SUPREME COURT OF THE UNITED STATES

No. 98–97

RITA L. SAENZ, DIRECTOR, CALIFORNIA DEPARTMENT OF SOCIAL SERVICES, ET AL., PETITIONERS *v.* BRENDA ROE AND ANNA DOE ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[May 17, 1999]

JUSTICE STEVENS delivered the opinion of the Court.

In 1992, California enacted a statute limiting the maximum welfare benefits available to newly arrived residents. The scheme limits the amount payable to a family that has resided in the State for less than 12 months to the amount payable by the State of the family's prior residence. The questions presented by this case are whether the 1992 statute was constitutional when it was enacted and, if not, whether an amendment to the Social Security Act enacted by Congress in 1996 affects that determination.

I

California is not only one of the largest, most populated, and most beautiful States in the Nation; it is also one of the most generous. Like all other States, California has participated in several welfare programs authorized by the Social Security Act and partially funded by the Federal Government. Its programs, however, provide a higher

level of benefits and serve more needy citizens than those of most other States. In one year the most expensive of those programs, Aid to Families with Dependent Children (AFDC), which was replaced in 1996 with Temporary Assistance to Needy Families (TANF), provided benefits for an average of 2,645,814 persons per month at an annual cost to the State of $2.9 billion. In California the cash benefit for a family of two– a mother and one child– is $456 a month, but in the neighboring State of Arizona, for example, it is only $275.

In 1992, in order to make a relatively modest reduction in its vast welfare budget, the California Legislature enacted §11450.03 of the state Welfare and Institutions Code. That section sought to change the California AFDC program by limiting new residents, for the first year they live in California, to the benefits they would have received in the State of their prior residence.[1] Because in 1992 a state program either had to conform to federal specifications or receive a waiver from the Secretary of Health and

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[1]California Welf. & Inst. Code Ann. §11450.03 (West Supp. 1999) provides:

"(a) Notwithstanding the maximum aid payments specified in paragraph (1) of subdivision (a) of Section 11450, families that have resided in this state for less than 12 months shall be paid an amount calculated in accordance with paragraph (1) of subdivision (a) of Section 11450, not to exceed the maximum aid payment that would have been received by that family from the state of prior residence.

"(b) This section shall not become operative until the date of approval by the United States Secretary of Health and Human Services necessary to implement the provisions of this section so as to ensure the continued compliance of the state plan for the following:

"(1) Title IV of the federal Social Security Act (Subchapter 4 (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code).

"(2) Title IX *[sic]* of the federal Social Security Act (Subchapter 19 (commencing with section 1396) of Chapter 7 of Title 42 of the United States Code)."

Human Services in order to qualify for federal reimbursement, §11450.03 required approval by the Secretary to take effect. In October 1992, the Secretary issued a waiver purporting to grant such approval.

On December 21, 1992, three California residents who were eligible for AFDC benefits filed an action in the Eastern District of California challenging the constitutionality of the durational residency requirement in §11450.03. Each plaintiff alleged that she had recently moved to California to live with relatives in order to escape abusive family circumstances. One returned to California after living in Louisiana for seven years, the second had been living in Oklahoma for six weeks and the third came from Colorado. Each alleged that her monthly AFDC grant for the ensuing 12 months would be substantially lower under §11450.03 than if the statute were not in effect. Thus, the former residents of Louisiana and Oklahoma would receive $190 and $341 respectively for a family of three even though the full California grant was $641; the former resident of Colorado, who had just one child, was limited to $280 a month as opposed to the full California grant of $504 for a family of two.

