eight to sixteen. The statute in *Meyer* was found to interfere with the property interest of the plaintiff, a German teacher, in pursuing his occupation, while the private school plaintiffs in *Pierce* were threatened with destruction of their businesses and the values of their properties.[542] Yet in both cases the Court also permitted the plaintiffs to represent the interests of parents and children in the assertion of other noneconomic forms of "liberty."

"Without doubt," Justice McReynolds said in *Meyer*, liberty "denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men."[543] The right of the parents to have their children instructed in a foreign language was "within the liberty of the [Fourteenth] Amendment."[544] *Meyer* was then relied on in *Pierce* to assert that the statute there "unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control. . . . The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."[545]

Although the Supreme Court continued to define noneconomic liberty broadly in *dicta*,[546] this new concept was to have little impact for decades.[547] Finally, in 1967, in *Loving v. Virginia*,[548] the Court held that a statute prohibiting interracial marriage denied substantive due process. Marriage was termed "one of the 'basic civil

---

[542] Meyer v. Nebraska, 262 U.S. 390, 400 (1923); Pierce v. Society of Sisters, 268 U.S. 510, 531, 533, 534 (1928). The Court has subsequently made clear that these cases dealt with "a complete prohibition of the right to engage in a calling," holding that "a brief interruption" did not constitute a constitutional violation. Conn v. Gabbert, 526 U.S. 286, 292 (1999) (search warrant served on attorney prevented attorney from assisting client appearing before a grand jury).

[543] 262 U.S. at 399.

[544] 262 U.S. at 400.

[545] 268 U.S. at 534–35.

[546] Skinner v. Oklahoma, 316 U.S. 535, 541 (1942) (marriage and procreation are among "the basic civil rights of man"); Prince v. Massachusetts, 321 U.S. 158, 166 (1944) (care and nurture of children by the family are within "the private realm of family life which the state cannot enter").

[547] *E.g.*, Jacobson v. Massachusetts, 197 U.S. 11 (1905); Zucht v. King, 260 U.S. 174 (1922) (allowing compulsory vaccination); Buck v. Bell, 274 U.S. 200 (1927) (allowing sexual sterilization of inmates of state institutions found to be afflicted with hereditary forms of insanity or imbecility); Minnesota v. Probate Court *ex rel.* Pearson, 309 U.S. 270 (1940) (allowing institutionalization of habitual sexual offenders as psychopathic personalities).

[548] 388 U.S. 1, 12 (1967).