

erty interest at will.⁷⁹¹ A striking application of this analysis is found in *Logan v. Zimmerman Brush Co.*,⁷⁹² in which a state anti-discrimination law required the enforcing agency to convene a fact-finding conference within 120 days of the filing of the complaint. Inadvertently, the Commission scheduled the hearing after the expiration of the 120 days and the state courts held the requirement to be jurisdictional, necessitating dismissal of the complaint. The Court noted that various older cases had clearly established that causes of action were property, and, in any event, Logan's claim was an entitlement grounded in state law and thus could only be removed "for cause." This property interest existed independently of the 120-day time period and could not simply be taken away by agency action or inaction.⁷⁹³

The Liberty Interest.—With respect to liberty interests, the Court has followed a similarly meandering path. Although the traditional concept of liberty was freedom from physical restraint, the Court has expanded the concept to include various other protected interests, some statutorily created and some not.⁷⁹⁴ Thus, in *Ingraham v. Wright*,⁷⁹⁵ the Court unanimously agreed that school children had a liberty interest in freedom from wrongfully or excessively administered corporal punishment, whether or not such interest was protected by statute. "The liberty preserved from deprivation without due process included the right 'generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men.' . . . Among the historic liberties so protected was a right to be free from, and to obtain judicial relief for, unjustified intrusions on personal security."⁷⁹⁶

⁷⁹¹ *Vitek v. Jones*, 445 U.S. 480, 491 (1980). See also *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532 (1985).

⁷⁹² 455 U.S. 422 (1982).

⁷⁹³ 455 U.S. at 428–33. A different majority of the Court also found an equal protection denial. 455 U.S. at 438.

⁷⁹⁴ These procedural liberty interests should not, however, be confused with substantive liberty interests, which, if not outweighed by a sufficient governmental interest, may not be intruded upon regardless of the process followed. See "Fundamental Rights (Noneconomic Due Process)," *supra*.

⁷⁹⁵ 430 U.S. 651 (1977).

⁷⁹⁶ 430 U.S. at 673. The family-related liberties discussed under substantive due process, as well as the associational and privacy ones, no doubt provide a fertile source of liberty interests for procedural protection. See *Armstrong v. Manzo*, 380 U.S. 545 (1965) (natural father, with visitation rights, must be given notice and opportunity to be heard with respect to impending adoption proceedings); *Stanley v. Illinois*, 405 U.S. 645 (1972) (unwed father could not simply be presumed unfit to have custody of his children because his interest in his children warrants deference and protection). See also *Smith v. Organization of Foster Families*, 431 U.S. 816 (1977); *Little v. Streater*, 452 U.S. 1 (1981); *Lassiter v. Department of Social Services*, 452 U.S. 18 (1981); *Santosky v. Kramer*, 455 U.S. 745 (1982).