People on the Move: Effect of Residence Requirements for Public Assistance

By A. J. Altmeyer*

The Social Security Board has recommended in its annual report to Congress that the assumption of additional Federal responsibility for public assistance should be conditioned on the removal of State residence requirements. This article discusses the basis for the Board's recommendation.

MOBILITY has always been a characteristic of American life. From the earliest days of the Nation, the establishment and development of means of transportation, travel, and communication have been considered to be in the most urgent public interest. The early crude means of transportation have been improved as advancements in technology were made, until now no part of the country can be considered remote or inaccessible. The horse and buggy trip to the next county of a few decades ago took as long as it takes to fly from New York to San Francisco today. Plans for the future call for even greater achievements in transportation. Thus, each generation of Americans has had better facilities for travel and movement than preceding generations. Our vast Nation has become one large community.

Recent Increase in Migration

Although the American people have always been "on the move," in the past 15 years this movement has reached unprecedented proportions. The accelerated movement began in the depression years, when unemployed workers and their families moved about in an effort to find employment and farm workers and their families left the unproductive and drought-stricken areas looking for fresh opportunities.

In the 1930's some communities resisted the migrants. Although these people generally were younger and more vigorous than the population as a whole, the depression was Nation-wide and it was inevitable that a substantial number of migrants should need public assistance before they could become self-supporting. Repressive measures were used to keep potential paupers out and to deny aid to those not considered properly "settled."

In 1941 the Supreme Court came to the defense of the migrants with a forthright decision[1] which swept away these dangerous impingements on the right to move freely between States. The Court made it clear that this right is an incident of national citizenship and is protected by the Constitution from State interference. If States are permitted to curtail the free movement of those who are destitute, according to the Supreme Court, "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." Thus, the means of travel possessed by Americans is complemented by the right to travel, and the right may not be jeopardized because of destitution.

This great population movement changed its character with the beginning of the defense construction boom. Workers were wanted and now moved with more specific plans of employment. New factories were going up, and existing factories were converting to war production. When the war began, this movement became accentuated. Workers were actively recruited by the U. S. Employment Service for war plants. Mass migration of workers and their families to the centers of war production resulted. The Bureau of the Census has estimated that between December 1941 and March 1945 civilian migrants reached the unprecedented total of more than 15 million.[2] (A migrant was considered a person who, in March 1945, was living in a county different from that in which he lived in December 1941.) Within this period, half of these persons, or 6 percent of the total population of the country, moved to a different State.

The Census Bureau study also showed that a large proportion of these migrants were children. Children under 14 years of age made up nearly one-fourth of the intercounty migrants during the war, while in the prewar years 1935–40 children comprised only about one-sixth of all migrants.

The reconversion to peacetime production is being accompanied by further dislocation of the population. In war industries unsuited to reconversion to peacetime activities—shipyards and powder plants, for example—workers are seeking new jobs. Some of these people are finding employment in the same or nearby communities, but many are having to move to other communities.

Thus, the large-scale movement of population between communities and States, from rural to urban areas, and from urban to rural areas is continuing. Adding to the volume of interstate migration is that brought about by the ex-servicemen and women who, in making their adjustments to civilian life, may wish to make their start in communities other than those where they formerly lived. Many have seen parts of the country which previously they had only heard about. Postwar America, inevitably, will be more mobile than before the war.

Migration and Public Assistance

In the light of the large-scale movement of population characteristic of our civilization, residence requirements for public assistance are an anachronism. During the depression, groups who left their own communities in search of employment were not always successful, and many found themselves stranded and in dire need of assistance. Some did not have the security of help from neighbors and relatives which was often available to those who stayed at home. Yet the same group found, in the new community, that public programs for aiding needy people too often excluded "strangers."

The concept that local communities were only responsible for "their own" people had its origin at a time when local government paid all the cost of assistance. Not much progress away from this pattern has been made.

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[1] *Edwards* v. *State of California*, 314 U. S. 160 (1941).

