CONSTITUTIONAL LAW—RESIDENCY REQUIREMENTS AND STATE BAR EXAMINATIONS—*Keenan v. Board of Law Examiners*, 317 F. Supp. 1350 (E.D.N.C. 1970).

The plaintiffs, James Keenan, Margaret Burnham, and Loren Mitchell, commenced this action to test the validity of R. VI (6) of the Rules Governing Admission to the Practice of Law in the State of North Carolina.[1] The Board of Law Examiners was made a party defendant, since it was charged by the North Carolina Legislature with the responsibility of establishing and enforcing all rules pertaining to the licensing of attorneys.[2]

Each plaintiff is a practicing attorney, having been admitted to at least one other state bar. Upon request to the Board for permission to take the North Carolina bar examination, each applicant was refused on the ground that he failed to comply with the residency requirements of R. VI (6). Pending its decision, the three judge panel granted the plaintiffs' motion for a preliminary injunction and ordered the Board to treat the applications as though there had been full compliance with R. VI (6).[3] Except for Mitchell, who failed to comply with another unchallenged rule, the examination was administered and each applicant passed.[4]

That portion of R. VI which the plaintiffs sought to have declared void provides:

> Before being certified (licensed) by the Board to practice law in the State of North Carolina a general applicant shall: . . . (6) Be and continuously have been a bona fide citizen and resident of the State of North Carolina for a period of at least twelve (12) months prior to the date of his bar examination . . . .

The court assumed jurisdiction of the controversy under the provisions of 28 U.S.C. §§ 1343(3), 2201, 2281,[5] and concluded that the

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1 This action was brought under the class action provisions of FED. R. CIV. P. 23. The class consisted of all prospective applicants for the North Carolina Bar Examination who had not yet been residents of the state for the twelve month period required by R. VI (6). Keenan v. Board of Law Examiners, 317 F. Supp. 1350 (E.D.N.C. 1970).

2 N.C. GEN. STAT. § 84-24 (Supp. 1969). This enacting section provides in pertinent part:

> For the purpose of examining applicants and providing rules and regulations for admission to the bar including the issuance of license therefor, there is hereby created the Board of Law Examiners . . . .

3 317 F. Supp. at 1352.

4 *Id.*

5 28 U.S.C. § 1343 (1964) provides in pertinent part:

cause of action maintained by the plaintiffs was one based upon a state's infringement of a federally protected right and therefore within the scope of *Ex parte Young*.[6] There the Supreme Court held that the federal courts could entertain an action when it was directed against the state.

The Board of Law Examiners contended that the court lacked subject matter jurisdiction, relying on the decision in *Theard v. United States*,[7] which held that the federal courts could not review questions of state disbarment except where constitutional issues were involved. The court in *Keenan v. Board of Law Examiners* concluded that it had "jurisdiction under 28 U.S.C. § 1343 to consider claims arising out of the application by state officials of a general bar admission requirement that is alleged to be unconstitutional on its face."[8] In reaching its conclusion, the court distinguished those issues involving errors in judgment in applying legislation and those involving alleged unconstitutional legislation, and found that the instant case fell within the latter category.[9]

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

. . . .

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States . . . .

28 U.S.C. § 2201 (1964) provides:

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

28 U.S.C. § 2281 (1964) provides:

An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title.

6 209 U.S. 123 (1908) (in a contempt case, the Court held that a suit against a state official was in reality a suit against the state and therefor cognizable in the federal courts); *accord*, Sparrow v. Gill, 304 F. Supp. 86, 89 (M.D.N.C. 1969) (action brought against state officials by a municipal resident seeking to have part of a state bussing statute declared unconstitutional).

7 354 U.S. 278 (1957) (Court held that while federal courts had no authority to review the actions of a state court in disbarring an attorney for personal or professional misconduct, such restrictions would not apply where the issue involved misconduct sufficient to disbar an attorney from practicing in federal courts).

8 317 F. Supp. at 1353.

