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.

held the constitutionality of the school authorities' action on the ground that it was reasonable in order to prevent disturbance of school discipline. 258 F. Supp. 971 (1966). The court referred to but expressly declined to follow the Fifth Circuit's holding in a similar case that the wearing of symbols like the armbands cannot be prohibited unless it "materially and substantially interfere[s] with the requirements of appropriate discipline in the operation of the school." *Burnside* v. *Byars,* 363 F. 2d 744, 749 (1966).[1]

On appeal, the Court of Appeals for the Eighth Circuit considered the case *en banc.* The court was equally divided, and the District Court's decision was accordingly affirmed, without opinion. 383 F. 2d 988 (1967). We granted certiorari. 390 U. S. 942 (1968).

I.

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"

[1] In *Burnside,* the Fifth Circuit ordered that high school authorities be enjoined from enforcing a regulation forbidding students to wear "freedom buttons." It is instructive that in *Blackwell* v. *Issaquena County Board of Education,* 363 F. 2d 749 (1966), the same panel on the same day reached the opposite result on different facts. It declined to enjoin enforcement of such a regulation in another high school where the students wearing freedom buttons harassed students who did not wear them and created much disturbance.

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.[2] See also *Pierce* v. *Society of Sisters,* 268

[2] *Hamilton* v. *Regents of Univ. of Cal.,* 293 U. S. 245 (1934), is sometimes cited for the broad proposition that the State may attach conditions to attendance at a state university that require individuals to violate their religious convictions. The case involved dismissal of members of a religious denomination from a land grant college for refusal to participate in military training. Narrowly viewed, the case turns upon the Court's conclusion that merely requiring a student to participate in school training in military "science" could not conflict with his constitutionally protected freedom of conscience. The decision cannot be taken as establishing that the State may impose and enforce any conditions that it chooses upon attendance at public institutions of learning, however violative they may be of fundamental constitutional guarantees. See, *e. g., West Virginia* v. *Barnette,* 319 U. S. 624 (1943); *Dixon* v. *Alabama State Board of Education,* 294 F. 2d 150 (C. A. 5th Cir. 1961); *Knight* v. *State Board of Education,* 200 F. Supp. 174 (D. C. M. D. Tenn. 1961); *Dickey* v. *Alabama State Board of Education,* 273 F. Supp. 613 (D. C. M. D. Ala. 1967). See also Note, Unconstitutional Conditions, 73 Harv. L. Rev. 1595 (1960); Note, Academic Freedom, 81 Harv. L. Rev. 1045 (1968).

On the contrary, the action of the school authorities appears to have been based upon an urgent wish to avoid the controversy which might result from the expression, even by the silent symbol of armbands, of opposition to this Nation's part in the conflagration in Vietnam.[4] It is revealing, in this respect, that the meeting at which the school principals decided to issue the contested regulation was called in response to a student's statement to the journalism teacher in one of the schools that he wanted to write an article on Vietnam and have it published in the school paper. (The student was dissuaded.[5])

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

[4] The District Court found that the school authorities, in prohibiting black armbands, were influenced by the fact that "[t]he Viet Nam war and the involvement of the United States therein has been the subject of a major controversy for some time. When the arm band regulation involved herein was promulgated, debate over the Viet Nam war had become vehement in many localities. A protest march against the war had been recently held in Washington, D. C. A wave of draft card burning incidents protesting the war had swept the country. At that time two highly publicized draft card burning cases were pending in this Court. Both individuals supporting the war and those opposing it were quite vocal in expressing their views." 258 F. Supp., at 972–973.

[5] After the principals' meeting, the director of secondary education and the principal of the high school informed the student that the principals were opposed to publication of his article. They reported that "we felt that it was a very friendly conversation, although we did not feel that we had convinced the student that our decision was a just one."