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her minor children, *et al.*,
Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT, THE DISTRICT OF COLUMBIA, AND THE EASTERN DISTRICT OF PENNSYLVANIA, RESPECTIVELY

BRIEF *AMICI CURIAE* OF THE CENTER ON SOCIAL WELFARE POLICY AND LAW, TRAVELERS AID ASSOCIATION OF AMERICA, NATIONAL ASSOCIATION OF SOCIAL WORKERS, INC., CITIZENS COMMITTEE FOR CHILDREN OF NEW YORK, INC., AND THIRTEEN LEGAL SERVICES OFFICES NOW PROSECUTING SIMILAR CASES

Interest of *Amici Curiae*

The Center on Social Welfare Policy and Law is the specialized welfare law resource of the Legal Services Program of the Office of Economic Opportunity. Affiliated with the Schools of Law and Social Work of Columbia University, the Center undertakes research pertaining to the legal rights of welfare beneficiaries and supports OEO-funded legal service programs and other legal organizations through education and assistance in the preparation of important litigation. In this capacity the Center has rendered substantial assistance in most of the cases challenging residence requirements in public assistance, and attorneys from its staff appear on many of the papers. The Center also maintains the nation's only comprehensive private collection of state public assistance regulations and manuals. The Center, together with the federally-funded legal service programs throughout the nation, has a vital interest in presenting to this Court the full range of issues raised and rules affected by this case.

Travelers Aid Association of America is a non-profit federation of 86 local Travelers Aid Agencies with 825 Co-operating Representatives throughout the country, which gave assistance and counseling services to over a million people who moved last year. Because its operations and clients are greatly affected by public welfare provisions, the Association, based on long experience, has long opposed the various residence requirements for public assistance now in existence. Its local agencies time and again have had to render whatever assistance they could to meet the desperate needs of people denied assistance for lack of residence.

The National Association of Social Workers, Inc., a nonprofit corporation under the laws of Delaware, is the professional membership organization for 48,000 social workers in 40 states and Puerto Rico. The Association works to improve social welfare services in American communities by preventing sources of deprivation and distress, enabling people to live more productively, and wiping out problems of delinquency and family disintegration, poverty and unprotected old age. Its members work to facilitate social progress in our community and national life, and have in this connection often given first-hand testimony out of their professional experience before national, state and local legislative committees.

Citizens' Committee for Children of New York, Inc., is a membership corporation composed of professional and lay members who are interested in improving living conditions for all children. Because the Citizens' Committee believes that society must recognize its responsibilities to help every child whose family is unable to provide for him, the Citizens' Committee is working for improved services and attitudes, better education, better health services, better mental health care, better housing and government and private acceptance of the child's legal and moral rights. The Citizens' Committee has assisted needy persons in asserting their mutual rights and in challenging the constitutionality and fairness of many welfare laws and regulations.

Legal Aid Society of the Pima County Bar Association (Tucson, Arizona); Legal Aid Society of Metropolitan Denver (Colorado); Community Law Service (Wilmington,

Delaware); Economic Opportunity Legal Services Program, Inc. (Miami, Florida); Legal Aid Bureau (Chicago, Illinois); Legal Services Program of Black Hawk County Legal Aid Society (Waterloo, Iowa); Legal Aid Bureau, Inc. (Baltimore, Maryland); Community Legal Assistance Office (Cambridge, Massachusetts); Legal Aid Society of Calhoun County (Battle Creek, Michigan); The Legal Aid Society of Minneapolis (Minnesota); Legal Aid Society of Cleveland (Ohio); Legal Aid Service, Multnomah Bar Association (Portland, Oregon); and Legal Services Center (Seattle, Washington); are now representing plaintiffs in the actions in their respective states set forth in Appendix B. These offices are therefore directly and vitally concerned with the decision of this Court in the three cases now under consideration. That decision will determine the right of their clients and, in many cases, the class they represent, to receive desperately needed public assistance aid.

Statement of the Case

> "In most states, there is a residency requirement, generally averaging around a year, before a person is eligible to receive welfare. These state regulations were enacted to discourage persons from moving from one state to another to take advantage of higher welfare payments. In fact, they appear to have had little, if any, impact on migration and have frequently served to prevent those in greatest need—desperately poor families arriving in a strange city—from receiving the boost that might give them a fresh start."
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> *Report of the National Advisory Commission on Civil Disorders* (March 1, 1968)[1]

[1] Bantam Books, Inc., New York City, pp. 459-460.

Public financial aid to certain needy persons is provided in all states and territories of the United States. Under the "categorical assistance" programs established by the Social Security Act of 1935, as amended (Aid to Families with Dependent Children, hereinafter "AFDC"; Old Age Assistance, hereinafter "OAA"; Aid to the Permanently and Totally Disabled, hereinafter "APTD"; and Aid to the Blind, hereinafter "AB" [2]), aid based mostly upon contributions from the Federal Government[3] was given to close to 8 million needy persons in September 1967.[4] The "general assistance" program (hereinafter "GA"), financed entirely by the states and localities, provided aid to over 729,000 persons in September 1967.[5]

The federal categorical programs and the locally financed general assistance programs are designed as residual programs. Under these programs the very basic necessities—food, shelter, clothing—are furnished to disadvantaged and impoverished families, many of which are ineligible for or who have exhausted the often higher benefits of the

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[2] 42 U. S. C. §§301 *et seq.*, 601 *et seq.*, 1201 *et seq.*, and 1351 *et seq.* Other categories not involved in this case are Medical Assistance for the Aged and "Medicaid," 42 U. S. C. §§306 and 1396.

[3] The Federal Government contributed $2,958,602 of the $5,476,025 spent in all public assistance programs in 1965, including those which received no federal funds. Federal assistance payments have exceeded 54% of all payments every year since 1962, 50% of all payments every year since 1957, and 45% of all payments every year since 1949. During the late 1930's the Federal Government's share never exceeded 23.2%. United States Department of Health, Education and Welfare, *Welfare in Review,* 1966 Statistical Supplement, p. 17.

[4] In September 1967 there were 7,879,000 persons receiving federally-aided public assistance. The number had increased steadliy each month of the year. *Welfare in Review,* Jan.-Feb. 1968, p. 43.

[5] *Welfare in Review, Ibid.*

contributory programs, such as state unemployment and workmen's compensation and federal Old-Age, Survivors, Disability and Health Insurance. Eligibility for the latter programs almost always requires designated periods of contribution and defined employment; the principal criterion of the residual programs is that of need.

A person meeting financial and other eligibility criteria has a statutory right to benefits under the federal law and the laws of the various states.[6] Among the non-financial eligibility standards in most, but not all, states is a requirement of residence in the state for a certain period of time prior to application.[7] Federal statutes do not provide for durational residency requirements as a condition of eligibility, but they do prohibit such requirements in excess of one year in the AFDC program[8] and in excess of one continuous year prior to application and five of the last nine years in the OAA, AB and APTD programs.[9] Such requirements are flatly prohibited in the recently enacted Medical Assistance to the Aged and "Medicaid" programs.[10] Requirements in the wholly state-financed general assistance

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[6] *Smith* v. *King,* 277 F. Supp. 31, 38 (M. D. Ala. 1967).

[7] These requirements were summarized in Appendix A to the Motion of Appellants and Appellees to Set Down this Appeal for Hearing with *Shapiro* v. *Thompson,* filed with this Court in *Reynolds* v. *Smith,* No. 1138, and also appear in Note, *Residence Requirements in State Public Welfare Statutes,* 51 Iowa L. Rev. 1080, 1091-1095 (1966).

[8] 42 U. S. C. §602(b).

[9] 42 U. S. C. §§302(b)(2)(A), 1202(b)1, and 1352(b)(1).

[10] 42 U. S. C. §§302(b)(2)(B) and 1396a(b)(3). In August 1967 those federally-aided medical payments amounted to well over one-third of all public assistance costs. *Welfare in Review,* Jan.-Feb. 1968, p. 27.

programs are frequently one year, though some are as many as five.[11]

As an adjunct to such restrictions on eligibility, many states have laws and regulations providing for the compulsory removal and return or institutionalization of persons claiming public assistance who fail to satisfy the durational residence requirement;[12] some states have provisions for the compulsory removal from the state of those likely to become a public charge at some future time.[13] Others prohibit persons from assisting or advising indigents to move from one municipality to another or from one state to another.[14] The Connecticut residency provision permanently denies any state-financed general assistance to persons who claim assistance before satisfying the one year residency requirement.[15] The constitutionality of durational residency requirements is challenged in the AFDC cases now before

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[11] See sources cited in footnote 7 *supra.*

[12] See, e.g., Mass. Ann. Laws C. 122 §21 (1958), and Minn. Stat. Ann. §§262.11 and 263.03(2) (1947). The Minnesota statute provides for physical removal within the state without a court order. The Connecticut Supreme Court held that state's compulsory removal law, Conn. Gen. Stat. §17-273a, constitutional, noting that this "power of removal . . . has been claimed by Connecticut since long before the adoption of the federal constitution . . ." and that the statute "took substantially its present form as early as 1796." *State* v. *Doe,* 149 Conn. 216, 222, 178 A. 2d 271, 274 (1962). The provision was repealed by 1963 Public Act 501, §4. See also the application of a compulsory return provision, now apparently repealed, in *Anderson* v. *Miller,* 120 Pa. Super. 463, 182 A. 742 (1936).

[13] See, e.g., Iowa Code Ann. §252.18 (1949). See generally Daniel R. Mandelker, *Exclusion and Removal Legislation,* 1956 Wisc. L. Rev. 57, 66-67.

[14] See, e.g., Sec. 49.12(4) Wisc. Stat. (1957).