9 *Id.*

The Board further argued that the court should abstain from exercising jurisdiction in this matter and that such abstention would avoid an unnecessary decision of a serious federal question and alleviate unnecessary federal-state friction.[10] The court, in responding to these contentions, asserted that the courts of North Carolina had already determined the validity of R. VI (6), although not in this particular action.[11]

The court further found *England v. Louisiana Medical Examiners*[12] to be dispositive of the issue of abstention:

> [T]he abstention doctrine . . . [by][i]ts recognition of the role of state courts as the final expositors of state law implies no disregard for the primacy of the federal judiciary in deciding questions of federal law.[13]

Having disposed of the jurisdictional issues, the court declared that R. VI (6) was unconstitutional because it "denies to the plaintiffs . . . equal protection of the laws" and "imposes a burden upon the right to interstate travel without being necessary to promote a compelling state interest . . . ."[14] The court perceived that R. VI (6) classified applicants into two categories: (1) those applicants who had been residents of the state of North Carolina for the required period of time; and (2) those who had failed to establish such residency.[15] It found that such a distinction involving the right to become a member of the legal profession denied to the nonresident applicants equal protection guaranteed by the fourteenth amendment.[16] The court further held that the rule

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10 *Id.* at 1356.

11 *Id.* at 1357. The late Chief Justice R. Hunt Parker of the North Carolina Supreme Court had painstakingly reviewed the current rules, including R. VI (6), and had approved their adoption. Also, the Supreme Court of North Carolina had reviewed R. V, superseded by R. VI (6), in Baker v. Varser, 240 N.C. 260, 82 S.E.2d 90 (1954), and held that the rule did not violate any of the applicant's rights under the North Carolina Constitution.

12 375 U.S. 411 (1964) (Court held that a litigant who is remitted to the state court under the doctrine of abstention may preserve his right to return to the federal courts for disposition of his federal contentions).

13 *Id.* at 415-16.

14 317 F. Supp. at 1362.

15 *Id.* at 1358.

16 *Id.* at 1362. It has been generally recognized that the right to practice law in a state court does not fall within the purview of the privileges and immunities provision of the fourteenth amendment. As the Supreme Court of Pennsylvania stated in Ginsburg v. Kovrak, 392 Pa. 143, 139 A.2d 889, *appeal dismissed*, 358 U.S. 52 (1958), the individual states are the sole authors of the requirements for legal licensing, and failure to admit applicants to practice law within the state who have not complied with the reasonable requirements of such licensing statutes, is not in contravention of the privileges and immunities provisions of the fourteenth amendment. Indeed, the Supreme Court in Konigsberg v. State Bar, 353 U.S. 252 (1957) recognized this proposition when it stated

was objectionable because of its over inclusion; while it barred applicants who may have lacked the necessary qualifications (ability and character) it also barred, "arbitrarily and capriciously, applicants who [were] eminently qualified for admission."[17] Here the court found support in *Carrington v. Rash*,[18] where the Supreme Court held that the state's interest in barring transients from voting (by requiring a residency waiting period) was a valid exercise of its police power, but the inclusion of all servicemen into such a classification would be over inclusive and violative of the equal protection clause.[19]

The court in *Keenan* also held that, notwithstanding the failure of R. VI (6) to meet the equal protection prerequisites, the rule also "treads upon fundamental personal rights" of interstate travel.[20] As primary authority for this conclusion, the court cited *Shapiro v. Thompson*[21] where, in a case involving a residency requirement for receipt of welfare by newly arrived residents, the Supreme Court held that the right to relocate or pass through another state is a fundamental constitutional right upon which the individual states could not tread, absent a compelling state interest.[22]

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that the states must be left to select their own bars and establish the necessary qualifications, such regulation being necessary for the protection of their citizens.

The one area where the privileges and immunities clause of the fourteenth amendment has been applied, in respect to the legal profession, is in the area of federal-state practice. In State *ex rel.* The Florida Bar v. Sperry, 140 So. 2d 587 (Fla. 1962), *rev'd*, 373 U.S. 379 (1963), the Florida Supreme Court had sustained an order barring the petitioner from opening an office within the state of Florida for the purpose of practicing patent law before the United States Patent Court, of which he was a practicing member. The Supreme Court of the United States, in reversing, held that the privileges and immunities clause of the fourteenth amendment prevented the state of Florida from excluding a member of the United States courts from practicing law within its boundaries, when such practice was limited to those matters solely within the federal court system. *See generally* Comment, *Fourteenth Amendment, Privileges and Immunities Clause, Civil Liberties, The Hague Case*, 38 MICH. L. REV. 57 (1939); Comment, *Privileges and Immunities of Citizens of the United States—Colgate v. Harvey Overruled*, 9 GEO. WASH. L. REV. 106 (1940).

17 317 F. Supp. at 1360.

18 380 U.S. 89 (1965).

19 *Id.* at 96.

20 317 F. Supp. at 1361.