[2] "Civilian Migration in the United States: December, 1941, to March, 1945" (Bureau of the Census, Population—Special Reports, Series P–S, No. 5, September 1945).

During the depression, communities themselves had very limited funds. Even when there was recognition of the need and responsibility for helping "nonresidents," they felt that their first responsibility was to their own people.

Recognition of the national nature of this problem resulted in 1933 in the establishment of the Federal transient program, which made Federal funds available to States and localities to aid nonresidents. This program was in existence for only 2 years. While Federal emergency work programs were in operation, further assistance from Federal funds was available to nonresidents in the form of employment. This employment, however, could be obtained only through certification by local officials, who often were reluctant to certify nonresidents when many residents were waiting for jobs. Except for the transient and the Federal work programs, there have been no Federal programs specifically designed to aid the States in caring for nonresidents.

Residence and Settlement Laws

Federal funds are, however, available to the States under the Social Security Act to help meet the needs of nonresidents as well as residents who are otherwise eligible for old-age assistance, aid to dependent children, and aid to the blind. So far as the availability of Federal matching funds is concerned, the States may give assistance to nonresidents on the same basis as to residents. If the States choose to have residence requirements for these three social security programs, the Social Security Act places a limit on the length of residence a State may require of an applicant.[3]

"Residence," as used in the public assistance titles of the Social Security Act, means living in a State and cannot be construed to mean "settlement" in the technical sense of that word. Thus, for old-age assistance, aid to dependent children, and aid to the blind, a person may not be disqualified on the ground that he received general assistance, for example, while he was residing in the State, and thereby failed to acquire a legal settlement. Nor would a woman be deemed ineligible on the ground that her "settlement," derived from her husband, was in another State, if she herself had resided in the State of application the necessary period. Moreover, a person qualifies as a resident, generally speaking, by living in the State for the necessary period without regard to any local residence requirements.

In general assistance, where there is no Federal program to aid the States, the length and type of residence requirements are determined as each State sees fit. "Settlement" concepts are frequently used either to determine which unit of State government should pay the cost or to determine who is eligible.

During the 10 years in which the Social Security Act has been in operation, a slight trend toward lower State residence requirements for the three groups covered by the act has been noticeable. The accompanying table shows the residence requirements for the three special types of public assistance for the years 1936 and 1945. For old-age assistance, comparable information is available for 1935, before the Social Security Act was passed. In that year, 30 States had old-age assistance programs. Four of these States required 20 or more years' residence to qualify, 25 States required from 10 to 20 years, and 1 State required 5 years of residence.

State residence requirements for public assistance, 1936 and 1945 [1]

State residence requirements [2]	Number of States with specified requirements					
	Old-age assistance		Aid to the blind [3]		Aid to dependent children	
	1936	1945	1936	1945	1936	1945
5 years	41	35	24	27	0	0
3 years	0	2	0	2	0	0
2 years	1	1	0	2	0	0
1 year	0	12	2	14	26	46
None	0	1	0	1	0	4
No approved plan	9	0	25	5	25	1

[1] As of Oct. 1, 1945.

[2] For simplification, the residence requirements of the States were grouped in classifications which included variants, e. g., "5 years out of 9 years," "5 years out of 10 years," and so on.

[3] In 1936, 11 States waived residence requirements if the applicant became blind while resident in the State. In 1945, 19 States made such provision.

The subsequent trend toward liberalization is particularly noticeable in old-age assistance. In 1936, after the Social Security Act had been in effect for a year, only 1 State operating under the act had residence requirements less rigorous than the maximum permitted by the act. In 1945, however, 16 States required substantially less than the maximum permitted, including Rhode Island, which had repealed all residence laws relating to public assistance. On the other hand, many States still cling to the maximum residence requirements allowable.

