

related schools as its primary purpose or effect. It deals with the constitutionality of legislation which aims at the promotion and improvement of the education necessary for the general welfare—our culture, prosperity, and defense—and which for these purposes seeks to improve educational opportunities in both public and private nonprofit schools.

I

THE EDUCATION CRISIS AND NATIONAL SURVIVAL

1. *The Nature of the Crisis*

Our intellectual and creative resources, then, are our first assets. And the more we invest in them, the greater the returns in every aspect of our lives. Human capital has taken priority over material capital both as a public and private investment.

Thus did the Regents of the University of the State of New York underscore the stellar importance which is being ever more generally ascribed to education in the United States today. At least since the appearance of Sputnik similar declarations have been made by leaders in all sections of the land. President Kennedy, in his message to the Congress on February 20, 1961, stated that the nation's twin educational goals must be "a new standard of excellence in education—and the availability of such excellence to all who are willing and able to pursue it."⁵ He further stated that there is now required "the maximum development of every young American's capacity."⁶

Spurring the nationally felt need for more and better education has been, first of all, the genuine fear that the free world, of which the United States is the leader, may be destroyed through conquest, or may so far decline in position relative to Soviet power that it will inevitably become the subject of communism. Additionally, however, are other dynamic factors related to a fresh emphasis upon education. It is recognized that—communism aside—Americans have important missions to perform both abroad and at home. The conquering of disease and of poverty, the improvement of cities, the advance of industry, the increase of useful invention, the realization of greater achievement in the arts—indeed also the entire complex of the problems of a vastly more populous civilization in a far more closely knit earth in a suddenly opened universe of space and planet: all these supply additional imperatives to America's new effort to educate its young.

⁵ H.R. Doc. No. 92, 87th Cong., 1st Sess. 2 (1961).

⁶ *Id.* at 1.