21 394 U.S. 618 (1969).

22 *Id.* at 634.

> 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. An indigent who desires to migrate, resettle, . . . and start a new life will doubtless hesitate if he knows that he must risk making the move without the possibility of falling back on state welfare assistance during his first year of residence, when his need may be most acute. But the purpose of inhibiting migration by needy persons into the State is constitutionally impermissible.

Id. at 629.

By its ruling, the court has extended the principles enunciated in *Schware v. Board of Bar Examiners*[23] and *Konigsberg v. State Bar.*[24] *Schware* involved the refusal by the state of New Mexico of a license to practice law, the basis being the applicant's alleged subversive affiliations. Denial of the applicant's petition for licensing was mandated by the Board of Law Examiners without a hearing in which the applicant could present evidence and confront the witnesses against him. The Court, in condemning such action, succinctly stated:

> A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment . . . . [The] State can require high standards of qualification, such as good moral character or proficiency in its law . . . but any qualification must have a rational connection with the applicant's fitness or capacity to practice law.[25]

The Court further found that, from the record submitted, there was insufficient evidence to "rationally [justify] a finding that [the applicant] was morally unfit to practice law."[26]

While *Schware* evidenced an awareness of the state's obligation not to act arbitrarily in determining any qualifications, *Konigsberg*, decided on the same day, held that an applicant for admission to a state bar could refuse to give information which the Committee of Bar Examiners sought, where he had furnished sufficient evidence tending to prove his good moral character.[27] The petitioner in *Konigsberg* had continuously refused to answer any questions concerning his present or past membership in the Communist Party, and the Court held that where an applicant for admission to a state bar had demonstrated his good moral character and the Committee had failed to show any conduct which would adversely reflect upon his character fitness, a finding of unacceptability could not be based solely upon his silence or upon any adverse inferences drawn therefrom.[28]

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23 353 U.S. 232 (1957).

24 353 U.S. 252 (1957).

25 353 U.S. at 238-39.

26 *Id.* at 246-47; *accord*, Willner v. Committee on Character & Fitness, 373 U.S. 96 (1963) (attorney's right to practice law is a constitutionally protected right and exclusion for character fitness reasons must be based upon a full and open hearing).

27 353 U.S. 252. *But see* Konigsberg v. State Bar, 366 U.S. 36 (1961) (Court, on subsequent appeal, held that refusal by the petitioner to answer material questions having a substantial relevance to his qualifications would prevent his licensing under California law); Comment, *Character Investigation and Admission to the Bar*, 20 U. PITT. L. REV. 841 (1959); Comment, *Admission to the Bar and the Separation of Powers*, 7 UTAH L. REV. 82 (1960).

28 *Id.* at 273; *cf. In re* Anastaplo, 366 U.S. 82 (1961) (failure of applicant to co-

While *Schware* and *Konigsberg* involved the rights of attorneys to be admitted to the state bar, the main thrust of these decisions was in the area of due process. Since such issues were not raised, the Court neither inquired into the area of residency, nor did it see fit to establish general guidelines for the administration of the various state bar requirements. There have been only three reported cases found, all in New York, where the courts have been confronted with the issue of residency as it applies to attorneys.[29] In each, there was a distinct failure to either recognize or explore the constitutional issues of equal protection and the restriction upon free interstate travel. Typical is the holding in *In re Kerno:*

> Application for admission to the Bar denied . . . [because] the applicant has failed to furnish satisfactory proof that he is and has been an actual resident of the State of New York for not less than six months immediately preceding the making of such application for admission . . . .[30]

Pre-*Schware* decisions have generally held that the right to practice law was not a property right, and as such, not protected by the fourteenth amendment.[31] But with the advent of mid-twentieth century concern for civil liberties and equal protection guarantees, regardless

operate with the Committee on Character Fitness of the Illinois Bar by refusing to answer certain questions was sufficient to prevent licensing); Wieman v. Updegraff, 344 U.S. 183 (1952) (state employees are protected from arbitrary and discriminatory exclusion from public employment by the Constitution); Slochower v. Board of Educ., 350 U.S. 551 (1956) (dismissal of public school teacher without a hearing violated due process clause of the fourteenth amendment); Dent v. West Virginia, 129 U.S. 114 (1889) (statute requiring physicians to acquire a license was constitutional since its purpose was to protect the public from unqualified practitioners). *But see* Spevack v. Klein, 385 U.S. 511 (1967), where the Court held that the fifth amendment right against self-incrimination applied to the states through the fourteenth amendment. Mr. Justice Fortas in his concurring opinion stated:

> [A] lawyer is not an employee of the State. He does not have the responsibility of an employee to account to the State for his actions because he does not perform them as agent of the State. His responsibility to the State is to obey its laws and the rules of conduct that it has generally laid down as part of its licensing procedures. The special responsibilities that he assumes as licensee of the State and officer of the court do not carry with them a diminution, however limited, of his Fifth Amendment rights.