The District Court issued a temporary restraining order and, after a hearing, preliminarily enjoined implementation of the statute. District Judge Levi found that the statute "produces substantial disparities in benefit levels and makes no accommodation for the different costs of living that exist in different states."[2] Relying primarily on our decisions in *Shapiro* v. *Thompson*, 394 U. S. 618 (1969), and *Zobel* v. *Williams*, 457 U. S. 55 (1982), he concluded

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[2]The District Court referred to an official table of Fair Market Rents indicating that California's housing costs are higher than any other State except Massachusetts. See *Green* v. *Anderson*, 811 F. Supp. 516, 521, n. 13 (ED Cal. 1993); see also Declaration of Robert Greenstein, App. 91–94.

that the statute placed "a penalty on the decision of new residents to migrate to the State and be treated on an equal basis with existing residents." *Green* v. *Anderson*, 811 F. Supp. 516, 521 (ED Cal. 1993). In his view, if the purpose of the measure was to deter migration by poor people into the State, it would be unconstitutional for that reason. And even if the purpose was only to conserve limited funds, the State had failed to explain why the entire burden of the saving should be imposed on new residents. The Court of Appeals summarily affirmed for the reasons stated by the District Judge. *Green* v. *Anderson*, 26 F. 3d 95 (CA9 1994).

We granted the State's petition for certiorari. 513 U. S. 922 (1994). We were, however, unable to reach the merits because the Secretary's approval of §11450.03 had been invalidated in a separate proceeding,[3] and the State had acknowledged that the Act would not be implemented without further action by the Secretary. We vacated the judgment and directed that the case be dismissed. *Anderson* v. *Green*, 513 U. S. 557 (1995) *(per curiam)*.[4] Accordingly, §11450.03 remained inoperative until after Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 PRWORA, 110 Stat. 2105.

PRWORA replaced the AFDC program with TANF. The new statute expressly authorizes any State that receives a block grant under TANF to "apply to a family the rules (including benefit amounts) of the [TANF] program . . . of another State if the family has moved to the State from the other State and has resided in the State for less than 12 months." 42 U. S. C. §604(c) (1994 ed., Supp. II). With

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[3] *Beno* v. *Shalala*, 30 F. 3d 1057 (CA9 1994).

[4] In February 1996, the Secretary granted waivers for certain changes in California's welfare program, but she declined to authorize any distinction between old and new residents. App. to Pet. for Cert. 46–52.

this federal statutory provision in effect, California no longer needed specific approval from the Secretary to implement §11450.03. The California Department of Social Services therefore issued an "All County Letter" announcing that the enforcement of §11450.03 would commence on April 1, 1997.

The All County Letter clarifies certain aspects of the statute. Even if members of an eligible family had lived in California all of their lives, but left the State "on January 29th, intending to reside in another state, and returned on April 15th," their benefits are determined by the law of their State of residence from January 29 to April 15, assuming that that level was lower than California's.[5] Moreover, the lower level of benefits applies regardless of whether the family was on welfare in the State of prior residence and regardless of the family's motive for moving to California. The instructions also explain that the residency requirement is inapplicable to families that recently arrived from another country.

II

On April 1, 1997, the two respondents filed this action in the Eastern District of California making essentially the same claims asserted by the plaintiffs in *Anderson* v. *Green*,[6] but also challenging the constitutionality of PRWORA's approval of the durational residency requirement. As in *Green*, the District Court issued a temporary restraining order and certified the case as a class action.[7]

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[5]Record 30 (Plaintiffs' Exh. 3, Attachment 1).

[6]One of the respondents is a former resident of Oklahoma and the other moved to California from the District of Columbia. In both of those jurisdictions the benefit levels are substantially lower than in California.

[7]On the stipulation of the parties, the court certified a class of plaintiffs defined as "'all present and future AFDC and TANF applicants and recipients who have applied or will apply for AFDC or TANF on or

The Court also advised the Attorney General of the United States that the constitutionality of a federal statute had been drawn into question, but she did not seek to intervene or to file an *amicus* brief. Reasoning that PRWORA permitted, but did not require, States to impose durational residency requirements, Judge Levi concluded that the existence of the federal statute did not affect the legal analysis in his prior opinion in *Green*.

