not shown to be too pervasively religious—no religious qualifications existed for faculty or student body, a substantial part of the student body was not of the religion of the affiliation, and state rules precluded the use of any state-financed project for religious activities.[146]

The kind of assistance permitted by *Tilton* and by *Hunt v. McNair* seems to have been broadened when the Court sustained a Maryland program of annual subsidies to qualifying private institutions of higher education; the grants were noncategorical but could not be used for sectarian purposes, a limitation to be policed by the administering agency.[147] The plurality opinion found a secular purpose; found that the limitation of funding to secular activities was meaningful,[148] since the religiously affiliated institutions were not so pervasively sectarian that secular activities could not be separated from sectarian ones; and determined that excessive entanglement was improbable, given the fact that aided institutions were not pervasively sectarian. The annual nature of the subsidy was recognized as posing the danger of political entanglement, but the plurality thought that the character of the aided institutions—"capable of separating secular and religious functions"—was more important.[149]

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[146] 413 U.S. at 743–44. Justices Brennan, Douglas, and Marshall, dissenting, rejected the distinction between elementary and secondary education and higher education and foresaw a greater danger of entanglement than did the Court. Id. at 749.

[147] Roemer v. Maryland Public Works Bd., 426 U.S. 736 (1976). Justice Blackmun's plurality opinion was joined only by Chief Justice Burger and Justice Powell. Justices White and Rehnquist concurred on the basis of secular purpose and no primary religious benefit, rejecting entanglement. Id. at 767. Four justices dissented.

[148] 426 U.S. at 755. In some of the schools mandatory religion courses were taught, the significant factor in Justice Stewart's view, id. at 773, but overweighed by other factors in the plurality's view.

[149] 426 U.S. at 755–66. The plurality also relied on the facts that the student body was not local but diverse, and that large numbers of non-religiously affiliated institutions received aid. A still further broadening of governmental power to extend aid affecting religious institutions of higher education occurred in several subsequent decisions. First, the Court summarily affirmed two lower-court decisions upholding programs of assistance—scholarships and tuitions grants—to students at college and university as well as vocational programs in both public and private—including religious—institutions; one of the programs contained no secular use restriction at all and in the other one the restriction seemed somewhat pro forma. Smith v. Board of Governors of Univ. of North Carolina, 434 U.S. 803 (1977), aff'g 429 F. Supp. 871 (W.D.N.C. 1977); Americans United v. Blanton, 434 U.S. 803 (1977), aff'g 433 F. Supp. 97 (M.D. Tenn. 1977). Second, in Witters v. Washington Dep't of Services for the Blind, 474 U.S. 481 (1986), the Court upheld use of a vocational rehabilitation scholarship at a religious college, emphasizing that the religious institution received the public money as a result of the "genuinely independent and private choices of the aid recipients," and not as the result of any decision by the state to sponsor or subsidize religion. Third, in Rosenberger v. The Rector and Visitors of the University of Virginia, 515 U.S. 819 (1995), the Court held that a public university cannot ex-