[15] Conn. Gen. Stat. Sec. 17-2d (Supp. 1966).

this Court and the scores of cases now pending before three-judge courts around the country.[16]

The patchwork of durational residence requirements found in state statutes results in a number of disqualifying classifications among equally destitute families. Those with residence of less than one, three or five years are denied the basic necessities available to others similarly situated except for their greater periods of settlement. Similarly objectionable distinctions are drawn among the various programs under which aid is sought, with varied durational residence requirements frequently being imposed on the different programs. As a result of numerous state statutory provisions waiving the residency requirement where the former state of residence has no such requirement[17] and reciprocity agreements among two or more states providing for mutual waiver, persons seeking aid under the same program in the same state are treated differently solely because of residence provisions or agreements of the state in which they previously resided.[18]

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[16] The facts in these pending cases are set forth in Appendix B *infra*.

[17] See, e.g., 62 Penn. Stat. §432(6) (1967), the statute before this Court, and Wisc. Stat. §49.61(2)(b) (1967).

[18] A further discrimination results in the AFDC program in many states which grant aid if the relative with whom the child is living has a year of residence. See, e.g., Rev. Code Wash. §74.12.030 (1967 Supp.). Thus aid may be obtainable only if the child leaves his mother.

Summary of Argument

Disqualifying classifications based on period of settlement are found in a number of state administered public assistance programs, most of which are financed in large part by the Federal Government. Under these programs the essentials of life are provided to many of the 30 million Americans with incomes below that of the poverty level. The residency provisions in issue here impose distinctions among these families not because these people have differences in need, hope or ability but because some have changed their place of residency from one State to another within the last one, three or five years. Accordingly these requirements do not serve, but undermine, the avowed purposes of the residual assistance programs to help the nation's poor achieve self-care and self-support and to help them maintain themselves, their families and, most important, human dignity.

The array of state settlement and residency requirements challenged herein are the direct descendants of a series of enactments which have severely and deliberately restricted the movements of indigents for over 600 years. They find their roots and purposes in a host of ancient settlement, residency and removal laws which reflect the insularity and class suspicions of another age and country. This very insularity and prejudice is echoed in the argument advanced before this Court that today's residency laws are necessary to protect the fisc from the predatory claims and fraud of outsiders and newcomers. We submit that these requirements are the vestigal remnants of a localism which changed conditions, attitudes and a national society have rendered irrelevant and invidious.

The immediate objective, ultimate impact and historical context of residency laws reflect a deliberate state policy to discourage the entry and settlement of poor people and to facilitate their removal in case of need. That purpose is constitutionally impermissible. These laws do not serve any other valid state policy. Particularly, they are not a needed barrier against the assumed raids on the "high" benefits of public assistance programs. Overwhelming evidence shows that poor people move and settle for the same reasons other people do: to search for opportunity, to be near their family, and generally to find new associates, a new environment and a better life. We submit that these rights are constitutionally protected and that a classification which disqualifies because of their exercise denies the equal protection of the laws.

I.

This array of state settlement and residency requirements finds its roots and its explanation in the Elizabethan poor laws and transference of those laws to colonial and post-colonial America.*

The residence requirements challenged herein are the direct descendants of a series of enactments which have severely and deliberately restricted the movement of indigents for over 600 years. These restrictions, appearing repeatedly in English statutes of the Fourteenth through Seventeenth Centuries, culminated in the Act of Settlement

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* Amici gratefully acknowledge that the statistical and historical material in this brief was substantially prepared by Ronald B. Dear, a doctoral candidate at the Columbia University School of Social Work. For a fuller exposition of the Elizabethan and American poor laws, see Appendix A.

and Removal of 1662[19]—the source upon which American colonists drew most heavily in framing their own statutes. These restrictions took a variety of forms. Those most closely related to the statutes before the Court limited public responsibility for the relief of poverty to those persons who were residents of the local community.[20] Those provisions were themselves descendants of earlier laws, antedating public assistance, which permitted the solicitation of alms only within the indigent's parish.[21] The desire to limit the mobility of the poor was further reflected in the removal provisions of the aforementioned Act of 1662, which empowered public authorities forcibly to return an indigent to his place of settlement whether or not he had sought or might request aid, a procedure which survives to this very day.[22] Finally, the English Law also provided severe criminal penalties for begging and leaving employment[23] and even for leaving one's place of settlement without permission.[24]

The purposes underlying these restrictive provisions which are the forerunners of the laws before this Court are manifold, and all are, in amici's eyes, both anachronistic and constitutionally impermissible. The earliest of these restrictive laws, the Statutes of Laborers of Edward III, and many of their successors, were, in the view of con-

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[19] 13 & 14 Charles II c. 12 (1662).

[20] 14 Elizabeth c. 5 (1572); 39 Elizabeth c. 3 (1598).

[21] 19 Henry VII c. 12 (1503); 22 Henry VII c. 12 (1530-31).

[22] See note 12 *supra*.

[23] See, e.g., 23 Edward III c. 1 (1349), 5 Elizabeth c. 4 (1562), and 14 Elizabeth c. 5 (1572).

[24] 12 Richard II c. 3 (1388).

cerned scholars, clearly designed to assure feudal lords an adequate supply of agricultural labor.[25] In service of this objective, no worker was permitted to go "out of the town where he dwelleth in the winter, to serve in the summer. . . . "[26] Moreover, "No servant or laborer . . . shall depart at the end of his term . . . to serve or dwell elsewhere . . . unless he bring a letter [under the king's seal]."[27] In later years, this design was displaced by other concerns. The poor were feared as a source of criminal disorder. As Parliament found, "In all places throughout this realm, vagabonds and beggars have of long time increased [producing] continual thefts, murders, and other heinous offences and great enormities. . . . "[28] Their travel was thought to encourage the spread of disease and pestilence. Anticipating problems of modern occurrence, the restrictions also betrayed a fear of urban congestion and attendant disorder.[29]

Also important to the understanding of these restrictions is an appreciation of the central position enjoyed by the local parish in the political organization of the society out of which these restrictions arose. During much of the period in question, the population of local communities formed a highly stable and well integrated group. Indi-

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[25] George Nicholls, *A History of the English Poor Law* (London, P. S. King & Son, 1904), pp. 34-41, 57; Karl de Schweinitz, *England's Road to Social Security* (New York, A. S. Barnes & Co., 1961), p. 5.

[26] 25 Edward III c. 7 (1351) Second Statute of Laborers. See also 23 Edward III c. 7 (1349) First Statute of Laborers.

[27] 12 Richard III c. 3 (1388).

[28] 22 Henry VIII c. 12 (1530-31).

[29] Dorothy Marshall, *The English Poor in the Eighteenth Century* (London, George Rutledge, 1926), Chaps. V and VI.

viduals typically lived their entire lives and made their economic contribution within the confines of a single parish. The communities were small enough that members were personally acquainted with one another, and engaged in a variety of activities organized for mutual support and comfort. What is more, the center of political power was local, with the central government imposing upon persons' lives only in the most sporadic and occasional way. Community membership was more important than National citizenship. In such a context, the limitation of public responsibility to members of a local community may have made a good deal of sense.

American history clearly demonstrates that the colonists brought with them many of the attitudes underlying these restrictions on mobility. Indicative of this is the fact that "paupers" and "vagabonds" were excluded from the privilege of "free ingress and regress to and from any other state" by the Articles of Confederation.[30] Even more important, one finds the entire panoply of restrictive measures described above imported into the early law of the colonies and their successor states. Indeed, one finds more than a small part of them in the laws extant today.

Amici contend that today's residence requirements and their underlying purposes can be properly understood only when set in their proper historical context. These requirements are the vestigial remnants of a localism which changed conditions have rendered irrelevant and invidious. They are an unjustifiable anachronism reflecting attitudes toward the poor which offend modern notions of equal protection.

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[30] Art. IV (1777).

II.

Statutory disentitlement of persons for the sole reason that they have recently exercised their right to travel and settle in another state is without any rational or permissible justification and hence denies such persons the equal protection of the laws.

A. *Durational settlement requirements do not serve but conflict with the avowed purposes and objectives of residual public assistance programs.*

Plainly the durational residency tests do not serve the stated purposes and objectives of public assistance programs. Those purposes as set forth in the federal programs are to help needy individuals to maintain themselves, to achieve self-support and self-care, and, in the case of AFDC, to maintain and strengthen family life.[31] Similar purposes appear in the relevant state statutes. Since duration of settlement in a state has nothing at all to do with the fundamental and often desperate needs of assistance claimants, the so-called residency requirements bear no relationship to these purposes. They do, however, quite obviously undermine them.

Persons and families denied aid for lack of residence must either live under the most deprived conditions or move on to some other place. Many who remain are dependent upon private charity or impoverished relatives.[32] The family unit is often torn asunder, frequently by removing

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[31] 42 U. S. C. §§301, 601, 1201 and 1351.

[32] See, e.g., most of the fact patterns in the cases in Appendix B as well as in all of the cases now before this Court.

children from their homes and placing them at substantial public expense in foster homes or institutions whose benefits are not dependent on residency.[33] Those who are able to return often go back to conditions from which they hopefully and wisely fled. Mrs. Ramos and Mrs. Mantell, the plaintiffs in *Ramos* v. *Health and Social Services Board,* 276 F. Supp. 474 (D. Wisc., 1967), and *Mantell* v. *Dandridge,* Civil Action No. 18792 (D. Md., 1967) were urged to leave their native state and go back to the state where their husbands who had grossly mistreated them resided. Mrs. Brewer, plaintiff in *Johnson* v. *Robinson,* Civil Action No. 67-C-1883 (N. D. Ill., Feb. 20, 1968), had no place to go, since she had moved from Illinois to California in 1965 and back to Illinois in 1967 and was not eligible for OAA in either state. Many migratory workers are equally stateless and have no place to which to return. Neither the relief of need nor human dignity is served by this denial of aid for lack of residency.

