discriminatory manner,[1291] the action is state action. In addition, when a state clothes a private party with official authority, that private party may not engage in conduct forbidden the state.[1292]

Beyond this are cases where a private individual discriminates, and the question is whether a state has encouraged the effort or has impermissibly aided it.[1293] Of notable importance and a subject of controversy since it was decided is *Shelley v. Kraemer*.[1294] There, property owners brought suit to enforce a racially restrictive covenant, seeking to enjoin the sale of a home by white sellers to black buyers. The covenants standing alone, Chief Justice Vinson said, violated no rights protected by the Fourteenth Amendment. "So long as the purposes of those agreements are effectuated by voluntary adherence to their terms, it would appear clear that there has been no action by the State and the provisions of the Amendment have not been violated." However, this situation is to be distinguished from where "the purposes of the agreements were secured only by judicial enforcement by state courts of the restrictive terms of the agreements." [1295] Establishing that the precedents were to the effect that judicial action of state courts was state action, the Court continued to find that judicial enforcement of these covenants was forbidden. "The undisputed facts disclose that petitioners were willing purchasers of properties upon which they desire to establish homes. The owners of the properties were willing sellers; and contracts of sale were accordingly consummated. . . ." [1296]

Arguments about the scope of *Shelley* began immediately. Did the rationale mean that no private decision to discriminate could

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[1291] Lombard v. Louisiana, 373 U.S. 267 (1963). No statute or ordinance mandated segregation at lunch counters but both the mayor and the chief of police had recently issued statements announcing their intention to maintain the existing policy of separation. Thus, the conviction of African-Americans for trespass because they refused to leave a segregated lunch counter was voided.

[1292] Griffin v. Maryland, 378 U.S. 130 (1964). Guard at private entertainment ground was also deputy sheriff; he could not execute the racially discriminatory policies of his private employer. *See also* Williams v. United States, 341 U.S. 97 (1951).

[1293] Examples already alluded to include Lombard v. Louisiana, 373 U.S. 267 (1963), in which certain officials had advocated continued segregation, Peterson v. City of Greenville, 373 U.S. 244 (1963), in which there were segregation-requiring ordinances and customs of separation, and Robinson v. Florida, 378 U.S. 153 (1964), in which health regulations required separate restroom facilities in any establishment serving both races.

[1294] 334 U.S. 1 (1948).

[1295] 334 U.S. at 13–14.

[1296] "These are not cases . . . in which the States have merely abstained from action, leaving private individuals free to impose such discriminations as they see fit. Rather, these are cases in which the States have made available to such individuals the full coercive power of government to deny to petitioners, on the grounds of race or color, the enjoyment of property rights in premises which petitioners are willing and financially able to acquire and which the grantors are willing to sell." 334 U.S. at 19. In Hurd v. Hodge, 334 U.S. 24 (1948), the Court outlawed judicial enforce-