Id. at 520.

29 *In re* Meyer, 6 App. Div. 2d 696, 174 N.Y.S.2d 58 (1958); *In re* Kohl, 5 App. Div. 2d 781, 170 N.Y.S.2d 678 (1958); *In re* Kerno, 1 App. Div. 2d 972, 151 N.Y.S.2d 29 (1956).

30 1 App. Div. 2d at 973, 151 N.Y.S.2d at 30.

31 *See, e.g.*, Fellner v. Bar Ass'n, 213 Md. 243, 131 A.2d 729 (1957) (in a disbarment proceeding for violation of Maryland's criminal code, the court held that the right to practice law was not a constitutional right and therefore not within the purview of the fourteenth amendment); *In re* New York County Lawyers Ass'n, 4 Misc. 2d 728, 156 N.Y.S. 2d 651 (1956) (criminal contempt proceeding to enjoin the practice of law in New York without first acquiring a license).

of race or residence,[32] at least one jurisdiction enunciated a new philosophy concerning the rights of a professional to employ his skill. The Supreme Court of Arizona in *Application of Levine* stated:

> [T]here is inherent in our democratic system the right to compete freely on an equal basis for the material goods of existence and that the right is protected by the due process and equal protection clauses of the Fourteenth Amendment.[33]

The court indicated that it was discarding the privilege-right distinction in favor of the concept that the rights of an attorney to practice his profession were of no less import than those of any other occupation; these rights must be shared on equal terms by all who seek to earn a living.[34]

In *Lindsley v. Natural Carbonic Gas Co.*,[35] the Supreme Court was confronted with a state statute involving the regulation of natural gas production, and Mr. Justice Van Devanter, in the course of the majority opinion, enumerated certain guidelines for the purpose of determining the validity of legislation:

> 1. The equal protection clause of the Fourteenth Amendment does not take from the State the power to classify in the adoption of police laws, but admits of the exercise of a wide scope of discretion in that regard, and avoids what is done only when it is without any reasonable basis and therefore is purely arbitrary. 2. A classification having some reasonable basis does not offend against that clause merely because . . . in practice it results in some inequality. 3. When the classification in such a law is called in question, if any state of facts reasonably can be conceived that would sustain it, the existence of that state of facts at the time that the law was en-

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32 *See, e.g.*, Shelley v. Kraemer, 334 U.S. 1 (1948) (private agreements which discriminate against blacks regarding housing are violative of the equal protection clause where state court enforcement is present); Smith v. Allwright, 321 U.S. 649 (1944) (exclusion, on the basis of race, from voting in a state primary election where the state either supports or regulates such elections is unconstitutional). *See generally* Comment, *Discrimination Under the Fourteenth Amendment—Expansion of the State Action Concept*, 6 VILL. L. REV. 218 (1960-61); Comment, *State Action and the Equal Protection Clause—Status of Lessee of Public Property*, 59 MICH. L. REV. 450 (1961).

33 97 Ariz. 88, 91, 397 P.2d 205, 207 (1965).

34 *Id.* Many states still distinguish the rights of attorneys on the basis of the privilege-right theory. However, with respect to constitutional issues, such a distinction would seem to be a mere problem of semantics. As the Supreme Court stated in *Schware*:

> We need not enter into a discussion whether the practice of law is a "right" or "privilege." Regardless of how the State's grant of permission to engage in this occupation is characterized, it is sufficient to say that a person cannot be prevented from practicing except for valid reasons. Certainly the practice of law is not a matter of the State's grace.

353 U.S. at 239 n.5.

35 220 U.S. 61 (1911).