B. *A purposeful state policy to discourage the entry and settlement of poor people and to facilitate their removal in case of need is constitutionally proscribed.*

According to recent studies of the Social Security Administration there are now more than 29.7 million people in this country with incomes below minimal subsistence

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[33] For the practice in Pennsylvania, see *Reynolds* v. *Smith,* App. pp. 123a to 125a. Institutionalization is more likely than foster care. The state hearing examiner during the administrative hearing prior to the institution of *Mantell* v. *Dandridge,* Civil Action No. 18792 (D. Md. 1967), stated in connection with the residence requirements that there have been cases of children being placed in foster care and being supported by state money "because we couldn't give them Aid to Dependent Children." Transcript of Appeal Hearing, August 3, 1967, p. 11.

levels.[34] The public assistance laws with which we deal in this case by their very nature and terms apply exclusively to America's poor, those 29.7 millions with below subsistence incomes. These people are not only economically disadvantaged; they are politically weak if not impotent. They are told by the residency laws at issue here that they may not change their place of settlement from one state to another without losing the government's guarantee of some assistance in case of disappointed hopes, adversity and dire need.

We submit that such restrictions affecting the mobility and settlement of such large numbers of disadvantaged Americans warrants the closest constitutional scrutiny. We ask that the constitutionality of this classification be considered "in terms of its immediate objective, its ultimate impact and its historical context and the conditions existing prior to its enactment." *Reitman* v. *Mulkey,* 387 U. S. 369, 373 (1967).

The states before this Court do not openly admit that the purpose of residency requirements for public assistance is to discourage poor people from coming and remaining in a state of their choice. The reasons are not far to seek; *Crandall* v. *Nevada,* 73 U. S. 35 (1867), *Edwards* v. *California,* 314 U. S. 160 (1941) and *United States* v. *Guest,* 383 U. S. 745 (1966). Whether admitted or not, however, such discouragement is the general purpose and obvious impact of durational residency conditions. The historical justifications for very similar residence restrictions on public assistance, removal laws, and the like—to affix a place of settlement for the poor and to prevent movement of the poor

[34] *Report of the National Advisory Commission on Civil Disorders, op. cit.,* p. 258.

outside the settlement—and the clear evolution of today's residency requirements and removal laws from these historical forerunners unequivocally attests to this overall purpose. So too does the attempted explanation by the states of their residency requirements in terms of the need to exclude nonresidents from their "high" welfare benefits and the correlative need to husband and guard scarce welfare resources.[35]

In their view, the residency requirement is merely a means of allocating a limited amount of resources among welfare claimants. Plainly the fact that money is saved for allocation to others does not provide a justification for an eligibility condition. Excluding blue-eyed Americans would also limit the number of claimants. The residency criterion is not a justifiable restriction; it is a particular classification whose immediate aim and operation is to deny aid to persons equally needy and equally qualified, save in one respect: that they have recently left one state and settled in another. Unless the classification is wholly arbitrary and whimsical, this restriction must be based on the notion that persons who have recently migrated and settled are somehow less worthy of public assistance, as they were deemed centuries ago. Unless the state is indifferent to the fate and welfare of needy persons within its borders, which the very existence of residual welfare laws refutes, the purpose of the classification must be to discourage persons from coming into the state and to encourage them to leave once they have come. Indeed the states before this Court concede as much insofar as they argue that such laws are necessary to protect their own "high" welfare benefits from the claims of newcomers or outsiders. The use to

[35] See, e.g., California *amicus* brief, p. 6.

which these residency requirements are put—claimants of limited residency are asked and paid to leave—quite eloquently confirms this purpose.[36]

It is submitted this overall purpose is an impermissible restriction on the exercise of protected rights to travel, to settle, to associate and to search for a better life.

It is well established that the Constitution of the United States protects and guarantees the right of every citizen to travel freely from state to state and to settle in the state of his choosing:

> "Freedom of movement across frontiers in either direction, and inside frontiers, was a part of our heritage . . . . Freedom of movement is basis in our scheme of values." *Kent* v. *Dulles,* 357 U. S. 116, 126 (1958).

The right to travel from state to state "occupies a position fundamental to our Federal Union." *United States* v. *Guest,* 383 U. S. 745, 757 (1966). It has long been established that a state cannot impose barriers or impediments to the movement of goods across state lines, even where those goods are in search of a market in the state of destination and restriction.[37] It is equally established that a state may not impose such restrictions or barriers to the movement

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[36] See, *e.g.,* Conn. Gen. Stat. 17-2d (1965 Supp.) and Connecticut State Welfare Department *Manual* Sec. 219.3 under which even the customary emergency aid is denied to a person refusing removal. One Michigan county spent $28,000 to remove indigents in 1965. Comment, *The Michigan Settlement and Removal Laws in an Historical Perspective,* 45 J. Urban Law 130, 175 (1967).

[37] *Baldwin* v. *Seelig,* 294 U. S. 511, 523 (1935): "The Constitution . . . was framed upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in union and not division." See also *Dean Milk Co.* v. *City of Madison,* 340 U. S. 349 (1951).

of persons across state lines. The search for new associates, a new environment, and a market for their talents and endeavors is constitutionally protected. *Crandall* v. *Nevada, supra; Edwards* v. *California, supra.*[38] The right to travel is not merely a right to cross state lines or to pass through a state; it is also a right to settle in a state:

> "That choice of residence was subject to local approval is contrary to the inescapable implications of the westward movement of our civilization." [39]

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[38] "The conclusion that the right of free movement is a right of *national* citizenship stands on firm historical ground. If a state tax on that movement, as in the *Crandall* case, is invalid, *a fortiori* a state statute which obstructs or in substance prevents that movement must fall. That result necessarily follows unless perchance a State can curtail the right of free movement of those who are poor or destitute. But to allow such an exception to be engrafted on the rights of *national* citizenship would be to contravene every conception of national unity. It would also introduce a caste system utterly incompatible with the spirit of our system of government. It would permit those who were stigmatized by a State as indigents, paupers, or vagabonds to be relegated to an inferior class of citizenship. It would prevent a citizen because he was poor from seeking new horizons in other states. It might thus withhold from large segments of our people that mobility which is basic to any guarantee of freedom of opportunity. The result would be a substantial dilution of the rights of *national* citizenship, a serious impairment of the principles of equality." *Edwards* v. *California, supra,* at 181 (Douglas, *J.*, concurring).

[39] *Edwards* v. *California, supra,* at 183 (Jackson, *J.*, concurring). Justice Jackson also stated that:

> ". . . [I]t is a privilege of citizenship of the United States, protected from state abridgment, to enter any state of the Union, either for temporary sojourn or for the establishment of permanent residence therein and for gaining resultant citizenship thereof. If national citizenship means less than this, it means nothing." *Ibid.*

This Court more recently observed: "Travel abroad, like travel within the country, may be necessary for a livelihood. It may be as close to the heart of the individual as the choice of what he eats, or wears, or reads." *Kent* v. *Dulles,* 357 U. S. 116, 126 (1958).

(*footnote continued on next page*)

With regard to the right of citizens to move and to settle, we are one nation, and not a collection of separate Elizabethan communities.

Plainly, these rights are available to all persons, quite without regard to race, religion or economic standing. *Sherbert* v. *Verner,* 374 U. S. 398 (1963); *Yick Wo* v. *Hopkins,* 118 U. S. 356 (1886).[40] The purpose of deterring poor people from travelling and settling is constitutionally impermissible.

The states seek to avoid the impact of these decisions by asserting that residency requirements do not forbid anyone to enter or remain in the state, including the poor. The denial of assistance to the destitute is said "merely" and "incidentally" to make the state a less attractive place for some people to settle in, with the same effect on freedom of movement as higher taxes or stricter licensing standards. No criminal sanctions are imposed on those who

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As shall be set forth in the next section, a large proportion of those denied aid for lack of residency travelled to join parents, children, or other relatives. For these people, the interference with their rights to travel and settle produced by the residence requirements also impinges upon their enjoyment of this cherished association. Cf. *Griswold* v. *Connecticut,* 381 U. S. 479 (1965) in which this Court recognized that marriage is a constitutionally protected association. Mr. Justice Douglas recently stated:

> "Freedom of movement, at home and abroad, is important for job and business opportunities—for cultural, political and social activities—for all the commingling which gregarious man enjoys." *Aptheker* v. *Secretary of State,* 378 U. S. 500, 519-520 (1964) (Douglas, *J.,* concurring).

[40] *Fleming* v. *Nestor,* 363 U. S. 603 (1960), is not apposite here, since it dealt with the constitutionality of denying Social Security benefits to persons or on behalf of persons who were no longer in the United States and who could not return to the United States. We deal here with the rights of persons actually present and in need in the respective states.

come and even on those who remain without private means of support. These attempted distinctions quietly ignore, one, the difference between statutes which affect all persons equally and laws which by their very terms purposefully discriminate against persons who come from another state, denying to such persons solely by reason of past travel and recent settlement in the state benefits available to all others similarly situated; and, two, the significant impact on recent residents of denying to them the "means of living [and] a material right essential to the enjoyment of life." *Yick Wo* v. *Hopkins, supra,* at 370 (1886). What was at stake in *Edwards,* moreover, was not California's imposition of a criminal sanction, but whether California could constitutionally prohibit persons from aiding indigents to enter its domain.

At this point the states urge, somewhat inconsistently, that persons are not substantially deterred from entering a state because of durational residency requirements. We agree. Public assistance laws are not life insurance policies and people do not shop around among the alternative plans before embarking on the search for a new environment, new opportunity and associates. Rather, residency requirements have their impact after such persons have traveled and settled in the state; where hopes are unfulfilled and adversity ensues, such persons are told they may not ask the state for basic assistance except payment for their removal to another state because they have recently and not so recently exercised their protected rights to travel and settle. This is a denial of a statutory entitlement, quite akin to a forfeiture if that be needed, solely because of the exercise of constitutionally protected rights. The states may not impose a sanction "upon those who exercise a

right guaranteed by the constitution." *Harman* v. *Forssenius,* 380 U. S. 528, 540 (1965). See also *Sherbert* v. *Verner, supra; Speiser* v. *Randall,* 357 U. S. 513 (1958); and *Frost Trucking Co.* v. *R.R. Comm'n,* 271 U. S. 583 (1926).