While there is a trend toward liberalization of residence requirements for the programs in which there is Federal financial participation, the trend in general assistance—the program needed to take care of people not covered by the Federal-State programs—has been toward stricter State and local settlement requirements. This trend in general assistance was noted by both the Select Committee to Investigate Interstate Migration,[4] headed by Representative Tolan, and by the National Resources Planning Board.[5]

The trend toward liberalization in the three categories of public assistance for which the Social Security Act makes funds available to the States can be traced in part to an awareness by the States that residence requirements bar otherwise eligible people who, in many instances, have to be cared for by State-local programs without Federal funds. The States have also realized that stringent requirements which arbitrarily make people ineligible defeat the purpose of the program. In addition to the actual lowering of statutory residence requirements, some States reduce residence requirements on a reciprocal basis. Wisconsin has done more than any other State to work out such reciprocal agreements and now has agreements with 14 other States.

Progress, although real, has been slow because of the pressure against repealing residence requirements. It has been argued that, without residence requirements, States which make more nearly adequate public assistance payments would have an in-

[3] For old-age assistance and aid to the blind, the maximum is 5 years out of the last 9 years, including 1 year immediately preceding application. A child may not be disqualified for aid to dependent children on the basis of residence if he has resided in the State for 1 year immediately preceding the application. Special provisions apply to children under 1 year of age.

[4] U. S. Congress, *Report of the Select Committee to Investigate the Interstate Migration of Destitute Citizens*, H. Rept. 369, 77th Congress, 1942, p. 58.

[5] National Resources Planning Board, *Security, Work, and Relief Policies*, Report for 1943, Part III, H. Doc. 128, 78th Congress, 1943, p. 143.

flux of potential recipients from the other States.

The validity of this argument can be seriously questioned, but the recommendations which the Social Security Board has made to Congress would, if adopted, make the argument even weaker. The Board has recommended that Federal funds be made available to aid the States in financing general assistance. Such a program would make more needy people eligible for aid in their own State and would minimize whatever tendency there might be for people to move in order to obtain assistance. The Board, furthermore, has recommended adoption of a plan of special Federal aid for low-income States. By raising the average payment in the low-income States, this plan would reduce the "spread" between these States and those which can make higher payments. If more nearly adequate assistance is available for all needy people, there is unlikely to be any movement of people into a State to receive assistance.

There is serious doubt, moreover, whether people really do move in order to obtain assistance. Rhode Island, which has repealed residence laws for all forms of public assistance, has found that people do not move to obtain assistance. Governor McGrath reported the State's experience as follows:

> Rhode Island's experience indicates that the proposed advantages of settlement and residence restrictions upon eligibility for assistance are completely fictitious. It has been contended that if a State has high relief standards and does not have settlement restrictions, persons will move into that State to be eligible for relief. We have found this contention to be false. The general public assistance standards in Rhode Island are probably the highest in the United States; but to this day we have not been able to locate a single family or individual who has moved into Rhode Island in order to avail himself of Rhode Island's high general assistance standards. Many workers have moved into the State to obtain work, and Rhode Island's war industries have been strengthened by this migration. A small proportion of these have needed assistance. We do not begrudge them this assistance. We think that any State should expect to take the bitter with the sweet and that any area whose resources are strengthened by migration should expect to assume responsibility for the relatively small relief burden which is incidental to that migration.
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> We do not know exactly how many persons are now receiving assistance in Rhode Island who would not have been eligible had our settlement laws not been abolished. We do not know because the whole expensive, time-consuming, administrative work involved in determining settlement has been eliminated, resulting in a very substantial streamlining of the relief administration process. We are pretty certain that the cost of assisting these persons is not nearly as great as the administrative costs which were necessitated when settlement was a necessary condition to eligibility. Even if it were much more costly to provide for them, it is absurd for us, in these days when we are feeding many nations and planning to feed hungry peoples throughout the world, to draw the line for specified periods of time on Americans in our own States and communities.[6]

Proposals for Changes in Residence Laws

Several proposals have been made for changes in residence laws to minimize their undesirable effect. One of these is to have the various States work out reciprocal agreements among themselves. Such agreements, generally speaking, would enable a State to lower or abandon its residence requirements as they affect an applicant coming from another State, if the other State is willing to act similarly for applicants coming from the first State. The effect of this type of agreement is limited, since individual arrangements would have to be worked out between and among all the States. Many States cannot take such action because their laws do not permit it.

