

DISSERTATION

A BIOGRAPHICAL STUDY OF NAMESAKE JOHN F. TINKER

ON THE LANDMARK LEGAL CASE TINKER ET AL. V.

THE DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT ET AL.

Submitted by

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In partial fulfillment of the requirements

For the Degree of Doctor of Philosophy

Colorado State University

Fort Collins, Colorado

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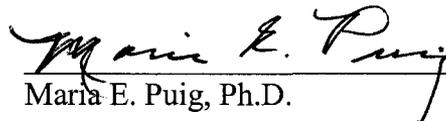
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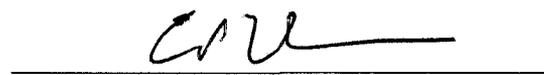
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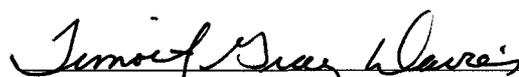
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## ABSTRACT OF DISSERTATION

### A BIOGRAPHICAL STUDY OF NAMESAKE JOHN F. TINKER ON THE LANDMARK LEGAL CASE TINKER ET AL. V. THE DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT ET AL.

The purpose of this biographical study was to understand the effect of the case *Tinker et al. v. The Des Moines Independent Community School District et al.* circa 1965-1969, on namesake John F. Tinker, circa 2008.

John Tinker was involved in a landmark 1969 United States Supreme Court decision nearly 40 years ago. He was 15 years old when he wore a black armband to school to protest the Vietnam War; he is 57 now. In legal and educational environments, *Tinker* is known as a name on a school-related legal decision, but there is a person behind that name. While there is abundant information about his legal case, not much is known about the namesake.

This study attempted to understand how Tinker experienced his legal case and how he understands its effect on his life. This study centered on John Tinker's own voice. Through in-depth, open-ended, one-on-one, face-to-face, voice-to voice, and computer-to-computer conversations, an account of his life using his own words emerged. What was discovered was that Tinker is a multi-faceted person and the *Tinker* legal case is only one aspect of his full and unique life.

This study is important because Tinker is a living being who as a teenager was involved in an activity that culminated in a landmark decision by the United States

Supreme Court. That legal decision holds today – 40 years later – and affects every public school student in the United States.

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## ACKNOWLEDGEMENTS

To My Mom

Marilyn L. Wolfe

1940-2007

To John's Mom

Lorena Jeanne Tinker

1921-2008

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## Chapter One: Prologue

This dissertation had its origin in 1971, although I did not realize it until 2004. I was born and raised in Des Moines, Iowa, and each summer from 1971 to 1976, I went to Riverview Amusement Park. Year after year, I observed the same East Euclid Avenue route from the back seat of my parent's Saab, and later, Buick. From the window I watched for specific buildings to mark the way: ice cream store on the left, junior high school on the left, church on the left, shopping mall on the right, pet store on the right, left turn, high school and swimming pool in the distance on the left, and the entrance to Riverview on the right. A total of 15 intersections were passed from the ice cream store on Euclid Avenue to Riverview: Cornell Street, Cambridge Street, Oxford Street, First Street, Second Avenue, Third Street, Fourth Street, Fifth Avenue, Sixth Avenue, Oak Park Avenue, Ovid Avenue, Denver Avenue, Beckwith Avenue, Boston Avenue, and Corning Avenue.

I passed 203 East Euclid Avenue and 412 Euclid Avenue hundreds of times. In the distance from Riverview was 501 Holcomb Avenue, and it, too, was passed hundreds of times. In the 1970s, Warren Harding Junior High School, Epworth United Methodist Church, and North High School were simply markers on my way to entertainment. I did not realize the significant events that occurred in these buildings. I just wanted to get to Riverview as fast as possible: unlimited rides for \$5 on Wednesdays.

In 1978, Riverview closed; it opened in 1915 and faded over time. In 1975, a new amusement park opened on the other side of town. The City of Des Moines, with a 2004 population estimate of 194,311, is still small enough that its residents live on "sides" of town: west, east, north, and south. In 1977, my family moved to another side of town as

well. From our new home, to get to a movie theater or see children's plays, we passed 4419 Center Street. Theodore Roosevelt High School was yet another building that marked my way to somewhere else.

For years Riverview sat abandoned and neglected. In 1991, the local Kiwanis clubs redeveloped the site into a 38-acre nature preserve, and in 1993, Des Moines experienced devastating floods. Currently, the Des Moines River levee may be rebuilt, which would forever change the area. Today, all that remains of Riverview, other than memories, is a mural of its entrance and assorted rides painted on the side of a nearby hardware store.

In 2004, while in Higher Education Law class at Colorado State University, I saw *Tinker et al. v. The Des Moines Independent Community School District et al.*, 393 U.S. 503 (1969), listed on the syllabus. I had not heard of this legal case and I am a graduate of the named school district. I signed up to present a brief on it to the class. What I learned surprised me greatly.

#### Preface

This legal case is best explained in the United States Supreme Court opinion, *Tinker et al. v. The Des Moines Independent Community School District et al.*, 393 U.S. 503 (1969), (p. 504):

John F. Tinker, 15, and Christopher P. Eckhardt, 15, attended high schools in Des Moines, Iowa. Mary Beth Tinker, John's sister, was a 13-year-old student in junior high school. In early December 1965, a group of adults and students in Des Moines held a meeting at the Eckhardt home. The group decided to publicize their objections to the hostilities in Vietnam and their support for a truce by wearing black armbands during the holiday season and by fasting on December 16 and New Year's Eve. The students and their parents had engaged in similar activities and they decided to participate in the program.

The principals of the Des Moines schools became aware of the plan to wear armbands. They met and adopted a policy that any student wearing an

armband to school would be asked to remove it, and if he refused he would be suspended until he returned without the armband. The students were aware of the regulation that the school authorities adopted.

On December 16, 1965, Mary Beth and Christopher wore black armbands to their schools. John wore his armband the next day. They all were sent home and suspended from school until they would come back without their armbands. The students did not return to school until after the planned period for wearing armbands had expired.

Soon after the suspension, the school board in Des Moines held its regularly scheduled meeting. Craig Sawyer, speaking for the Iowa Civil Liberties Union and parents of the suspended students, asked for immediate reinstatement and repeal of the armband edict (Irons, 1988). After nearly two hours of debate the school board voted 4-3 to continue the ban on armbands (Irons, 1988). Sawyer told the school board they would meet in court. They did, in the United States District, Circuit, and Supreme Courts:

*The United States District Court, September 1, 1966*

The case *Tinker et al. v. The Des Moines Independent Community School District et al.*, 258 F. Supp. 971 (1966) was heard in the United States District Court for the Southern District of Iowa, Central Division. Chief Judge Roy L. Stephenson wrote in his opinion that it was not unreasonable in this instance for school officials to anticipate that the wearing of armbands would create some type of classroom disturbance and that school officials involved had a reasonable basis for adopting the armband regulation (p. 973). Judge Stephenson concluded his opinion by writing that it was the disciplined atmosphere of the classroom, not the plaintiff's right to wear armbands on school premises, which was entitled to the protection of the law (p. 973). The ban on armbands was upheld. The case was appealed to the United States Circuit Court of Appeals.

*The United States Circuit Court of Appeals, November 3, 1967*

The eight judges of the United States Court of Appeals for the Eighth Circuit heard the appeal of the decision made by Judge Stephenson and their decision was published in *Tinker et al., v. The Des Moines Independent Community School District et al.*, 383 F. 2d 988 (1967). The Circuit Court judges were split 4-4 and did not issue an opinion. When the court is evenly split, the decision of the lower court stands. Ultimately, the case was heard by the United States Supreme Court.

*The United States Supreme Court, February 24, 1969*

In the case *Tinker et al. v. The Des Moines Independent Community School District et al.*, 393 U.S. 503 (1969), the decision reached by the United States District Court was overturned in a 7-2 vote. This United States Supreme Court decision is important because the *Tinker* case set the standard for recognition of the free speech rights of public school students. The United States Supreme Court established three principles in its *Tinker* decision: (a) that students do not surrender their constitutional free speech rights simply by entering a public school, (b) that symbolic dress worn for political reasons is expression protected by the First Amendment, and (c) that student expression can only be curtailed or censored where the school can show it threatens “material and substantial interference” with the school’s effective operation or the rights of other students (Raskin, 2003, p. 27).

These ordinary Iowa teenagers did something extraordinary. The *Tinker* standard remains today. John Tinker became the namesake behind a landmark legal decision by the United States Supreme Court.

### *Organization of the Study*

This initial discussion sets the stage for my dissertation. As I explained below, this is a biographical study on the namesake of a United States Supreme Court decision: John Tinker. While there is abundant information about his legal case, not much is known about him. This biographical study looks at the person behind a landmark legal decision. This study attempted to understand how Tinker experienced his legal case and how he understands its effect on his life.

Societal, historical, and legal contexts for this study are addressed in Chapter Two. After I reviewed the literature and other documents in regard to Tinker, I created a chart of noteworthy people in Tinker's life. Additionally, I established an event and life timeline for him. Both were vehicles used to help me understand this person and his legal case, and research questions arose as a result. Both are addressed in Chapter Two and are found as Appendices A and B. My perspective as a researcher is addressed in Chapter Three, as is the methodology for this unique study. My earlier comments addressed how I came to this topic and briefly outlined the story behind this landmark legal decision. Next, I will discuss the focus of this dissertation, as well as its purpose. In this section, I explain how I first encountered John Tinker and learned of his legal case. When I first learned of the Tinker case, coupled with the realization that I was a graduate of the same school district, the first place I looked for more information was with our school district. The final section of this first chapter explains what little information I found. That motivated me to learn more about him and his legal case.

In Chapter Two, I present my literature review. The literature review provides the foundation for my study and is told through the collection and compilation of a multitude

of sources. I reviewed judicial opinions, scholarly publications, electronic content, newspaper and magazine articles, and legal, societal, historical, and educational texts. The literature review explains the remarkable event that happened in Des Moines, Iowa, in the late 1960s. Learning his story from other sources made me realize that John Tinker's voice is missing. This chapter is organized into four sections: Ordinary to Extraordinary, The Armband Protest, The *Tinker* Legal Pathway, and The *Tinker* Ruling. Lastly, in Chapter Three, I describe the biographical tradition and interpretive biography. Also, I explain how I will conduct my study. This includes data collection, research quality, limitations, and data analysis, and interpretation.

#### The Focus of Inquiry

In August 2004, I emailed John Tinker using contact information obtained from the Website of the American Bar Association. He and the other parties in the landmark legal decision had participated in an online Law Day program in 1998. In my email message, I mentioned that I had learned about him in my Higher Education Law class. I stated that I, too, was a graduate of the Des Moines Independent Community School District and had not heard of the case. I asked if he would be interested in talking to me, and he agreed. My focus is to obtain a fresh point of view about the effects of a landmark legal decision on the life of its namesake. To the best of my knowledge, this has not previously been done.

#### Purpose of the Study

Of the three students involved in the legal case, John Tinker's sister, Mary Beth, removed her armband as soon as she was summoned to the principal's office. Tinker's friend, Christopher Eckhardt, walked into the principal's office and announced he was

wearing an armband as soon as he arrived at school. John Tinker wore his armband throughout the school day and rearranged his attire so his armband would be more noticeable. He was a 15 year old determined to protest the Vietnam War. What he received was his name on a landmark legal decision.

The purpose of my biographical study is to understand the effects of the events and circumstances attending *Tinker v. Des Moines* (circa 1965-1969) on John Tinker (circa 2006).

*Tinker v. Des Moines* is generally defined as the landmark United States Supreme Court decision in which the Court decided that students have the right to engage in peaceful, non-disruptive protest. I want to know how an individual involved in a landmark 1969 United States Supreme Court decision reflects on it 40 years later. Why? This is a unique opportunity to hear firsthand from the man behind the legal case. I want to put his words with his experiences. How does he view his life since that milestone? In *Tinker v. Des Moines*, the United States Supreme Court established that teachers and students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Also, the Court warned that free speech could be limited if student’s actions “materially or substantially disrupt” the school’s focus on learning. These two key statements came from *Tinker*. But who is Tinker the person? What does he say about these statements and the legal decision attached to his name? Research has overlooked the person behind the legal case. He is a person, and if not for his thoughts and actions there would not be a *Tinker* standard.

## Rationale for the Study

Tinker was 15 years old when he wore an armband to high school to protest the Vietnam War; he is 55 now. While there is abundant literature about this landmark legal decision, there is a lack of literature solely about its namesake. What is absent from the scholarly literature is what Tinker thinks about his unique experiences and how he has experienced his life since that time. I propose to paint a biographical portrait of him via newspaper articles, history texts, court documents, judicial opinions, legal books, and most importantly, through his personal interviews, public speeches, documents, writings, and my interviews with him.

## Prelude

This legal case transpired inside three Des Moines schools, so in March 2006, I went to the website of the Des Moines Public Schools and downloaded its 160-page “Bicentennial Reflections: The History of the Des Moines Public Schools, 1846-1976” (Denny, 1976). School authorities involved in the *Tinker* legal case are pictured. Superintendent Dwight M. Davis is on page 3, school board member Ora E. Niffenegger is on page 4, and Donald Wetter, former North High School principal, is on page 5. On page 7, Superintendent Davis wrote, in part: “As a part of Iowa’s history, the history of the Des Moines Public Schools shows the heritage of a progressive and alert school system...”

On page 148, North High School is discussed and there is no mention of the *Tinker* case, and on page 152, Theodore Roosevelt High School is discussed and there is no mention of the *Tinker* case either. On page 117, Warren Harding Junior High School is

discussed and right after Sputnik's influence on the school's curriculum and right before details of a school fire, this is stated:

While struggling to revamp curriculum in the early 60's, rights, riots and supreme rules had a serious impact on schools. Warren Harding Junior High administration, staff, and the Des Moines Schools, made what they thought to be a just decision regarding "black arm bands."

The Supreme Court of the United States, in its decision, over-ruled the opinions of the lower courts and the school district. *Tinker vs. Des Moines Schools* became the basis for the many student rights decisions which have followed. What began and had its inception at Warren Harding Junior High has had a profound effect on all schools in the United States (Denny, 1976, p. 117).

Next, I went to the website for North High School and the *Tinker* case is not discussed. Then, I went to the website for Theodore Roosevelt High School and the *Tinker* case is not discussed. However, on that website is a link titled Roosevelt Alumni, which states: "The content of this link is not controlled by DMPS [Des Moines Public Schools]." There, in a section from the alumni association about the history of the high school, the following is written:

The school came into prominence in February of 1969, when the Supreme Court made its historical armband decision in the *Tinker* Case, recognizing that a Roosevelt student along with others, had constitutional protection for his right of self-expression. While the wave of student freedom has ebbed, Roosevelt's leadership in the area of freedom of expression in student life is still recognized.

Lastly, I went to the website for Warren Harding Junior High School. In a section about the history of the junior high school, this is repeated:

While struggling to revamp curriculum in the early 60's, rights riots and Supreme Court rulings had a serious impact on schools. Warren Harding Junior High administration, staff and the Des Moines Schools made what they thought was a just decision regarding "black arm bands." A group of students who defied a district ban on wearing the arm bands in school to protest the Vietnam War were sent home. The resulting court case reached the Supreme Court of the United States. The

ruling in *Tinker vs. Des Moines* over-ruled the opinions of the lower courts and the school district. What began and had its inception at Warren Harding Junior High had a profound effect on all schools in the United States.

I obtained and reviewed the 1965, 1966, 1967, and 1968 yearbooks of North High School. John Tinker was not listed in the 1965 yearbook. In 1966, he was in band, as well as in the casts of “The Streets of New York” and “The Mad Woman of Chailott.” In 1967, he was in marching band in what appears to be the percussion section. In 1968, he was in the cast of “The Diary of Anne Frank” and placed in the State Speech Contest with the play “The Importance of Being Earnest.” Tinker is in the graduating Class of 1968 where he is listed as an “Unphotographed Senior.” His legacy is much greater than that.

In my first chapter, I have introduced this landmark legal case and explained my connection to it. This United States Supreme Court decision holds today and affects every public school student in the United States. Sadly, there is a dearth of information available about the case on the related schools’ websites.

## Chapter Two: Literature Review

In my first chapter, I presented an overview of this study, organized into sections titled Prologue, Preface, and Prelude. I briefly explained the *Tinker* case and its legal pathway. Also, I described how I first heard of the landmark legal decision, as well as its namesake John Tinker. Now, in Chapter 2, I present my literature review. I use the literature to place my study in the context of existing research and tell this remarkable story about how three teenagers made history. What follows is a written account that I pieced together from a multitude of sources. These sources include newspaper articles, history texts, court documents, judicial opinions, legal books, personal interviews, public speeches, and Tinker's own writings. By combining all these sources, I have been able to paint a detailed account of before, during, and after the *Tinker* case. All of these sources are necessary in order to cover a time span of more than 40 years. This chapter is organized into four sections: Ordinary to Extraordinary, The Armband Protest, The *Tinker* Legal Pathway, and The *Tinker* Ruling.

First, I provide a focus on this chapter. Central to this story are students John F. Tinker, his sister Mary Beth Tinker, and their friend, Christopher P. Eckhardt. Integral are parents Leonard and Lorena Jeanne Tinker and William and Maggie Eckhardt. There are other noteworthy people as well (Appendix A) who impacted or intersected his life. Also, this section includes two segments. One is titled "Decades After the Decision," the other is titled "Participants' Reactions." The former focuses on the most current information available on the three; the latter focuses on a variety of reactions to the 1969 decision from the United States Supreme Court. Throughout this review, John Tinker's

own voice, as reported by reporters and biographers, is set apart using italics. Tinker's story will proceed backward and forward in order to cover a 40-year time span. This is relevant because absent from the scholarly literature is the detailed individual reflection from beginning to conclusion to current day by the namesake of this United States Supreme Court decision. What does Tinker say about the effect *Tinker* had on his life? How did Tinker experience his legal case?

I want to study Tinker for several reasons. His thoughts and actions as a teenager culminated with this landmark legal decision. Now, time has turned him into a legal case name: *Tinker*. What is absent from the scholarly research is his account of what he experienced all those years ago, leading up to current day. In other research, I find his humanness is missing. That is the account I want to contribute. He has a first name and a life and a history and thoughts and feelings and he is a person, a person who happened to be involved in an extraordinary event. First, I explore life in Des Moines, Iowa, in the late 1960s.

#### *Ordinary to Extraordinary*

They were teenagers who did ordinary activities. John Tinker, 15, played the Sousaphone in the school band and the violin in the school orchestra (Johnson, 1997). He had a newspaper route (Hoose, 2001). Mary Beth Tinker, 13, enjoyed singing, and her mother remembered her as being popular in school and making top grades (Johnson, 1997). Christopher Eckhardt, 15, was an elected representative to student government, a member of the track team, had won fishing and weight-lifting trophies, and was a Boy Scout (Johnson, 1997). He maintained a B+ average (Johnson, J.W, 1996), and he had a newspaper route, too.

