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John W. Johnson. *The Struggle for Student Rights: Tinker v. Des Moines and the 1960s.* Lawrence: University Press of Kansas, 1997. xiii + 250 pp. $12.95 (paper), ISBN 978-0-7006-0867-6; $35.00 (cloth), ISBN 978-0-7006-0866-9.

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A Case Study in Constitutional Law

In *The Struggle for Student Rights: Tinker v. Des Moines and the 1960s*, a volume in the *Landmark Law Cases and American Society* series published by the University Press of Kansas, John W. Johnson, professor of history and department chair at the University of Northern Iowa, presents a narrative history of what he calls "the 1965-69 legal clash between a handful of secondary-school students and a metropolitan Iowa school district over the right to wear black armbands on school property to symbolically express concerns about the war in Vietnam" (p. ix). The Tinker decision, Johnson maintains, "provided an important step forward for student rights and, at the same time, became one of the landmarks in the American history of freedom of expression" (p. ix). Between 1969 and the mid-1980s, he states, "Tinker served as a precedent in literally hundreds of student rights cases in state and federal courts" (p. 207). The book under review, therefore, provides a detailed account of what the author argues is a landmark case in First Amendment law.

At a meeting in Des Moines, Iowa, on Saturday, December 11, 1965, a group of people opposed to the war in Vietnam decided that on the following Thursday, December 16, the public school and college students among them would begin wearing black armbands to classes in service of two goals: "to mourn all the casualties of the Vietnam War, Southeast Asian as well as American; and to support Senator Robert Kennedy's call for an extension of the anticipated Christmas 1965 truce" (p. 4). Upon getting wind of this plan, the school district's central officials and principals of five senior high schools decided by December 14 to ban the wearing of armbands in the secondary schools on the rationale that such a protest would disturb the order and educational mission of these schools. Christopher Eckhardt wore his armband to Roosevelt High School, where he immediately turned himself in to the principal's office. Failing to dissuade Eckhardt from his plan, the principal suspended him. Mary Beth Tinker was called out of an afternoon class at Harding Junior High School and suspended, and her brother John received the same punishment at North High School. All three were punished for violating, in slightly different ways, the school-district policy which banned the wearing in class of black armbands as a symbol of political protest.

On March 14, 1966, the Iowa Civil Liberties Union (ICLU) filed suit on the students' behalf in federal district court. Deciding against the students on September 1, 1966, the court held that the school district's ban on black armbands was a reasonable means of maintaining the order and discipline necessary for an educational institution to carry out its mission. Later in September the ICLU appealed the ruling to the Eighth Circuit in St. Louis, which after an inconclusive three-judge hearing the following April upheld the district court's judgment in favor of the school district in a 4-4 per curium opinion on November 3, 1967. On January 17, 1968, the students filed a certiorari brief with the U.S. Supreme Court, a petition opposed by the school district, and on March 4, 1968 the Court granted certiorari. Oral argument took place on November 12, 1968, and the Court issued its ruling in favor of the petitioners and against the school district on February 24, 1969. The rule announced in Tinker, according to Johnson, "provided that student expression was to be protected under the First Amendment unless it 'materially disrupts classwork or involves substantial disorder or invasion of the rights of others"' (p. 207).

In twelve chapters, followed by a chronology of events and a bibliographical essay on primary and secondary sources, Johnson provides a workmanlike account of the development of the case that eventually became Tinker v. Des Moines. He focuses on the personalities involved, including the students and their families, the school administrators, the lawyers on both sides, and the federal judges involved at the trial, appellate, and U.S. Supreme Court levels. Johnson recounts the testimony,

oral argument, and every brief filed by both sides in each court proceeding, and he looks also at notes on Tinker to be found in the papers of Supreme Court justices and at the law-review reaction to the decision.

The virtue of this book is its micro-level focus on the people and events behind the legal and constitutional issues in Tinker v. Des Moines. Too often it is all too easy to forget the real, flesh-and-blood people in whose lives a case or controversy originates. As Johnson notes at the outset, "This book is an attempt to blend details and personalities with legal analysis" (p. x). From the standpoint of a reader interested in constitutional issues and doctrine, however, this focus is also the vice of the book. The author simply recounts who said or wrote or did what and where, with very little of his own analysis of the legal issues themselves. Tinker, I would suggest, involved two principal issues. First, as reflected in the title of the book, the case involved student rights or, more precisely, the extent of constitutional rights in the context of the public schools. The Court, however robust it considers such rights generally, tends to allow them much less scope in the context of schools, prisons, and the military. Second, Tinker involved the relation between speech and expressive conduct: while the Court has always held that speech is protected by the First Amendment whereas conduct is not, the problematical issue has been conduct whose purpose is to communicate ideas. In Johnson's account of Tinker, however, these legal or theoretical issues are overshadowed by his historical narrative; there is no substantive argument of note to the book as a whole. Additionally, despite a brief concluding chapter on the subsequent precedential value of Tinker, the book is more about the subtitle, *Tinker v. Des Moines and the 1960s*, than it is about its title, *The Struggle for Student Rights*. The latter, broader theme is present only dimly in the details of the former.

In sum, with its helpful discussion along the way of legal procedure and the structure of the federal judiciary, *The Struggle for Student Rights: Tinker v. Des Moines and the 1960s* will provide the general reader and those readers in the field of education with an interesting, articulately written account of the way a constitutional issue arose in the lives or real people and was pursued in the courts. On the other hand, the book will not provide specialists in constitutional law generally and First Amendment law specifically with much of an addition to their current knowledge.

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