He did, however, make certain additional comments on the parties' factual contentions. He noted that the State did not challenge plaintiffs' evidence indicating that, although California benefit levels were the sixth highest in the Nation in absolute terms,[8] when housing costs are factored in, they rank 18th; that new residents coming from 43 States would face higher costs of living in California; and that welfare benefit levels actually have little, if any, impact on the residential choices made by poor people. On the other hand, he noted that the availability of other programs such as homeless assistance and an additional food stamp allowance of $1 in stamps for every $3 in reduced welfare benefits partially offset the disparity between the benefits for new and old residents. Notwithstanding those ameliorating facts, the State did not disagree with plaintiffs' contention that §11450.03 would create significant disparities between newcomers and welfare recipients who have resided in the State for over one year.

The State relied squarely on the undisputed fact that the statute would save some $10.9 million in annual wel-

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after April 1, 1997, and who will be denied full California AFDC or TANF benefits because they have not resided in California for twelve consecutive months immediately preceding their application for aid.'" App. to Pet. for Cert. 20.

[8]Forty-four States and the District of Columbia have lower benefit levels than California. App. to Pet. for Cert. 22, n. 10.

fare costs– an amount that is surely significant even though only a relatively small part of its annual expenditures of approximately $2.9 billion for the entire program. It contended that this cost saving was an appropriate exercise of budgetary authority as long as the residency requirement did not penalize the right to travel. The State reasoned that the payment of the same benefits that would have been received in the State of prior residency eliminated any potentially punitive aspects of the measure. Judge Levi concluded, however, that the relevant comparison was not between new residents of California and the residents of their former States, but rather between the new residents and longer term residents of California. He therefore again enjoined the implementation of the statute.

Without finally deciding the merits, the Court of Appeals affirmed his issuance of a preliminary injunction. *Roe* v. *Anderson*, 134 F. 3d 1400 (CA9 1998). It agreed with the District Court's view that the passage of PRWORA did not affect the constitutional analysis, that respondents had established a probability of success on the merits and that class members might suffer irreparable harm if §11450.03 became operative. Although the decision of the Court of Appeals is consistent with the views of other federal courts that have addressed the issue,[9] we granted certiorari because of the importance of

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[9]See *Maldonado* v. *Houston*, 157 F. 3d 179 (CA3 1998) (finding two-tier durational residency requirement an unconstitutional infringement on the right to travel); *Anderson* v. *Green*, 26 F. 3d 95 (CA9 1994), vacated as unripe, 513 U. S. 557 (1995) *(per curiam); Hicks* v. *Peters*, 10 F. Supp. 2d 1003 (ND Ill. 1998) (granting injunction against enforcement of durational residency requirement); *Westenfelder* v. *Ferguson*, 998 F. Supp. 146 (RI 1998) (holding durational residency requirement a penalty on right to travel incapable of surviving rational-basis review). Two state courts have reached the same conclusion. See *Mitchell* v. *Steffen*, 504 N. W. 2d 198 (Minn. 1993), cert. denied, 510 U. S. 1081

the case. 524 U. S. ___ (1998).[10] We now affirm.

III

The word "travel" is not found in the text of the Constitution. Yet the "constitutional right to travel from one State to another" is firmly embedded in our jurisprudence. *United States* v. *Guest*, 383 U. S. 745, 757 (1966). Indeed, as Justice Stewart reminded us in *Shapiro* v. *Thompson*, 394 U. S. 618 (1969), the right is so important that it is "assertable against private interference as well as governmental action . . . a virtually unconditional personal right, guaranteed by the Constitution to us all." *Id.*, at 643 (concurring opinion).

In *Shapiro*, we reviewed the constitutionality of three statutory provisions that denied welfare assistance to residents of Connecticut, the District of Columbia, and Pennsylvania, who had resided within those respective jurisdictions less than one year immediately preceding their applications for assistance. Without pausing to identify the specific source of the right, we began by noting that the Court had long "recognized that the nature of our Federal Union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement." *Id.*, at 629. We squarely held that it was "constitutionally impermissible" for a State to enact durational residency requirements for

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(1994) (striking down a similar provision in Minnesota law); *Sanchez* v. *Department of Human Services*, 314 N. J. Super. 11, 713 A. 2d 1056 (1998) (striking down two-tier welfare system); cf. *Jones* v. *Milwaukee County*, 168 Wis. 2d 892, 485 N. W. 2d 21 (1992) (holding that a 60-day waiting period for applicant for general relief is not a penalty and therefore not unconstitutional).