C. *In light of the reasons for the mobility of people in America, and the experience of states without residency requirements, the states' asserted purpose of preventing raids on the fisc by persons coming to the state to claim public assistance cannot rationally support durational residency requirements.*

Even if we assume *arguendo* that a state may properly deny assistance to persons who come to the state in order to claim such assistance,[41] residency requirements do not serve to distinguish between those who come to claim and those who come for other reasons. Rather they flatly establish a broad and conclusive presumption that those who have lived in the state for less than one or five years have come to the state to claim public assistance.[42] In a society in which the movement of persons is a distinctive and sacred hallmark, such a presumption is unsupportable. Studies of mobility in America, including that of recent migrants claiming assistance, and the actual experience of states without residency conditions, including those with substantial relative benefits, lay the ghost that a term of residency is a needed bulwark against the Huns of welfare.

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[41] The three-judge court in *Thompson* v. *Shapiro,* 270 F. Supp. 331, 337 (D. Conn. 1967) would not have permitted a classification based on that purpose.

[42] Such an irrebuttable presumption, contrary to fact, is invalid. *Heiner* v. *Donnan,* 285 U. S. 312 (1932); *Carrington* v. *Rash,* 380 U. S. 89 (1965).

Geographical, as well as social and economic, mobility has long been a distinctive feature of American life. Close to seven million Americans change their place of settlement or residence from one state to another annually; the rate of movement has remained markedly constant over the past two decades, with about 3.5% of the population moving across a state line each year.[43] While much of this movement is back and forth across the country,[44] fitting into no defined pattern, for decades there have been persistent streams to the West, out of the South, and particularly from rural areas to the cities of America.[45] This, of course,

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[43] United States Bureau of the Census, *Current Population Reports,* Series P-20, No. 156, "Mobility of the Population of the United States: March 1965 and March 1966," Washington, D. C., 1966, p. 9.

[44] At least 11.5% of all the people in each state in 1960 had been born in another state (not counting those born in another country). One-fourth of the people in the United States in 1960 had been born in a state other than that in which they were residing. The percentage of residents born outside of Connecticut, Washington, D. C., and Pennsylvania is 37.3%, 56.6%, and 16.8% respectively. United States Bureau of the Census, *United States Census of Population, 1960 Subject Reports,* State of Birth, Final Report PC(2)-2A, Table 9, p. 6. This type of movement is demonstrated in the public assistance area. During the three month period in 1959 studied in Pennsylvania, persons with less than a year of residence applying for public assistance came mainly from the following states: Ohio, 130; New Jersey, 86; New York, 84; Florida, 57; Maryland, 38; California, 34; and Michigan, 30. Commonwealth of Pennsylvania, Department of Public Welfare, *Effect of Length-of-Residence Requirement on Eligibility for Public Assistance in Pennsylvania* (mimeo), March 5, 1959, p. 1.

[45] John B. Lansing and Eva Mueller, *The Geographic Mobility of Labor* (Institute for Social Research, Univ. of Michigan, 1967), p. 33 and sources cited therein. The percentage of the population engaged in agriculture has declined from 90% in 1759, to 70% in 1840, to 30% in 1915, to 5.9% in 1966. Thirty percent of all heads of families were born on farms and now live in towns or urban areas. *Ibid.,* p. 36. This compares closely with the finding that about 25% of the mothers receiving public assistance in New York

is a result of expanding industrialization, with its promise of new opportunity.

Somewhere between half and three-quarters of these seven million American migrants move to better their economic positions by going to a job or seeking employment; about one-fourth of the persons studied moved for noneconomic reasons, the principal one being to reside near one's family or close relatives.[46] Many of these people were returning to their place of birth or former residence.[47] Re-

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City were reared on farms. Lawrence Podell, *Families on Welfare in New York City, Preliminary Report No. 4,* "Mothers: Nativity and Immigration" (The Center for Social Research, City University of New York, 1968), p. 5.

[46] Over three-fourths of all males 25 to 44 move between states for job-related reasons: 30.7% to take a job; 9.9% to look for work; 13.6% to transfer jobs; 19.8% to enter or leave armed forces; 1.8% for easier commuting. United States Bureau of the Census, *Current Population Reports,* Series P-20, No. 154, Aug. 1966. See also Mueller and Lansing, *op. cit.,* p. 38.

Migrants have achieved higher income and greater employment than those who stayed behind. John B. Lansing and James N. Morgan, "The Effect of Geographical Mobility on Income," II *The Journal of Human Resources* 449, 460 (Fall 1967); Samuel Saben, "Geographic Mobility and Employment Status," *Monthly Labor Review,* August 1964, pp. 873-881.

Older poor persons most frequently migrate to join their children. Janet Pleak, "Reports of Payments to Out-of-State Recipients," 9 *Public Welfare* 122 (1951).

[47] Over a twelve year period 9% of those moving returned to their birthplaces and another 11% to an area of prior residence. Lansing and Mueller, *op. cit.,* p. 34. The only available census data on return migration gives the total residents of a state in 1960 who had been born in that state but had been living elsewhere in 1955. The range was from just under 1% to 3.6%. Percentages for states discussed herein are Connecticut, .9%; Washington, D. C., 1.4%; Pennsylvania, 1.2%, and Maine, 1.5%. United States Bureau of the Census, United States Census of Population, *1960 Subject Reports,* Lifetime and Recent Migrations, Final Report PC(2)-2D, p. 16, Table 5.

flecting the reasons why people migrate, the most salient personal characteristics of mobility are age and educational level; mobility drops off sharply at age 35 and sharply increases with educational level.[48]

The mobility of poor people in our society, especially poor colored people,[49] stands in sharp contract to the above trends. The percentage of people with poverty or deprivation level incomes who move is less than that of Americans generally.[50] But the reasons why poor people migrate are not essentially dissimilar. Although a greater number of these people move for family reasons, a substantial number migrate to other states in search of economic opportunity. Significantly, poor people who have recently received a form of public assistance move no more, nor less, than those who have not claimed such assistance.[51] The receipt of public assistance, adequate in amount or not, would not seem to be a determinant of mobility.

A number of states have studied the reasons for migration of persons who subsequently seek public assistance. The following percentages of moves were made to return to relatives: Illinois, 60% (ADC only),[52] Florida, 39%

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[48] Lansing and Mueller, *op. cit.*, pp. 39ff.

[49] Indeed, the difference between the greater white and lesser Negro mobility (even when similar social and economic groups are compared) has been increasing since World War II, when the rates were equal. *Ibid.*, pp. 263-4.

[50] United States Bureau of the Census, United States Census of Population, *1960 Subject Reports,* Mobility for States and State Economic Areas, Final Report PC(2)-2B, p. 30, Table 10.

[51] Lansing and Mueller, *op. cit.*, pp. 345-346.

[52] ***Facts, Fallacies, and Future,*** Greenleigh Associates, 1960.

(OAA only),[53] New York, approximately 25% (all programs),[54] and Maine, 59% (all programs).[55] Another substantial group had come seeking employment: Illinois, 17%; Florida, 24%; New York, over 25%; Maine, 1%; Pennsylvania, 64%.[56] The others came for reasons of health, better living conditions, and so forth.

A substantial number of these "new" residents who sought public assistance were people actually returning to the state in which they were born or previously resided. Maine, for example, reports that 65 out of 69 persons who became eligible for public assistance in the 16 months after Maine repealed its residency requirement were former resi-

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[53] *Effect of the Migration of Oldsters to Florida on the Old Age Assistance Program,* Florida Department of Public Welfare, 1955, p. 3.

[54] State of New York, Moreland Commission Report, *Public Welfare in the State of New York,* pp. 18ff.

[55] Summary of Maine's First 1⅓ Year's Experience Following Elimination of Durational Residence Requirements in Public Assistance (Sept. 1965-Dec. 1966), State of Maine Department of Health and Welfare, 1968 (mimeo), p. 2. Note also that 60% of the persons applying for aid during their first year in Pennsylvania had relatives in the state. *Reynolds* v. *Smith,* Appendix, p. 85a. See generally Roland J. E. Artigues, A Study of Residence Requirements and Reciprocal Agreements in the Public Assistance Programs of Pennsylvania (Doctoral Dissertation, School of Social Work, University of Pennsylvania, 1959).

[56] Same sources as above. The Pennsylvania figure includes some who also came for other reasons. Connecticut notes in its brief in *Shapiro* v. *Thompson,* No. 813 that "normally the elderly poor and the mentally or physically disabled come into the state because they previously lived here or to be near close relatives" (Brief, p. 4). Connecticut implies by omission that AFDC applicants do not come for such purposes, but the facts in the *Thompson* case show that the plaintiff was joining her mother. She was not, as is suggested, unwilling to work, but she was unable to since she was caring for one small child and was pregnant.

dents of that state, generally long-term residents, too.[57] Over 42% of those seeking aid during their first year in Pennsylvania had previous ties, generally substantial, to that state.[58] Significantly the plaintiffs denied assistance because of lack of durational residency in the cases now pending in California, District of Columbia, Illinois, Maryland, Massachusetts, Michigan, Oregon, Pennsylvania, South Carolina, Texas, Washington and Wisconsin are returning former residents of those states.

None of these studies revealed that any appreciable number of people came to these states, including those with higher assistance benefits than most other states, e.g., New York and Illinois, to obtain the benefits of the state's assistance laws.

Significant in this regard is the long held opposition of welfare case workers and welfare department officials to residency requirements; their experience too has been that people do not migrate for benefits.[58a]

Recent studies of states without residency restrictions confirm that poor people do not migrate in search of public assistance benefits. Most complete and recent data is available from New York, which extends perhaps the highest overall levels of assistance in the nation.

The number of persons on the rolls for all public assistance with less than a year's residence has declined from

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[57] *Summary of Maine's First 1⅓ Years*, etc., *op. cit.*

[58] Commonwealth of Pennsylvania, *Effect of Length-of-Residence Requirement, etc., op. cit.*, p. 6.

