

"State citizenship is ephemeral. It results only from residence and is gained or lost therewith. That choice of residence was subject to local approval is contrary to the inescapable implications of the westward movement of our civilization. 314 U.S. at 183.

"Any measure which would divide our citizenry on the basis of property into one class free to move from state to state and another class that is poverty-bound to the place where it has suffered misfortune is not only at war with the habit and custom by which our country has expanded, but is also a short-sighted blow at the security of property itself. Property can have no more dangerous, even if unwitting, enemy than one who would make its possession a pretext for unequal or exclusive civil rights. Where those rights are derived from national citizenship no state may impose such a test, and whether the Congress could do so we are not called upon to inquire." 314 U.S. at 185.

In short, the right of interstate travel embodies not only the right to pass through a state but also the right to establish residence therein.

While prior "right to travel cases" have been concerned with absolute proscriptions on movement, *Guest* may be read as proscribing the discouragement of interstate travel. The Court there upheld a paragraph of an indictment based on 18 U.S.C. § 241 which outlaws conspiracy to interfere with rights or privileges secured by the Constitution. The paragraph charged interference with, "The right of travel freely to and from the State of Georgia and to use highway facilities and other instrumentalities of interstate commerce within the State of Georgia." 383 U.S. at 757. The Court went on to say that, "if the predominant purpose of the conspiracy is to impede or prevent the exercise of the right of interstate travel, or to oppress a person because of his exercise of that right, then, whether or not motivated by racial discrimination, the conspiracy becomes a proper object of the federal law under which the indictment in this case was brought." 383 U.S. at 760. By employing the words "impede" and "oppress", the Court must have contemplated that the discouragement of interstate travel is also forbidden. Further support for the proposition that the right of interstate travel also encompasses the right to be free of discouragement of interstate movement may be found by analogy to cases proscribing actions which have a chilling effect on First Amendment rights. See *Dombroski v. Pfister*, 380 U.S. 479, 487 (1965); *Wolff v. Selective Service Local Board No. 16*, 372 F. 2d 817 (2d Cir. 1967). Finally, it should be underscored that the statute invalidated in *Edwards* penalized the sponsor of the indigent, not the indigent himself. In short, whatever its source, the right to travel exists and included within its dimensions is the right to establish residence in Connecticut. Denying to the plaintiff even a gratuitous benefit because of her exercise of her constitutional right effectively impedes the exercise of that right. See *Sherbert v. Verner*, 374 U.S. 398, 405-06 (1963). Because Conn. Gen. Stat. § 17-2d has a chilling effect on the right to travel, it is unconstitutional.

Not only does § 17-2d abridge the right to travel and its concomitant right to establish residence, but it also denies plaintiff the equal protection of the laws. "Judicial inquiry under the Equal Protection Clause . . . does not end with a showing of equal application among the members of the class defined by the legislation. The courts must reach and determine the question whether the classifications drawn in a statute are reasonable in light of its purpose . . ." *McLaughlin v. Florida*, 379 U.S. 184, 191 (1964). Connecticut states quite frankly that the purpose of § 17-2d is to protect its fisc by discouraging entry of those who come needing relief.³ The state has not shown that any significant number come for that purpose, and the evidence indicates that most of the class discriminated against come for other purposes, such as, hope of employment, to be with relatives in time of need, as in the case of plaintiff, or to resume residence in Connecticut after a period of absence. Even a classification denying aid to those whose sole or principal purpose in entry is to seek aid, however, would

³ The legislative history further demonstrates that this is the purpose of § 17-2d. For example, Mr. Cohen, while recognizing that only a small proportion of new arrivals come to Connecticut to seek welfare, made the following argument in favor of § 17-2d:

"If we pass this Bill, the word could get around that we are not an easy state, and the rate of influx might relate more closely to the level of job opportunity. As responsible legislators we must, at some point, be interested in costs. I doubt that Connecticut can, or should, continue to allow unlimited migration into the State, on the basis of offering instant money and permanent income to all who can make their way to the State, regardless of their ability to contribute to the economy." Connecticut General Assembly 1965, House of Representatives Proceedings, Vol. II Part 7, pp. 194-95 (Connecticut State Library).