

ther deters the exercise of that right or penalizes those who have exercised it.¹⁹⁸⁶ Any such classification is invalid “unless shown to be necessary to promote a *compelling* governmental interest.”¹⁹⁸⁷ The constitutional right to travel has long been recognized,¹⁹⁸⁸ but it is only relatively recently that the strict standard of equal protection review has been applied to nullify durational residency requirements.

Thus, in *Shapiro v. Thompson*,¹⁹⁸⁹ durational residency requirements conditioning eligibility for welfare assistance on one year’s residence in the state¹⁹⁹⁰ were voided. If the purpose of the requirements was to inhibit migration by needy persons into the state or to bar the entry of those who came from low-paying states to higher-paying ones in order to collect greater benefits, the Court said, the purpose was impermissible.¹⁹⁹¹ If, on the other hand, the purpose was to serve certain administrative and related governmental objectives—the facilitation of the planning of budgets, the provision of an objective test of residency, minimization of opportunity for fraud, and encouragement of early entry of new residents into the labor force—then the requirements were rationally related to the purpose but they were not *compelling* enough to justify a classification

with *Arlington County Bd. v. Richards*, 434 U.S. 5 (1977). The same principle applies in the commerce clause cases, in which discrimination may run against in-state as well as out-of-state concerns. Cf. *Dean Milk Co. v. City of Madison*, 340 U.S. 349 (1951).

¹⁹⁸⁶ *Shapiro v. Thompson*, 394 U.S. 618, 629–31, 638 (1969); *Dunn v. Blumstein*, 405 U.S. 330, 338–42 (1972); *Memorial Hospital v. Maricopa County*, 415 U.S. 250 (1974); *Jones v. Helms*, 452 U.S. 412, 420–21 (1981). See also *Oregon v. Mitchell*, 400 U.S. 112, 236–39 (1970) (Justices Brennan, White, and Marshall), and *id.* at 285–92 (Justices Stewart and Blackmun and Chief Justice Burger).

¹⁹⁸⁷ *Shapiro v. Thompson*, 394 U.S. 618, 634 (1969) (emphasis by Court); *Graham v. Richardson*, 403 U.S. 365, 375–76 (1971).

¹⁹⁸⁸ *Crandall v. Nevada*, 73 U.S. (6 Wall.) 35 (1868); *Edwards v. California*, 314 U.S. 160 (1941) (both cases in context of direct restrictions on travel). The source of the right to travel and the reasons for reliance on the Equal Protection Clause are questions puzzled over and unresolved by the Court. *United States v. Guest*, 383 U.S. 745, 758, 759 (1966), and *id.* at 763–64 (Justice Harlan concurring and dissenting), *id.* at 777 n.3 (Justice Brennan concurring and dissenting); *Shapiro v. Thompson*, 394 U.S. 618, 629–31 (1969), and *id.* at 671 (Justice Harlan dissenting); *San Antonio School Dist. v. Rodriguez*, 411 U.S. 1, 31–32 (1973); *Jones v. Helms*, 452 U.S. 412, 417–19 (1981); *Zobel v. Williams*, 457 U.S. 55, 60 & n.6 (1982), and *id.* at 66–68 (Justice Brennan concurring), 78–81 (Justice O’Connor concurring).

¹⁹⁸⁹ 394 U.S. 618 (1969).

¹⁹⁹⁰ The durational residency provision established by Congress for the District of Columbia was also voided. 394 U.S. at 641–42.

¹⁹⁹¹ 394 U.S. at 627–33. *Gaddis v. Wyman*, 304 F. Supp. 717 (N.D.N.Y. 1969), *aff’d sub nom.* *Wyman v. Bowens*, 397 U.S. 49 (1970), struck down a provision construed so as to bar only persons who came into the state solely to obtain welfare assistance.