Their Iowa town was ordinary but these inhabitants were not. The population of the City of Des Moines was 208,982 (United States Census Bureau, 1960). In 1965, there were approximately 18,000 students in the Des Moines Independent Community School District. Life for these students revolved around family, friends, and faith.

The teenagers had parents who were politically active, which was not ordinary. In the 1940s, John Tinker's mother, Lorena Jeanne, met her future husband, Leonard Tinker, in seminary school at Scarritt College in Nashville, Tennessee; both had very strong commitments to racial equality (Irons, 1988). Leonard eventually became a Methodist minister, while Lorena Jeanne went on to receive a master's degree in psychology and in 1969 completed a doctorate, also in psychology. The Tinkers lived in a racially-mixed working-class neighborhood near the Epworth Methodist Church, where Leonard preached (Irons, 1988).

Christopher Eckhardt's father was a clinical psychologist and a faculty member at the College of Osteopathic Medicine and Surgery in Des Moines; his mother was president of the Des Moines Chapter of the Women's International League for Peace and Freedom (Johnson, 1997). The Eckhardt family lived in a more affluent neighborhood, and Christopher attended Theodore Roosevelt High School (Johnson, 1997).

Mary Beth Tinker recalled that her parents encountered employment problems because of their involvement in controversial subjects and both were punished for their views and actions (Irons, 1988). She also recalled that her parents' controversial life started in Atlantic, Iowa, prior to moving to Des Moines, when her parents had some trouble integrating a swimming pool there (Irons, 1988).

According to John Tinker (2008), that was in the mid 1950s. In 1957, Leonard Tinker's appointment with the Methodist church in Atlantic and was not renewed, and his next appointment was with the congregation of Epworth Methodist, in Des Moines. At the time, Leonard and Lorena Jeanne's advocacy of the Civil Rights Movement became a focus of controversy within the congregation, and in 1962, again, his appointment with his church congregation was not renewed.

John Tinker (2008) added, at this point Leonard was offered a position with the American Friends Service Committee (AFSC), a non-governmental organization founded in 1917, based upon Society of Friends (Quaker) humanitarian concern following the First World War. The AFSC won the Nobel Prize for Peace in 1947. The position the AFSC offered Leonard was that of "Peace Education Secretary" for an eight state region of the Midwest. The regional office is located in Des Moines.

The Methodist Bishop then appointed Leonard to work with the AFSC. Leonard maintained throughout his life his professional relationship to the Methodist Church, and his membership in the South Iowa Conference of the Methodist Church. He was in no sense ever "de-frocked", as many -- including Justice Black -- were to miss-apprehend (John Tinker, 2008).

The teenagers were politically active, too; that was not ordinary either.

*Starting in 1961, when I was 11, the Vietnam War had become a big part of our family's dinner discussions. I read a lot about it and I heard speakers talk about it and I made up my mind. I opposed our involvement in Vietnam because it was a war. I didn't believe that there were good wars and bad wars. I was brought up to value human life and to see war as a defeat. It meant that better ways hadn't worked. Besides, we weren't defending ourselves. We were dropping bombs onto thatched roofs. I argued about the war with anyone who wanted to argue with me. Somebody at my school sizing me up might have said, "He's wrong, but he's a good debater." I had a handful of good friends but I wasn't popular. The popular*

*kids couldn't risk their popularity by taking unpopular positions. I could* ~ John F. Tinker (Hoose, 2001, p. 226).

In December 1965, the teenagers did something extraordinary. Its full impact was not realized until 1969. The actions of the three set the legal standard that exists for public school students even today. This story continues with the most recent information available.

### *Decades After the Decision*

In May 2006, John and Mary Beth Tinker spoke at the Iowa competition of National Historical Day. Mary Beth resides in California and is employed as a registered nurse; John resides in Massachusetts and Missouri and is employed as a website developer. He spoke to an audience of 650.

*I remember the nervousness and the anxiety and the uncertainty of what would happen. Everything worked out pretty well. The principal basically treated me with respect. He thought what I was doing was wrong and unpatriotic, but he didn't belittle me*

~ John F. Tinker (Strong, 2006, The *Des Moines Sunday Register* section GC).

In 2005, John Tinker spoke at Theodore Roosevelt High School in Des Moines – Christopher Eckhardt's former high school – as part of its Constitution Day. At that time, John Tinker resided in Taunton, Massachusetts, his sister Mary Beth resided in Los Angeles, California, and he had lost contact with Christopher Eckhardt (The *Des Moines Register*, 2005). Tinker's actions, along with those of the other two during one week in 1965, led to a landmark legal decision.

*We are all faced with challenges and the best we can do is rise to the occasion and hope that we do what is right. I think that is what I did* ~ John F. Tinker (Smith, 2005, p. 3).

After all John Tinker had been through legally, he stated that he never had a desire to pursue a law career. However, he has owned a store, worked as a database programmer, run a project called "Peace Parts" in Nicaragua, runs a current events web site, described himself as a stay-at-home dad to a 1-year-old son, and remains an anti-war activist (Smith, 2005, p. 3).

*No, the case did not adversely affect either my college education or my employment. It was not related to the armband case, but I did become disillusioned with our society during the years of the Vietnam War. That war, along with the nuclear arms race, convinced me not to expect that society would automatically be mature or sane. I "dropped out" in the sense that I abandoned formal education, and decided to educate myself, largely through reading and traveling ~ John F. Tinker (American Bar Association, 1998, Online Conversation).*

After attending the University of Iowa, John Tinker dropped out of school and studied on his own. He moved into a small truck to minimize his living expenses and held a number of jobs, including working on a shrimp boat and driving a city bus. He studied radio electronics and became the chief engineer for a small AM station. He disassembled electronic equipment and opened a store called "Inventors' Supply" to sell them. During the war in Nicaragua, he read an account of the impoverished situation there and organized a project to carry repair parts to that country. When micro-computer kits were first available, he obtained one and learned to program. Programming became his primary means of support. He bought a large school building in a small town in Missouri and turned it into his home. He worried that those who benefit the most from society do not feel much of an obligation to the rest of the people (American Bar Association, 1998, Biography). Brief biographies of Christopher Eckhardt and Mary Beth Tinker follow.

Among his occupations, Christopher Eckhardt sold life and health insurance, published his own newspaper, was a child care worker for the Canadian Ministry of Corrections at the Oakville Reception and Assessment Center in Ontario, was a child care coordinator at Iowa Children and Family Services in Des Moines, hosted a live talk show on cable television, and was an “on call” mediator for the Polk County (Iowa) Attorney. In the early 1990s, he established “The Tutor” to provide tutoring and counseling for youth with social and remedial problems in school. He also established a business to provide political consultation to people seeking election to public office. In 1994, Christopher Eckhardt completed his bachelor’s degree in political science at the University of South Florida where he was the Student Government Supreme Court Chief Justice during his final year (American Bar Association, 1998).

Mary Beth Tinker moved to St. Louis, Missouri in 1968 and graduated from University City High School in 1970. She now works as a nurse and has remained involved in advocating for youth, particularly in the areas of education and health (American Bar Association, 1998, Biography). Formerly, she was an apprentice to a piano technician and repaired and tuned pianos (Irons, 1988). Also, she received a scholarship from the Veterans Administration (VA), which paid the last two years of nursing school (Irons, 1988). She worked for the VA and considered it “a privilege to work with our veterans who have sacrificed part of their lives” (Irons, 1988, p. 251).

Currently, John Tinker presents speeches about the legal case each year. This is his story, the story of the *Tinker* namesake. Next, I present the reaction of participants to the *Tinker* decision when it was announced by the United States Supreme Court.

*Monday, February 24, 1969/United States Supreme Court Decision*

On February 24, 1969, the United States Supreme Court announced its ruling in the case *Tinker et al. v. The Des Moines Independent Community School District et al.*, 393 U.S. 503 (1969). The Tinkers were residing in St. Louis, Missouri, at the time of the decision (Johnson, 1997). The Eckhardts lived in Oakville, Ontario, as Christopher Eckhardt's father held a position as a research psychologist at the Canadian Peace Research Institute (Johnson, 1997). There were a variety of reactions to the decision.

### *Participants' Reactions*

*I felt very happy, because we had been in it for a long time and had lost twice, and then we finally won. I felt from the start that we were right, and it felt good to have the Supreme Court agree ~ John F. Tinker (Rappaport, 1993, p. 140).*

Christopher Eckhardt recalled that he was in his dormitory room at Minnesota State University at Mankato, where he was a sophomore, when a reporter called him with the news. Christopher was "ecstatic" (Rappaport, 1993, p. 134) and said it was "a proud day in America for the First Amendment." Mary Beth Tinker remembered that when the United States Supreme Court decided the case in their favor, suddenly it was mass hysteria. She recalled that national papers and magazines wrote articles when the case broke and *Time* magazine had a photo session at her school. She said she was trying to make sense of it all: Where did this all fit in with her personal life? The 11<sup>th</sup>-grader was trying to make new friends as the Tinkers had just moved to St. Louis, Missouri, and here she was, "this maniac who's all over the news" (Irons, 1988, p. 249).

The *Time* article that Mary Beth Tinker referenced follows. It is from the issue dated Friday, March 7, 1969 (p. 47):

## Demonstrations, Not Disruption

From grade school to graduate school level, groups of militant students have been effectively demonstrating their ability to disrupt and even shut down U.S. institutions of learning. On campus and off, more moderate types have been asking with increasing frequency: What about the law? Do the militants have a right to prevent other students from enjoying their rights?

Last week, in a decision that firmly upheld a peaceful protest in Des Moines by five public school demonstrators, the U.S. Supreme Court also suggested that the Constitution does not protect demonstrations when they are disorderly and disruptive. By a 7-to-2 majority, the court ruled that the Des Moines youths had a constitutional right to wear black arm bands to school as a protest against the war in Viet Nam. Among the five junior- and senior-high teenagers who had been temporarily suspended from their schools for making that quiet demonstration in December 1965 were Mary Beth Tinker and John Tinker, children of a Methodist minister who works for the pacifist American Friends Service Committee.

Writing for the majority, Justice Abe Fortas declared that the issue was not a frivolous one, such as a boy's hair style or the length of a girl's skirt. By preventing the children from expressing a political opinion, he said, the school officials had violated the right of free speech.

Era of permissiveness? To Justice Hugo Black, who vigorously dissented (Justice John Marshall Harlan wrote a separate dissent), the decision opened up "a new revolutionary era of permissiveness." Black, who celebrated his 83<sup>rd</sup> birthday last week, claimed that the demonstration had diverted the pupils' minds from schoolwork. The decision was untimely, said Black, because "groups of students all over the land are already running loose, conducting break-ins, sit-ins, lie-ins and smash-ins."

Despite Black's fears, the court made it plain that it was approving only demonstrations that do not sabotage the normal school routine. The wearing of arm bands in Des Moines, Fortas said, was a symbolic act "closely akin to pure speech" – and it did not provoke any major disorder.

Presumably, the court may not take as tolerant a view of more troublesome demonstrations in the future. And its reasoning may well reach beyond public schools to college campuses, where minorities have effectively prevented other students from getting the education that they or their parents are paying for.

Curiously, Richard K. Moberly, Mary Beth Tinker's mathematics teacher at Warren Harding Junior High School, received a letter from United States Supreme Court Justice Hugo Black. Moberly had sent Mary Beth Tinker to the office the day she wore

her protest armband to school. Justice Black, who wrote a heated dissenting opinion in *Tinker*, wrote that he was “sorry that Moberly’s math class was interrupted by a social studies question” (Rappaport, 1993, p. 138).

In addition to Justice Black, there were others who were not pleased with the *Tinker* decision. They included the attorney for the school district, Allan A. Herrick. Looking back on the events, 26 years later his daughter said that her late father “grieved over the decision” (interview with Mrs. Robert Henry, 1995, as cited in Farish, 1997, p. 87).

Additionally, the attorney who represented the students, Dan L. Johnston, said he never thought the case would get to the United States Supreme Court as he thought it was “an easy case” and that they would win “a long time before that in the federal district court” (Hudson, 1999, p. 2). Christopher Eckhardt added, “Fortunately, looking back, we did lose at the lower court level, because if we had won there, this case could never have become such a landmark decision” (Hudson, 1999, p. 2).

This review moved from before the armband protest, to long after it, to the day the landmark legal decision was announced, and noted the reactions of several participants. It is important to have an understanding of what transpired before and after the armband protest as next we delve into the protest itself. This is important because this study will ask John Tinker to reflect on events that occurred 40 years ago. An appropriate review of these events will provide a context that will enable the reader to better understand Tinker’s responses to my interview questions.

## The Armband Protest

I begin this section with an overview of the year 1965, which places the armband protest in a societal context. That is followed by two excerpts, one detailing opposition to the Vietnam War and one detailing support. Additionally, the armband protest is placed in a social context with the inclusion of 1965 pop culture. Next, nine eventful days in 1965 are examined: November 27, December 12 to 17, and December 21 and 23. This section concludes with a review of reactions from selected members of the community. Now, the armband protest.

*I felt from the beginning that we were right, and that we would win. Later I was not so sure we would win, but I still thought we were right ~ John F. Tinker (Answers to Questions, no date).*

To describe the 1960s as a turbulent decade in America is an understatement. Citizens fought for civil rights at home and citizens fought to end the Vietnam War abroad. Also, in a five-year time period several leaders were assassinated, including the head of the Mississippi National Association for the Advancement of Colored People, Medgar Evers, on June 12, 1963; President John F. Kennedy on November 22, 1963; political activist Malcolm X on February 21, 1965; civil rights leader Martin Luther King Jr. on April 4, 1968; and Senator Robert F. Kennedy on June 5, 1968 (Chronicle of the 20<sup>th</sup> Century, 1995). It was a decade of protest, change, and violence; 1965, for example, was no exception.

## 1965

**February** – The United States begins continuous bombing of North Vietnam.

**March 8-9** – 3,500 Marines land in South Vietnam.

**March 26** – 25,000 civil rights marchers converge on Montgomery, Alabama.

**June 3** – Major Edward White completes the first United States space walk, floating in space for 20 minutes while attached to Gemini 4.

**June 28** – President Lyndon Baines Johnson announces that, in order to increase troop levels in South Vietnam, the military draft will soon be doubled from 17,000 to 35,000 a month.

**July 30** – Medicare goes into effect, providing a medical safety net for American elderly.

**August 6** – President Johnson signs a new Voting Rights Act, prohibiting states from using literacy tests and poll taxes to limit minority voter registration.

**August 11** – Riots begin in the Watts areas of Los Angeles, causing 34 deaths and over \$200 million in damages.

**September 21** – Congress passes the Water Quality Act, designed to reduce water pollution.

**October 3** – Immigration quotas by ethnic origin are abolished by the Immigration Act. President Johnson encourages refugees from oppressive governments to seek a new home in the United States.

**November 20** – A week-long battle in Vietnam's Ia Drang Valley leaves 240 United States soldiers dead and 470 wounded.

**November 27** – 25,000 anti-war demonstrators march on Washington, DC.

**December** – United States losses in Vietnam since 1961 now exceed 1,300 dead and 6,100 wounded.

**December 24** – United States temporarily suspends bombing runs in North Vietnam.

(Holland, 1999, pp. 127-128; Epstein, 2001, p. 30).

## 1965

**April 17**

15,000 protesters picket White House

The man they came to impress had left for the weekend. That did not stop 15,000 students from marching outside the White House today, demanding a withdrawal of American troops from Vietnam. They jammed the sidewalk on Pennsylvania Avenue as they demonstrated peacefully and carried signs calling for an end to the Vietnam War. President Johnson neither saw nor heard the students. He had flown to his Texas ranch. The protesters, organized by the left-leaning Students for a Democratic Society, paraded in the bright sunshine to the Washington

Monument and then marched to Capitol Hill (Chronicle of the 20<sup>th</sup> Century, 1995, p. 933).

## July 28

LBJ sends 50,000 more troops to Vietnam

In a nationally televised news conference, President Lyndon B. Johnson today announced he was sending 50,000 more men to South Vietnam “almost immediately,” increasing American troop strength from the present 75,000 to 125,000. Monthly draft calls will be raised from the current 17,000 to 35,000. Johnson also called on the United Nations to work harder on Vietnam peace efforts, and said the U.S. was willing to discuss North Vietnamese peace proposals. The president said the United States was involved in Vietnam because “we have learned at a terrible and brutal cost that retreat does not bring safety and weakness does not bring peace” (Chronicle of the 20<sup>th</sup> Century, 1995, p. 936).

The public school students in Des Moines, Iowa, were involved in protest and change. However, their protest was nonviolent. They were teenagers against a backdrop of the 1965 top television show *Bonanza*, best picture *The Sound of Music*, top album the *Mary Poppins* soundtrack, and top single “(I Can’t Get No) Satisfaction” by The Rolling Stones (Epstein, 2001, pp. 28-31). During the course of one week in 1965, they protested and change occurred four years later.

*Saturday, November 27, 1965*

Maggie Eckhardt and her son, Christopher, were among an estimated 25,000 people attending an anti-war demonstration in Washington, D.C. (Irons, 1988; Rappaport, 1993). John Tinker and his mother, Lorena Jeanne, were also there among the 60 Iowans at the anti-war demonstration (Raskin, 2003; Rappaport, 1993). Dr. Benjamin Spock, the noted baby doctor, spoke at the rally (Irons, 1988), as did Coretta Scott King (Raskin, 2003). The peace march was organized by the National Committee for a Sane Nuclear

Policy (SANE) (Raskin, 2003). The Eckhardts and Tinkers returned to Des Moines eager to share their anti-war message.

*All four parents involved (William and Maggie Eckhardt and Lorena Jeanne and Leonard Tinker) were active politically, and had been involved in the civil rights and peace movements. They did not try to convince us to wear armbands, but they supported us in our protest ~ John F. Tinker (Answers to Questions, no date).*

*Sunday, December 12, 1965*

When Chris Eckhardt met at his home with Mary Beth and John Tinker, and a few other Des Moines teenagers, they decided that symbolic black armbands would let fellow students know of their concern for peace in Vietnam (Irons, 1988). They decided to wear armbands to school. The students wanted to mourn the dead on both sides of the war, and they wanted to show support for New York Senator Robert F. Kennedy's call for a Christmas truce (Hudson, 1999). Mary Beth Tinker recalled that the idea to wear armbands was moving forward, and they had no idea it was going to be such a big thing because they were already doing other little demonstrations and nothing much came of them (Irons, 1988).

*We had inherited a deep philosophical tradition that believed in the value of human life and taught us to be empathetic to pain and suffering. Empathy really was not taught to us especially in school. It came from a culture that was outside of the schools. It came through the churches and the social justice tradition. We inherited it, really, from our parents, I'd have to say ~ John F. Tinker (Speech, 1995).*

*Monday, December 13, 1965*

Ross Peterson, a student at Des Moines' Theodore Roosevelt High School, wrote an article for his school newspaper about the possible armband demonstration (Rappaport, 1993). Peterson was told by his teacher that the article had to be approved by the school principal because it was "controversial" (Rappaport, 1993, p. 20). His article

was not printed. When the principal learned of the possible armband demonstration, a meeting of all secondary school principals was called and the principals formulated a rule to ban armbands in the schools (Rappaport, 1993). It was feared that the armbands would cause disturbances that would disrupt learning. The policy was not written down but was agreed to verbally (Tinker Oral Arguments, 1968).