[10]After this case was argued, petitioner Rita L. Saenz replaced Eloise Anderson as Director, California Department of Social Services.

the purpose of inhibiting the migration by needy persons into the State.[11] We further held that a classification that had the effect of imposing a penalty on the exercise of the right to travel violated the Equal Protection Clause "unless shown to be necessary to promote a *compelling* governmental interest," *id.*, at 634, and that no such showing had been made.

In this case California argues that §11450.03 was not enacted for the impermissible purpose of inhibiting migration by needy persons and that, unlike the legislation reviewed in *Shapiro*, it does not penalize the right to travel because new arrivals are not ineligible for benefits during their first year of residence. California submits that, instead of being subjected to the strictest scrutiny, the statute should be upheld if it is supported by a rational basis and that the State's legitimate interest in saving over $10 million a year satisfies that test. Although the United States did not elect to participate in the proceedings in the District Court or the Court of Appeals, it has participated as *amicus curiae* in this Court. It has advanced the novel argument that the enactment of PRWORA allows the States to adopt a "specialized choice-of-law-type provision" that "should be subject to an intermediate level of constitutional review," merely requiring that durational residency requirements be "substantially

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[11] "We do not doubt that the one-year waiting-period device is well suited to discourage the influx of poor families in need of assistance. . . . But the purpose of inhibiting migration by needy persons into the State is constitutionally impermissible." 394 U. S., at 629.

"Thus, the purpose of deterring the in-migration of indigents cannot serve as justification for the classification created by the one-year waiting period . . . . If a law has 'no other purpose . . . than to chill the assertion of constitutional rights by penalizing those who choose to exercise them, then it [is] patently unconstitutional.' *United States* v. *Jackson*, 390 U. S. 570, 581 (1968)." *Id.*, at 631.

related to an important governmental objective."[12] The debate about the appropriate standard of review, together with the potential relevance of the federal statute, persuades us that it will be useful to focus on the source of the constitutional right on which respondents rely.

IV

The "right to travel" discussed in our cases embraces at least three different components. It protects the right of a citizen of one State to enter and to leave another State, the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State, and, for those travelers who elect to become permanent residents, the right to be treated like other citizens of that State.

It was the right to go from one place to another, including the right to cross state borders while en route, that was vindicated in *Edwards* v. *California,* 314 U. S. 160 (1941), which invalidated a state law that impeded the free interstate passage of the indigent. We reaffirmed that right in *United States* v. *Guest,* 383 U. S. 745 (1966), which afforded protection to the "'right to 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.'" *Id.,* at 757. Given that §11450.03 imposed no obstacle to respondents' entry into California, we think the State is correct when it argues that the statute does not directly impair the exercise of the right to free interstate movement. For the purposes of this case, therefore, we need not identify the source of that particular right in the text of the Constitution. The right of "free ingress and regress to and from" neighboring States, which was expressly mentioned in the text of the Articles of Confedera-

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[12]Brief for United States as *Amicus Curiae* 8, 10.

tion,[13] may simply have been "conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created." *Id.*, at 758.

