

Property Act of 1944, has resulted in 488 grants of land and buildings to religious-affiliated schools belonging to thirty-five different denominations.¹⁰⁴

4. *Some Permissible Forms of Aid*

The wide variety of legislative precedents reveals that Congress has used many forms of aid to education in order to promote national excellence. Grants, loans, scholarships, tuition payments, and tax benefits have been among the forms used. Frequently, church-related institutions have been included on the same footing as other accredited schools and colleges. Familiar examples are the College Housing Act,¹⁰⁵ the Surplus Property Act,¹⁰⁶ and the G.I. Bill of Rights.¹⁰⁷ Only very recently has it been suggested that the only permissible form of participation by church-related organizations should be through the medium of loans—with, indeed, a further limitation, now urged in some quarters, that these loans be limited to a few purposes connected, in the main, with the national defense.¹⁰⁸

The form of aid is important only insofar as it embodies a concrete limitation of governmental support to the public aspects of education in private nonprofit schools. As previously indicated, this study is not concerned with the constitutionality of government programs whose primary purpose and effect would be the support of the religious aspects of education in church-related schools. How, then, can a meaningful financial division be made between those costs properly attributable to the secular aspects of education and those properly attributable to the religious aspects?

Such a division is properly the task of the art of accounting, as informed by the basic legal and educational principles applicable in this area. Some of the costs in the construction and operation of a church-related school are obviously the same as costs in providing public schools; some are obviously different; and still others are similar but not identical. The basic principle which must govern here is that if government support is to be limited to the secular aspects of education in church-related schools, then government support must be directed

¹⁰⁴ See 107 Cong. Rec. 17351 (daily ed. Sept. 7, 1961).

¹⁰⁵ 64 Stat. 77 (1950), as amended, 12 U.S.C. § 1749 (1958).

¹⁰⁶ 58 Stat. 765 (1944), as amended, 40 U.S.C. § 484(j) and (k) (1958).

¹⁰⁷ 66 Stat. 663 (1952), 38 U.S.C. § 911(6) (1952). The same provision was enacted in the Korean Veterans Bill of Rights, 72 Stat. 1174, 38 U.S.C. § 1601(6) (Supp. 1958).

¹⁰⁸ See Annex B at pp. 445-55 *infra* for analysis of a memorandum of the Department of Health, Education, and Welfare which defends this limitation.