

Excerpts from *Tinker v. Des Moines* U.S. Supreme Court Majority Opinion, 1968

Page 503

Tinker et al. v. Des Moines Independent Community School District et al.
Certiorari to the United States Court of Appeals for the Eighth Circuit

No. 21. Argued November 12, 1968. – Decided February 24, 1969.

Petitioners, three public school pupils in Des Moines, Iowa, were suspended from school for wearing black armbands to protest the Government's policy in Vietnam. They sought nominal damages and an injunction against a regulation that the respondents had promulgated banning the wearing of armbands. The District Court dismissed the complaint on the ground that the regulation was within the Board's power, despite the absence of any finding of substantial interference with the conduct of school activities.

The Court of Appeals, sitting en banc, affirmed by an equally divided court. Held:

1. In wearing armbands, the petitioners were quiet and passive. They were not disruptive and did not impinge upon the rights of others. In these circumstances, their conduct was within the protection of the Free Speech Clause of the First Amendment and the Due Process Clause of the Fourteenth. Pp. 505-506.
2. First Amendment rights are available to teachers and students, subject to application in light of the special characteristics of the school environment. Pp. 506-507.
3. A prohibition against expression of opinion, without any evidence that the rule is necessary to avoid substantial interference with school discipline or the rights of others, is not permissible under the First and Fourteenth Amendments. Pp. 507-514. 383 F. 2d 988, reversed and remanded.

Dan L. Johnston argued the cause for petitioners.

With him on the brief were *Melvin L. Wulf* and *David N. Ellenhorn*.

Allan A. Herrick argued the cause for respondents. With him on the brief were *Herschel G. Langdon* and *David W. Belin*.

Charles Morgan, Jr., filed a brief for the United States National Student Association, as *amicus curiae*, urging reversal.

Pages 505-506

...The District Court recognized that the wearing of an armband for the purpose of expressing certain views is the type of symbolic act that is within the Free Speech Clause of the First Amendment. See *West Virginia v. Barnette*, 319 U. S. 624 (1943); *Stromberg v. California*, 283 U. S. 359 (1931). Cf. *Thornhill v. Alabama*, 310 U. S. 88 (1940); *Edwards v. South Carolina*, 372 U. S. 229 (1963); *Brown v. Louisiana*, 383 U. S. 131 (1966). As we shall discuss, the wearing of armbands in the circumstances of this case was entirely divorced from actually or potentially disruptive conduct by those participating in it. It was closely akin to "pure speech" which, we have repeatedly held, is entitled to comprehensive protection under the First Amendment. Cf. *Cox v. Louisiana*, 379 U. S. 536, 555 (1965); *Adderley v. Florida*, 385 U. S. 39 (1966). First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this Court for almost 50 years. In *Meyer v. Nebraska*, 262 U. S. 390 (1923), and *Bartels v. Iowa*, 262 U. S. 404 (1923), this Court, in opinions by Mr. Justice McReynolds, held that the Due Process Clause of the Fourteenth Amendment prevents States from forbidding the teaching of a foreign language to young students. Statutes to this effect, the Court held, unconstitutionally interfere with the liberty of teacher, student, and parent ...

Pages 510-511

... It is also relevant that the school authorities did not purport to prohibit the wearing of all symbols of political or controversial significance. The record shows that students in some of the schools wore buttons relating to national political campaigns, and some even wore the Iron Cross, traditionally a symbol of Nazism. The order prohibiting the wearing of armbands did not extend to these. Instead, a particular symbol-black armbands worn to exhibit opposition to this Nation's involvement in Vietnam-was singled out for prohibition. Clearly, the prohibition of expression of one particular opinion, at least without evidence that it is necessary to avoid material and substantial interference with schoolwork or discipline, is not constitutionally permissible. In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are "persons" under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views.