The second component of the right to travel is, however, expressly protected by the text of the Constitution. The first sentence of Article IV, §2, provides:

> "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

Thus, by virtue of a person's state citizenship, a citizen of one State who travels in other States, intending to return home at the end of his journey, is entitled to enjoy the "Privileges and Immunities of Citizens in the several States" that he visits.[14] This provision removes "from the citizens of each State the disabilities of alienage in the other States." *Paul* v. *Virginia*, 8 Wall. 168, 180 (1869) ("[W]ithout some provision . . . removing from citizens of each State the disabilities of alienage in the other States, and giving them equality of privilege with citizens of those States, the Republic would have constituted little more than a league of States; it would not have constituted the Union which now exists"). It provides important protections for nonresidents who enter a State whether to obtain employment, *Hicklin* v. *Orbeck*, 437 U. S. 518 (1978), to procure

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[13] "The 4th article, respecting the extending the rights of the Citizens of each State, throughout the United States . . . is formed exactly upon the principles of the 4th article of the present Confederation." 3 Records of the Federal Convention of 1787, p. 112 (M. Farrand ed. 1966). Article IV of the Articles of Confederation provided that "the people of each State shall have free ingress and regress to and from any other State."

[14] *Corfield* v. *Coryell*, 6 F. Cas. 546 (CCED Pa. 1823) (Washington, J., on circuit) ("fundamental" rights protected by the privileges and immunities clause include "the right of a citizen of one state to pass through, or to reside in any other state").

medical services, *Doe* v. *Bolton*, 410 U. S. 179, 200 (1973), or even to engage in commercial shrimp fishing, *Toomer* v. *Witsell*, 334 U. S. 385 (1948). Those protections are not "absolute," but the Clause "does bar discrimination against citizens of other States where there is no substantial reason for the discrimination beyond the mere fact that they are citizens of other States." *Id.*, at 396. There may be a substantial reason for requiring the nonresident to pay more than the resident for a hunting license, see *Baldwin* v. *Fish and Game Comm'n of Mont.*, 436 U. S. 371, 390–391 (1978), or to enroll in the state university, see *Vlandis* v. *Kline*, 412 U. S. 441, 445 (1973), but our cases have not identified any acceptable reason for qualifying the protection afforded by the Clause for "the citizen of State A who ventures into State B" to settle there and establish a home." *Zobel*, 457 U. S., at 74 (O'CONNOR, J., concurring in judgment). Permissible justifications for discrimination between residents and nonresidents are simply inapplicable to a nonresident's exercise of the right to move into another State and become a resident of that State.

What is at issue in this case, then, is this third aspect of the right to travel– the right of the newly arrived citizen to the same privileges and immunities enjoyed by other citizens of the same State. That right is protected not only by the new arrival's status as a state citizen, but also by her status as a citizen of the United States.[15] That addi-

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[15]The Framers of the Fourteenth Amendment modeled this Clause upon the "Privileges and Immunities" Clause found in Article IV. Cong. Globe, 39th Cong., 1st Sess., 1033–1034 (1866) (statement of Rep. Bingham). In *Dred Scott* v. *Sandford*, 19 How. 393 (1857), this Court had limited the protection of Article IV to rights under state law and concluded that free blacks could not claim citizenship. The Fourteenth Amendment overruled this decision. The Amendment's Privileges and Immunities Clause and Citizenship Clause guaranteed the rights of newly freed black citizens by ensuring that they could claim the state citizenship of any State in which they resided and by precluding that

tional source of protection is plainly identified in the opening words of the Fourteenth Amendment:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; . . . ."[16]

Despite fundamentally differing views concerning the coverage of the Privileges or Immunities Clause of the Fourteenth Amendment, most notably expressed in the majority and dissenting opinions in the *Slaughter-House Cases*, 16 Wall. 36 (1873), it has always been common ground that this Clause protects the third component of the right to travel. Writing for the majority in the *Slaughter-House Cases*, Justice Miller explained that one of the privileges conferred by this Clause "is that a citizen of the United States can, of his own volition, become a citizen of any State of the Union by a *bonâ fide* residence therein, with the same rights as other citizens of that State." *Id.*, at 80. Justice Bradley, in dissent, used even stronger language to make the same point:

> "The states have not now, if they ever had, any power to restrict their citizenship to any classes or persons. A citizen of the United States has a perfect constitutional right to go to and reside in any State he chooses, and to claim citizenship therein, and an equality of rights with every other citizen; and the whole power of the nation is pledged to sustain him in

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State from abridging their rights of national citizenship.