*Tuesday, December 14, 1965*

Officials of the approximately 18,000-student Des Moines Independent Community School District adopted a policy that forbade students from wearing protest armbands to school. The school board president, Ora Niffenegger, defended the ban on armbands as a “disciplinary measure” against any “disturbing influence” in Des Moines schools (Irons, 1988, p. 234). Failure to remove an armband would result in suspension.

*To the best of my knowledge the idea to wear armbands began with the Students for a Democratic Society (SDS). A Quaker from Iowa, named Herbert Hoover, (who was a distant cousin of President Hoover), had heard of the idea to wear armbands, and he spoke about that plan during the return bus trip that had taken a number of us to the November 1965 protest against the war that took place in Washington, D.C. Chris Eckhardt and myself belonged to a Unitarian youth group, Liberal Religious Youth (LRY). There were two other students on that bus trip, Bruce Clark and Ross Peterson. Bruce and Ross developed the idea of wearing armbands, and asked the LRY to take it on as a project ~ John F. Tinker (Answers to Questions, no date).*

*Wednesday Morning, December 15, 1965*

An article appeared in the *Des Moines Register* newspaper (Magarrell, 1965, p.

1). It read:

#### D.M. Schools Ban Wearing of Viet Truce Armbands

Des Moines school officials said Tuesday that high school students will not be permitted to wear black armbands at school in support of a truce in Vietnam. A few students at Roosevelt High School were reported planning to wear the armbands Thursday. Several groups of Iowa college students opposed to U.S. policy in Vietnam have designated Thursday as a day of fasting and wearing

black armbands to encourage U.S. acceptance of a Viet Cong offer of a 12-hour cease-fire on Christmas Eve.

Roosevelt Principal Charles Rowley refused to comment on the school's attitude toward the armbands. E. Raymond Peterson, director of secondary education, met with high school principals Tuesday to assure a uniform policy. Questioned about the policy, Peterson said, "For the good of the school system, we don't think this should be permitted."

"The schools are no place for demonstrations," Peterson said. "We allow for free discussion of these things in classes." Peterson said the decision not to allow students to wear the black armbands was based on a general school policy against "anything that is a disturbing situation within the school."

School officials believe the educational program would be disturbed by the students wearing armbands, he said. Peterson said the meeting with high school principals dealt with several other matters which school officials considered more important than a proposal by "eight or 10 students" to "get publicity" by wearing armbands.

*Wednesday Evening, December 15, 1965*

Ross Peterson and Bruce Clark went to the Tinker's home. They gave John Tinker a copy of a document called "We Mourn" and he read it and agreed with it (Rappaport, 1993). The document stated (Rappaport, 1993, p. 38):

**We Mourn  
Attention Students!**

Some high school and college students in Iowa who are interested in expressing their grief over the deaths of soldiers and civilians in Vietnam will fast on Thursday, December 16. They will also wear black armbands starting that same day. The National Liberation Front (Vietcong) recently proposed a 12-hour truce on Christmas Eve. The United States has not yet replied to their offer. However, (New York) Senator Robert Kennedy has suggested that the truce be extended indefinitely pending negotiations. If the United States takes this action the armbands will be removed. If it does not the bands will be worn throughout the holiday season and there will be a second fast on New Year's Day. High school and college students are also encouraged to forgo their usual New Year's Eve activities and meet together (at Bruce Clark's home) to discuss this complex war and possible ways of ending the killing of Vietnamese and Americans...Please come!

*My memory is hazy about this, but perhaps Bruce Clark and Ross Peterson brought some [armbands] by that had been cut into strips with pinking shears. My recollection is that Mary Beth and I decided to make our own. We found some black cloth in my mother's sewing supplies. I remember that we ironed the edges*

*over and tried to make a neat job of them. The armbands that we wore to school were just plain black. Later we became more creative and added an iron-on white peace symbol to them ~ John F. Tinker (Answers to Questions, no date).*

*The Afternoon of Thursday, December 16, 1965*

Aware of the armband policy, Mary Beth Tinker, 13 and an eighth-grader, wore a black armband to school at Warren Harding Junior High School. Her armband was a strip of black cloth about one inch wide pinned on her left arm over her black sweater (Rappaport, 1993). Mary Beth Tinker was suspended from school for violating the district's armband policy.

Mary Beth Tinker's suspension is recounted by Rappaport (1993, pp. 56-57): Mary Beth recalled that mathematics teacher, Richard K. Moberly, walked by her desk and put a pass to Vera Ann Tarmann's office on it. She picked up her books and went to Tarmann's office. Tarmann was not in, so she sat down and waited for her. Leo E. Willadsen, the boys' advisor, came in and asked Mary Beth why she was in the office. She told him she was not sure but she thought it was because of her armband. He told her that all she had to do was to take it off. So she took it off and gave it to him. Then he gave Mary Beth a pass to go back to math class. She was in math class about 10 minutes when she was called back to Tarmann's office. Tarmann told Mary Beth she was sorry but she would have to suspend her. Tarmann said she had to follow orders, but she sympathized with her opinion.

Christopher Eckhardt, 15, who also was aware of the armband policy, was a sophomore at Theodore Roosevelt High School. He wore his armband over a cocoa-brown jacket and was suspended before he went to his first class (Rappaport, 1993). His suspension is recounted by Rappaport (1993, pp. 61-62): Eckhardt remembered that the

morning paper said that the principals had banned the armbands. He thought he might be suspended, so he went directly to see the principal. The principal was in a meeting, so he waited about 45 minutes. When he saw Donald Blackman, the vice principal, Blackman looked at Eckhardt's armband and asked Eckhardt which teacher had asked him to take the armband off. Eckhardt told him no one. So Blackman asked him to take it off and Eckhardt told him he was not going to. Eckhardt thinks Blackman said he would have to suspend him if he didn't because there was a rule against it.

*Early on the morning of the first day we were going to protest, I was delivering newspapers on my paper route and noticed a story about it. I was amazed because we hadn't even started yet. It said that all the principals had gotten together and banned the wearing of armbands in the Des Moines school system. The story changed things for me: Now we weren't just protesting, we were committing an act of disobedience. These were things you talked out very carefully before you did them. I raced home and tried to call the others, but Chris Eckhardt and Mary Beth had already left for their schools with their armbands on. I didn't wear mine that first day because I still wanted to talk it over first ~ John F. Tinker (Hoose, 2001, p. 226).*

Later that same day, the three students had asked the president of the school board for an "emergency meeting" on the ban (Irons, 1988, p. 234; Rappaport, 1993). The school board president refused and said the issue "wasn't important enough" to warrant review before the next scheduled meeting (Irons, 1988, p. 234).

*After that, I felt real clear about what I was going to do the next day ~ John F. Tinker (Hoose, 2001, p. 226).*

*The Evening of Thursday, December 16, 1965*

That evening, a meeting was called by Mary Beth's father, Leonard, who worked as secretary for peace education for the American Friends Service Committee regional office in Des Moines, and 25 students and parents attended (Irons, 1988; John P. Tinker, Speech, 1995). The group issued a statement expressing "deep concern" that students

were being “deprived of an important opportunity to participate in this form of expression” about the war (Irons, 1988, p. 234). The American Friends Service Committee drew its name from the Society of Friends, or Quakers (Farish, 1997); Quakers, a branch of Christian religion, have a long tradition of opposition to warfare.

*Friday, December 17, 1965*

Mary Beth Tinker’s symbolic protest put her on the front page of the *Des Moines Register* under the headline, “Wear Black Arm Bands, Two Students Sent Home” (Irons, 1988, p. 233). Also, that morning, three more students were suspended from school, including Mary Beth’s brother, John, 15, a junior at North High School (Irons, 1988; Tinker Oral Arguments, 1968).

*I kept thinking, “Will this day change my whole life?” ~ John F. Tinker (Hoose, 2001, p. 227).*

When John Tinker arrived at school he didn’t have his armband on; he had it in his pocket (Tinker, Speech, 1995). It was to be fastened to his clothing with a safety pin. He had put on a white shirt and tie because he wanted to be dressed up when he was suspended (Tinker, Speech, 1995). He did not usually dress this formally for school, but he didn’t want to be criticized for being badly dressed that day as the war was a serious matter to him and he wanted to be taken seriously (Rappaport, 1993). For the first half of the day he wore the armband on the left sleeve of his jacket, but when he realized that it didn’t stand out enough on his dark jacket he took off his jacket and pinned it to his white shirt (Rappaport, 1993).

*After lunch I went to English with Mr. Ellsworth Lory. As soon as I stepped into his room, he told me to go to the principal’s office. I called my parents before I got there. They had told me to call if anything went wrong or if I got in trouble. I reached my father. Then I went to see Mr. [Donald] Wetter, the principal. He*

*said, "I suppose you know I have to ask you to take it off." And I said, "Yes, I do." He said, "I don't suppose you will," or something like that. And I said, "No." I can't remember exactly what he said. He said that he was following orders from higher up. I told him I wasn't going to take it off. He told me I would have to leave school, but I wouldn't be suspended and it wouldn't go on my record. He said that as soon as I took the armband off, or as soon as there was a different rule about it, I could come back ~ John F. Tinker (Rappaport, 1993, p. 45).*

Other Tinker siblings, Hope, 11, a fifth-grade student, and Paul, 8, a second-grade student, also wore armbands to their respective schools (District Court Opinion, 1966). All were aware of the armband policy.

*...other students dropped out of the armband protest, mainly because their parents didn't want to risk losing their jobs. Our parents were terrific – they supported us all the way ~ John F. Tinker (Hoose, 2001, p. 227).*

*Tuesday, December 21, 1965*

More than 200 people attended the regular monthly school board meeting (Rappaport, 1993). Craig Sawyer, a Drake University law professor, spoke for the Iowa Civil Liberties Union and parents of the five suspended students and asked for immediate reinstatement and repeal of the armband edict (Irons, 1988). Also, Sawyer asked the school board to adopt a policy approving all forms of peaceable expression in school (Rappaport, 1993). The Union's statement recognized the need to protect "the educational atmosphere of the school" from disruption, but also recognized "the students' right to freely express themselves" on controversial issues (Irons, 1988, p. 234). School superintendent Dwight Davis disavowed any intent to ban the expression of student views on Vietnam: "There should be an opportunity to discuss controversial issues in school" Davis said, adding, "You have to draw the line somewhere" (Irons, 1988, p. 234). The board drew the line at armbands because they threatened "a disruptive influence at the

school” (Irons, 1988, p. 234). However, in wearing armbands, these students had been quiet and passive; there was no disruption.

Bruce Clark, one of the suspended students, reminded the school board that black armbands had been allowed in 1963 to mourn four black girls who were killed in a church bombing in Birmingham, Alabama (Irons, 1988; Rappaport, 1993). Also, Iron Crosses had been worn by students (Rappaport, 1993), as had political campaign buttons (American Bar Association, 1998).

After nearly two hours of debate one school board member moved to postpone action, but Sawyer demanded that action be taken and the school board voted 4-3 to continue the ban on armbands (Irons, 1988; Rappaport, 1993).

The students, on behalf of their fathers, sued the school district under 42 United States Code (U.S.C.) § 1983, which is civil action for the deprivation of rights, for an injunction restraining school officials from disciplining the students and for nominal damages (United States Supreme Court Education Cases, 1991). “Nominal” damages amounted to one dollar (Farish, 1997, p. 33). Sawyer told the school board they would meet again in court.

*Thursday, December 23, 1965*

Des Moines’ secondary school principals decided to continue the ban on armbands. Two days after the school board meeting, they issued a memo (Rappaport, 1993, p. 25) which read:

1. A former student of North High was recently killed in Vietnam. Some of his friends are still in school. It is felt that if any kind of a demonstration exists, it might develop into something which will be difficult to control.
2. The schools hold appropriate assemblies on Veterans Day to honor the dead. Memorial Day is also recognized.

3. This rule follows standard procedure for what is considered inappropriate dress, haircuts, or other actions that attract attention.
4. Students at one high school were heard to say they would wear armbands of other colors if the black armbands were worn.
5. The schools are made up of a captive audience, and other students should not be forced to view the demonstrations of a few.
6. One principal reports a Nazi armband on a boy who came to school several weeks ago. When asked to remove it, he complied.
7. These students were sent home from school until they are willing to return without the armband. No student was suspended for a specified length of time.

### *Community Reactions*

Many Iowans responded to the armband situation by writing letters to the editor of the local newspapers. Two letters, one in support of the students, and one in support of the school district, appeared in the *Des Moines Register* in January 1966 (Rappaport, 1993, pp. 28-29).

To the Editor: Sees No "Clear, Present Danger"

The board is operating under a theory discarded 30 years ago by the highest court in the land because it was too restrictive. There was no "clear and present danger" but merely a fear of the future. The board did not like expression of opinion not under its control. The arm bands represented a threat to its absolute sovereignty.

– Gary Martin, Des Moines, Iowa

To the Editor: Called Shocking

Again we have a shocking display of arrogant disdain for established authority, this time in Des Moines, in the persons of a minority group of students, parents, and questionable educators, who insist on a questionable right to wear black arm bands in mourning for those killed in Viet Nam. Whom do they mourn, our own or the Viet Cong?... Those members of the school board who had the courage to stand up against this disregard of their decision against the wearing of the arm bands are to be commended.

– J.Z. Aponyok, Davenport, Iowa

The students themselves experienced the community's reaction. Occasionally, its wrath.

*Many people in Des Moines were angry at our family. A radio talk show host offered to lend a gun to anyone who would shoot my dad. At night I would lie in bed wondering, "If someone throws a grenade through the window, what will I*

*do? Dive into the closet? Put the mattress over my head?" ~ John F. Tinker (Hoose, 2001, p. 227).*

Mary Beth Tinker's account is presented by Irons (1988, p. 248). Mary Beth Tinker said that after all the publicity about what they did, they got a lot of repercussions. People threw red paint at their house and they got lots of calls. They got all kinds of threats to their family, even death threats. People called her house on Christmas Eve and said the house would be blown up by morning. Mary Beth was leaving for school one morning, on her way out the door, and the phone rang and she picked it up. A woman said, "Is this Mary Tinker?" And she said, "Yes." And the woman said, "I'm going to kill you!"

Christopher Eckhardt offered another consequence of his actions (American Bar Association, 1998, Online Conversation): He said his girlfriend dropped him and told him he could no longer come over to her house. The girlfriend's father was a former military officer and did not appreciate Eckhardt's position.

Lorena Jeanne Tinker recalled a brief conversation she had with Dr. Martin Luther King Jr. in Johnson (1997, p. 15). King had been in Des Moines to deliver a speech and after the speech he spoke with Lorena Jeanne Tinker. As a fellow activist and parent, he expressed to her the fears he had about the safety of his children in light of the controversy that seemed to swirl around him. He asked her if, given her local notoriety, she ever worried about her own children's safety. She said, "Of course," and remembers then offering the opinion that if the cause was important enough, certain risks – even to one's own children – were unavoidable. King, she said, sadly agreed.

The year 1965 came to a close. The next section is titled *The Tinker Legal Pathway*. Against a backdrop of the 1966 top television show *Bonanza*, best picture *A*

*Man For All Seasons*, top album by The Monkees, and top single “I’m a Believer” by The Monkees (Epstein, 2001, pp. 32-35), the teenagers pursued their legal case.

In addition to the inclusion of a social context, such as that above, an overview of the years 1966, 1967, and 1968 is provided in order to add societal context. Also, each year features excerpts, one illustrating opposition to the Vietnam War and one illustrating support. This context reminds us that these were ordinary teenagers. The top television show, best picture, top album, and top single show us, perhaps, what was entertaining fellow teenagers. While these were ordinary teenagers, they were doing something extraordinary as well. My discussion in this section has offered an overview of the year 1965, as well as background information about nine specific days in 1965. It is important to glean an understanding of the circumstances before, during, and after John Tinker wore his protest armband to school. Next, I explain how *Tinker* becomes a legal case and its path is followed.

### The *Tinker* Legal Pathway

In this section I will describe the legal journey of the *Tinker* case as it spans three years: 1966, 1967, and 1968. Here, it is important to understand why *Tinker* became a lawsuit and review how the case made its way to the United States Supreme Court.

#### 1966

The National Organization for Women (NOW) is founded, led by Betty Friedan, to establish “full equality for women in America in a truly equal partnership with men.”

**February 21** – United States resumes bombing raids on North Vietnam.

**April 12** – B-52 bombers used for the first time on North Vietnamese targets.

**March** – Cesar Chavez wins the first migrant worker labor contract in the history of the United States labor movement.

**May 1** – The United States pursues Vietcong and North Vietnamese soldiers into neighboring Cambodia, widening the war.

**May 15** – 10,000 anti-war demonstrators picket the White House, while the pledges of 63,000 voters to vote only for anti-war candidates are displayed at the Washington Monument.

**June 2** – Surveyor 1, launched May 30, makes the first United States soft landing on the moon's surface. The spacecraft sends back more than 11,000 televised pictures before its batteries go dead.

**June 29** – The United States begins bombing the North Vietnamese capital, Hanoi.

**August 4** – United States announces a draft call of 46,200 -- the highest ever -- for October.

**August 6** – Demonstrations against the Vietnam War held across the country.

**November 25** – Texas Governor John Connally, wounded in JFK's assassination, reiterates his Warren Commission testimony for Life magazine. Connally swears that he was hit by a second bullet, and not the same one that had killed President Kennedy. Connally had been hit roughly 1.3 seconds after JFK; as Oswald's rifle could not be fired faster than once every 2.3 seconds. Connally's bullet would have come from the gun of a second assassin. Life calls for the case to be reopened.

**December** – Casualty reports show that 5,008 United States troops have been killed in Vietnam since beginning of year, with 30,093 wounded. The United States now has close to 400,000 troops in Southeast Asia.

(Holland, 1999, p. 128; Epstein, 2001, pp. 34-35).

## 1966

### January 6

Student groups pledge Vietnam support

President Johnson has been hearing a lot recently from students who say it is time to get out of Vietnam. Today, he received a different message. A scroll representing nearly half a million students who support the administration's war policy was presented to Vice President Hubert Humphrey. The ceremony was organized by the National Student Committee for the Defense of Vietnam. Another student organization announced it will hold two days of rallies to support Johnson's Vietnam policies. The demonstrations are being sponsored by a splinter group of the conservative Young Americans for Freedom. The first rally is scheduled to be held in Boston tomorrow night. The widow of an officer killed in Vietnam will help kick off a pro-war rally at the Statue of Liberty on Saturday (Chronicle of the 20<sup>th</sup> Century, 1995, p. 944).