> acted must be assumed. 4. One who assails the classification in such a law must carry the burden of showing that it does not rest upon any reasonable basis, but is essentially arbitrary.[36]

In evaluating the reasonableness of the classification established by R. VI (6), the court in *Keenan* considered the three reasons which the Board of Law Examiners proffered in justifying its continued existence: (1) An applicant who resides in the state for the requisite period of time should become familiar with the governmental structure of the state and his community; (2) The residency requirement gives the community a chance to evaluate the applicant's moral character, and makes the evaluation of the applicant by the Board easier and much less costly; (3) When the applicant has resided in the state for one year, it evidences an intent on his part to become a permanent resident.[37]

In responding to these issues, the court first found that there was "no rational relationship between 'fitness or capacity to practice law' and a knowledge of 'local custom',"[38] such a contention being totally provincial in nature and not in any way related to the upgrading of the state's bar. The court dismissed the second justification, stating that the only effective method of evaluating an applicant's moral character, or evaluating his background, was to consider his "life style" in the community where he has spent the better part of his life. Such an evaluation cannot be validly made upon the basis of a residence for one year.[39] Concerning this issue, it has been said:

> Of course the reason given for a period of residence prior to admission is that it will thus prevent an unknown lawyer of bad moral or professional character from gaining admission, because during this period he will have an opportunity to establish his

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36 *Id.* at 78-79. For cases involving regulation of business, *see* Railway Express Agency, Inc. v. New York, 336 U.S. 106 (1949) (sustaining New York City ordinance which prohibited the operation of vehicles carrying advertising); Tigner v. Texas, 310 U.S. 141 (1940) (sustaining a state antitrust statute which exempted combinations of agricultural producers); Bordens Farm Prod. Co. v. Ten Eyck, 297 U.S. 251 (1936) (sustaining differential between advertised and unadvertised milk). *But see* Morey v. Doud, 354 U.S. 457 (1957) (invalidating a state statute which required all businesses engaged in selling money orders to submit to state licensing requirements except American Express). *See generally* Dykstra, *Legislative Favoritism Before the Courts*, 27 IND. L.J. 38 (1951).

For cases on taxation, *see* Carmichael v. Southern Coal & Coke Co., 301 U.S. 495 (1937) (sustaining a tax on employers of eight or more for unemployment compensation); Magoun v. Illinois Trust & Sav. Bank, 170 U.S. 283 (1898) (sustaining a tax differential on inheritance based upon relationship and amount). *See generally* Sholley, *Equal Protection in Tax Legislation*, 24 VA. L. REV. 229 (1938); Comment, *Taxing the Chain Stores*, 12 ST. JOHN'S L. REV. 75 (1937).

37 317 F. Supp. at 1359.

38 *Id.*

39 *Id.* at 1360.

> good moral character where he will be under the observation of local people. Practically this is of little or no protection to the state and the bar. A mere year of residence does not go far to establish a man's character and only careful investigation at the applicant's former place of residence is apt to disclose those habits or qualities which would make him an undesirable member of the local bar.[40]

While investigating an applicant's out of state credentials might be expensive, the court reasoned that this factor might be alleviated by the use of the highly "efficient, thorough, and widely used nationwide investigatory service operated by the National Conference of Bar Examiners."[41] Notwithstanding such a service, as was intimated in *Carrington*, mere administrative inconvenience is insufficient justification for an arbitrary, over inclusive regulatory classification.[42]

The court failed to consider the Board's third contention, apparently finding no sound basis in law for such a justification. Moreover, *Schware* would seem to be dispositive of this issue, since it is difficult to conceive of a situation wherein permanent residence could rationally reflect upon one's legal ability. The court felt that this justification was merely a subterfuge to protect resident attorneys from outside competition. An analogous situation arose in *Mercer v. Hemmings*,[43] where the Supreme Court of Florida held that the two year residency requirement for the state's accountancy examination was unjustified in light of the goal to be achieved:

> The regulation of the profession of accounting is an exercise of the police power, for the benefit and protection of the public and *is not intended as economic protection for the profession from prospective competitors.* Little, if any, reason can be found for requiring a certified public accountant of another state to cease his profession, close his office, and bask in the Florida sunshine for a period of two years before taking the examination. Successful and worthy persons in other states, the kind of citizens we want in Florida, are from a practical standpoint banned from ever becoming Florida Certified Public Accountants.[44]

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40 Horack, *"Trade Barriers" to Bar Admissions*, 28 J. AM. JUD. SOC'Y 102, 103 (1944). *See also* Comment, *Attorneys: Interstate and Federal Practice*, 80 HARV. L. REV. 1711 (1967); Comment, *Restrictions on Admission to the Bar: By-Product of Federalism*, 98 PENN. L. REV. 710 (1950).

