

SUPREME COURT CASE STUDY

Background of the Case

Throughout the 1960s, television broadcasts carried graphic images of the Vietnam War. In December of 1965, John Tinker, his sister Mary Beth, and their friend Christopher Eckhardt decided to protest the war. They planned to wear black armbands to their schools in Des Moines, Iowa. When the school board learned of their plans, it adopted a policy that banned the wearing of armbands. Any students who violated this policy would be suspended.

Several students, including the Tinkers, went ahead with their protest. The students were suspended when they refused to remove the armbands. Through their parents, the students asked the district court to issue an injunction against the policy. The district court refused, stating that the school policy was "reasonable." A divided appellate court upheld this decision. The petitioners then appealed to the United States Supreme Court, which agreed to review the case.

Constitutional Issue

The Court was asked to decide whether wearing armbands is a form of free speech, and thus protected under the First Amendment. The students claimed that wearing armbands was a way to express their ideas and opinions about the Vietnam War. Lawyers for the school board argued that the Tenth Amendment gives the states authority over education. The school board's policy was needed to preserve order and discipline in the schools.

The U.S. Supreme Court had extended the First Amendment to cover the actions of state officials in *Gitlow v. New York* (1925). Later, in *West Virginia v. Barnette* (1943) the Court struck down a law requiring students to salute the American flag.

The Supreme Court's Decision

In a 7 to 2 decision, the Supreme Court ruled in favor of the Tinkers and the students. The Court determined that the wearing of armbands was protected by the First Amendment's free speech clause.

Justice Abe Fortas wrote the Court's opinion. Justice Fortas wrote that wearing armbands was an action "akin to pure speech." Further, he wrote, "It can hardly be argued that either students or teachers shed their constitutional rights . . . at the schoolhouse gate." He found little evidence that this silent protest disrupted the school environment. Justice Fortas wrote that the school board officials acted out of an "urgent wish to avoid controversy," rather than a fear of disrupting school activities.

Justice Potter Stewart wrote, however, in a concurring opinion, that, "[A] State may permissibly determine that, at least in some precisely delineated areas, a child . . . is not possessed of that full capacity for individual choice which is the presupposition of First Amendment guarantees."