### May 28

Opposition to Vietnam War keeps growing

On American campuses students picket, march, chant, and sometimes riot. On the White House lawn, moderate protesters urge the President to "cool it." In Saigon, Buddhists set themselves ablaze in fiery suicides. At defense contractors' corporate offices, scores denounce the production and use of napalm. Everywhere, it seems, the anti-war movement, in all of its various forms of expression, grows in intensity as record numbers of Americans die in Vietnam. About 350 students seized control of administration offices at the University of Chicago, protesting the college's cooperation with the Selective Service. A similar demonstration at City College in New York obstructed campus activities. Thousands more students are seeking draft deferments. A crowd of 8,000 "intellectuals" gathered in Washington, voicing their opposition to what many are calling the "unwinnable war." A group of 75 yelled, "Nazi ovens in '44, U.S. napalm in '66," in front of Dow Chemical headquarters. And three days ago, tear gas was used to rout anti-American protests in Saigon itself (Chronicle of the 20<sup>th</sup> Century, 1995, p. 949).

*Monday, January 3, 1966*

Several hundred people attended the next meeting of the Des Moines school board. The school board voted 5-2 to uphold the armband policy (Rappaport, 1993).

*Tuesday, January 4, 1966*

After the holidays, Christopher Eckhardt and siblings Mary Beth and John Tinker all returned to their respective schools. To express their mourning over those killed in the Vietnam War, the students wore all black clothing for the next few months (Rappaport, 1993).

*"People called me "Pinko" and "Commie" all year long. A physics teacher told me he lowered my grade because of what he called "my attitude." A history teacher told me he raised my grade to make up for it. An English teacher said in class that maybe these protestors ought to be hung up by their thumbs. Some teachers gave me a chance to talk to their classes, to give my side of the Vietnam War. I welcomed these chances, but I was feeling weird at school ~ John F. Tinker (Hoose, 2001, p. 228).*

Also, that month, the Iowa Civil Liberties Union filed suit in federal court on behalf of the students, through their fathers, and against the Des Moines school district seeking an injunction against the armband policy (Irons, 1988). Under United States law,

if a public official violates a citizen's constitutional right, that citizen can go to federal court and sue (Rappaport, 1993).

*Monday, July 25, 1966*

The case *Tinker et al. v. The Des Moines Independent Community School District et al.*, 258 F. Supp. 971 was heard in the United States District Court for the Southern District of Iowa, Central Division. Cases involving people accused of disobeying the United States Constitution or its Amendments are tried in federal courts.

To review, the United States Constitution was written in 1787 and its purpose was to set forth our nation's governing structure. In 1791, the United States Constitution was expanded to address the basic rights and freedoms of citizens. The first 10 amendments are called the Bill of Rights. The following citations are from Tribe (1978, pp. lxiii and lxv):

*The First Amendment to the United States Constitution (1791).*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

*The Fourteenth Amendment to the United States Constitution (1868).*

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Freedom of speech means one can express an opinion without fear of censorship by the government, even if that opinion is an unpopular one. Since the 1940s, the United

States Supreme Court has upheld the right of citizens to engage in speech that is sexual, offensive, indecent, hostile, radical, reactionary, antiwar, unpopular, and even aggressively antigovernment in content (Raskin, 2003). To be sure, speech that is defamatory, obscene, and inflammatory may subject speakers to some kinds of liability or state regulation. However, the essence of the First Amendment is its protection of speech and not the avenues it permits to regulate it.

In the *Tinker* case, Dan L. Johnston, a 28-year-old attorney who previously worked for the state attorney general's office represented the students. Allan A. Herrick, a 70-year-old partner in one of Des Moines' largest legal firms represented the school district (Irons, 1988). Siblings Mary Beth and John Tinker and Christopher Eckhardt each testified. The plaintiffs' and the defendants' strategies were outlined by Rappaport (1993).

*Plaintiffs' Strategy (Rappaport, 1993, p. 34).*

Three items needed to be proven by the plaintiffs to prevail on their claim at trial. In trying to prove that the school board violated the rights of the students under the First Amendment and the Due Process Clause of the Fourteenth Amendment, the plaintiffs tried to prove that: (a) the students had been denied their right to express their views; (b) the armbands had not disturbed teaching or caused disturbances; and (c) the ban, by singling out these students, discriminated against them.

*Defendants' Strategy (Rappaport, 1993, p. 35).*

Five items needed to be proven by the defendants to rebut the plaintiffs' claim. In trying to show that school officials did not violate the students' rights, the defendants hoped to prove that: (a) the armbands created a potentially dangerous situation, (b)

disturbances did occur, (c) the students had other chances in school to exercise free speech, (d) the students had been convinced by their parents to wear the armbands, and (e) school officials acted reasonably to protect education for all students.

*Thursday, September 1, 1966/United States District Court Opinion*

Chief Judge Roy L. Stephenson rendered his opinion in the case *Tinker et al. v. The Des Moines Independent Community School District et al.*, 258 F. Supp. 971 (1966). In his ruling (pp. 971-973), Judge Stephenson wrote that an individual's right of free speech is protected against state infringement by the Due Process Clause of the Fourteenth Amendment and that the wearing of an armband for the purpose of expressing certain views is a symbolic act and falls within the protection of the First Amendment's Free Speech Clause. But, he concluded, the protections of that clause are not absolute.

Judge Stephenson stated that the abridgment of speech by a state regulation must always be considered in terms of the object the regulation is attempting to accomplish and the abridgement of speech that actually occurs. Judge Stephenson wrote that officials of the defendant school district have the responsibility for maintaining a scholarly, disciplined atmosphere within the classroom, and these officials not only have a right, but an obligation to prevent anything that might be disruptive of such an atmosphere. Unless the actions of school officials in this connection are unreasonable, the Courts should not interfere.

Judge Stephenson continued that the debate over the Vietnam War had become vehement in many localities and noted that both individuals supporting the war and those opposing it were quite vocal in expressing their views, so it was against this background that the Court must review the reasonableness of the regulation. Judge Stephenson added

that a subject should never be excluded from the classroom merely because it is controversial, but while the armbands themselves may not be disruptive, the reactions and comments from other students as a result of the armbands would be likely to disturb the disciplined atmosphere required for any classroom.

Judge Stephenson wrote that it was not unreasonable in this instance for school officials to anticipate that the wearing of armbands would create some type of classroom disturbance and that school officials involved had a reasonable basis for adopting the armband regulation. Judge Stephenson concluded that it is the disciplined atmosphere of the classroom, not the plaintiffs' right to wear armbands on school premises, which is entitled to the protection of the law. Accordingly, he denied the plaintiff's request for an injunction and nominal damages. The ban on armbands was upheld.

The plaintiffs had a choice to make. Should they quit or should they appeal the decision? They chose to appeal their case to the next highest court: The United States Court of Appeals. The year 1966 came to a close. Against a backdrop of the 1967 top television show *The Andy Griffith Show*, best picture *In the Heat of the Night*, top album by The Monkees, and top single "To Sir With Love" by Lulu (Epstein, 2001, pp. 36-39), the teenagers appealed their legal case.

## 1967

**January 10** – Lester Maddox was sworn in as Governor of Georgia.

**January 27** – A space demilitarization treaty, forbidding the orbiting of nuclear weapons and territorial claims on celestial bodies, is signed by the United States and USSR. On the same day, three United States astronauts, Edward J. White Jr., Virgil "Gus" Grissom, and Roger B. Chaffee burn to death during a launch drill of Apollo I at Cape Kennedy, Florida.

**April 15** – Massive anti-war protests take place in San Francisco and New York City.

**May 13** – 70,000 people attend a pro-Vietnam War parade in New York City.

**July 23** – The worst race riot in United States history occurs in Detroit, killing 43 people and causing \$200 million in damages. During the summer, race riots occur in 127 different cities.

**October 2** – Thurgood Marshall becomes the first African American Supreme Court Justice of the United States.

**October 21-22** – Anti-war protestors clash with police outside the Pentagon; 647 are arrested.

**December** – United States casualty reports show that over 17,000 soldiers have died in Vietnam since 1961.

(Holland, 1999, p. 128; Epstein, 2001, p. 39).

## 1967

### September 12

Reagan urges more effort to win war

Ronald Reagan wants America to win the Vietnam War. The California Governor told news reporters that “full technological resources” should be employed quickly to end the war victoriously. He suggested leaking to the Viet Cong that America is ready to use nuclear weapons. He recounted a statement by President Eisenhower about U.S. strategy in the Korean War: “(Ike) said one of our great mistakes was in assuring the enemy of our intention not to use (the Bomb), that the enemy should still be frightened that we might” (Chronicle of the 20<sup>th</sup> Century, 1995, p, 970).

### October 21

Protesters storm Pentagon; Mailer jailed

A peaceful rally in Washington against the Vietnam War turned violent this afternoon as thousands of protesters crossed the Potomac and stormed the Pentagon. They yelled obscenities as they rushed lines of soldiers and federal marshals who were armed with rifles and bayonets. No shots were fired, but many of the demonstrators were bashed over the head with nightsticks and rifle butts. Blood dripped on the sidewalk. Some 250 protesters were arrested, including novelist Norman Mailer and David Dellinger, Chairman of the group that organized the rally, the National Mobilization Committee to End the War in Vietnam. The violence ebbed as darkness fell, but hundreds of protesters continued to mill about, setting bonfires and burning draft cards. The protest started when 50,000 anti-war demonstrators congregated around the Lincoln Memorial. Some banners said to be Viet Cong flags fluttered in the air, but the rally was for the most part peaceful. Shortly after 2 p.m., marchers started crossing the Potomac. There were so many protesters that it took three hours for

all of them to walk across Memorial Bridge (Chronicle of the 20<sup>th</sup> Century, 1995, p. 971).

*April and October, 1967*

In April, lawyers for both sides argued their case before three judges from the United States Court of Appeals for the Eighth Circuit (Rappaport, 1993) in St. Louis, Missouri (Hoose, 2001). In October, the lawyers were invited back to argue before all eight judges in that Federal Court of Appeals (Rappaport, 1993).

*Friday, November 3, 1967/United States Circuit Court of Appeals*

The United States Circuit Court of Appeals rendered its decision in the case *Tinker et al. v. The Des Moines Independent Community School District et al.*, 383 F.2d 988 (1967). The judges were split 4-4 and issued no opinion. When the court is evenly split, the decision of the lower court stands. The students, through their attorneys, petitioned the United States Supreme Court to take their case.

The year 1967 came to a close. Against a backdrop of the 1968 top television show *Gomer Pyle, USMC*, best picture *Oliver*, top album *The Graduate* soundtrack by Simon and Garfunkel, and top single “Hey Jude” by The Beatles (Epstein, 2001, pp. 40-43), the teenagers hoped the United States Supreme Court would hear their case.

**1968**

**January 30** – The Vietcong’s “Tet Offensive” begins, surprising United States forces in South Vietnam. Camera crews send pictures of bitter fighting home daily via satellite.

**March 28** – Violence mars a Dr. Martin Luther King Jr.-led march in support of striking Memphis, Tennessee sanitation workers. Dr. King promises to return for another march in April.

**March 31** – In the face of increased anti-war sentiment and a strong primary showing by anti-war candidate Eugene McCarthy, President Lyndon Baines Johnson announces that he will not seek another term.

**April 4** – Dr. Martin Luther King Jr. assassinated in Memphis. Riots erupt in 125 cities.

**April 15** – Chicago Mayor Richard J. Daley issues a “shoot to kill” order to the city’s police force for anyone involved in cases of arson, looting, or rioting.

**May 10** – Paris peace talks begin between the United States and North Vietnam.

**June 5** – Senator Robert F. Kennedy assassinated in Los Angeles, shortly after acknowledging his victory in the California Democratic primary. Sirhan B. Sirhan, a Jordanian, is arrested in connection with the shooting.

**June 6** – James Earl Ray arrested in London for the assassination of Dr. King.

**June 23** – Vietnam War officially becomes the longest war in United States history. Death toll passes 30,000 by the end of the year.

**August 8** – Richard M. Nixon nominated for presidency by Republican National Convention.

**August 26-29** – Hubert H. Humphrey nominated for presidency by Democratic National Convention.

**August 28** – Chicago police are televised nationally as they viciously attack Festival of Life peace protestors outside the Democratic National Convention.

**October 19** – Jackie Kennedy marries Greek shipping magnate Aristotle Onassis.

**November 5** – Richard Nixon narrowly elected president.

**November 14** – “National Turn In Your Draft Card Day” inspires draft-card burning at college campuses across the country.

(Holland, 1999, pp. 128-129; Epstein, 2001, pp. 42-43).

## 1968

### January 5

Spock indicted for his anti-draft advice

Benjamin Spock, the baby doctor who counseled mothers in the 1950’s, was indicted today for counseling their children to resist the draft. The famous pediatrician and author could receive five years in prison and said he hoped “100,000, 200,000 or even 500,000 young Americans would refuse to be drafted or obey orders if in the military service.” Also indicted was Rev. William Sloan Coffin, Yale chaplain, who together with Spock collected draft cards in Washington to be returned to the government (Chronicle of the 20<sup>th</sup> Century, 1995, p. 977).

## November 1

### LBJ calls halt to bombing in Vietnam

President Johnson told the nation in a televised speech that he had ordered a stop to all American air, naval, and artillery bombardments in North Vietnam, in hopes it will lead to progress at the Paris peace talks. LBJ said, "What we now expect – what we have a right to expect – are prompt, productive, serious and decisive negotiations in an atmosphere conducive to peace." In exchange for the bombing halt, Hanoi has agreed to allow the South Vietnamese government participation in Paris. Despite claims that Johnson acted to enhance Vice President Humphrey's election chances, many have hailed the move (*Chronicle of the 20<sup>th</sup> Century*, 1995, p. 992).

### *Spring and Fall, 1968*

The Tinker family moved from Des Moines to St. Louis, Missouri. Leonard Tinker transferred to St. Louis with the American Friends Service Committee (Mary Beth Tinker interview, Irons, 1988). John Tinker graduated from North High School; Christopher Eckhardt graduated from Theodore Roosevelt High School.

### *Tuesday, November 12, 1968/United States Supreme Court Oral Arguments*

That fall, Christopher Eckhardt attended oral arguments before the United States Supreme Court after the nine Justices voted to "grant certiorari" and hear the case (Farish, 1997, p. 44).

Eckhardt recalled that when he heard Justice Thurgood Marshall ask the question – "seven out of 18,000, and the school board was afraid that seven students wearing armbands would disrupt 18,000. Am I correct?" – he was confident they would prevail (Hudson, 1999, p. 2).

*Petitioners' Argument.*

The American Civil Liberties Union assisted the Tinkers and Eckhardts and added the expertise of their attorney, Melvin L. Wulf (Farish, 1997). The United States National Student Association supported the Tinkers and Eckhardts, too, and filed an amicus curiae brief or "friend of the court," brief (Farish, 1997).

The Petitioners' brief emphasized five ideas: (a) the First Amendment applies to students, (b) the students were unlawfully suspended for exercising their First Amendment rights, (c) the armbands did not disrupt education or discipline, (d) the ban was unconstitutional, and (e) the ban discriminated against armbands (Rappaport, 1993, pp. 100-104).

*Respondents' Argument.*

School officials, through their attorneys, responded to the students' brief. The Respondents' brief emphasized five points: (a) people do not have a constitutional right to protest wherever they please, (b) school officials insisted that the students' parents had abused the right of free speech, (c) school officials did not deprive students of their right of free speech, (d) school officials have the right to adopt reasonable rules, and (e) the armband rule was reasonable (Rappaport, 1993, pp. 105-110).

*I was driving around town when I heard on the car radio that the Supreme Court had decided to take the case ~ John F. Tinker (Hoose, 2001, p. 228).*

The year 1968 came to a close. Against a social backdrop of the 1969 top television show *Laugh-In*, best picture *Midnight Cowboy*, top album the Original Cast of *Hair*, and top single "Aquarius/Let The Sunshine In" by The Fifth Dimension (Epstein,

2001, pp. 44-46), the teenagers soon saw their legal case come to a conclusion. Next, the United States Supreme Court ruled on *Tinker*.

### The *Tinker* Ruling

In order to keep the *Tinker* story in historical and societal context, I now offer an overview of the year 1969, as well as excerpts showing how peace was sought by both those opposed to the Vietnam War and those in support. Most significantly, this section features the legal context with judicial opinions and relates how the importance of *Tinker* remains today. Additionally, the local armband protest went national in *The New York Times*.

### 1969

**January 20** – Republican Richard M. Nixon becomes the 37<sup>th</sup> president of the United States, ending eight years of Democratic presidents. President Nixon's inauguration is marked by widespread anti-war protests.

**April 3** – United States deaths in Vietnam reach 33,641.

**April 24** – United States B-52s drop nearly 3,000 tons of explosives on enemy positions near the Cambodian border; heaviest bombing raid to date.

**July 16** – Apollo 11 mission launched; lunar module carrying Neil Armstrong and Edwin "Buzz" Aldrin lands on surface of the moon on July 20. The United States wins the space race with Armstrong the first man to step onto the moon.

**July 18** – Senator Edward M. Kennedy involved in auto accident off Chappaquiddick Island, which kills his passenger, Mary Jo Kopechne.

**August 9** – Sharon Tate and four others murdered in Los Angeles by followers of cult leader Charles Manson. Manson and several others are indicted for the murders in December.

**August 13** – Woodstock Music Festival draws 500,000 baby boomers to a musical camp-out with rock starts on a farm in upstate New York.

**October 15** – National Vietnam Moratorium launches demonstrations and work stoppages across the United States in a national day of anti-war protest.

**November 11** – Pro-war demonstrators, called "the great silent majority" by Nixon, march on Veterans Day.

**November 14-15** – Single-file "march against death" brings 250,000 to Washington, D.C.; 100,000 march against the war in San Francisco.

**November 16** – News reports accuse a United States infantry unit, led by Lt. William Calley, of committing a massacre at My Lai, a South Vietnam village.

More than 450 villagers, almost all women, infants, children, and elderly, were killed in the attack, which took place in March 1968. (Holland, 1999, p. 129; Epstein, 2001, p. 46).

## 1969

### June 18

Nixon orders 25,000 out; he plans more

Clark Clifford, former Defense Secretary in the Johnson administration, has urged President Richard Nixon to scale down military operations in Vietnam. The advice comes just ten days after Nixon, following a meeting with South Vietnamese President Nguyen Van Thieu at Midway Island, announced that the U.S. would withdraw 25,000 soldiers, the equivalent of a combat division, from Vietnam by the end of August. Nixon held out the hope for further reductions in the 540,000-man American force as South Vietnamese troops prove capable of taking over the ground battle. Nixon described the withdrawal as a “significant step forward” toward peace in Vietnam. Aside from placating domestic critics, the troop withdrawal appeared designed to put pressure on North Vietnam in the Paris peace talks. Differences between the U.S. and South Vietnam on the goals of the peace talks must also be ironed out (Chronicle of the 20<sup>th</sup> Century, 1995, p. 1002).

### October 15

Anti-war protest spreads across U.S.

The Vietnam Moratorium, the largest protest in the history of the anti-war movement, was a complete success. Throughout the United States, in small towns and big cities, in every region of the country, millions of students, laborers, executives, housewives, school children, the young and the old, the black and the white, the rich and the poor, showed their opposition to the Vietnam War in diverse peaceful ways. Many of the participants wore black armbands in silent protest. As the first nationally coordinated demonstration, it was unique. But will it end the war in Vietnam? The presidents of 79 colleges have appealed to President Nixon “for a stepped up timetable for withdrawal from Vietnam” while Governor Francis W. Sargent of Massachusetts, a World War II combat veteran, said simply, “This war is costing America its soul” (Chronicle of the 20<sup>th</sup> Century, 1995, p. 1008).

