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## Constitutional Law—Guaranty of Liberty—Prohibition of Teaching German Language Not Valid Exercise of Police Power

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says: "We are not called upon to say just when or how far competitors may reveal to each other the details of their affairs. In the absence of an intention to monopolize, or the compulsion that results from a contract or agreement; the individual may exercise great freedom of contract; but concerted action through combination presents a wholly different problem and it is forbidden when the necessary tendency is to destroy the kind of competition that the public have long looked for protection."

In the *American Column and Lumber Company v. United States*, 257 U. S. 377, the Court says of that case, "we considered a combination of manufacturers got up to effectuate this new conception of confidence and competition, and held it within the inhibition of the Sherman Act because of its inevitable tendency to destroy real competition, as long understood, and thereby restrain trade. Our conclusion there cannot be reconciled with the somewhat earlier opinion and judgment of the court below. They are in direct conflict."

There has been a growing tendency on the part of producers, manufacturers and other business enterprises to organize for the regulation of prices of their respective products or materials, which has forced upon the courts the necessity of construing the clause "in restraint of trade" more liberally and to bring such organizations under the inhibition of the Sherman Act. This case goes a little further, illustrating how the courts must meet new situations under old law. So when competitors attempt to evade its provisions by declaring their purpose to be otherwise than their actions indicate, the court will look at the facts, as in this case, and render the decision in the light of what was actually done under the agreement.

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#### CONSTITUTIONAL LAW—GUARANTY OF LIBERTY—PROHIBITION OF TEACHING OF GERMAN LANGUAGE NOT VALID EXERCISE OF POLICE POWER.

In the recent case of *Meyer v. State of Nebraska*, Supreme Court Advance Opinions, page 698, the Supreme Court of the United States held as unconstitutional a law prohibiting the teaching of any foreign language to children who had not graduated from the eighth grade. The State sought to justify the law on the ground that such a measure is only a reasonable exercise of its police power and has for its purpose the protection of the public interest. Children are able to devote but comparatively few hours to school each day, and consequently this limitation necessitates a selection of the studies; and it is contended that such a selection by the State is a reasonable exercise of the police power.

The theory on which the constitutionality of the statute is attached is that it violates that liberty which is guaranteed to the individual by the Fourteenth Amendment to the Constitution. The court refrains from giving a definition of the "liberty" guaranteed but points out some things that have been included in various interpretations of the Amendment; namely, freedom from bodily re

straint, the right to contract, the right to engage in the common occupations of life, to acquire useful knowledge, to marry, to establish a home and bring up children, to worship God according to the dictates of one's own conscience, and generally, to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. *Slaughter House Cases*, 16 Wall. 36; *Twining v. New Jersey*, 211 U. S. 78; *Adams v. Tanner*, 224 U. S. 590; *New York Life Insurance Co. v. Dodge*, 246 U. S. 357; *Truax v. Corrigan*, 257 U. S. 312; *Adkins v. Children's Hospital*, 24 A. L. R. 1238. The established rule is that this liberty cannot be interfered with under the guise of protecting the public interest, if the legislative action is without relation to some purpose within the competency of the State to effect.

It is undoubtedly the right of a State to compel attendance of children at some school and to make reasonable regulation of such schools, including a requirement that there shall be instruction in English. But a statute which forbids instruction to children of any foreign language, when such instruction is generally recognized by educators as being beneficial in itself and also necessary in order to acquire proficiency in the use of the language at a more mature age, is not a reasonable interference on the part of the State to protect the good health or morals of its residents, but contrary to the rights protected by the Fourteenth Amendment; hence unconstitutional.

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