nonpublic school premises was invalidated because the Court found that, even though the teachers under this program—unlike those under one of the programs struck down in *Lemon v. Kurtzman*—were public employees rather than employees of the religious schools, the continuing surveillance necessary to ensure that the teachers remained religiously neutral gave rise to a constitutionally intolerable degree of entanglement between church and state.[95]

In two 1985 cases, the Court again struck down programs of public subsidy of instructional services provided on the premises of sectarian schools, and relied on the effects test as well as the entanglement test. In *Grand Rapids School District v. Ball*,[96] the Court invalidated two programs conducted in leased private school classrooms, one taught during the regular school day by public school teachers,[97] and the other taught after regular school hours by part-time "public" teachers otherwise employed as full-time teachers by the sectarian school.[98] Both programs, the Court held, had the effect of promoting religion in three distinct ways. The teachers might be influenced by the "pervasively sectarian nature" of the environment and might "subtly or overtly indoctrinate the students in particular religious tenets at public expense"; use of the parochial school classrooms "threatens to convey a message of state support for religion" through "the symbolic union of government and religion in

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[94] 421 U.S. at 362–66. *See also* Wolman v. Walter, 433 U.S. 229, 248–51 (1977). The Court in Committee for Public Educ. & Religious Liberty v. Regan, 444 U.S. 646, 661–62 (1980), held that *Meek* did not forbid all aid that benefited religiously pervasive schools to some extent, so long as it was conferred in such a way as to prevent any appreciable risk of being used to transmit or teach religious views. *See also* Wolman v. Walter, 433 U.S. at 262 (Justice Powell concurring in part and dissenting in part).

[95] Meek v. Pittenger, 421 U.S. 349, 367–72 (1975). *But see* Wolman v. Walter, 433 U.S. 229, 238–48 (1977).

[96] 473 U.S. 373 (1985).

[97] The vote on this "Shared Time" program was 5–4, the opinion of the Court by Justice Brennan being joined by Justices Marshall, Blackmun, Powell, and Stevens. The Chief Justice, and Justices White, Rehnquist, and O'Connor dissented.

[98] The vote on this "Community Education" program was 7–2, Chief Justice Burger and Justice O'Connor concurring with the "Shared Time" majority.