*Monday, February 24, 1969/United States Supreme Court Decision*

In a 7-2 vote, the Supreme Court reversed the decision reached by the lower court *Tinker et al. v. The Des Moines Independent Community School District et al.*, 393 U.S. 503 (1969). The opinion of the Court included five conclusions: (a) wearing the armband was a form of symbolic free speech, (b) the First Amendment applies to students, (c) the Fourteenth Amendment applies to students, (d) the school rule banning armbands was unconstitutional, and (e) school officials do not have absolute authority over students (Rappaport, 1993, pp. 126-129).

*Majority Opinion.*

In a majority opinion by Justice Abe Fortas expressing the view of seven members of the Court, he wrote that the wearing of armbands in the circumstances of the case was entirely divorced from actually or potentially disruptive conduct by those participating in it, and as such was closely akin to "pure speech" (1969, p. 506), which is entitled to comprehensive protection under the First Amendment.

In the opinion (1969, pp. 509-511), the Court held that the school regulation prohibiting students from wearing the armbands violated the students' rights of free speech under the First Amendment. There was no evidence that the authorities had reason to anticipate that the wearing of the armbands would substantially interfere with the work of the school or impinge upon the rights of other students. On the contrary, it appeared that the authorities' action was based upon an urgent wish to avoid the controversy which might result from the expression symbolized by the armbands, and that the particular symbol of black armbands was singled out for prohibition.

*Concurring Opinions.*

Justice Potter Stewart concurred in the judgment and most of the Court's opinion, but added (1969, p. 515) he could not share the Court's uncritical assumption that, school discipline aside, the First Amendment rights of children are coextensive with those of adults, adhering to his view that a state may permissibly determine that, at least in some precisely delineated areas, a child – like someone in a captive audience – is not possessed of that full capacity for individual choice which is the presupposition of First Amendment guarantees.

Justice Byron White concurred with the majority but noted (1969, p. 515) that the Court continues to recognize a distinction between communicating by words and communicating by acts or conduct which sufficiently impinge on some valid state interests. He noted he did not subscribe to every aspect of the Court's reasoning in supporting its decision.

*Dissenting Opinions.*

Justice Hugo Black dissented on the grounds that (a) the Court arrogated to itself, rather than to the state's elected school officials, the decision as to which school disciplinary regulations are "reasonable" (1969, p. 517); (b) the case, wholly without constitutional reasons, subjects all the public schools in the country to the whims and caprices of their "loudest-mouthed, but maybe not their brightest" students (1969, p. 525); and (c) the Court should have accorded the Iowa educational institutions the right to determine for themselves what free expression and no more should be allowed, where the record amply showed that public protest in the school classes against the Vietnam War

“distracted from that singleness of purpose which the state desired to exist in its public education institutions” (1969, p. 524).

Justice John Harlan also dissented (1969, p. 526), saying that he would cast upon those complaining the burden of showing that a particular school measure was motivated by other than legitimate school concerns, and that he could find nothing in the record which impugned the good faith of the defendant school authorities in promulgating the armband regulation.

*The armband case made it clear that school officials can't just clamp down on kids for expressing their thoughts. They can tell you not to shout or fight or clap during class, but they can't keep a kid from expressing a thought based on the content of what they're saying. The Supreme Court basically just said, "No, that's not the kind of society we have here" ~ John F. Tinker (Hoose, 2001, p. 229).*

By including the concurring and dissenting opinions, one can see there are a variety of ways to consider this legal case. This was not a unanimous decision and all the points raised have some merit. Including the dissenting opinions especially makes it easier to understand why the District Court and the Circuit Court of Appeals interpreted the *Tinker* case as they did. This connects to my research stance as it illustrates the development of multiple perspectives.

The national media covered this landmark decision by the United States Supreme Court. In one national newspaper, an article explained the decision and an editorial praised it.

*Monday, February 24, 1969, The New York Times Article (Graham, 1969, p. 1):*

#### High Court Upholds A Student Protest

The Supreme Court ruled today that public school officials may not interfere with students' rights to express political opinions in a nondisruptive way during school hours. In a 7-2 decision, the Court held that school officials in Des Moines, Iowa, had violated the First Amendment rights of three children, 13 to 16

years of age, when they suspended them for wearing black armbands to protest the Vietnam war.

The ruling provoked a heated dissent from Justice Hugo L. Black, who insisted that it would encourage students to demonstrate and would embroil the Supreme Court in public school affairs. Justice Abe Fortas emphasized in the Court's opinion that school children's free speech rights are limited to conduct that does not disrupt discipline or interfere with the rights of others. He also said that their rights included only political expression, and that the Federal courts would not become involved in disputes over the permissible length of students' hair or skirts. But he noted that some students in Des Moines had been permitted to wear political campaign buttons, and some had worn the Iron Cross. The school principals ruled out only the armbands protesting the Vietnam war. Justice Fortas saw this as an attempt to suppress expressions of opposition to the war.

"In our system, students may not be regarded as closed-circuit recipients of only that which the state chooses to communicate," he said. "In the absence of specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views."

The Supreme Court declared as early as 1943 that schoolchildren have First Amendment rights, when it struck down a West Virginia law that required students to salute the flag, even if they had religious scruples against it. Lower Federal courts have extended this to safeguard the rights of students to wear political or civil rights insignia.

However, today's ruling marked the Supreme Court's first ruling on the question of free speech rights, and Justice Fortas emphasized that the decision related only to "symbolic speech" or speech itself, and not to protest demonstrations. He said that the courts should consider if curbs school officials imposed on students' political expression were reasonable in the light of the probability of disruption, and should enjoin unreasonable restrictions.

Despite efforts by Justice Fortas to confine the ruling to narrow limits, it may make it more difficult for public schools to censor student publications or to purge school libraries or curriculums of "objectionable" material. Principals and deans may also encounter legal difficulty when they attempt to discipline student protesters.

Justice Black insisted that after today's ruling many students "will be ready, able, and willing to defy their teachers on practically all orders." "This is the more unfortunate for the schools," he said. "Since groups of students all over the land are already running loose, conducting break-ins, sit-ins, lie-ins, and smash-ins." He objected that young persons are currently too prone to try to teach their elders rather than to learn from them, and that today's ruling would make the situation worse. Moreover, he said, the Court's "reasonableness" standard would put the Federal judiciary in the position of second-guessing actions of school officials without clear standards to guide either.

Justice John M. Harlan also dissented in a short opinion. Justice Black, whose dissents have tended to become longer and more acid in recent years, spoke extemporaneously for about 20 minutes this morning. At one point he used mocking tones to quote from an old opinion with which he disagreed, and he

finished by stating that “I want it thoroughly known that I disclaim any sentence, any word, any part of what the Court does today.” Justice Black will observe his 83<sup>rd</sup> birthday next Thursday.

The events leading to today’s decision go back to December 1965, when antiwar groups in Des Moines began to plan the armband protest. The Board of Education voted to prohibit the wearing of armbands. Seven children defied the rule and wore armbands. Those who refused to remove them were suspended and were permitted to return later without the armbands. The suit, sponsored by the American Civil Liberties Union, was brought in the names of three of the suspended students: John F. Tinker, then 15; his sister Mary Beth, then 13, and Christopher Eckhardt, 16. The father of the Tinker children is a Methodist minister employed by the American Friends Service Committee. Young Eckhardt’s mother is an officer in the Women’s International League for Peace and Freedom.

The United States District Court in Des Moines refused to enjoin the school officials from forbidding the armband protests, and the United States Court of Appeals for the Eighth Circuit affirmed. Dan Johnston of Des Moines argued for the children. Allan A. Herrick, also of Des Moines, argued for the school board.

*Wednesday, February 26, 1969, The New York Times Editorial* (unnamed editorial board, 1969, editorial page):

#### Armbands Yes, Miniskirts No

The above title encapsulates (with a degree of metaphoric license) the jurisdictional bounds set for itself by the United States Supreme Court in cases arising out of various school and campus controversies. In a fascinating decision Justice Fortas – speaking for the 7-2 majority – said in effect that the Court is not going to worry about or interfere with disciplinary rules and trivia such as hair length, clean ears, blue jeans or miniskirts. But the Court definitely intends to protect legitimate protest – by armband, button or placard – as part of the general right to freedom of expression.

Like so much dissent in the past few years, this case involved protest against the Vietnam war. Des Moines junior high and high school students wore black armbands of mourning to publicize their support of a truce. As a result, they were suspended from school. Parenthetically, other student who wore Nazi Iron Cross symbols were permitted to attend classes without suspension.

Justice Fortas cut through a forest of extraneous matter in placing these students within the First Amendment. He said: “The wearing of the armbands in the circumstances of this case were entirely divorced from actually or potentially disruptive conduct by those participating in it...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 fifty years.”

In a peppery dissent, Justice Black declared that speeches and demonstrations could not be given when and where anyone pleased. He said: "I repeat that if the time has come when pupils of state-supported schools, kindergarten, grammar school or high school, can defy and flout orders of school officials to keep their minds on their own school work, it is the beginning of a new revolutionary era of permissiveness in this country fostered by the judiciary."

The majority of the justices felt – we think, rightly – that a line could and should be drawn between free expression and disorderly excess. A close reading of the facts and decision shows that there is no license given here to riot, to interfere with classroom work or to substitute the Court for the thousands of school boards.

Freedom of expression – in an open manner by those holding minority or unpopular views – is part of the vigor and strength of our schools and society. So long as it does not obstruct the right of others in the classroom or on campus it must be allowed in this country. If dissent ever has to go underground, America will be in real trouble.

The *Tinker* decision remains important to this day because students were not recognized as having the First Amendment right of freedom of expression in 1969 when the United States Supreme Court addressed the question in *Tinker* (LaMorte, 2002, p. 96). Additionally, the ultimate strength of *Tinker* lies in the fact that the decision has not been overturned (Watters, 1998). Several sentences from *Tinker* are frequently cited to affirm these principles.

#### *The Importance of Tinker*

In *Tinker*, the United States Supreme Court ruled that students have the right to speak and protest freely while not disrupting others. Also, student speech cannot be silenced just because school officials disagree with the message. Additionally, wearing an armband is a symbolic act that falls within the protection of the First Amendment's Free Speech Clause. The ruling by the United States Supreme Court concluded that armbands were "closely akin to pure speech" (1969, p. 506) and thus protected by the First Amendment.

*It is difficult to know what my life would have been like without this. I'm proud of my involvement with the case. It's given me an opportunity to meet a lot of people. People often introduce themselves to me and say, "You don't know me, but I know about your case." It's given me the belief that a person has the ability to affect the world ~ John F. Tinker (Rappaport, 1993, p. 141).*

It was a small action by three Iowa teenagers that ultimately had a large impact on public school students nationwide. In the course of ordinary life in Iowa in 1965 it did not seem like anything momentous was happening. However, a seemingly unimportant action by three teenagers was important enough.

The first two chapters of my dissertation have established a background for my research: Tinker on *Tinker*. Chapter One highlighted the focus of and purpose for this study, and Chapter Two covered the protest action itself along with years of related literature, including the landmark legal decision. Now, the focus shifts to the foreground. I want to know how a person involved in a 1969 United States Supreme Court decision reflects on it 40 years later? This review of literature examines experiences relevant to the *Tinker* case and its namesake. One purpose of my review was to identify noteworthy people who may or may not have had an impact on Tinker's life (Appendix A), as well as to create an event and life timeline (Appendix B), both of which were used to help me generate interview questions for Tinker. By doing so, I hoped to learn Tinker's epiphanies. Said Denzin (1989, p. 70): "Epiphanies are interactional moments and experiences which leave marks on people's lives." John Tinker was 15 years old when he wore an armband to school to protest the Vietnam War; he is 57 now. How does he view his life since that milestone?

To answer that main question, method is addressed. Chapter Three, Method, is divided into five sections: Biographical Tradition, Interpretive Biography, Data

**Collection, Research Quality, and Data Analysis. First, the terms postmodernism and constructivism are discussed.**

### Chapter Three: Method

Every one of us perceives and interprets the world in our own way, and I wanted to honor that in listening to Tinker. How he interprets his world and how I interpret his world differs from how another researcher would interpret his or my worlds. There is no one true interpretation; meaning is put there by us. It is constructed. Additionally, my methods are subjective, which also connects to a postmodern stance. Modernists may cherish a single explanation, or a single world view, but this dissertation resists that. To rely on an objective reality and scientific method will not do justice to this biographical study.

This study includes an account of Tinker's story, which he shared with me in private interviews, and I deduced from his public speeches, which I interpreted and re-told. There is no one "true" tale for Tinker to tell; there are no "real" facts for me to discover. For readers, this is but one version of Tinker on *Tinker*. There are multiple versions to every story. I appreciate that with a postmodernist approach to research, one singular truth does not exist and objectivity is rejected.

However, postmodernism in research contexts is difficult to define. Tierney (2000) stated that, "A concrete definition of postmodernism does not exist; indeed, such a definition would be ironic given post-modernism's basic tenets pertaining to indeterminacy and constant deconstruct-ion/reconstruction" (p. 538). But, in the context of qualitative research, Lincoln's account of postmodernism is helpful. She notes, "The core of postmodernism is the doubt that any method or theory, discourse or genre, tradition or novelty, has a universal and general claim as the 'right' or the privileged form of authoritarian knowledge" (1997, p. 36). To be detached, neutral, and absolute, for

example, would not do justice to this topic. To proceed in the opposite manner will lead to a better understanding of Tinker on *Tinker*.

Additionally, constructivism is but one postmodern paradigm. With constructivism, the ontological assumption is one of relativism, the epistemological assumptions are subjectivity and created findings, and the methodological assumptions are interpretations and discussions (Lincoln & Guba, 2000). One salient definition of constructivism tells us (Confrey, 1990, p. 108, as cited by Matthews, 2000):

Put into simple terms, constructivism can be described as essentially a theory about the limits of human knowledge, a belief that all knowledge is necessarily a product of our own cognitive acts. We can have no direct or unmediated knowledge of any external or objective reality. We construct our understanding through our experiences, and the character of our experience is influenced profoundly by our cognitive lens.

With the topic of Tinker on *Tinker*, I expected Tinker's stories to be constructed by him and that they would come in multiple versions. I expected that what he said and what I heard may not be interpreted the same way. What I wanted to know is this: How does Tinker understand and interpret his life since *Tinker*? I wanted to document Tinker's perspectives and his meaning-making systems. I wanted to understand Tinker's constructed world and how he interpreted it. I wanted to be actively involved in this process. If I were detached and neutral, it would not elicit the personal stories that I hoped Tinker would share. Over hours of discussion with him and other hours listening to audiotapes of him and reading other material, I constructed and co-constructed Tinker's story based on what I heard and on what I believed he believed his story to be. By listening, questioning, transcribing, analyzing, questioning more, clarifying, and co-creating, a story was told.

I appreciate that Tinker and I both bring histories of perspectives and biases to this research. I appreciate that the line between one's facts and fictions can blur. I think of Denzin (1989) and his reference to Derrida (1972). Denzin said, "there is no clear window into the inner life of a person, for any window is always filtered..." (p. 14). To recap, my stance is qualitative, postmodern, and constructive. This is the best combination for this dissertation because I intended to subjectively interpret, explore, describe, and present one person's perspective.

Within the discipline of qualitative research there are many traditions and each one has its own historical roots, goals, methods for collecting data, and procedures to analyze data. With this topic, it is most appropriate to utilize a framework in the biographical tradition, which follows.

#### Biographical Tradition

Two broad definitions of the term "biography" follow. One is from Lomask (1986): "A biography is not a compilation of facts. It is a portrait in words of a man or woman in conflict with himself, or with the world around him, or with both" (p. 2). The other definition is from Garraty (1957): "Biography...is the record of a life" (p. 3). These statements show that biographies are a way to interpret an individual's experience or life, and that each individual views it uniquely. Stories are created and reconstructed. Also, these statements illustrate that biographies come in many forms.

Biographical methods differ across disciplines and there are many different forms of biographies, each with a different purpose. After I read Smith (1994), I developed a chart categorizing biographical disciplines, perspectives, and terminology (Appendix C)

to aid in my understanding. The biographical method makes a statement about being human in our world and it does so in a way that provides context, depth, and meaning.

Tinker was involved in a unique conflict, one that most teenagers do not experience. Did that have an effect on Tinker's life? The purpose of my biographical study is to understand the effects of the events and circumstances attending *Tinker v. Des Moines* (circa 1965-1969) on John Tinker (circa 2008). My central research question is: How does a person involved in a landmark United States Supreme Court case from nearly 40 years ago reflect on it now and his life since? I created a list of Noteworthy People (again, Appendix A) and a Timeline (Appendix B), which served as interview probes. I wanted to discuss Tinker's life in connection to specific people, dates, and events as related to the *Tinker* case. Who did he consider the noteworthy people in his life? What did he say about key dates and events on his timeline? The appendices served as my guides.

For depth and rich description, I looked at the transcribed text within a framework put forth by Clandinin and Connelly (2000): "(a) personal and social (interaction); (b) past, present, and future (continuity); and (c) the notion of place (situation)" (p. 50). This creates a metaphorical three-dimensional inquiry "with temporality along one dimension, the personal and social along a second dimension, and place along a third" (Clandinin & Connelly, 2000, p. 50). Also, I will focus on Clandinin's and Connelly's (2000) four directions in any inquiry: inward and outward, backward and forward. This approach focuses on internal conditions, environmental conditions, and the past, present, and future. Most of all, I wanted to "see the other in the other's own terms" (McVicker Clinchy, 2003, p. 41).

Lomask (1986) stated that “research for a biography is an extended process of asking questions (p. 15).” The biographical tradition is the best fit for my research as I intended to tell Tinker’s story through public speeches, private conversations, and archival documents. One form of this tradition is termed interpretive biography, which is identified next.

### Interpretive Biography

I used Denzin’s (1989) approach to biography, termed “interpretive biography.” Denzin (1989) defined interpretive biography as “creating literary, narrative, accounts and representations of lived experiences. Telling and inscribing stories” (p. 11). According to Denzin (1989): “...we create the persons we write about, just as they create themselves when they engage in storytelling practices” (p. 82). Denzin (1989) added that “a basic question drives the interpretive project in the human disciplines: How do men and women live and give meaning to their lives and capture these meanings in written, narrative, and oral forms?” (p. 10). This question has remained in my mind since I first read that passage and it is why I selected Denzin’s approach. What does Tinker make of his own history? How do I interpret Tinker’s life?

Again, I wanted to tell the story of a single individual. My data consisted of both personal conversations and public observations. I wanted John Tinker to discuss this unique event in his life: the landmark United States Supreme Court case in which he was involved. I wanted to situate his unique event within a broader context. I acknowledge that this study is my interpretation of Tinker’s life.