[58a] See National Social Welfare Assembly, *What They Say About Residence Laws* (3d ed., 1959); National Travelers Aid Association, *Residence Laws: Road Block to Human Welfare* (A Symposium) (1956).

2% in the late 1940's to .5% in 1966.[59] New York City, the focal point of migration from the South and Puerto Rico, reports that 3.7% of the persons on its rolls as of January 1968 had arrived within the last several years.[60] Many other states report that few persons on their rolls are recent arrivals.[61] In Maine, .008% of the applicants dur-

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[59] Letter from Harry Posman, Director, Office of Social Research and Statistics, State of New York Department of Social Services, March 6, 1968.

[60] Data supplied by Department of Social Services, City of New York.

The following conclusions were reached in a current study of mothers receiving public assistance in New York City:

> "About a fifth of the mothers on welfare were born in New York City, about a third in the South, and over a third in Puerto Rico.
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> * * * * *
>
> "Three in ten publicly-assisted mothers were reared in this City; another three in ten were reared elsewhere but immigrated before they were 19 years of age. And still another three in ten arrived here as young adults. Only ten percent of the mothers on welfare came to this City when they were over 30 years of age.
>
> "Three-quarters of the mothers on welfare were either born in New York City or have lived here for over a decade. [Only 10% have been in New York City for less than 5 years.]"

Lawrence Podell, *Families on Welfare in New York City,* Preliminary Report No. 4, "Mothers' Nativity and Immigration" (The Center for Social Research, City University of New York, 1968) p. v.

[61] Maryland notes that 6% of the ADC caseload had less than 5 year's residence and that non-white new residents occupy the same proportions of the non-white in the caseloads as they do in the population at large. *A Report on Caseload Increase in the Aid to Families with Dependent Children Program, 1960-1966,* Maryland State Department of Public Welfare, July 1967, p. 19. Florida reports that 84% of the applicants for OAA had been in the state 10 years or more. *Oldsters, supra.* One-fourth of the Illinois ADC mothers had been born in the state, and another fourth had lived there 15 years or more. *Greenleigh, supra.* Less than 8% of the general assistance recipients in the District of Columbia had been

ing the 16 months in 1966 and 1967 following that state's elimination of residence requirements would have been ineligible under the former requirement.[62] The effect of repeal in Kentucky in 1956 "was not perceptible,"[63] and the experience of Rhode Island in 1944 and Hawaii in 1961 was similar.[64] Those states reporting on the impact of court invalidation show the same minimal effect.[65]

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residents for less than five years. *Characteristics of General Public Welfare Recipients,* Department of Public Welfare, Washington, D. C., Oct. 31, 1961 (mimeo). Louisiana reports that .9% of the OAA recipients had been in the state less than 9 years. State of Louisiana, Department of Public Welfare, *Report on the OAA Residence Study* (mimeo), October 1957, p. 1. A HEW survey of OAA recipients in 48 states showed that 40% had never lived outside of the state and that another third had moved into the state more than seven years prior to receiving aid. Information was not available on another 20%. United States Department of Health, Education and Welfare, Findings of the 1965 Survey of Old-Age Assistance Recipients, Part II, Table 39.

[62] *Summary of Maine's First 1⅓ Years,* etc., *op. cit.*

[63] Letter from John McCaslin, Director of Research and Statistics, Kentucky Department of Economic Security, dated March 12, 1968.

[64] G. Leet, "Rhode Island Abolishes Settlement," 18 Social Service Review, 283 (1944); Letter from William G. Among, Director, State of Hawaii Department of Social Services, April 1, 1968.

[65] Delaware gave aid in 150 additional cases during the last half of 1967. Report from Director, Delaware Department of Public Welfare to Hon. Raymond T. Evans, Chairman, Health and Welfare Committee, State Legislative, Jan. 1, 1968. The City of Milwaukee reported 11 additional cases in a one-month period. Milwaukee *Sentinel,* Dec. 23, 1967, p. 1. Maryland gave aid to an additional 30 to 50 cases during December 1967. "Expected Aid Rush Fizzles," The Baltimore Sun, Jan. 9, 1968, p. A12. The deputy State Welfare Director described this number as "infinitesimal." *Ibid.*

These cases, of course, involve mostly claimants in need within the states and not arrivals embarking on a search for a welfare haven since the decisions.

These studies confirm what was plain from the dictates of our economy and deeply embedded promises of our society. The people whose rights are at issue before this Court have done exactly what untold numbers of Americans have done for two centuries: They have gone elsewhere in search and hope of economic opportunity and betterment, of a new environment and associates for themselves and their families, and of settlement in another place where their families had gone before. The states before this Court invoke neither the common experience of Americans nor any empirical evidence to support their view that this age-old quest has now been replaced by the quest for the "high" benefits of residual public assistance. Rather they rely on the unstated and unproven assumption that poor people no longer share in the rich promise of American life. That assumption, we submit, is impermissible and hence cannot support the premise that residency requirements are necessary to keep the public assistance rolls within manageable dimensions.

D. ***Restricting public assistance to persons with "some investment in the community" and to "domiciliaries" provides no justification for durational residency requirements.***

Pennsylvania, and perhaps Connecticut, though not the District of Columbia, assert that the residency requirement carries out their policy of restricting public assistance to persons having "some investment in the community," by which they mean those who for at least one year have paid state and local taxes and have "inevitably promoted the economy by channeling privately organized finances into the community's streams of commerce."[66] This argument

[66] Pennsylvania Brief, p. 14. See also Connecticut Brief, p. 10.

simply will not square with Pennsylvania's and Connecticut's own treatment of public assistance claimants and with the character of the public assistance programs Pennsylvania and Connecticut administer. These states do not condition eligibility for any of their aid programs on either the payment of taxes or prior contributions to the economy. Indeed, claimants need not even have been a resident of these states for a year or for a day, so long as they came from a state with no residency requirement or with a reciprocity agreement, conditions which hardly relate to the economy or taxes of these states. On the other hand, these states by virtue of the settlement requirements deny aid to the many who have paid taxes to Pennsylvania and Connecticut and who have enriched their economy with private spending, such as migrant workers, returning former residents and persons from nearby states who have formerly worked in Pennsylvania or Connecticut. The federally-sponsored and financed programs, and local assistance too, are residual relief programs to provide some of the basic necessities to persons not eligible under the contributory programs, such as unemployment insurance. This late attempt to now characterize residual programs as basically contributory ones finds no support in the states' provisions and is in conflict with the Federal provisions, which do not allow for eligibility requirements based on prior spending or taxpaying.[67]

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[67] While the importance of suffrage and professional employment, the two areas in which residence requirements are most often discussed, are not to be doubted, the effect of the residence requirement on the individual is substantially different. A person's very means of existence is not threatened by delay in the exercise of the ballot. The person may pursue any livelihood, assured of the right to vote before too long. Few other political activities are restricted in the meantime. There may well be probable relation-

The District of Columbia now asserts that its residency rule incorporates a requirement of domicile and serves to exclude "persons merely sojourning temporarily with the jurisdiction."[68] There is no mention of domicile in the D. C. laws or the Federal provisions and D. C. does not condition aid on the claimant's intent to remain in the District. Domicile as such simply has not been a requirement in public assistance laws, historically or at present. And accordingly, there have been no administrative problems of determining intent. More fundamentally, transmogrifying residency into domicile does not alter the issues before this Court. Domicile imposes the same burdens on travel and settlement and denies assistance to equally needy people because of recent settlement, without any discrete justification for doing so.

E. *The balance of the justifications presented are without substance.*

A further reason pressed by Pennsylvania is the need to be able to predict the future size of the caseload for the purpose of obtaining sufficient appropriations. Yet that

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ship between *current* residence in the community and an ability to vote intelligently on local issues.

Restrictions on professional licensing strike closer to a person's livelihood and are therefore more suspect. The Florida Supreme Court held in *Mercer* v. *Hemmings,* 194 So. 2d 579 (Fla. 1966), *app. dism'd,* 389 U. S. 46 (1967), that the state's police power could be exercised to assure professional competence, but that durational residence per se could not be required: "Florida is not an island, nor is a visa or passport required of citizens of the United States upon entering it." 194 So. 2d at 584.

At any rate the indigents prosecuting the instant cases are not challenging any residence requirements other than those for public assistance.

[68] District of Columbia Brief, p. 10.

State's expert testified below that the residence requirement does not provide data used in the budgeting process and that the process would not be complicated by its removal (App. p. 95a). Moreover, Pennsylvania has stated in this action its approximate additional costs and the lack of substantial change in migration if the residence requirement is invalidated (App. pp. 94a-95a).[69] At any rate, utilization of the residence requirement for prediction is impossible without corresponding information on the number of persons who have entered the state within the last year. Neither Pennsylvania nor the other states compile such records. Many variables in economic and social conditions significantly affect the number of claimants; migration, a relatively steady figure, does not. The denial of public assistance (for up to five years in some states) because of a negligible, indeed nonexistent, value in predicting future caseload size is an afterthought but not a justification for residence requirements.[70] *Oyama* v. *California,* 332 U. S. 633 (1948); *Harman* v. *Forssenius,* 380 U. S. 528 (1965).[71]

Pennsylvania's further concern about prevention of fraud, while a legitimate state concern, is specious.[72] Claim-

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[69] The number of persons denied each year for lack of residence has been constant. App. p. 83a.

[70] The State of Iowa in its amicus brief cites "long range planning for appropriations" every two years as the basis for its one year and five year residence requirements. (Brief, pp. 2, 9.) Nonetheless it notes that its "projected budgets . . . are based upon past caseload experience" (p. 2).

[71] "[C]onstitutional deprivation may not be justified by some remote administrative benefit to the state." 380 U. S. at 542.

