

cise of a second fundamental personal right, the right to travel.”¹⁸⁷⁶ The Court indicated that the states have “a legitimate and compelling interest” in preventing fraud by voters, but that “it is impossible to view durational residence requirements as necessary to achieve that state interest.”¹⁸⁷⁷

However, a 50-day durational residence requirement was sustained in the context of the closing of the registration process at 50 days prior to elections and of the mechanics of the state’s registration process. The period, the Court found, was necessary to achieve the state’s legitimate goals.¹⁸⁷⁸

A state that exercised general criminal, taxing, and other jurisdiction over persons on certain federal enclaves within the state, the Court held, could not treat these persons as nonresidents for voting purposes.¹⁸⁷⁹ A statute that provided that anyone who entered military service outside the state could not establish voting residence in the state so long as he remained in the military was held to deny to such a person the opportunity such as all non-military persons enjoyed of showing that he had established residence.¹⁸⁸⁰ Restricting the suffrage to those persons who had paid a poll tax was an invidious discrimination because it introduced a “capricious or irrelevant factor” of wealth or ability to pay into an area in which it had no place.¹⁸⁸¹ Extending this ruling, the Court held that the eligibility to vote in local school elections may not be limited to persons owning property in the district or who have chil-

¹⁸⁷⁶ 405 U.S. at 336, 338. *See also* *Purcell v. Gonzalez*, 549 U.S. 1, 2 (2006) (per curiam) (vacating an injunction against “requiring voters to present proof of citizenship when they register to vote and to present identification when they vote on election day,” but expressing no opinion on the constitutionality of the requirement).

¹⁸⁷⁷ 405 U.S. at 345. Other asserted state interests—knowledgeability of voters, common interests, intelligent voting—were said either not to be served by the requirements or to be impermissible interests.

¹⁸⁷⁸ *Marston v. Lewis*, 410 U.S. 679 (1973). Registration was by volunteer workers who made statistically significant errors requiring corrections by county recorders before certification. Primary elections were held in the fall, thus occupying the time of the recorders, so that a backlog of registrations had to be processed before the election. A period of 50 days rather than 30, the Court thought, was justifiable. However, the same period was upheld for another state on the authority of *Marston* in the absence of such justification, but it appeared that the plaintiffs had not controverted the state’s justifying evidence. *Burns v. Fortson*, 410 U.S. 686 (1973). Justices Brennan, Douglas, and Marshall dissented in both cases. *Id.* at 682, 688.

¹⁸⁷⁹ *Evans v. Cornman*, 398 U.S. 419 (1970).

¹⁸⁸⁰ *Carrington v. Rash*, 380 U.S. 89 (1965).

¹⁸⁸¹ *Harper v. Virginia Bd. of Elections*, 383 U.S. 663 (1966). Justices Black, Harlan, and Stewart dissented. *Id.* at 670, 680. Poll tax qualifications had previously been upheld in *Breedlove v. Suttles*, 302 U.S. 277 (1937); and *Butler v. Thompson*, 341 U.S. 937 (1951).