The interpretive biography approach includes nine presumptions and assumptions (Denzin, 1989). Situating this method is (p. 17-20):

(a) the existence of others, (b) the influence and importance of gender and class, (c) grounding in family and family history, (d) lives that have beginnings or starting points, (e) authors and observers who can record and make sense of the life in question, (f) objective and subjective life markers, which give coherence to the life in question, (g) real persons who have led real lives, (h) lives that are shaped by turning-point experiences, and (i) truthful statements distinguished from fictions.

Denzin (1989) stated that “these conventions serve to define the biographical method as a distinct approach to the study of human experience” (p. 17). Added Denzin (1989, p. 17): “Some are more central than others although they all appear to be universal, while they change and take different form depending on the writer, the place of writing, and the historical moment. They shape how lives are told.”

I took Denzin’s (1989) nine presumptions and assumptions, which are detailed above, and adapted them to my study of Tinker. Aligned to my research focus on Tinker, these modifications included:

(a) the other indicates another perspective, for example, that of the school principals; (b) this includes the biases and values of middle class Caucasian men; (c) the event was grounded in family activism; (d) Tinker was influenced by his family’s beliefs; (e) I am an outside observer who wants to make sense of his life; (f) which markers are critical points in his life?; (g) Tinker had these real experiences, which I will write about; (h) which moments in Tinker’s life left indelible impressions?; and (i) what is the essence of Tinker?

To achieve the above, a qualitative approach to research fits best. How I conducted this research is detailed next.

### Data Collection

The goal of my study is to tell John Tinker’s story as it relates to his landmark legal case. I wanted to enter Tinker’s constructed world in order to gain a fuller sense of what happened to him and, most importantly, what it meant to him. I wanted to describe,

explore, and share one person's perspective. My human data collection is limited to one person: John Tinker.

I understand John Tinker has presented public speeches about his legal case. I wanted to attend these speeches and observe him as he tells his tale to others. What would he say about his legal case to an audience? Additionally, I wanted to interview Tinker face-to-face and one-on-one. What will he say about his legal case to me? Follow-up questions occurred in person, by telephone, or by email correspondence. This method continued until saturation.

Interview questions evolved from loose to structured. I asked open-ended questions in order to elicit Tinker's views and opinions. I utilized my appendices as interview probes. I went through Appendix A and Appendix B item-by-item and recorded Tinker's thoughts. Again, who did he consider the noteworthy people in his life? What did he say about key dates and events on his timeline?

There are several types of open-ended questions that can be asked. These include demographic questions, sensory questions (What did Tinker see? What did Tinker hear?), feeling questions (How did Tinker feel about that?), opinion questions (What did Tinker think about that?), and experience questions (What was Tinker doing?). Additionally, data collection included court opinions, public records, personal documents, archival items, newspaper articles, magazine articles, Tinker's website, books, visits to the Des Moines sites, and photographs. All aided in my quest for rich descriptions and direct quotes (Patton, 2002). I expected to interview Tinker two times and I provided him with transcripts to review and check before proceeding to the next interview. Next, I discuss data analysis.

## Data Analysis

In order to answer my research question, my strategy included inductive analysis and creative synthesis (Patton, 2002). I wanted to immerse myself in details and discover John Tinker, the person. In regard to overall rhetorical structures, I wanted to write Tinker's story using his voice. I wanted to hear Tinker's perspectives; I wanted to learn what he has to say about his legal case. I planned to utilize a progressive-regressive method (Denzin, 1989). To make sense of Tinker's life, one process is to journey through his life significant-date-by-significant-date and one-by-one with the people in his life. An overall rhetorical structure is the progressive-regressive method. His story would proceed backward and forward in order to cover a 40-year time span.

In regard to embedded rhetorical structures, I wondered how *Tinker* has affected Tinker's life? I would think this was a major life event. Was it? Thinking of Denzin (1989), does the legal decision occupy a central place in Tinker's life? Has the meaning of it changed as he has aged? During analysis, I looked for Tinker's epiphanies, as well as other key events and themes.

Some of the information used in my review of literature was provided to me by Tinker. He maintains a website with a collection of information about his legal case. I wanted to take his information, along with my own data collection, and ask him about each document. What would he say? What themes emerged?

For a more complete picture, I wanted to gain insight into "the figure under the carpet" (Smith, 1994), who referenced the term created by Leon Edel. That is how he "phrases the problem of coming to know the essence of one's subject" (p. 291). Smith (1994) stated that it is constructed, not found:

“The ‘mask of life’ – the appearance, the façade, the overt behavior one sees – ...and the underlying ‘life myth’ – the major inferences into the character and personality of the person being written about – are like a tapestry, which shows images on its front side and displays the underlying construction on the back” (p. 291).

To achieve this, I wanted to interpret my data through several lenses. Analytic inductive coding was utilized. Here, the codes were induced from the text. Another lens was thematic analysis. Here, the text was examined for broad themes, which gave the data meaning. Coding is a good way to ask questions about the data and interpret it.

Additionally, Denzin (1989) offered strategies for interpretation (p. 56):

(a) investigators begin with an objective set of experiences in the subject’s life, such as those connected to life-course stages or life-course experiences; (b) concrete, contextual biographical materials are gathered, for example recounting a set of life experiences in the form of a story or narrative; (c) narrative segments and categories within the interview story are isolated. Patterns of meaning and experience are sought; and (d) an analytic abstraction of the case is written.

This is a biographical study of a living person as told from his perspective.

Additionally, I interpreted all the information I collected; I selected, shaped, and arranged it. Until I conducted my observations and interviews and saw what emerged, I thought there might be yet another approach that would be better, so I reserved the freedom to change my mind. My main concern was that I did not want to reduce personal experiences to data that removes the human element, which is exactly what is missing from the literature and what I wanted to contribute. Next, research quality is addressed.

#### Research Quality

Many authors including Lincoln and Guba (2000), Clandinin and Connelly (2000), and Lincoln (1997), address goodness criteria. However, Riessman’s (1993)

approach resonated most with me. There are at least four ways of approaching validation

(Riessman, 1993, pp. 65-68):

(a) persuasiveness – is the interpretation reasonable and convincing?; (b) correspondence – an investigator can take results back to those studied; (c) coherence – it must be as thick as possible, ideally relating to three levels: globally, locally, and themally; and (d) pragmatic use – the extent to which a particular study becomes the basis for others' work.

Strategies for credibility include triangulation (i.e., multiple data sources), member checking, varied field experiences (i.e., Tinker talking publicly and Tinker talking privately), and self-reflexivity. Strategies for dependability include triangulation, thick rich description, and a transparent audit trail. The research process is aided by the availability of literature written about the legal decision. Varying perspectives are excellent sources of triangulation and verification. I implemented these validation processes, as well as these strategies for credibility and dependability. I strived to be an ethical researcher.

By listening to Tinker present two public speeches, that information could be triangulated with my one-on-one interviews with him. Does he give the same speech each time? Do his accounts vary? Also, does it differ from the scholarly accounts found in my review of literature? Additionally, I provided Tinker with transcripts in order to seek his comments. I hoped that by doing that after each interaction with him it would establish a clearer biographical portrait.

To assure that my study is conducted in an ethical and non-harmful manner, I secured approval from the Human Research Review Committee and I provided John Tinker with an informed consent form. I made certain that he understood the purpose of this biographical study and I made clear that he is the focus, he will be identified, and his

quotes and my observations will be used. I answered any questions he had to the best of my ability.

Additionally, I asked questions of myself. I created an interview protocol (Bar-On, 1996) and one-by-one, I answered. Do I really want to interfere in Tinker's life? No. But I want to hear what he wants to say about his life and legal case. Would the study be justified from Tinker's own perspective? Maybe; he is sharing his story and will have my undivided attention but he will give his time and will receive no compensation. What if he expresses an opinion that I would be hurt by? If it is part of his meaning, it is part of his meaning. How will I be able to go on conducting the interview? If necessary, I will ventilate later in the privacy of my own home or hotel room. What if my questions cause Tinker to break down emotionally? I will stop the interview and be a consoling human first. What will I not be able to cope with? I am a sponge; everything, whether good or bad, is a learning experience to be absorbed. What long- and short-term effects will my research have on Tinker? The interviews will be tape-recorded with his permission, transcribed, and member-checked. There could be ill effects, which at this time I do not know. This third chapter addressed the biographical tradition, interpretive biography, data collection, data analysis, and research quality. Lastly, is my review of these first few chapters.

#### Summation of Method

This dissertation is important in several ways. Tinker is a living being who as a teenager was involved in an activity that culminated in a landmark decision by the United States Supreme Court. That legal decision holds today and affects every public school

student in the United States. Now, 40 years have passed. What effect, if any, did that landmark legal decision have on the life of its namesake?

My study offers insight into a person who took a stand and experienced its consequences. A reader will learn of one person's experiences as the namesake of a landmark legal decision. A main question guiding this study is: What effect did *Tinker* have on Tinker? Again, the focus of this study is to explore the experiences of John Tinker. I shared and inscribed only his stories. What I contributed to the field of education is a biographical study of a living man who shared his perspective as the namesake behind a landmark legal decision.

To recapitulate, the intent of this research is to tell the story of a single person – John Tinker – and to learn what effect, if any, his landmark legal case had on his life. To accomplish this, I looked through a qualitative, postmodern, constructivist, biographical lens. From interviewing to analyzing to interpreting, I saw these lenses overlapping in this study, much like tartan on a fabric. In this study I am neither detached nor neutral (as opposed to a quantitative methodology). My bias and values are present, from the interview questions I asked to the themes and stories I interpreted. Also, this study is subjective, with the awareness that multiple interpretations exist (as opposed to modernism's objectivity and single explanations). This study is one perspective from one point in time; I am not searching for the singular truth. I experienced Tinker's multiplicity. Additionally, constructivism honors that each one of us views the world and our place in it in a unique way. There are multiple versions to every story (as opposed to beliefs found in other paradigms). With constructivism, sometimes facts and fictions blur. My asking and his answering of questions, and my interpreting and his reviewing of his

stories is one way he and I constructed an understanding. Lastly, the biographical method is a way to interpret an individual's experiences that comprise his or her life (as opposed to other traditions of inquiry). I wanted to tell and inscribe one person's remarkable story. It will be inconclusive. "...There is no truth in the painting of a life, only multiple images and traces of what has been, what could have been, and what it now (Denzin, 1989, p. 81).

Smith (1994) argued that knowledge has a quality of a balancing act. I think of a scale, perhaps the Scales of Justice. On the weighted side is an abundant amount of information in regard to the legal, historical, and societal interpretations of the *Tinker* case. On the suspended side is a very small amount of information in regard to the individual interpretations. Absent is the detailed individual experience. The human personal element is what I wanted to research. I wanted to work toward leveling the scales. I wanted to contribute a scholarly interpretation of the individual and namesake behind the landmark *Tinker* case.

## Chapter Four: Presentation of Data

At the conclusion of Chapter Three, I wrote that absent from the scholarly research is the detailed personal experience of John Tinker, the namesake behind the United States Supreme Court landmark decision, *Tinker et al. v. The Des Moines Independent Community School District et al.* The human personal element is what I set out to research. I wanted to obtain John's idea of Tinker on *Tinker*. In 2007 I spent two full days interviewing John that resulted in 13 audio tapes, which I transcribed, and mailed and emailed to John. Supplemental correspondence occurred via email, computer, and phone.

After coding and examining data, I observed the emergence of two main themes. Therefore, I created Chapter Four as two dialogues. The first dialogue is titled "Tinker Speaks About *Tinker*," which was co-constructed from my personal interviews with John. I wanted to learn what he would say about his public legal case to me. The second dialogue is titled "Tinker Speaks About Tinker," which also was co-constructed from my personal interviews with John. I wanted to learn what he would say about his personal life to me. One dialogue focuses on the legal case; the other focuses on the person. I asked trigger questions from appendices that I had created, one a timeline and the other a list of noteworthy people, and I listened and I observed and I asked even more questions. Spontaneous conversations occurred as well.

To review, I first learned about John Tinker in my Higher Education Law class in 2004. I had an assignment pertaining to the legal case *Tinker v. Des Moines*, and I remarked in class that I would like to learn more about John and his legal case. A

classmate discovered that John had a website and shared that information with me. I wrote to John and we corresponded. During 2007, John was driving back and forth to Massachusetts for child custody reasons. That is no small undertaking when you realize he resides in Central Missouri. I did a similar drive once from Central Iowa, which is the next state north, and it took about 22 hours *one way*. Graciously, John had some free time for an interview June 24-27. We decided to meet in his town, Fayette.

I flew into Kansas City and drove 100 or so miles east on Interstate 70. Kansas City is on one side of the state and St. Louis is on the other and Fayette is about the center. It was a beautiful drive with rolling farmlands, forests, valleys, bluffs, and of course, the Big Muddy: the Missouri River. I searched for information about Fayette on Google. It is a town of 2,800 people located 13 miles from Boonville and 26 miles from Columbia. It is the seat of Howard County. Central Methodist University (CMU) is located in Fayette, so I called the university and arranged to use a meeting room in its Smiley Memorial Library.

I stayed at a hotel in Boonville. The next morning, I drove to the address John had given me: 209 West Morrison, but I did not see a house. I drove around the block. I double checked the address. I drove back to the address John had given me. All I saw was a school. I parked my rented Ford Taurus and walked up the sidewalk where thousands of students had walked before me. I doubted I had the correct address; I thought maybe I was trespassing, until I saw a sign in the schoolyard: "Peace Is Patriotic, No War." At that moment I realized that John resided in the old Daly school, the name chiseled above the door. As I approached, John appeared and we met in person. On his website, John has a photo of himself so I knew what he looked like. Another clue: the First Amendment T-

shirt worn by the tall, thin, dark-haired man. The person whose notoriety came as a result of a happening inside a school, ironically, resides inside a school.

As mentioned above, this chapter is organized into two themes. The first theme is Tinker Speaks About *Tinker* (the legal case).

### Tinker Speaks About *Tinker*

John and I never made it to CMU's library. We talked in his library. From roughly 8 a.m. to 3 p.m. each day, we talked. Except for tours of his school, eating lunch in the downtown, and meeting his mother at her home (sadly, she died in February), we sat face-to-face in wooden chairs in his library. A tape recorder captured our conversations as Tinker spoke about his legal case. John began,

When I speak to groups, I mention that I was a peace activist and *not* a free speech activist. I thought the war was hellish. It was among the hellish things of the times, like the arms race was also hellish and the civil rights movement was. Looking back, I can say now it was coming out of a Christian social consciousness.

All these years later, John still identifies as a peace activist, which he talked about later in this chapter. First, John discussed the days leading up to the armband protest.

### The Armband Idea

There was a protest march in Washington, D.C., in 1965, around the Thanksgiving weekend. Iowa College students from Ames and Grinnell with the organizational help of the American Friends Service Committee, where John's father worked, had chartered buses. John received permission from his parents to go on that bus trip to the protest. John, Chris Eckhardt, Ross Peterson, and Bruce Clark were on the trip. John's mother was on the trip, Chris' mother, and Maggie Eckhardt, too. It was the first

giant protest against the war, and it was held around the Washington Monument. John recalled,

I was 15. I was from the Midwest; I didn't even know what a big city was. Then to be surrounded by people -- I was used to protest marches that had 20 to 30 or 40 people -- so to be with 50,000 people was really amazing.

On the bus ride back to Iowa from the protest march in Washington, D.C., there was a discussion as to how the group might continue to protest the war. A man on the bus named Herbert Hoover, who was the former president's distant cousin, was a member of the Des Moines Friends. He mentioned that he had heard there was a national effort to wear black armbands. "People were going to start wearing black armbands, so that is where the idea came from," John said.

Several on the bus belonged to the Unitarian Youth Group, called Liberal Religious Youth, so the armband idea was taken back to the youth group by Bruce Clark and Ross Peterson. In a meeting, the whole youth group decided that they would support those of their members who decided to wear armbands. John said,

The actual intellectual authors of the armband protest in the high schools were Bruce and Ross, who weren't involved in the legal case. I was new to the group, Chris was not really very active in the group, and my sister Mary Beth was not even old enough to be part of it, so all three of us were somewhat peripheral to the actual group that organized it.

Two days before the group announced it was going to wear armbands, the school principals had received information that students were going to do so from an article that had been written for the Roosevelt High School paper by Ross Peterson. The principals had gotten together at a meeting and decided to ban the wearing of armbands. John recalled,

We found out about it, and a number of the students then backed out of it. The morning of the target date, I had this inspiration that we really should have a meeting and talk about it all, we hadn't had that. We should have had it that previous day when we knew about the ban, but we didn't. So I called up people and tried to get them to hold off a day while we had a meeting and some had already gone to school and some did hold off.

Mary Beth and Chris had already gone to school. They were "kicked out" that day, John said. He continued,

We tried to call Ora Niffenegger, the school board president, and through his secretary he said he didn't have time, it wasn't an important issue to him. So the rest of us decided to wear the armbands because that's what we had planned to do.

I asked John if he had ever seen students wear political items at school. John remembered,

Seeing students wear political campaign buttons had been normal in my school experience, from grade school on up. I remember an "I Like Ike" button in school, so that goes way back. It was common to see political buttons, I remember "Johnson verses Goldwater." The Iron Cross was like the Prussian Iron Cross and back then we called it "the Surfer Cross." It was coming out of California and the surfer subculture was identified with it.

Next, John talked about the armband itself. He explained that armbands are an old symbol of mourning.

#### Black Armbands

John said there was a Ben Franklin store at the corner of East Ninth Street and Hull Avenue in Des Moines. One of his brothers went with him that day, but he could not remember if it was Leonard or Paul. John recalled, "They had fabric, so we bought a few yards. We cut out strips with pinking shears, we knew what we were doing and we sprayed it with starch and folded over seams." It was solid black fabric. Later, I observed

a picture in a book of Mary Beth and John with a black armband sporting a white peace symbol, but that was not on the original. That was a later elaboration.

Armbands were also a family affair. John is the third of six living children. John told me, in addition to the armbands worn by himself and Mary Beth,

I'm not totally sure, but I believe Leonard wore an armband to Grand View College that day, Bonnie at Grinnell College, and Hope and Paul did to Cattell Elementary School and nothing happened. My mother wore an armband then forever after that. My dad wore an armband on occasion.

Unfortunately, John's armband was thrown away. John said, "I lost the armband in a move in Iowa City involving my landlord mistaking my precious memorabilia as stuff bound for the dump." John recounted the day he wore his protest armband to school.

#### The Protest

The Tinker family lived at 704 Grandview Avenue in Des Moines. It was about eight to ten blocks from the Grandview house to North High School. He recalled,

In terms of being a bad student it was things like not getting my homework done on time, it wasn't that I was a discipline problem. As far as I know, all of us were good students.

The day John wore his armband to school, he was more worried about the environment on the street than he was about the environment in the school. John said,

I was concerned that somebody could drive by and throw something at me. It wasn't real clearly defined anxiety, it was just a feeling of not wanting to expose myself to that. I mean, it doesn't make sense, if I wore it I would be expressing my anti-war philosophy.