[72] Any fraud engaged in to evade the residence requirement is not a reason for the requirement itself.

ants are investigated, rather extensively in fact, but the Federal regulations and state provisions now deem thirty days the sufficient and maximum time to ascertain the bona fides of a claim.[73] Pennsylvania's view that those who have come from another state require a year's investigation to prevent fraud is simply not credible. Pennsylvania also fears that some people will receive benefits from two states. Plainly residence requirements hardly provide a safeguard against this speculative and unlikely occurrence.

[73] United States Department of Health, Education and Welfare, *Handbook of Public Assistance Administration,* Part IV, Sec. 2200(b)(3). The Connecticut Welfare Commissioner explicitly denied needing the period for such a purpose. *Thompson* v. *Shapiro,* 270 F. Supp. at 338 (D. Conn., 1967). Note also that voting eligibility has been based traditionally on certification, whereas welfare departments have extensive investigatory staffs and traditions.

CONCLUSION

The Court should affirm that restrictions on eligibility for public assistance based upon the length of the claimant's residence within the state are a denial of the equal protection of the laws.

Respectfully submitted,

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APPENDICES

APPENDIX A

Historical Roots and Development of Residency Requirements

Statutory attempts to restrict the movement of the working man and others have been present in our Anglo-Saxon legal system since the Fourteenth Century. In order to cope with the increased mobility and concomitant economic insecurity resulting from the decline of the rural feudal system and the growth of the towns,[1] Parliament provided that no worker was to go "out of the town where he dwelleth in the winter, to serve in the summer, . . ."[2] Those who left their jobs "without reasonable cause . . . before the time agreed," were to be imprisoned.[3] These acts also forbade the giving of alms to the able-bodied (employable) poor, and only by implication permitted the disabled to beg.

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[1] Severe famine from 1315 to 1321 reduced the supply of labor; the increase of woolen manufacture began to draw people from the country to the cities; and the Black Plague of 1348-49, which wiped out about a third of the population, further swelled the demand for workers. The fact that the demise of feudalism was taking place at a time when the supply of labor was critically low gave workers the freedom to choose for whom they wished to work, and where, as well as the right to bargain for the highest wages. This created a social dilemma that Poor Law legislation attempted to control for centuries to come.

Accompanying this expansion of work opportunity and movement was an economic insecurity unknown to the serf. Where the serf, in times of economic strife, had been protected and maintained by the feudal lord, the newly emerging pauper had to look for help to the parish, the Church, or his own illegal devices. The landowner experiencing difficulty in obtaining labor had a desire for greater control over his workers.

[2] 25 Edward III. c. 7 (1351) Second Statute of Laborers.

[3] 23 Edward III. c. 7 (1349) First Statute of Laborers. These statutes also imposed a variety of restrictions on wages and other working conditions.

Statutes required unemployed men and women to serve any employer who sought their labor, upon punishment of imprisonment.

A few years later mobility was totally restricted by an act providing that ". . . no laborer . . . shall depart at the end of his term . . . to serve or dwell elsewhere . . . unless he brings a letter [under the king's seal]."[4] Workers were apparently being drawn to the cities by the high wages being offered, and the 1388 law attempted to prevent all travel. This act explicitly distinguished between "beggars able to labor" and "beggars impotent to labor," requiring the latter to remain for the rest of their lives in the place where they were born or were then resident. No further provision was made for the impotent.

Further legislation followed. Disabled beggars were licensed and permitted to solicit alms only in an assigned area in the place where they were born or where they had resided for the three previous years; again, no further provision was made for them. Pregnant women, the extremely ill, and the aged were exempted from the severe penalties inflicted on other unemployed and non-resident.[5]

The preamble to the latter statute noted that "In all areas of the realm, vagabonds and beggars are on the increase and are the mother and root of all vices, including theft and murder." The able-bodied were to be set to forced labor.[6] As the numbers of unemployed increased, attempts to repress begging led to an act requiring "idle wanderers" to be branded and placed in slavery.[7] A further act contained the first provision for removal of the poor who did not

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[4] 12 Richard III. c. 3 (1388).

[5] 19 Henry VII c. 12 (1503); 22 Henry VIII c. 12 (1530-31).

[6] 27 Henry VIII c. 25 (1535-36).

[7] 1 Edward VI c. 3 (1547).

"belong" to the parish,[8] a provision then confined to such of the impotent poor as were actualy beggars.[9] A statute passed in 1572 provides that *any* "aged, lame or impotent person" with less than three years' residence could be sent from the parish, whether or not he was seeking relief or alms.[10]

Voluntary charity and "gentle exhortations" to induce people to contribute to the poor fund had failed, and compulsory local taxation was instituted in 1562.[11] This obligation led to exclusion of strangers, and "harboring" or entertaining outsiders was often not permitted. The newcomer sometimes was required to post a bond to indemnify the parish against his indigency.

In the statutes of 1597 and 1601, which form the basis of the Elizabethan Poor Law, parts of many previous acts were brought together.[12] The relief of destitution was defined as a public duty, and certain categories of the poor were to be provided for at public expense. Of the many parts of this law, none mentioned or authorized removal of the poor to the parishes where they "belonged," although we are told that removal was practiced without legislative authority.[13] These various and severe restrictions on mobility culminated in the Settlement Act of 1662.[14]

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[8] 3 and 4 Edward VI c. 16 (1549-50).

[9] Sidney Webb and Beatrice Webb, *English Local Government: English Poor Law History: Part I. The Old Poor Law.* London: Longmans, Green & Co., 1927, p. 318.

[10] 14 Elizabeth c. 5 (1572).

[11] Elizabeth c. 3 (1562-63). See George Nicholls, *A History of the English Poor Law* (2 Vols. 1854). London, P. S. King and Son, 1904, Vol. I, p. 152.

[12] 39 Elizabeth c. 3 (1597-98), and 43 Elizabeth c. 2 (1601).

[13] Webb and Webb, *op. cit.,* p. 319.

[14] Nicholls, *op. cit.,* pp. 279ff.

The 1662 Act[15] was largely passed in response to the metropolitan members of Parliament, who wanted to prevent the poor from coming to the city.[16] The act provided that any newcomer to a parish could be returned within 40 days to the parish where he was last legally settled, whether or not he applied for relief or was likely to do so. To avoid such expulsion, the individual could provide security or pay an exorbitant rent (£10), far beyond the ability of most (90%) of the population. The result was the legal restriction of all people without substantial wealth or property to the narrow area in which they were born.[17] This Act was the prototype for subsequent English and American Poor Law.

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[15] 13 & 14 Charles II c. 12 (1662). The exact wording of this brief, contradictory and carelessly written statute was later used in much early American legislation.

[16] Nicholls, *op. cit.*, Vol. I, pp. 279-87; Frederick M. Eden, *The State of the Poor: Or an History of the Laboring Classes in England* (3 Vols.). London: J. Davis, 1797, Vol. I, pp. 173-181, and Webb, *op. cit.*, Vol. I, pp. 324-26, all discuss the origin of this important law. Probably the best source is George Goode, *Report on the Law of Settlement and Removal,* addressed to the Poor Law Board in 1851, and published as Parliamentary Papers (H. C. 675 of 1851 and H. C. 493 of 1854). Other factors which may have led to its adoption were concern over increasing numbers of destitute in the overgrown metropolis of London, fear that the vagrant would bring disease or set fire to crowded wooden structures, apprehension that poor were getting beyond control. Dorothy Marshall. *The English Poor in the Eighteenth Century.* London: George Rutledge, 1926. See esp. chaps. V & VI. See also Stefan A. Riesenfeld, *The Formative Era of American Public Assistance Law,* 43 Calif. L. Rev. 175 (1955).

[17] Constant litigation arose as the various jurisdictions fought to determine who "belonged" or was a legal resident of their locality:

> "This single clause of a short act of Parliament has occasioned more doubts and difficulties in Westminster-hall, and has perhaps been more profitable to the profession of the law than any other point in English jurisprudence."

Eden, *op. cit.*, pp. 175-177.

The English principle of public responsibility for the local indigent was brought to North America by the British settlers and took root. Towns were closely knit, independent, insular and isolated.[18] Hardly off the boat, the people of Charlestown settlement in Massachusetts determined in 1634 "that none be permitted to . . . dwell in this town without the consent of the town first obtained." [19]

Each inhabitant was expected to be a landowner, and newcomers were frequently given land. Massachusetts passed a law in 1637 ordering that no land could be granted to a newcomer unless he was accepted by two magistrates. By 1650 it was ordered that all strangers "of whatever quality soever" be brought before the magistrates to explain their business in town.[20] The following year New Plymouth declared that a would-be settler needed the permission of the governor or two of his assistants, and later a license from the constable (1638) and appearance before the court (1650) were added. Within a few years other towns had similar and related laws.[21]

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[18] "This principle of local responsibility apparently arose out of and fitted admirably with the Anglo-Saxon spirit of independence. It was entirely in keeping with the social and economic self-sufficiency of the 'horse-and-buggy age' for local tax funds to be spent to relieve the local poor, under the control of local government in communities where everybody knew everybody else."

Josephine C. Brown, *Public Relief, 1929-1939* (Henry Holt & Co., New York, 1940) p. 6.

[19] Josiah H. Benton, *Warning Out in New England 1656-1817.* (Boston: W. B. Clarke Co., 1911), p. 29. Even John Harvard, whose vast fortune later launched Harvard University, required the permission of the town to settle in Charlestown. *Ibid.*

[20] *Ibid.*, pp. 46-47.

[21] *Ibid.*, pp. 88 and 99.

For example, no inhabitant of a town was permitted to sell or rent his private property to a newcomer without the consent of the town council. Governor John Winthrop wanted to rent his house in New Haven, but was forced to sell it to the town. No member of the town was permitted "to receive or entertain persons who were not inhabitants." Even adult children from other towns could not visit with their parents without permission. Regardless of the circumstances, fines were levied for violation of these rules.[22] If an outsider was admitted, he had to have security.[23]

The Seventeenth Century also saw the development of "warning out" laws in New England and, later elsewhere, by which all newcomers who might become chargeable were to leave the local town.[24] In practice many people did not leave but never acquired a legal settlement and therefore were ineligible for aid.