[16]U. S. Const., Amdt. 14, §1. The remainder of the section provides: "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

> that right. He is not bound to cringe to any superior, or to pray for any act of grace, as a means of enjoying all the rights and privileges enjoyed by other citizens." *Id.*, at 112–113.

That newly arrived citizens "have two political capacities, one state and one federal," adds special force to their claim that they have the same rights as others who share their citizenship.[17] Neither mere rationality nor some intermediate standard of review should be used to judge the constitutionality of a state rule that discriminates against some of its citizens because they have been domiciled in the State for less than a year. The appropriate standard may be more categorical than that articulated in *Shapiro*, see *supra*, at 8–9, but it is surely no less strict.

V

Because this case involves discrimination against citizens who have completed their interstate travel, the State's argument that its welfare scheme affects the right to travel only "incidentally" is beside the point. Were we concerned solely with actual deterrence to migration, we might be persuaded that a partial withholding of benefits constitutes a lesser incursion on the right to travel than an outright denial of all benefits. See *Dunn* v. *Blumstein*, 405 U. S. 330, 339 (1972). But since the right to travel embraces the citizen's right to be treated equally in her

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[17] "Federalism was our Nation's own discovery. The Framers split the atom of sovereignty. It was the genius of their idea that our citizens would have two political capacities, one state and one federal, each protected from incursion by the other. The resulting Constitution created a legal system unprecedented in form and design, establishing two orders of government, each with its own direct relationship, its own privity, its own set of mutual rights and obligations to the people who sustain it and are governed by it." *U. S. Term Limits, Inc.* v. *Thornton*, 514 U. S. 779, 838 (1995) (KENNEDY, J., concurring)

new State of residence, the discriminatory classification is itself a penalty.

It is undisputed that respondents and the members of the class that they represent are citizens of California and that their need for welfare benefits is unrelated to the length of time that they have resided in California. We thus have no occasion to consider what weight might be given to a citizen's length of residence if the bona fides of her claim to state citizenship were questioned. Moreover, because whatever benefits they receive will be consumed while they remain in California, there is no danger that recognition of their claim will encourage citizens of other States to establish residency for just long enough to acquire some readily portable benefit, such as a divorce or a college education, that will be enjoyed after they return to their original domicile. See, *e.g.*, *Sosna* v. *Iowa*, 419 U. S. 393 (1975); *Vlandis* v. *Kline*, 412 U. S. 441 (1973).

The classifications challenged in this case– and there are many– are defined entirely by (a) the period of residency in California and (b) the location of the prior residences of the disfavored class members. The favored class of beneficiaries includes all eligible California citizens who have resided there for at least one year, plus those new arrivals who last resided in another country or in a State that provides benefits at least as generous as California's. Thus, within the broad category of citizens who resided in California for less than a year, there are many who are treated like lifetime residents. And within the broad subcategory of new arrivals who are treated less favorably, there are many smaller classes whose benefit levels are determined by the law of the States from whence they came. To justify §11450.03, California must therefore explain not only why it is sound fiscal policy to discriminate against those who have been citizens for less than a year, but also why it is permissible to apply such a variety of rules within that class.

These classifications may not be justified by a purpose to deter welfare applicants from migrating to California for three reasons. First, although it is reasonable to assume that some persons may be motivated to move for the purpose of obtaining higher benefits, the empirical evidence reviewed by the District Judge, which takes into account the high cost of living in California, indicates that the number of such persons is quite small– surely not large enough to justify a burden on those who had no such motive.[18] Second, California has represented to the Court that the legislation was not enacted for any such reason.[19] Third, even if it were, as we squarely held in *Shapiro* v. *Thompson*, 394 U. S. 618 (1969), such a purpose would be unequivocally impermissible.