John went inside North, but not through the front door. His normal route to school brought him not to the main entrance at the front of the building, but to a side entrance. He entered the building there to go to his homeroom. John remembered,

I was just under the wire, I always got there a minute before the bell rang, a minute after. I still didn't have the armband on. I was in a hurry, so I didn't feel like trying to pin the armband on while running up the stairs. When I got to homeroom, I didn't feel like pinning it on while everybody's watching me, so I waited and I went into the restroom. I was kind of struggling, it was hard pinning it on with one hand, and a guy from homeroom came in.

John said the guy was not a personal friend, he was an acquaintance, but he did not really know him well. John did not have any classes with him, but he was nice to John and he helped John pin the armband on with a safety pin. John felt that really characterized a lot of the students at North. He added,

They didn't hate me because I wore an armband. A lot of them wondered why. In 1965, to be against the war, and to speak out, was uncommon. There were only three television networks and largely they were doing the Administration's line on the war. There wasn't much controversy about the war. Most people thought it was a good and necessary thing, so to be against the war was unusual.

For John's first three classes, the armband was worn over a suit coat. It was not clearly visible. John said,

I had it on and I remember math class. My math teacher was a nice old guy. Mr. Worden -- he had also been my math teacher in 6<sup>th</sup> grade, at Wallace grade school -- and he would talk about local history. He'd tell us about the shooting range that used to be where Birdland swimming pool is, excavating the shooting range for the lead. So he would go on long diversions. All of our teachers did. So the idea that we would be disrupting a class by having an armband is silly. He saw the armband, I know he did, he just didn't do anything about it. I suspect other teachers saw it, too. I know other teachers in the hallway did. No harm, no foul, you know?

After gym class, John got dressed and put the armband on over a white shirt and did not wear his suit coat. John went to the cafeteria and one of the office workers saw it and reported it. John remembered,

At that point, I was pretty sure I was going to get kicked out of school. I wasn't trying *not* to get caught. It was part of the protest against the war to get kicked out

of school. It was civil disobedience and it would be publicity in a sense. We wanted publicity because we wanted to publicize the issue of the war and get discussion going about it.

Being a part of a protest was normal for John. Wearing an armband to school was not his first protest. John recalled,

My dad was the peace education secretary for a Quaker organization and he'd have seminars, family camps, things like that, that would bring in people who were from different parts of the country and involved in the civil rights movement. The civil disobedience aspect was normal for me, so the idea of getting kicked out at school, I had anxiety, but not as much as most kids would probably have. For me, it was just another protest and they take you to jail and they don't really beat you up. You live through it, there's another day. So I knew that when I got kicked out of school that there was another day, it wasn't the end of the world.

In John's first afternoon class, there was a call to the classroom. Ellsworth Lory, his English teacher, told John he was wanted in the office. John knew he was not going to remove his armband, so he was expecting to be suspended and the only question was the manner of it. John said, "Mr. Wetter was decent." Donald Wetter was the principal at North High School. John added,

For me, the main thing is he was a decent guy. The principal at the time that the students at Roosevelt had to deal with and that my sister had to deal with at Warren Harding Junior High, there was certain nastiness at both of those schools, but at North, Don Wetter was not nasty with me. He sat me down and conversed with me and first he tried to convince me that my views on the war were wrong and it was important for our country, but when he saw that I wasn't really affected too much and that I was listening to him, he treated me with respect and that was really good. There wasn't acrimony and I suppose I'd get a bigger merit badge if there had been, but the truth is there wasn't. I think he's gone now, but I don't have anything against him. Normally, I would have gone to the boys advisor -- I forget his name -- I didn't quite like him as well, I thought he was a harsher super-patriot type. Don Wetter recognized that we disagreed and there was an orderly way to go about it and so he told me I couldn't go back to school with the armband. I think I walked home. I don't think dad came and got me. I think I just walked home.

After the students had been suspended for wearing armbands to school, the peace community as a whole got together. John recalled,

The parents and the students and other interested parties got together to discuss what we might do now that all this had happened and somebody mentioned Craig Sawyer and to call him on the phone. I think he even came over to the meeting, but I'm not sure, but he said that he thought we did have a case, a First Amendment case. He recommended that we go back to school so that we wouldn't be truant and we wouldn't be involved in other conflicts or side issues and that we then sue the school district.

Craig Sawyer was the Iowa Civil Liberties Union contact that the group first reached out to. Dan Johnston was the Iowa Civil Liberties Union contact who took the case pro bono. John said, "It's the parents now that are really making the decisions, and the kids are having input. But we're minor children so we had to go through our parents." The parents were remarkable, too. Information about them follows.

#### Family Protests

John told me he does not remember the very first protest he attended. He thinks he was in sixth grade and it was related to part of Des Moines called the Southeast Bottoms. He recalled,

They didn't have adequate sewers or city services, unpaved roads and so on, and there was a protest at the Capitol Building. There was a place called the Roadside Settlement House and there were community organizers trying to get better city services to the area. So there was a protest around that and there were protests around the Civil Rights Act in 1964, I think. My sister Bonnie won a national NAACP essay contest so she was at the "I Have A Dream" speech. Our family was NAACP Family of the Year in Iowa in, I think 1963, might have been 1962. My mother was very active against a practice in Des Moines, and at the time in other cities, called "redlining" where Realtors would not show houses to Black families in certain neighborhoods so they'd keep certain neighborhoods all White and then that would be a premium that they could offer to White families: come live here in this neighborhood there's no Black people here. My mother and her good friend Edna Griffin in Des Moines, and maybe a dozen other people, were basically the civil rights movement in Des Moines for some time, and they were very energetic, and they really brought a lot of injustices into the focus. If ever

there were any demonstrations organized, my mom would always recruit us kids to add bodies to the demonstration.

First, John told me about his father. John's father, Leonard, was an only child. He grew up in Upstate New York near Hudson. His father had a car lot, and he earlier worked in an automotive factory and also in a refrigerator factory. Said John, "I'm not sure, but he was more or less blue collar and a small business man. I'm not aware of any protests or anything that came from that side."

Next, John told me about his mother. John's mother, Lorena Jeanne, grew up in South Texas, and her parents had come from Pennsylvania. Said John,

The degree of racism that she encountered in South Texas -- and she moved there when she was seven or eight years old -- it was notably different and more severe, so she had compassion for people victimized by that racism. As she grew up she attended Catholic schools -- they weren't Catholics but those were considered better schools -- so she encountered religious people who also were sensitive to the racism issue and so she got encouragement and moral development from those sources.

Her father was employed as a chiropractor. Also, her father was a photographer.

John said,

The reason he left Pennsylvania is because he was thrown in jail for being a chiropractor because the AMA was exerting control in Pennsylvania at the time and didn't want the chiropractors to be doing any medical type of stuff. They considered chiropractors to be quacks and so he volunteered more or less within the chiropractic association to be the test case and so he was a protestor in that sense, he was standing up for his right, and was put in jail for it.

The family decided to leave Pennsylvania and came to reside in Texas. John explained that,

Our parents had influenced us greatly in our lives. They were peace activists, we were peace activists. Kids often share the same religion as their parents, or they have the same hobbies; there are all kinds of things kids inherit from their parents.

We inherited a world view and a concern for human suffering that we took personally and even a religious kind of orientation that this is actually our duty and obligation to deal with these issues and if we shirk them off we were guilty in a profound way. So that is your parent's influence on you, but on the actual issue of the armbands, people ask this question, this is a normal question: Did my parents put me up to it? The truth is that guilt trips were laid on me throughout my life to attend civil rights demonstrations, to attend anti-war demonstrations. How can you go fishing today, you know the demonstration is down there and those people don't have sewers in their part of town. How can you go fishing when that's happening, that sort of guilt trip. All of my siblings and I are familiar with it. But in the armband case, that wasn't there. I had to ask permission to go on the bus ride to Washington, D.C.; the wearing of the armbands was a project of the Unitarian Youth Group. The day I wore the armband my dad said -- my sister had already been kicked out the day before -- I'm walking out the door and my dad says, "I'm not so sure you should wear that armband." Why not? "Because the school authorities have said that should not be permitted and there needs to be authorities, and we need to respect them even if we disagree with them." And I said, Dad I'm just wearing a black piece of cloth, there are people getting killed everyday in Vietnam. "I know, I see that," he said. And he said, "For you then it's a matter of conscience?" and I said, I guess it is, and he said, "Well ok then, I support you if you wear the armband."

There was preparation in having been a dissident before. John could identify with being a protestor. He said,

In grade school I was called a nigger-lover and all of that. The orderly demonstrations in which there is civil disobedience -- the civil rights movement was really built on that -- I had attended any number of training sessions on how we're going to behave if the cops overreact, if hecklers come in from the side how we're going to behave, and role playing. We did all that over and over again, so I think I was just pretty much prepared, completely emotionally prepared.

I asked John to tell me about the Eckhardts. Both have passed way. He described Maggie and Bill Eckhardt as very dedicated "peace people." John remembered Bill specifically,

Bill Eckhardt wrote quite a bit about conflict and conflict resolution. My mom actually was, I think, a research assistant for him. He was a psychologist and a mathematician -- and he did a large study on people's attitudes toward authoritarianism and their attitudes toward military conflict. He also did with another author one of the large studies of war casualties throughout history.

After missing a few days of school as a result of wearing the armbands, it was time for Christmas vacation. After Christmas vacation the students returned to school without their armbands. Said John, "Then I wore black, an example of a symbol. Everybody knew what that black meant. They didn't suppress me expressing that idea at all."

#### Return to School

John described returning to school as being similar to being in a play. You walk on stage and everybody is looking at you. John told me,

Everybody didn't hate me and I didn't get a lot of negative commentary. Most people knew; it had been front page news basically on *The Register* (Appendix D), and the grapevines were really working pretty fast. I probably brought more anxiety to it in the first day or two than I needed to, and it's somewhat humbling to realize that most people are not really paying attention to this particular incident. Even though they may have heard about it, they don't know really what it's about. It really wasn't a big deal at all. There were some discussions, but I had a handful of friends that agreed with me and supported me; I wasn't this isolated voice in the wilderness, and I don't really remember any real problems. We had threatening phone calls at home. A couple of teachers were basically hostile to me.

I asked John to elaborate on the hostility he experienced. John mentioned the Armistice Day parade, which has since become the Veterans' Day parade. John refused to march in it because it seemed a glorification of militarism. Said John,

I'm not really opposed to Veterans' Day, but at the time and in the context of the Vietnam War it just seemed all part of the militarism I didn't want to be a part of. The band director, who otherwise was just a great guy and I got along fine with, took great offense that I would refuse to march in a Veterans' Day parade so he gave me an "F" and I would have gotten an "A" otherwise. He said it was my obligation to show up.

After the incidents at school, the *Tinker* case began its journey through the legal system. Next, the legal pathway is addressed.

## The Tinker Legal Pathway

The legal process began in the United States District Court for the Southern District of Iowa, Central Division, in Des Moines. John recalled it lasted a couple days, and he remembered the courtroom setting and being questioned by lawyers.

It was interesting. It was like an interesting lecture, kind of like a seminar with interesting things going on. It wasn't scary. I wasn't afraid. There was a pretty good crowd of supporters in the room.

In 1966 the United States District Court issued its opinion: the ban on armbands was upheld. John does not remember Chief Judge Roy L. Stephenson, who rendered the opinion. Sadly, Judge Stephenson killed himself in 1982.

The plaintiffs appealed their case to the next highest court. The United States Court of Appeals for the Eighth Circuit, in St. Louis, heard the case. John said he does not remember much about it. "I don't remember what happened in the courtroom," John said. "I have more memories of the people we stayed with; we stayed at their house." In 1967 the Court of Appeals split 4-4 and issued no opinion. When the court is evenly split, the decision of the lower court stands. John recalled,

When the ruling from the district court came in – I don't really know where I was when I heard, I was still at North – we decided very quickly that we would appeal it. Then, I forget where I was exactly, but the appeals court split, which meant that the earlier decision stands.

John felt that it was very likely the Supreme Court would hear the case. Said John, "This was an issue that it was felt that the Court wanted to have before it. We were optimistic that we would be heard by the Supreme Court."

John remembered where he was when he heard that the Supreme Court had decided to hear his case. John recalled, "I was driving a Volkswagen down the

expressway, and it came over the radio. If they hadn't agreed to hear it, we would have lost. It could very much have been left there."

John missed his flight to Washington, D.C., to listen to the United States Supreme Court arguments in his case. In 1969 the Supreme Court rendered its decision. In a 7-2 vote, they reversed the decision reached by the lower court. John remembered, "I was in Iowa City, but the rest of my family went. We didn't expect their decision in 1969, but that was really thunderous when it came down, that we didn't just squeak by, it was strong."

John said that he does not know much about Justice Abe Fortas, who wrote the majority opinion. John told me,

I think that his view that it's important that students see that Freedom of Speech is not just some platitude that we mouth to make ourselves feel good about ourselves, but it's a real living thing that we use everyday and it has to be taken seriously by all creatures of the state, all creatures of the government, which is what the school board is, and I think that's just exactly right.

John remarked he is happy that they won; he is happy for society. He said,

I'm glad and thankful that we won. Our parents and the whole Des Moines peace community really was supportive of us. It was a group project really -- we were singled out as the ones, but it was a case whose time had come, and we were the ones that happened to be there for it and participated in it -- but all of it played together to make it happen. I think I remember a party at the Grandview house. I would have come from Iowa City. I was 19.

John added that being *non-disruptive* was the plan right from the start. The students knew that they were taking a really minority viewpoint and that a lot of people were going to have serious issues with what they were saying.

We were as respectful and quiet as we could be. Later, the anti-war movement became more in-your-face. We were not, not at all; it was very, very quiet and that's how we wanted it to be. We didn't want to offend; we wanted to convert.

John stated there had been an altercation at a shopping center across from Roosevelt High School and Bruce Clark and Ross Peterson were attacked by some of the local bullies.

There was an attack, but it wasn't at school, and it didn't involve the actual plaintiffs. I'm pretty sure they got kicked out of school for wearing armbands, but they didn't participate in the lawsuit because their parents didn't want to be involved in a lawsuit. I don't think the Supreme Court would have found in our favor if we had been disruptive.

I asked John to tell me about other parties central to the legal case. First, he recalled attorneys Dan Johnston and Allan Herrick. John said,

I think Dan Johnston was 26 when he started with the case and 29 or 30 when he argued before the Supreme Court. He did a very excellent job. I heard the oral arguments for the first time, I think, about 1995 on the Internet, and I was impressed. He really was collected and to the point. The school's lawyer, Allan Herrick, was an older man and had what I've always thought of as a World War II military attitude toward things, very authoritarian. He was a guy whose real argument was more of a cultural argument about the need to keep control of your kids sort of and Dan taking the more Constitutional line. It may have led Dan to be very clear, very clean, in his arguments, very prepared. He knew he was up against a tough man, but to me, Dan got the issues very clear. I thought he did an excellent job. Last I heard, Dan is in New York, in Manhattan. He later became the prosecutor in Polk County. And he came out as a gay man and resigned as prosecutor and moved to New York to a law firm. Several times I've heard him speak about the case and he always says after *Tinker* everything is kind of anticlimactic.

Next, John talked about Chris Eckhardt. He told me that,

Chris Eckhardt fairly recently suffered a rather devastating blow. He bought and sold stocks and one of his clients gave him a gift of some real property, real estate, and a local prosecutor decided that was a violation of some fiduciary responsibility he had and brought charges against him. Chris had been told they'll give you two months probation, it's not a big deal because he gave it back as soon as it became an issue, and instead he got in front of a judge in Florida who was a Vietnam veteran and who knew about his protest against the Vietnam War and decided to make an example of this protestor and sentenced him to five years in

prison. Chris served almost all of that five years in prison and got out just two years ago and he contacted me. Students would ask me about him, and I would say I don't know, I lost track of him, and I really had. I heard a rumor that he was in prison, but to me it was just a rumor, I didn't know. So he called me up and said, I heard that you'd lost track of me, I just got out of prison and I'm down here in a homeless shelter in Florida, I'm trying to write a book, and I need a computer. I said I've got an extra computer so I sent him a computer, and he's been writing a book about his prison experiences. A lot of it's about being gay in the prison; I didn't know he was gay, but he came out as a gay person in prison. Mary Beth is gay, so I'm like the non-gay armband person.

Lastly, John discussed the impact of *Tinker*. John talked about the impact of *Tinker* on students, as well as himself.

#### *Tinker's Impact*

Today, John receives and answers emails from students through his website [www.schema-root.org](http://www.schema-root.org) (Appendix E). Said John,

It depends on the year because the National History Day Foundation, I'm not sure their technical name, does a program for schools and depending on their topic the armband case might stand out to students. Two years ago the topic was "Taking a Stand For History," or something like that, so it was a daily conversation I was having with students.

John likes that it keeps him in touch with students. He told me,

It's been interesting too, because there's some kind of pedagogical frontier that you're operating on because students may not know how to interact with somebody that they're asking for information, so I'm actually feeling like I am interacting culturally, too. I try to be as helpful as I can. A lot of good questions, a lot of really good students that are really digging into it, and teams of students, too. But, also some that are: My teacher said I had to talk to somebody about civil rights so tell me about your case.

John sees it as a chance for him to "really propagandize." He said that in a warm-hearted way. "I'm kind of smiling when I say that," he clarified. "Most people promote their point of view. I'm trying to share my opinion, too."

I have a point of view and I'm trying to get some focus on events in the world like everybody that's an activist who wants to have an affect. So it's like a special niche that I get to interact with students and tell them what I think is important. They'll often ask me: What have I forgotten to ask you? At that point, I get a chance to tell them about democracy and my view of how students really need to pay attention and really try to figure out what's going on and they need to not be afraid to say what they think. It's important, it really, really is.

John has always spoken to classes, high schools, and so on, about the *Tinker* case, if he is invited. Said John,

But, I don't get invited that much really. Mary Beth does a lot more speaking engagements. The ACLU has apparently decided that she will be their main spokesperson when people contact them for a speaker, they have a relationship with my sister. So I wish I were doing that more, but she actually does most of the public speaking.

The schools differ he said. Some of them talk about *Tinker* and some of them do not. At the local school in Missouri, John was invited and then dis-invited by the student who had asked if he could speak.

I said yes, and then he went back to school and they said no, we don't want to have protestors. It's like the principal is afraid of being criticized by the community because one of his students said something unpatriotic or something. The fear, especially when there's a patriotic moment, the fear to be dissident to the group is so strong.

John said he gives *Tinker* a "fair chunk" of importance in his life. He said,

After it was an established precedent, then it became more important. At the time it happened, it was sort of just another thing and then after it was decided it was sort of like a thing that had happened to me. It took 10 years after it was decided before it started to become obvious that this was a major precedent. A professor told me it is number two after *Brown v. Board of Education* in terms of educational decisions, and other people might weigh them up differently, but it is important. But in terms of things that I value, my family really is number one.

John said that *Tinker* has brought him much more than it has ever cost him. Said John,

The contact with the students, sometimes it's a little tedious and not all students are asking the best questions, but I get a lot of really good students, too, that are really interested and do ask interesting things. Sometimes at a party somebody will say, "Meet John Tinker, he's John Tinker from *Tinker v. Des Moines*" or something similar. Then there's an elevating thrill or rush there, but then at the same time there's a certain defensiveness: Oh, I'm going to be seen as setting myself up above other people. So I have to protect myself, and I have to be careful to not be too proud of the case.