Toward the end of the seventeenth century and throughout the eighteenth century, the population increased in size and mobility. It became more and more difficult to prevent movement, and more rigorous devices were believed necessary to determine who would be eligible for relief.

The first general poor laws in the colonies, enacted at the close of the eighteenth century, dealt with the problems of settlement and residence, in much the same manner as their predecessors.[25] But from the beginning these statutes

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[22] *Ibid.*, pp. 29-30 and 85-87.

[23] For example: "Richard Way is admitted into the Town, provided that Aron Way become bound in the sum of twenty pound sterling to free the town from any charge that may accrue to the two by said Richard or his family." *Ibid.*, p. 24.

[24] Plymouth, Massachusetts adopted the first such law in 1671. *Ibid.*, p. 54.

[25] See generally Riesenfeld, *op. cit.*, pp. 201ff.

lacked the uniformity that was the key to the English system of relief. In the more complex American laws, each jurisdiction could define the period necessary to gain settlement. As now, legal settlement could be lost in one jurisdiction prior to being gained in another.

The Ohio Territorial Law of 1795 formed the basis for Poor Law administration throughout the sparsely populated but enormous Northwest Territory.[26] The statute was copied from the Pennsylvania Poor Law, which itself was adapted from Elizabethan Poor Law.[27] There was extraordinary similarity in wording and intent between the 1662 Law of Settlement, set forth above, and the Ohio Territorial Law of 1795:

> "Upon complaint being made by the overseers of the poor . . . any two justices . . . [may] by their warrant or order . . . remove and convey such person, or persons, to the country, township, place or state, where he, she or they was or were last legally settled, unless such person or persons shall give sufficient security to discharge and indemnify the said township.[28]

Elizabethan philosophical and administrative concepts were indelibly impressed upon nearly all of the country, except Louisiana.[29]

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[26] Ralph Pumphrey and Muriel Pumphrey, eds., *The Heritage of American Social Work* (New York, Columbia University Press, 1961), p. 55.

[27] Aileen E. Kennedy, *The Ohio Poor Law and Its Administration* (Chicago, University of Chicago Press, 1934), pp. 12-14.

[28] Solomon P. Chase, ed., *The Statutes of Ohio and the Northwestern Territory* (Cincinnati, Corey and Fairbanks, 1833), Vol. I, pp. 175-182; Pumphrey and Pumphrey, *op. cit.*, p. 55.

[29] Pumphrey and Pumphrey, *op. cit.*, p. 57.

Although there was some variation from state to state, means of gaining legal settlement were patterned after English law. A man who had paid taxes for one or two years, paid a yearly rental of not less than $25.00, had lived for a year on his own property, or held public office acquired a legal settlement and became eligible for relief.[30]

The laws of settlement remained largely unchanged into the Twentieth Century,[31] despite the continuing opposition of persons working in the field of social welfare.[32] The Social Security Act of 1935, as amended, effected a substantial reduction of the period of residence required in many states and changed the emphasis from settlement to residence for the categorical programs.[33]

A number of means of mitigating the harsh effects of the residence requirements have been attempted, which are an-

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[30] Kennedy, *op. cit.*, p. 16. The Poor Law history of various state or territory cite similar or identical ways of gaining settlement. The area mainly lacking in uniformity was the time required to gain or lose settlement.

[31] See, e.g., Comment, *The Michigan Settlement and Removal Laws in an Historical Perspective,* 45 J. Urban Law 130 (1967). Serious problems arose as the result of "waves of immigration" from Europe and the concomitant increase of the rolls. New York Governor's Commission on Unemployment Relief, *Public Relief for Transient and Non-settled Persons in the State of New York: A Study of the Nature and Administration of the Care Extended Destitute Persons Not Having a Legal Settlement in the Community Where They Receive Aid* (1936), pp. 38-45, 93-97, cited in *Abbott, op. cit.* at p. 214.

[32] See, e.g., Edith Abbott, *Public Assistance* (Chicago, University of Chicago Press, 1940), Vol. I, pp. 180ff.

[33] The residence requirements for state aid to dependent children in 1934 ranged up to 5 years, and exceeded one year in 20 states. Social Security Board, *Social Security in America* (1937), pp. 235-236. Of the 28 states with old age pensions, 27 had residence requirements of 10 to 35 years. *Congressional Record,* April 13, 1935, p. 5602.

alogous to the "most favored nation" treatment of commodities in international trade. Some statutes provide for waiver of residency if the state from which the person came has no residence requirement,[34] and many states have entered into agreements having the same effect. A review of the manuals (department regulations) of many of the states reveals that two-party reciprocal agreements have been entered into by at least 24 states and territories with some of the other states and territories with regard to aid in one or more of the programs in each case.[35] Interstate compacts have been little used.[36]

In addition to the residence requirements a number of other statutes typical of the early English and American poor law have persisted on our statute books well into the twentieth century and in more than one instance up to the present time. Officials in Iowa may now obtain a court order requiring a person not receiving assistance but likely to become a charge to leave the county or state. Enforcement is by contempt proceedings or physical removal by the sheriff.[37] Intra-state removal may be compelled without any judicial proceedings whatever in Minnesota;

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[34] See note 17 of this Brief.

[35] Alaska, Connecticut, Delaware, Georgia, Guam, Hawaii, Idaho, Maine, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virgin Islands and Wisconsin.

[36] See, e.g., Council of State Governments, *Interstate Welfare Compact for 1960.*

[37] Iowa Code Ann. §252.18 (1954). During 6 months in 1946, 35 persons were removed by Iowa, 20 to other states. Daniel R. Mandelker, *Exclusion and Removal Legislation,* 1956 Wisc. L. Rev. 57, 67, n. 37. One Michigan county spent $28,000 on removal in 1965. Comment, *The Michigan Settlement and Removal Laws in an Historical Perspective,* 45 J. Urban Law 130, 175 (1967).

the chairman of the county welfare board need merely serve an order on the sheriff.[38] Similar statutes may well be on the books of other states.[39] Officials "have often engaged in the practice of dumping or passing on nonresidents who apply for aid, in the hope that the next community will accept responsibility for their care."[40] Other familiar statutes from Elizabethan times such as penalties for aiding travel of indigents[41] and "warning out"[42] still exist or have recently been repealed.

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[38] Minn. Stat. Ann. §262.11 (1959).

[39] Connecticut repealed its compulsory interstate removal statute (Conn. Gen. Stat. §17-273a, repealed by 1963 Pub. Act 501, §4) only one year after it had been held constitutional by the Supreme Court of that state. *State* v. *Doe,* 149 Conn. 216, 178 A. 2d 271 (1962). One author noted in 1956 that "compulsory removal laws are still present in many states today and have not fallen entirely into disuse." Mandelker, *op. cit.,* at pp. 58-59.

[40] Mandelker, *op. cit.,* at p. 59.

[41] See, e.g., Wisc. Stat. Ann. Sec. 49.12(4) (1957).

[42] See, e.g., Iowa Code §§252.20 and 252.21, Repealed Act 1959 (58 G. A.) Ch. 181, §2. That statute actually provided for substituted service if the person could not be found. Similar laws may be in existence in other states.

APPENDIX B

Public Assistance Durational Residency Cases Now Pending[1]

1. ARIZONA:

Porter v. *Graham,* No. Civ.-2348-TUC, D. Ariz.

Plaintiff challenges the "5 of 9"[2] year requirement for OAA aid. She, a widow, aged seventy-four, lived in Arizona for three and one-half years before applying for assistance. Prior to coming to Arizona, she was a resident of Mississippi.

2. CALIFORNIA:

Marshall v. *California Dept. of Social Welfare,* Civil Action No. 47401, N. D. Calif.

Plaintiff challenges the one-year residency requirement for AFDC aid. Plaintiff was born in Louisiana, resided for a year in California, with her brother, and returned to California to marry and establish a permanent home.

3. CONNECTICUT:

A. *Alvarado* v. *Dunn,* Civil Action No. 12,399, D. Conn.

Plaintiff challenges the one-year residency requirement for G. A. aid. Plaintiff, a married woman, age 26 years,

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[1] Almost all of the cases listed are class actions, and many challenge the residence requirements for all public assistance programs. This outline, however, will only set forth the requirement in the program directly at issue in the case.

[2] As used in this Appendix, "5 of 9" refers to a requirement that a welfare recipient have resided five within the nine years, and continuously for not less than one year immediately preceding the date of application for assistance.

came to Connecticut to be near relatives and to receive better medical assistance. She suffers from physical and nervous disorders.

B. *Thompson* v. *Shapiro*

3. COLORADO:

A. *Barksdale* v. *Birkins,* Civ. Action No. 68-C-731, D. Colo.

Plaintiff, who came to Colorado from North Carolina with her two minor children, challenges the one-year requirement for AFDC aid.

B. *Baxter* v. *Birkins,* Civ. Action No. 67-C-541, D. Colo.

Plaintiff also challenges the one-year requirement for AFDC aid. She is a resident alien, residing in Colorado since July 28, 1967, with her three minor children, two of whom are citizens of the United States.

4. DELAWARE:

Green v. *Dept. of Public Welfare of the State of Delaware,* 270 F. Supp. 173 (D. Del. 1967).

Plaintiffs challenge the one-year requirement for AFDC aid. Plaintiffs and their eight children came to Delaware from South Carolina to seek better employment. Mr. Green is employed as a construction worker, but averages less than $40 per week.

5. District of Columbia:

A. *Harrell* v. *Tobriner*

B. *Barley* v. *Tobriner*

C. *Legrant* v. *Tobriner*

D. *Brown* v. *Tobriner*

6. Florida:

Lamont v. *Roberts,* Civil Action No. 67-1056-Civ.-CA, S. D. Fla.

Plaintiff challenges the "5 of 9" requirement for ATPD aid. Plaintiff, a 61-year old resident of Florida since November, 1964, came to Florida for reasons of health.