Disavowing any desire to fence out the indigent, California has instead advanced an entirely fiscal justification for its multitiered scheme. The enforcement of §11450.03 will save the State approximately $10.9 million a year. The question is not whether such saving is a legitimate purpose but whether the State may accomplish that end by the discriminatory means it has chosen. An even-handed, across-the-board reduction of about 72 cents per month for every beneficiary would produce the same result. But our negative answer to the question does not rest on the weakness of the State's purported fiscal justification. It rests on the fact that the Citizenship Clause of the Fourteenth Amendment expressly equates citizenship with residence: "That Clause does not provide for, and does not allow for, degrees of citizenship based on length of residence." *Zobel*, 457 U. S., at 69. It is equally clear

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[18] App. 21–26.

[19] The District Court and the Court of Appeals concluded, however, that the "apparent purpose of §11450.03 was to deter migration of poor people to California." *Roe* v. *Anderson*, 134 F. 3d 1400, 1404 (CA9 1998).

that the Clause does not tolerate a hierarchy of 45 subclasses of similarly situated citizens based on the location of their prior residence.[20] Thus §11450.03 is doubly vulnerable: Neither the duration of respondents' California residence, nor the identity of their prior States of residence, has any relevance to their need for benefits. Nor do those factors bear any relationship to the State's interest in making an equitable allocation of the funds to be distributed among its needy citizens. As in *Shapiro*, we reject any contributory rationale for the denial of benefits to new residents:

> "But we need not rest on the particular facts of these cases. Appellants' reasoning would logically permit the State to bar new residents from schools, parks, and libraries or deprive them of police and fire protection. Indeed it would permit the State to apportion all benefits and services according to the past tax contributions of its citizens." 394 U. S., at 632–633.

See also *Zobel*, 457 U. S., at 64. In short, the State's legitimate interest in saving money provides no justification for its decision to discriminate among equally eligible citizens.

VI

The question that remains is whether congressional approval of durational residency requirements in the 1996 amendment to the Social Security Act somehow resuscitates the constitutionality of §11450.03. That question is readily answered, for we have consistently held that Congress may not authorize the States to violate the Four-

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[20]See Cohen, Discrimination Against New State Citizens: An Update, 11 Const. Comm. 73, 79 (1994) ("[J]ust as it would violate the Constitution to deny these new arrivals state citizenship, it would violate the Constitution to concede their citizenship in name only while treating them as if they were still citizens of other states").

teenth Amendment.[21] Moreover, the protection afforded to the citizen by the Citizenship Clause of that Amendment is a limitation on the powers of the National Government as well as the States.

Article I of the Constitution grants Congress broad power to legislate in certain areas. Those legislative powers are, however, limited not only by the scope of the Framers' affirmative delegation, but also by the principle "that they may not be exercised in a way that violates other specific provisions of the Constitution. For example, Congress is granted broad power to 'lay and collect Taxes,' but the taxing power, broad as it is, may not be invoked in such a way as to violate the privilege against self-incrimination." *Williams* v. *Rhodes*, 393 U. S. 23, 29 (1968) (footnote omitted). Congress has no affirmative power to authorize the States to violate the Fourteenth Amendment and is implicitly prohibited from passing legislation that purports to validate any such violation.

> "Section 5 of the Fourteenth Amendment gives Congress broad power indeed to enforce the command of the amendment and 'to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasion. . . .' *Ex parte Virginia*, 100 U. S. 339, 346 (1880). Congress' power under §5, however, 'is limited to adopting measures to enforce the guarantees of the Amendment; §5 grants Congress no power to restrict, abrogate, or dilute these guarantees.' *Katzenbach* v. *Morgan*, 384 U. S. 641, 651, n. 10 (1966). Although we give deference to congressional decisions and clas-

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[21] "'Congress is without power to enlist state cooperation in a joint federal-state program by legislation which authorizes the States to violate the Equal Protection Clause.' *Shapiro* v. *Thompson*, 394 U. S. 618, 641 (1969)." *Townsend* v. *Swank*, 404 U. S. 282, 291 (1971).

