

More recently, the Court has attempted to clarify these cases by distinguishing situations where a state citizen is likely to “consume” benefits within a state’s borders (such as the provision of welfare) from those where citizens of other states are likely to establish residency just long enough to acquire some portable benefit, and then return to their original domicile to enjoy them (such as obtaining a divorce decree or paying the in-state tuition rate for a college education).¹⁹⁹⁹

A state scheme for returning to its residents a portion of the income earned from the vast oil deposits discovered within Alaska foundered upon the formula for allocating the dividends; that is, each adult resident received one unit of return for each year of residency subsequent to 1959, the first year of Alaska’s statehood. The law thus created fixed, permanent distinctions between an ever-increasing number of classes of bona fide residents based on how long they had been in the state. The differences between the durational residency cases previously decided did not alter the bearing of the right to travel principle upon the distribution scheme, but the Court’s decision went off on the absence of any permissible purpose underlying the apportionment classification and it thus failed even the rational basis test.²⁰⁰⁰

Still unresolved are issues such as durational residency requirements for occupational licenses and other purposes.²⁰⁰¹ But this line of cases does not apply to state residency requirements themselves, as distinguished from durational provisions,²⁰⁰² and the cases do not inhibit the states when, having reasons for doing so, they bar travel by certain persons.²⁰⁰³

¹⁹⁹⁹ *Saenz v. Roe*, 526 U.S. at 505.

²⁰⁰⁰ *Zobel v. Williams*, 457 U.S. 55 (1982). Somewhat similar was the Court’s invalidation on equal protection grounds of a veterans preference for state employment limited to persons who were state residents when they entered military service; four Justices also thought the preference penalized the right to travel. *Attorney General of New York v. Soto-Lopez*, 476 U.S. 898 (1986).

²⁰⁰¹ *La Tourette v. McMaster*, 248 U.S. 465 (1919), upholding a two-year residence requirement to become an insurance broker, must be considered of questionable validity. Durational periods for admission to the practice of law or medicine or other professions have evoked differing responses by lower courts.

²⁰⁰² *E.g.*, *McCarthy v. Philadelphia Civil Service Comm’n*, 424 U.S. 645 (1976) (ordinance requiring city employees to be and to remain city residents upheld). See *Memorial Hospital v. Maricopa County*, 415 U.S. 250, 255 (1974). See also *Martinez v. Bynum*, 461 U.S. 321 (1983) (bona fide residency requirement for free tuition to public schools).

²⁰⁰³ *Jones v. Helms*, 452 U.S. 412 (1981) (statute made it a misdemeanor to abandon a dependent child but a felony to commit the offense and then leave the state).