7. Illinois:

A. *Johnson* v. *Robinson,* —— F. Supp. —— (N. D. Ill., Feb. 20, 1968).

Plaintiff, a returning resident, challenges the one-year residency requirement for AFDC aid. She had been abandoned by her husband and she and her child joined her aunt and uncle in Chicago. She had worked but is now unable to due to the advanced state of her pregnancy.

B. *Brewer* v. *Robinson,* —— F. Supp. —— (N. D. Ill., Feb. 20, 1968).

Plaintiff, a returning resident, challenges the "5 of 9" year residency requirement for OAA aid. She lived in Illinois for 44 years and, when her husband died, joined her daughter and son-in-law in California in 1965. Plaintiff returned to Illinois with her daughter and son-in-law in 1967.

8. IOWA:

Sheard v. *Dept. of Social Welfare,* Civ. Action No. 67-C-521-EC, N. D. Iowa.

Plaintiff challenges the "5 of 9" year requirement for OAA aid. Plaintiff is seventy-two years old. Plaintiff's husband died in January 1966. In April 1966 plaintiff left her native Mississippi to live with her brother in Iowa. The State of Mississippi has terminated her OAA aid because she has become a resident of Iowa.

9. MARYLAND:

Mantell v. *Dandridge,* Civ. Action No. 18792, D. Md., Dec. 4, 1967.

Plaintiff, a returning resident, challenges the one-year residency requirement for AFDC aid. Plaintiff was a resident of Maryland for twenty-three years. She was married and moved to New Jersey in 1964. Plaintiff returned to Maryland in June 1967 as a result of physical abuse on the part of her husband. Plaintiff has five minor children, all born in Maryland.

10. MASSACHUSETTS:

A. *Robertson* v. *Ott,* Civ. Action No. 68-211-6, D. Mass.

Plaintiff, a returning resident, challenges the one-year requirement for AFDC aid. Plaintiff was a resident of Massachusetts for the first nineteen years of her life. She moved to Indiana in 1961 and returned to Massachusetts in Oct. 1967 after losing all her assets in a fire and being deserted by her husband. Plaintiff worked as a typist from Oct. 1966 to Jan. 1967 but was forced to quit due to poor

health. She now receives $21 per week from general assistance.

B. *Pearson* v. *Ott,* Civ. Action No. 68-211-6, D. Mass.

Plaintiff, a returning resident, challenges the one-year residency requirement for ADC aid. Plaintiff lived in Massachusetts from 1960-65. She returned to Massachusetts in 1968 to be with her parents because her husband abused her physically. Plaintiff has been forced to place her two minor children in a foster home until she can afford to care for them.

C. *Anderson* v. *Ott,* Civil Action No. 68-211-6, D. Mass.

Plaintiff, a returning resident, challenges the one-year requirement for AFDC aid. Plaintiff lived in Massachusets until she was twenty-two years old, and returned to Massachusetts to be with her parents as a result of marital difficulties in Nov. 1967.

11. MICHIGAN:

Weidner v. *Houston,* Civil Action No. 5700, N. D. Mich.

Plaintiff, a returning resident, challenges the one-year residency requirement for AFDC aid. Plaintiff had lived in Michigan prior to 1960 and returned to Michigan in 1966 after being divorced from her husband. Both of plaintiff's minor children were born in Michigan. Plaintiff applied for aid on April 13, 1967 and was told on that date that the only aid she could receive was emergency groceries and transportation back to Indiana.

12. MINNESOTA:

Wallace v. *Hursh,* Civil Action No. 467-Civ.-327, D. Minn.

Plaintiff challenges the one-year residency requirement for AFDC aid. Mrs. Wallace came to Minnesota in November, 1965 to be near her aunt and for health reasons.

13. MISSOURI:

Northway v. *Carter,* Civil Action No. 67-C292(2), E. D. Mo.

Plaintiff challenges the one-year residency requirement for AFDC aid. Plaintiff is a child, age 10, whose mother is deceased and father is in prison. She is living with her grandmother and receives no other support.

14. OHIO:

King v. *Dept. of Public Welfare,* Civil Action No. C-67-915, N. D. Ohio.

Plaintiff, a returning resident, challenges the one-year residency requirement for AFDC aid. Plaintiff resided in Cleveland, Ohio from 1958-9. In 1959 she met her husband and they moved to Eire, Pennsylvania to find work and be married. She resided intermittently in Ohio and Pennsylvania until 1967, when she settled in Ohio with her children after her husband had been imprisoned.

15. OREGON:

A. *Cooley* v. *Juras,* Civil Action No. 67-662, D. Ore.

Plaintiff, a returning resident, challenges the one-year residency requirement for AFDC aid. Plaintiff is twenty-

one years of age and has five children. She lived in Oregon with her father from age seven to fourteen, and returned to Oregon to be near her relatives and for her husband to find work. Her husband, however, deserted her and left the state of Oregon. Plaintiff has sought legal aid to gain support from her husband.

B. *Huff* v. *Juras,* Civil Action No. 67-662, D. Ore.

Plaintiff challenges the one-year residency requirement for AFDC aid. She came to Oregon, where her family resides, from California with her children after her husband was sentenced to prison.

C. *Moore* v. *Juras,* Civil Action No. 67-662, D. Ore.

Plaintiff, a returning resident, challenges the one-year residency requirement for AFDC aid. She lived in Oregon from 1951-1954, divided her home between Oregon and California between 1954-1962, and lived in California from 1962-1967. Three of her children were born in Oregon and her only living relative resides in Oregon. In August, 1967, she returned to Oregon to be near relatives and to escape the violence of her husband.

16. PENNSYLVANIA:

A. *Smith* v. *Reynolds*

B. *Waggoner* v. *Rosenn,* Civil Action No. 9841, M. D. Pa., Jan. 29, 1968.

Plaintiff, the mother of seven children, challenges the one-year residency requirement for AFDC aid. Plaintiff is presently employed as a nurse's aid. She would be entitled to $75 per month in supplementary aid. Plaintiff came to Pennsylvania in July, 1966 from California.

17. South Carolina:

Charles v. *Rivers,* Civil Action No. 67-849, D. S. Car.

Plaintiff, a returning resident, challenges the one-year residence requirement for AFDC aid. She was a resident of South Carolina until her marriage in 1966 whereupon she moved to Ohio. She returned to South Carolina after marital difficulties in 1967. Plaintiff has one child and is pregnant with another.

18. Texas:

A. *Alvarez* v. *Hackney,* Civil Action No. 68-18-SM, W. D. Tex.

Plaintiff, a returning resident, challenges the one-year residence requirement for AFDC aid. Plaintiff lived in San Antonio, Texas continuously until 1954 when her husband entered the Marine Corps. Upon discharge from service, she, her husband, and children returned to San Antonio, but moved ten years later to New Orleans, Louisiana where her husband had work. In August 1967, plaintiff returned to San Antonio to care for her sick mother.

B. *Suggs* v. *Parkland Memorial Hospital,* Civil Action No. 3-2486-B, N. D. Tex.

Plaintiff challenges the one-year* residence requirement for prenatal care aid. Plaintiff, her husband, and parents came to Texas from Tennessee to seek employment. Plaintiff is pregnant and has been refused prenatal care.

19. Washington:

A. *Martinez* v. *Washington State Dept. of Public Assistance,* Civil Action No. 7455, W. D. Wash.

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* One year in Texas and six months in Dallas County.

Plaintiff, a returning resident, challenges the one-year residence requirement for AFDC aid. The mother of seven minor children, she lived in Washington from 1942-1966. In 1966 plaintiff moved to California where her husband obtained work, and in August, 1967 returned to Washington where her husband was seeking work with the Boeing Company. Plaintiff's husband deserted his family in Seattle in September, 1967. Plaintiff has sought legal aid to seek support from her husband, but has so far not met with success.

B. *King* v. *Washington State Dept. of Public Assistance,* Civil Action No. 7455, W. D. Wash.

Plaintiff challenges the one-year residence requirement for AFDC aid. Plaintiff is the mother of seven children. She had resided in several states in recent years because her husband was in the military. From 1965 thru June, 1967 her husband was stationed in Oakland, California. In July, 1967, plaintiff moved to Seattle because her husband was to be transferred there. Plaintiff's husband returned to California to remove family belongings to Seattle, but has never returned.

C. *Orvale* v. *Washington State Department of Public Assistance,* Civil Action No. 7455, W. D. Wash.

Plaintiff challenges the "3 of 4" year residence requirement for general assistance aid. Plaintiff has resided in Washington since April 1, 1965. She had worked as a maid and kitchen helper in nursing homes since her husband's death in 1958, but is now medically unfit to work.

20. WISCONSIN:

A. *Ramos* v. *Health and Social Services Bd.,* 276 F. Supp. 474 (E. D. Wisc. 1967).

Plaintiff, a returning resident, challenges the one-year residence requirement for AFDC aid. She was born in Wisconsin in 1935 and resided there until 1957, when she married and moved to Chicago. Plaintiff was deserted by her husband in June, 1967, and returned with her five children to Wisconsin to be near her family. Plaintiff was granted temporary assistance of $177 and advised that she could obtain further assistance only by returning to Chicago.

B. *Denny* v. *Health & Social Services Bd. of the State of Wisconsin,* Civil Action No. 67-C-426, E. D. Wis.

Plaintiff, a returning resident, challenges the one-year residence requirement for General Assistance Aid. Born in Wisconsin in 1929 and residing there until marriage in 1965, she and her husband moved to Illinois. Her husband left her in January, 1966 and she returned to Wisconsin in March 1967.

C. *De Cardenas* v. *Health & Social Services Bd.,* Civil Action No. 67-C-426, E. D. Wis.

Plaintiff, a returning resident, challenges the one-year residence requirement for General Assistance Aid. She and her mother moved to Wisconsin in 1956 where she worked as a practical nurse in Milwaukee until 1958 when she was injured during the course of her employment. She has been unable to work since and has undergone three surgical operations as a result of her injury. In January, 1967, she returned to Milwaukee.

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