> sifications, neither Congress nor a State can validate a law that denies the rights guaranteed by the Fourteenth Amendment. See, *e.g., Califano* v. *Goldfarb*, 430 U. S. 199, 210 (1977); *Williams* v. *Rhodes*, 393 U. S. 23, 29 (1968)." *Mississippi Univ. for Women* v. *Hogan*, 458 U. S. 718, 732–733 (1982).

The Solicitor General does not unequivocally defend the constitutionality of §11450.03. But he has argued that two features of PRWORA may provide a sufficient justification for state durational requirements to warrant further inquiry before finally passing on the section's validity, or perhaps that it is only invalid insofar as it applies to new arrivals who were not on welfare before they arrived in California.[22]

He first points out that because the TANF program gives the States broader discretion than did AFDC, there will be significant differences among the States which may provide new incentives for welfare recipients to change their residences. He does not, however, persuade us that the disparities under the new program will necessarily be any greater than the differences under AFDC, which included such examples as the disparity between California's monthly benefit of $673 for a family of four with Mississippi's benefit of $144 for a comparable family. Moreover, we are not convinced that a policy of eliminating incentives to move to California provides a more permissible justification for classifying California citizens than a policy of imposing special burdens on new arrivals to deter them from moving into the State. Nor is the discriminatory impact of §11450.03 abated by repeatedly characterizing it as "a sort of specialized choice-of-law rule."[23] California law alone discriminates among its own

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[22] Brief for United States as *Amicus Curiae* 29, n. 10.

[23] *Id.*, at 9; see also *id.*, at 3, 8, 14, 15, 20, 22, 23, 24, 27, 28, 28–29.

citizens on the basis of their prior residence.

The Solicitor General also suggests that we should recognize the congressional concern addressed in the legislative history of PRWORA that the "States might engage in a 'race to the bottom' in setting the benefit levels in their TANF programs."[24] Again, it is difficult to see why that concern should be any greater under TANF than under AFDC. The evidence reviewed by the District Court indicates that the savings resulting from the discriminatory policy, if spread equitably throughout the entire program, would have only a miniscule impact on benefit levels. Indeed, as one of the legislators apparently interpreted this concern, it would logically prompt the States to reduce benefit levels sufficiently "to encourage emigration of benefit recipients."[25] But speculation about such an unlikely eventuality provides no basis for upholding §11450.03.

Finally, the Solicitor General suggests that the State's discrimination might be acceptable if California had limited the disfavored subcategories of new citizens to those who had received aid in their prior State of residence at any time within the year before their arrival in California. The suggestion is ironic for at least three reasons: It would impose the most severe burdens on the neediest members of the disfavored classes; it would significantly reduce the savings that the State would obtain, thus making the State's claimed justification even less tenable; and, it would confine the effect of the statute to what the Solicitor

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[24] *Id.*, at 8. See H. R. Rep. No. 104–651, p. 1337 (1996) ("States that want to pay higher benefits should not be deterred from doing so by the fear that they will attract large numbers of recipients from bordering States");

[25] Brief for United States as *Amicus Curiae* 16. See States' Perspective on Welfare Reform: Hearing before the Senate Committee on Finance, 104th Cong., 1st Sess., 9 (1995).

General correctly characterizes as "the invidious purpose of discouraging poor people generally from settling in the State."[26]

* * *

Citizens of the United States, whether rich or poor, have the right to choose to be citizens "of the State wherein they reside." U. S. Const., Amdt. 14, §1. The States, however, do not have any right to select their citizens.[27] The Fourteenth Amendment, like the Constitution itself, was, as Justice Cardozo put it, "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." *Baldwin* v. *G. A. F. Seelig, Inc.*, 294 U. S. 511, 523 (1935).

The judgment of the Court of Appeals is affirmed.

It is so ordered.

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[26] Brief for United States as *Amicus Curiae* 30, n. 11.

[27] As Justice Jackson observed, "it 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." *Edwards* v. *California*, 314 U. S. 160, 183 (1941) (concurring opinion).