

not be sustainable. Anyway, the classification made here, based not on purpose in coming but solely on indigency, hits most heavily those with not even an arguably bad purpose in coming and may not be upheld. As detailed above, the purpose of § 17-2d, to discourage entry by those who come needing relief, abridges the right to travel and to establish residence. A similar purpose was behind the statute invalidated in *Edwards*. California in *Edwards*, like Connecticut here, tried to justify its statute under the police power.^{3a}

Here, as there, the burden on the state treasury⁴ does not justify an enactment with an invalid purpose.

The policy behind the equal protection clause has long been interpreted as that of preventing states from discriminating against particular classes of persons. *E.g.*, *Yick Wo v. Hopkins*, 118 U.S. 356 (1886). Even if the purpose of § 17-2d were valid, which it is not, the classifications established by the statute and the regulations promulgated thereunder are not "reasonable in light of its purpose." Admittedly, the classifications are not drawn on the presumptively suspect lines of race, creed or color. Nor, at the time application for aid is made, can it be said that they are based on poverty; for, at that time, all bona fide applicants are indigent. Furthermore, no inquiry is made into the assets at any past point in time of those applicants who enter with a job or those who have one year's residence. But there is a classification based on wealth between those who enter with a cash stake and those like plaintiff who do not. This classification is invalid because there is no showing that in the long run the applicant with the cash would be a lesser drain on the state treasury. Similarly, even though they are not based on wealth, the classifications of one year's residence or a job are not reasonable in light of the purpose of § 17-2d because again there is no showing that those applicants will be lesser burdens than applicants without jobs or one year's residence. Section 17-2d, in brief, violates the equal protection clause because even if its purpose were valid, which it is clearly not, the classifications are unreasonable.

Granted, the state may provide assistance in a limited form with restrictions, so long as the restrictions are not arbitrary; but, in any case where the government confers advantages on some, it must justify its denial to others by reference to a constitutionally recognized reason. See *Sherbert v. Verner*, supra; *Speiser v. Randall*, 357 U.S. 513 (1958). In *Carrington v. Rash*, 380 U.S. 89, 96 (1965), while striking down a Texas law which prevented servicemen from voting, the Court was careful to emphasize that, "Texas is free to take reasonable and adequate steps . . . to see that all applicants for the vote actually fulfill the requirement of bona fide residence." For example, if there were here a time limit applied equally to all, for the purpose of prevention of fraud, investigation of indigency or other reasonable administrative need, it would undoubtedly be valid. Connecticut's Commissioner of Welfare frankly testified that no residence requirement is needed for any of these purposes.

Judgment may enter in favor of the plaintiff declaring the residence requirement of § 17-2d of the Connecticut General Statutes invalid as applied to plaintiff, awarding plaintiff moneys unconstitutionally withheld,⁵ and enjoining defendant from denying plaintiff Aid to Dependent Children solely

^{3a} "Their coming here has alarmingly increased our taxes and the costs of welfare outlays, old age pensions, and the care of the criminal, the indigent sick, the blind and the insane."

⁴ "Should the States that have so long tolerated, and even fostered, the social conditions that have reduced these people to their state of poverty and wretchedness, be able to get rid of them by low relief and insignificant welfare allowances and drive them into California to become our public charges, upon our immeasurably higher standard of social services? Naturally, when these people can live on relief in California better than they can by working in Mississippi, Arkansas, Texas or Oklahoma, they will continue to come to this State." 314 U.S. at 168.

⁵ Incidentally, a small part of Connecticut's ADC budget is involved and the burden on the state treasury is not overwhelming. Connecticut estimates that the indigent who would come in should plaintiff prevail would cost another 2% in ADC, that is, some \$2,000,000 annually. Approximately half of this sum, of course, would be paid by federal appropriation through Congressional recognition of the national nature of the problem.

⁶ That a state cannot be sued without its consent, *Monaco v. Mississippi*, 292 U.S. 313 (1934), is no barrier to awarding money damages here; for, in *Ex parte Young*, 209 U.S. 123 (1908), the Court held that the Eleventh Amendment did not prevent a suit against a state official who was acting unconstitutionally. Consequently, this court can order Commissioner Shapiro to tender moneys which he unconstitutionally withheld. See, *Department of Employment v. United States*, 385 U.S. 355, 358 (1966) where the Court ordered refund of taxes unconstitutionally paid. See also, *Sherbert v. Verner*, 374 U.S. 398 (1963) (unemployment benefits).