General use of these agreements would complicate rather than simplify administration of residence laws. Details of the agreements with every State would have to be made available to everyone investigating applications for assistance. The amount of time required to work out the agreements with the States and to apply them on a day-to-day basis might well prove greater than that required under present laws. Furthermore, unless all these agreements called for waiving residence requirements completely, some applicants would still be disqualified. Reciprocal agreements, in addition, would not diminish the effort now expended in proving residence. The same expensive and time-consuming investigations would still have to be made.

Enactment of a uniform residence law by all States has been proposed on and off for 30 years to minimize the undesirable effect of residence laws. One year is the time period usually suggested. This proposal would provide that a person would establish residence, for purposes of public assistance, by residing within the State of application for a year, and that all State laws would specify that no person could lose his residence until he had gained a new one.

Actually, only a few States have enacted this type of law. Even if all States did enact such a law, there is no assurance that it would be interpreted uniformly by the various State attorneys general and State departments. Thus, what started out to be a uniform law might cease to be uniform because of differing interpretations. In addition, the burden of conducting residence investigations would still remain with the States. Again, the enactment of a uniform residence law would disqualify some people who, by frequent moving, cannot establish residence for assistance without living in the State of application for a year.

This proposal offers no assurance that all otherwise eligible applicants would have their needs met while the States were investigating residence. Problems would also arise if people are to retain their residence in one State until they acquire it in another. For persons who apply for aid in States where they have no residence, it would be necessary for the States charged with responsibility either to accept another State's investigation or make its own investigation by mail.

A third proposal is to establish a program for nonresidents for which the Federal Government pays the total cost. All persons receiving assistance would be classified as residents and nonresidents, and assistance to the latter would be the financial responsibility of the Federal Government. One of the questions this proposal raises is whether assistance financed wholly by the Federal Government would be based on Federal standards or State standards. Experience with the Federal transient program has shown that a dual standard of care cannot be administered successfully. Such a plan creates a favored group—either residents or nonresidents, as the case may be—causing confusion and unreasonable discrimination. On the other hand, State standards should

[6] McGrath, J. Howard, "State Settlement Laws Delay Victory," *State Government*, February 1943, p. 31.

not necessarily apply, because the establishment of a separate category for nonresidents would presuppose that these people are a Federal, not a State, responsibility. It is therefore not to be expected that the State should have complete responsibility for determining the standard of care used for nonresidents.

Classifying people as nonresidents for the purpose of obtaining Federal funds might have the effect of segregating them as "outsiders" and handicapping the integration of these families into community life. Experience during the depression showed that when jobs are made available through the welfare department, such as work program jobs, nonresidents are the last to be placed. The transient program also showed that the tendency is toward less diligent investigations of eligibility where only Federal funds are used. Far from lessening the necessity for making residence investigations, this proposal might actually increase that task. With the incentive of full Federal payment for nonresidents, every possibility of proving lack of residence might be explored in order to shift the burden of support to the Federal Government.

Eliminate Residence Requirements

All proposals retaining residence requirements in public assistance are inconsistent with the goal of providing aid to all needy people. These requirements are time consuming to apply and cause delay in making aid available. They are wasteful and administratively cumbersome. While every reduction in these requirements qualifies some people who otherwise would not be eligible, some needy people still continue to be barred. The only way to qualify all otherwise eligible needy people is to abolish all residence requirements completely.