41 317 F. Supp. at 1360. The Board had contended that the necessary delay, administrative paperwork, and inconvenience would be unduly expensive if it had to investigate the applicant's out of state credentials.

42 380 U.S. 89, 96 (1915) (prohibition against voting by army personnel declared unconstitutional); *see also* Shapiro v. Thompson, 394 U.S. 618 (1969).

43 194 So. 2d 579 (Fla. 1967).

44 *Id.* at 583-84 (emphasis added).

Although there is no provision in the Constitution which expressly guarantees the right of interstate travel, it has been generally conceded that such right is established by either the commerce clause[45] or the privileges and immunities clause[46] of the fourteenth amendment. Irrespective of which theory is applied, the right to be free from oppressive restrictions to interstate travel has been a fundamental concept. As Mr. Justice Stewart stated in *United States v. Guest,*

> [the] right [of interstate travel] finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created. In any event, freedom to travel throughout the United States has long been recognized as a basic right under the Constitution.[47]

It seems evident that gauged against this pronouncement, R. VI (6) is an unnecessary barrier to the right of relocation into the state of North Carolina.

Keenan will probably be severely limited to its own peculiar fact situation in the future. Considering the diversity of state residency requirements,[48] it is difficult to speculate under what set of circumstances a residency requirement will be found violative of the constitutional guarantees of equal protection and free interstate travel. But *Keenan* has established some guidelines by which rules similar to R. VI (6) may be judged. While it is true that these standards are not explicitly summarized, it has by its negative implications destroyed for all time three of the most inconsistent and irrational arguments asserted in defense

45 *See* Edwards v. California, 314 U.S. 160 (1941) (invalidating California statute making it a misdemeanor for anyone to knowingly bring or help bring into the state a nonresident indigent person); Passenger Cases, 48 U.S. (7 How.) 282 (1849) (invalidating tax on each passenger of a foreign ship or from a sister state to defray expenses in inspecting for disease).

46 *See, e.g.*, Ward v. Maryland, 79 U.S. (12 Wall.) 418 (1871) (invalidating a tax placed upon all merchandise sold within the state and not manufactured there); Crandall v. Nevada, 73 U.S. (6 Wall.) 35 (1868) (invalidating tax on all personal travel, both into and out of the state).

47 383 U.S. 745, 758 (1966) (concurring opinion) (indictment of private citizens for violation of 18 U.S.C. § 241 for conspiring to deprive certain black citizens of the use of interstate roads).

48 *No Residency Requirement*: District of Columbia, Florida, Illinois, and Louisiana; *Resident at the Time of Application*: Alabama, Arkansas, Connecticut, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, North Dakota, Washington, and Wisconsin; *One to Six Months Residency*: Alaska, Arizona, California, Delaware, Idaho, Kentucky, Maine, Missouri, Montana, Nevada, New Mexico, New York, Oklahoma, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, and Wyoming; *Seven Months to One Year Residency*: Georgia, Hawaii, Mississippi, North Carolina, and West Virginia; *Must be a Registered Voter*: Indiana; *Must be Domiciled within the State*: New Jersey.

of such requirements: knowledge of local custom and government; public scrutiny and ease of evaluation; and encouragement of permanent residency. The court has evaluated the ambitious motives given for the adoption of such rules and found that they do not adequately further a valid state interest in abridging a nonresident's rights.

Perhaps the most noteworthy contribution of *Keenan* is the severing of the bonds which have held an attorney to one geographical area. Under the present system, an attorney is precluded from moving into another jurisdiction to practice without enduring extreme economic hardship. He must wait an often burdensome period to take the bar examination; wait for the results to be published; place himself at the disposal of the state supreme court for the "swearing in" ceremony; and, until he has paid these "dues," he cannot be permitted to practice his profession. There is no temporary license for which he can apply, and working as a "law clerk" for an established firm will only bring him a small percentage of the income he formerly earned. It is small reward for the many years of professional training he has endured and an unnecessary burden on his right to earn a living. *Keenan*, it is hoped, will rectify this injustice.[49]

Jon J. Auty

[49] At press time, it would appear that *Keenan* is having this anticipated effect. Georgia's one year residency requirement was recently struck down by a three judge panel in Webster v. Wofford, — F. Supp. — (N.D. Ga., No. 14253, Dec. 31, 1970); Mississippi's one year residency requirement is under attack in Lipman v. Mississippi Board of Bar Admissions, (N.D. Miss., filed Dec. 22, 1970).