States individually are handicapped in abolishing residence requirements in their public assistance programs. These requirements, however, should not be permitted to bar assistance to people in need. Essential to an orderly transition to a peacetime economy is the ability of the population to move freely. Furthermore, the normal activities of people in this country involved considerable interstate movement even in peace and in otherwise normal times. Workers must feel free to make the moves they deem necessary for their economic security and personal happiness. If public assistance is needed in the transition, it should be only an incident and not a factor in effecting the worker's plans. Workers should not be handicapped in taking this step by the fear that they will lose their residence or, if they are already receiving assistance, that such assistance will be discontinued until residence is established in another State.

The necessity of removing residence requirements for public assistance has been recognized in many quarters. The Council of State Governments, for example, in recommending legislation to the States, pointed out that residence or settlement requirements tended to restrict the free movement of people and represented a handicap to the prosecution of the war.[7] This same reasoning applies now. The American Association of Social Workers has also gone on record as favoring a public assistance program to cover all needy persons without regard to such restrictions as length and place of residence.[8] The Conference of Northeastern States in Social Welfare and Relief went on record in 1944 as favoring the "abolition of State settlement laws."

The American Public Welfare Association at one time favored a maximum 1-year residence requirement with assumption by Federal Government of the total cost of assistance to persons with less than a year's residence. Recently the Association changed its position, and it now recommends that "The Federal Government participate financially only in those assistance and other welfare programs in which all residence and citizenship requirements have been eliminated."[9] The Association is composed of State and local welfare administrators, together with other persons interested in public welfare, and its recommendations merit careful consideration.

In general assistance, confusion and suffering result from use of settlement laws to determine eligibility. Every study has revealed that State laws and interpretations are not only inconsistent among the States but are also inconsistent with the objective of public assistance to grant assistance to people who need it.

The careful study of social security, work, and relief policies made by the National Resources Planning Board showed that local relief is usually denied to persons not possessing the legal settlement specified in the individual State laws.[10] A study made by the Russell Sage Foundation reached similar conclusions. The result of variations among the States, according to the Russell Sage Foundation, "is a group of needy persons for whose welfare no governmental unit has an accepted responsibility—people without a State, although most of them are American citizens."[11]

Similar observations were made by the Select Committee to Investigate Interstate Migration. "Year by year, because of the ever greater difficulty of proving settlement, it has become more difficult for large numbers of people to obtain relief in time of need. Departmental rules, opinions of attorneys general, decisions of the courts, and the increased importance of 'intent,' have all combined to aggravate the complexity of the laws themselves, and to restrict the areas and circumstances under which general relief is obtainable."[12]

The Social Security Board's Recommendations

The Social Security Board has recommended Federal grants-in-aid to States for a comprehensive and adequate program of general assistance with no eligibility requirements other than need. The Board has made several other proposals for extending public assistance under the Social Security Act but has made clear, however, that any such extension of Federal responsibility should be conditioned on the removal of State residence requirements. Assistance to the States to help them aid certain needy groups has been recognized as a Federal responsibility in existing provisions of the Social Security Act, and the Board has recommended that this responsibility be expanded to include all persons in need. It is to all these people, not to residents alone, that this State-Federal responsibility extends.

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[7] Council of State Governments, *Suggested State War Legislation for 1943*, Report No. 2, 1942, p. 61.

[8] "A. A. S. W. Platform on Public Social Services," *The Compass*, September 1944, p. 4.

[9] American Public Welfare Association, *Letter to Members*, September 28, 1945.

[10] National Resources Planning Board, op. cit., p. 143.

[11] Ryan, Philip E., *Migration and Social Welfare*, Russell Sage Foundation, 1940, p. 51.

[12] U. S. Congress, op. cit., p. 635.

When the Social Security Act was passed, Congress decided to have responsibility for its assistance provisions carried out by a partnership of the Federal Government and the States. The results have justified that decision. When States disqualify otherwise eligible people because of residence requirements, the result is inequitable treatment for people who do not fulfill the requirements of the State in which they apply for aid. Federal funds, derived from all the people, are made available to aid the States in caring for certain needy groups. Thus, there is strong justification for assuring equal treatment of all the people by making assistance equally available. The people of the United States have contributed generously to feeding needy people in various parts of the world. Through their Congress they have indicated a willingness to pay for assistance to needy groups in this country. It is thoroughly illogical to deny aid to some people just because they do not fulfill a residence requirement of a particular State.

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operation be postponed until June 1947. The Administration is committed to returning the service to State operation, and that commitment will be carried through. But this is not the time."

Apart from the timing of the transfer, President Truman criticized the measure's provisions governing the basis for Federal-State cooperation as failing to "assure that an adequate service will be available in all States." He laid down two basic objectives for any Federal-State cooperative program for a national system of public employment offices financed by Federal funds. "The Federal Government must be sure that the essential services are being provided through the State's employment offices, and it must know that the offices are being operated with reasonable efficiency."

"The fact is," the President continued, "that our present legislation governing the operation of our cooperative Federal-State employment service system, enacted in 1933, needs thorough revision in the light of changed conditions. Several bills now pending . . . are designed to accomplish this. Enactment of such permanent legislation is essential before a transfer back to State operation can be achieved in an efficient and orderly manner.

"Adequate and uniform standards of service must be maintained and proper security for the personnel of the organization itself must be provided in a permanent way, if it is to keep and attract the calibre of personnel able and eager to perform its important tasks.

"Only in this way can we provide a sound and permanent basis for Federal-State cooperation in the maintenance of a post-war system of public employment offices which will meet the needs of veterans, employers, workers, and the Nation as a whole."

President's Report to the Nation

In his radio report to the Nation on January 3, the President again urged that Congress act to provide Federal supplementation of "the unemployment insurance benefits now provided by the different States. While unemployment has not reached anything like the level which was feared," he said, "there still is need to provide at least some measure of subsistence to those men and women who do lose their jobs by the end of war production." The President called "acceptable" the Senate-approved bill, now before the House Ways and Means Committee, which provides for a maximum of 26 weeks of payments at State-established levels of compensation. The President included a "health and medical care program" among other problems urgently requiring legislative attention.

Deficiency Appropriation

Additional appropriations of $27 million for Social Security Board operations during the balance of the fiscal year 1946 were included in the First Deficiency Appropriation Act, 1946 (Public Law No. 269), approved by the President on December 28. Of this amount, $25 million was allocated for grants to States for unemployment compensation administration and the remainder represents salaries of Board personnel and miscellaneous expenses.

Supreme Court Ruling on Social Security Tax Appeal

Exemption of the Better Business Bureau of Washington, D. C., from paying social security taxes on the ground that it is an "educational" organization was unanimously denied by the Supreme Court on November 13.

The Bureau had argued that it qualified for exemption as a corporation "organized and operated exclusively for scientific or educational purposes." The Court, rejecting this view, held that it was apparent "beyond dispute that an important, if not the primary pursuit of petitioner's organization is to promote not only an ethical, but also a profitable business community."

Social security taxes were paid by the Bureau from 1937 through 1941 and it later filed claims for refunds, which were disallowed in the lower courts.

GI Bill Amendments

Legislation to clarify and liberalize certain provisions of the Servicemen's Readjustment Act of 1944 was completed by Congress in December, and the bill was signed by the President on December 28 (Public Law No. 268, 79th Cong.).

Liberalization of the education provisions entitles any eligible veteran to at least a year's education or training, regardless of his age, and increases the monthly subsistence allowances paid during the educational period. The terms on which loans for purchase or construction of a home, farm, or business property are guaranteed have also been liberalized and extended. A more detailed discussion of the amendments is carried elsewhere in this issue, as well as a comparison, summarized from a report prepared by Bernard M. Baruch, of the major types of benefits available to World War II veterans under this act and similar provisions in the British Commonwealth.

UNRRA Appropriations

The remaining $550 million due on the total commitment of $1,350 million authorized in 1944 by Congress as this country's contribution to UNRRA relief operations was appropriated in Public Law No. 259, signed December 14. A bill pledg-

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