John remarked that when Doreen Rappaport was writing her book, she went to North High, and they didn't know who he was or what she was talking about. And in the Wikipedia article on North High in Des Moines someone did add John's name. People who are friends with John know about the *Tinker* case and his role in it. But mostly, explained John, "it just doesn't come up."

Added John, "Now, it will be in the news because of the *Morse v. Frederick* decision and I will be on ABC News, then local people may hear that and put that together with me." At the time of my interviews with John, the United States Supreme Court ruled on *Morse v. Frederick*. While I was at John's home, ABC News called and asked John for his comments about that free-speech legal case.

John said that as far as he can tell, *Tinker* has been a "big plus." He continued, "I don't know the other side, what it would have been, but I don't have any regrets that I can find about the case." He was glad he was part of it; he is proud to have been a part of it; and it has been good.

I'd say *Tinker's* had a positive effect on my life, but if you tried to ask me what that effect has been I'd say how can I know because I haven't seen the other side? I don't know, maybe I would be a drunk in the gutter or something. I can't really second guess what might have been.

John followed up on this point by saying,

*Tinker* kind of got me started in a sense because it gave me a sense that the individual has access to what seems the bigger world that seems to be out there that you really only get to see through magazines and television and so on. But then, I had the experience in being on the other side of that so that I was in the picture in the magazine, I was on television, and it made it seem more normal or like I didn't have to strive after that. It was sort of like I've already done that, I've already seen. I felt liberated from the need to perform as a person somewhat, and it liberated me from the need for an academic degree to some extent. I know that sounds weird, but emotionally I felt like I had been given some freedom to do things differently and so that was good.

John continued,

Without *Tinker*, I think it would have been a different path because of the liberating feeling that I mentioned earlier about just feeling free to pursue my own thoughts and ideas. I think I would have had a little more trouble liberating myself from the social pressures to get a degree and get a career. Maybe I would have been Bohemian artist material or something, I'm not sure, or *On The Road* and Jack Kerouac material, I don't know, but it would have been harder for sure. Like for me to be living in the woods in a truck wearing patched up rags and even though there's a stigma or social pressure that you get for living like that, you're going to be viewed a certain way, but knowing in the back of my mind that I can go to the library and look up my name, a certain reassurance. You've established yourself somewhat.

John mentioned this to a reporter who was doing a piece on "the guy living in the school building," and she found out about the Supreme Court case and had questions about that, and John mentioned to her that he felt like *Tinker* took the pressure off to go out and accomplish something. John continued,

So when I had the custody trial in Massachusetts the opposing attorney came up with the newspaper article and, says here John Tinker felt like he did, took the pressure off him to accomplish things, so she was using it against me! But honestly, I can't imagine what it would be like without *Tinker*, and I don't try too much to imagine.

I asked John if he had any regrets in regard to *Tinker*. He replied,

I generally try to not go there. It's a kind of a Taoist perspective. It is what we have is what it is. If things had been different, who knows what we might not have, that we have now. So I don't regret, I really don't.

John said *Tinker* has been a "major plus" in his life and it may have had some negative affects too, but it is hard for him to evaluate that because this is the life he has had.

My life's been fun, I hope it's not over. I'm 56. I enjoy life, I enjoy pulling weeds, I enjoy digging in the garden, I enjoy mowing my lawn, I enjoy sorting my junk, and I enjoy being *Tinker* on occasion, and this is such an occasion.

To conclude, in this section John discussed the armband idea, the armband itself, the armband protest, family protests, returning to school after being suspended, the legal pathway of *Tinker*, and *Tinker's* impact upon himself. The point of this section was to gather a first-hand account of the effects of the *Tinker* legal case as experienced by namesake John Tinker.

What the reader should keep in mind in this chapter is that this was Tinker talking about *Tinker* (the legal case), as well as Tinker speaking about Tinker (the person), which follows in the next section. His remarkable life using his own voice emerged.

The second theme in this chapter is Tinker speaks about Tinker (the person). Again, John and I spoke over two full days at his home in a schoolhouse in Central Missouri. Mostly, from around 8 a.m. to 3 p.m. each day, we sat in wooden chairs and talked face-to-face inside his personal library. Again, a tape recorder captured our conversations as John spoke about his life experiences, to date. This section is organized chronologically by John's life events.

## Tinker Speaks About Tinker

John graduated from North High School in 1968. He does not remember much about that day, other than it was held at Veterans Memorial Auditorium in Des Moines. Dwight Davis, Superintendent of the Des Moines Independent Community School District was probably at the event, but John does not remember him. From the house on Grandview Avenue, the Tinker family moved to the St. Louis, Missouri, area and John was away at college.

## The College Student

First, John enrolled as an art major at the University of Iowa in Iowa City, Iowa.

Said John,

My senior year in high school I just decided to really do what I wanted to more and so I took an art class. It was my first art class ever. I got into doing jewelrsmithing and I wanted to keep doing that, so I became an art major because you had to be an art major to take jewelrsmithing class.

Later, John re-declared as a journalism major. Then he dropped out of school.

John recalled,

I dropped out twice actually, in 1969 and in 1970, I think. I was there for four semesters over the course of three years. I haven't really regretted it. For a while I did sort of regret it, but I don't know if it was regret or fear. I feared not having that degree and not having that credential.

After realizing that academia was not for him, John chose to create his own path.

First, he worked on a shrimp boat in Texas.

## Working on a Shrimp Boat

John decided to compensate for not finishing his bachelor's degree by learning as much as he could about the world. He recalled,

I was happy. I landed at my granddad's down in Corpus Christi, two autumns I spent down there, and worked on his shrimp boat and read a lot from his library --

mostly reference books. I was trying to get a sense of what the greater picture is here in the world.

John worked on shrimp boats two different years for a couple of months in the fall. "Actually, the second year I just did it (worked on the shrimp boat) for a few days. I did it again and it all came back to me, and I realized I didn't want to be doing that," John said. He described it as seven days a week, 12 hours a day, day after day after day without a break. He told me,

It was miserable. I was the deckhand, and an older fellow was the captain and so his job was to drive the boat, my job was to pull the net in and out. The rope, when it runs through the pulleys, the fibers on the outside fray and the remaining fiber sticks out straight so it's like this little bristle. I couldn't work with gloves on so my hands just got super thick calluses. But it was good exercise, it was good experience, but it was it was very iffy. For a long time, sometimes I'd only make \$2 or \$3 or something like that for a whole day, being out in the sun working hard. Then toward the end of that year, the first year, we got into these giant shrimp and we'd go out and I'd come back with \$60, \$70 bucks a day, which for me at the time was like super money. So it was real mixed, but once was enough.

Then in 1973, John moved into his Ford. He resided in it off and on for five years.

Next, he talked about that experience.

#### Living In His Vehicle

When John reminisced about living in his 1941 Ford delivery truck, he used words such as "fun," "interesting," and "an adventure." John said it was very small (his outstretched fist to fist in width) and had a bed, a desk, and no refrigerator. He laughed as he recalled that he ate a lot of peanut butter and bananas in those days. He said, "I did that in my mid-20s and then when Kaiya was born just seven years ago, I lived in a truck again. I took that truck to Massachusetts and lived in it and really enjoyed it." Living in his truck during the brutal Iowa winters made life interesting. Said John,

The first one that I did in the truck, I relied on lots and lots of blankets. The truck itself wasn't warm, it wasn't insulated, it was just a steel shell. Then, I took that truck down to Texas the next time and built an interior and insulated the truck. The next winter I put bags of leaves that people throw out, I put 50 or 60 of those, all around the truck and bundled the truck up. I was living on this piece of property north of Iowa City basically in this junkyard. Later, I got even more sophisticated. I got another truck, and I had two now, and I had a woodstove in one and had a workshop, and I really enjoyed those days looking back.

While living in his truck, John worked in the Iowa City-Coralville area. He drove the city bus in Coralville, he drove a truck for the university laundry service, and he worked at a furniture stripper business in Coralville and it "worked for him," John said. He continued,

Living in my truck, I gained a lot of insight about what's required from life. It's a lot less than people think, to actually get by. A lot of the effort that people put into life is really related more to entertainment and boredom and self-identity, things like that, and the real physical requirements are a lot less than a lot of people think.

During this time, he was in close proximity to Iowa City so he also was in proximity to the hospital and modern high-tech conveniences, the support systems that modern life does offer, but he really enjoyed "being." By living in his truck, said John, "My whole aesthetic slipped. I realized for me aesthetic is not the newest and greatest look or fashion, it's comfortable, warm."

In 1977, John married and he and his wife lived in the truck for a while in the fall. He told me,

Her parents -- her dad was a physician in Waterloo -- were a little alarmed about the situation so we got a house in Iowa City. That was an adventure in its own right, and I wasn't against doing that, for me it was all in the same kind of mode. It's like adventure, learn about life and now we'll learn about owning a house, maintaining a house, so I did that for a while.

The couple divorced in 1981.

I asked John which life experience does he remember most fondly. His response? Living in his truck in the woods. John replied, "At the time, I didn't realize I would look back on it as I do, because it was work, but it was also a connection to nature and life that I really appreciate now." It is the sort of experience that he "would recommend to anyone." John continued,

I really would. It's just such an orientation because you're in society, you're in the culture, and it's natural for you to assume that what the culture is projecting for you, is suggesting to you, is in fact the course you should take. As I started to look at life and get a sense for how special it really is, I didn't want to be confined by other people's ideas and expectations of who I should be. I really wanted to meet life myself. By backing way off and being able to look at society from the side, not be directly aspiring to everything that everybody else is aspiring to, I feel it gave me a great deal of perspective that I wouldn't have necessarily gotten otherwise. It was great for when I was in Nicaragua, too, there's a very rough living standard in a lot of places there and I was already adapted.

John described living in his truck as like camping with no equipment and without any aesthetic rules at all. John said, "If I wanted a junk car right next to me for some reason, I could do that, whatever, there were no rules really, just what I myself thought was important." He explained that in 1984 he moved to Olin, Iowa. John said,

When I moved to Olin, to the building, that was like camping, too. It's like camping inside a building. And I wore moon boots, real thick insulated boots because otherwise my feet would have frozen. The wind blew through the floor and ceiling. To take a building like that and do the essential stuff to close it up, stop the wind from blowing, it's really a good experience to have to deal with those things directly rather than indirectly. Indirectly, I'd say I need to build a new roof and then the next spring you'd take off the old roof and you'd rebuild the roof. Directly, is how do I stop that leak now, what do I put under it, is there any way to fix it? I don't enjoy sleeping in a room with the drip of a leak, it is one of the world's most depressing things. But I do enjoy encountering life's problems directly. I enjoy the sensation of dealing with just plain things, physical problems that occur. How do you tie the knot? How do you fix that wheel? All those things. I enjoy the sensation of working, fixing, the problem solving, and all of that, so it was really good for that. I built a roof just next to the truck out of just

scraps of lumber. The Laundromat in Iowa City -- they'd thrown out all their blue fiberboard that they used to cover their machines -- so I found it and hauled it home and built a roof out of it. It's things like that. I'm sure it appeared ugly to most people, but I developed what I call an 'aesthetic of meaning' and to me it was beautiful in its own way.

I asked John if he saw himself in the vein of a Henry David Thoreau? John answered,

I had some income and I had a car so I shopped at the co-op in Iowa City. I wasn't a purist in any sense. I wasn't trying to be Henry David Thoreau, but I recognized a certain similarity in the experience. I kicked out notions of purity and being a purist, and I wasn't a vegetarian, I didn't make all my own clothes, I didn't do anything exactly like that. I was a salvager. I was just enthralled by the concept of salvage as a way to help solve the world's problems. So I developed a salvage aesthetic.

That appreciation of salvage led to John opening a store in 1978. It is discussed next.

#### Inventors' Supply

John opened a store in Iowa City called Inventors' Supply where he sold parts that he had taken apart. He did that for three years and simultaneously for two years worked as the chief engineer at a radio station in Iowa City. For his store supply, John went to the university surplus regularly and got old equipment from the university, mostly lab equipment. Said John,

I took that apart mostly for the electronic components, but also enjoyed learning about the equipment and how it works. In the course of doing Inventors' Supply some people who had a real electronic business -- they were manufacturing electronics -- offered me a place to put Inventors' Supply, they offered me a space. It worked well for them because then they had access to this full-range of odd things.

That worked well for John, too, then he felt he was doing more work for them.

"This was when microprocessors were just coming online and typically an electronics

person doesn't really want to learn how -- it's a headache -- so I took that on to learn to deal with microprocessors." John started doing programming.

John got his first computer in "1971, maybe 1972." John had gotten an EKG machine from the university surplus and a friend saw it and said he wanted it, and he was going to find something to trade John for it, and he showed up with a little computer.

John said,

I have a tendency to read about something quite a bit in front of when I actually get to it and so I knew what computers were and I knew basically how they worked and I was ready. I taught myself using a manual. I ended up with a real historical item, they only made 400 of them. So that was fun.

In Iowa City, Inventors' Supply was fairly large with "lots of junk." John recalled,

I was an attractant for the town's homeless people, and I was kind of soft-hearted, and I had trouble putting the edge on some things so I was easy to be tapped up. I had a couple guys who, they contributed some, but I couldn't keep up with it, it was more energy and I just wanted to get away. I put up a sign for my store outside and the town sign inspector came by and told me I had to take it down -- and somehow that was the last straw for me.

He closed his store and moved. Next is Stone City, Iowa.

#### Stone City, Iowa

A friend in Stone City put John in touch with George Nissen -- George had invented the trampoline and had an athletic equipment business in Cedar Rapids, Iowa. George owned an old barn, a horse barn, in Stone City that needed a caretaker. Another acquaintance in Stone City owned a three-acre cave, an underground cave, with flat floors that had been mined out, and he thought John could store his salvaged collections in his cave.

Both of the above reasons led John to move to Stone City from 1981 to 1984.

When he moved that was the end of Inventors' Supply the business, but he still owned an abundance of salvaged parts, pieces, gadgets, and more. An estimated "40 tons of stuff" went into the cave, and "a lot of it is still there." Said John,

I wanted to be the inventor more than I wanted to be the merchant. I wanted the stuff to play with, but I have a lot of stuff beyond that that I don't need, it's extra. I'd like to have a local outlet for salvaged items -- it would be a super hobby shop -- but really salvage. I'm a real believer in salvage as a part of a solution to the world's problems and I'm thinking a local place for all of the odds and ends that are normal, regular kinds of things and then for the really odd stuff use the Internet to try to tackle a wider market.

John mentioned that there is a building a few blocks down the highway from where he resides in Missouri that he had his eye on. He thinks that might be a good building for him to start another salvage business.

But I know for sure that I don't want to be there most of the time. I don't want to sit around and gab. That's what happened at the other one. I got inventors that actually came in, self-described inventors, and they're interesting people and I did enjoy that part of it, but there's also a tendency to want to just talk on and on and on about things.

John was learning how to program computers at the time of the first Inventors' Supply so he was "just waiting to get back to the backroom" so he could finish programming. "I think some balance between a local store and the Internet might be a good mix for us," John said. "I want to get my wife and kids involved in that." From Stone City, John moved again.

#### Olin, Iowa and Nicaragua

After four years in Stone City, John decided he wanted to own his own building. That got him to Olin in 1984. He ended up buying three of the storefronts in town. He served on the city council in Olin, too. He told me,

That was interesting for a while, but that was before the anti-smoking in public meetings was passed and it was so smoke-filled and I couldn't stand to be in there. And the truth is, most of the business was about the water system, the fire department, and so on, and those folks knew way more about those things than I did.

At the same time that he resided in Olin, John began working on his Nicaragua project, which he named Peace Parts. He was motivated to create Peace Parts after reading about the 1987 death of Ben Linder, an American mechanical engineer from Oregon who was killed in Nicaragua by Contra rebels.

Said John, "I had been salvaging for years and I had a large collection. I'm a big proponent of salvage. When you fix things up you own it in a different sense. In Nicaragua, there was an absolute lack of repair parts as the country was under an embargo." John created a mailing list, wrote a letter, developed a list of contacts, and people supported the project financially, as well as donated items to be distributed in Nicaragua. "There was a lot of cooperation among people," John recalled. "It was a very shoestring operation the whole time."

The first time, John flew to Managua with two suitcases filled with a variety of electrical components. "I took the smallest most valuable things," John said. The next time, he drove there with a carload of items. After that, he filled a truck with goods and drove it there. In the truck were sewing machines, bicycles, transistors, basic electronic parts, medical repair equipment, and more. In total, he shipped "about 20 tons of electronics" to Nicaragua. Items were sold for a nominal amount in order to maintain control over distribution and limit begging.

From about 1988 to 1992, John traveled to Nicaragua once a year and stayed two to five months each time. A pastor offered him a place to stay there and he resided in a

church. For transportation, he rode his bicycle. In time, his focus on Peace Parts in Nicaragua took a toll on his day-to-day life in Iowa. He said, "It was taking away a lot of energy. Roofs were leaking here, buildings were becoming decrepit. Everything kind of added up." Peace Parts came to an end. I asked John what he remembered most about Nicaragua. He replied,

I think of the starving kids. The poor in Nicaragua are really poor. That's what comes to mind. Shacks, dusty, dirty, no paving, very poor. A lot of the country is not like that. I did travel around the country quite a bit.

John can communicate in both Spanish and English. Also, a friend of John's was involved with Global Exchange, and as a result, John traveled to Mexico a couple times and did election observation work there. Then, in 1995, John received a job offer on his phone machine. He transitioned to the corporate world.

#### The Corporate World

John received a job offer from a company in Massachusetts to work for MCI in Cedar Rapids, Iowa, as a billing systems analyst. It was a whole new world for him.

It was real eye-opening to be in the corporate world, which I had heard about, talked about, read about, and criticized, I think, but never been inside of. I realized it was populated by human beings, they're real people. It was really neat and to be accepted by them and I became a team leading systems analyst so I moved up in that ranking. I was given a lot of responsibility and billed out over two billion dollars of charges per year for a large telecommunications corporation. It was heady for me to be in big systems, doing real systems analysis, when I had been totally an amateur up to then.

He worked in Cedar Rapids for three years. John's boss there was an independent contractor and was used a lot by the corporation to do troubleshooting. When there was trouble with big systems – billing systems -- they would send in John's boss and his partner as a team, and they would organize a solution for a billing system problem. There

was a system in California that two different telecommunications decided to merge, and they put together a combined system. Then they decided they did not want to merge and they had this system that was billing jointly using data from both sides and they were trying to divorce the system. John was the systems analyst on that project in taking apart this system. Said John,

Ultimately, I have to admit we failed. But there was secrecy going on and I wasn't permitted to see all of one side of what I needed, I couldn't get ready access to the operation logs, and I started to feel like I was being set up to take a fall, that I was being asked to do a task, but I wasn't being provided with the resources.

So when they asked John if I wanted to stay on he said no. He told me,

I got another job later from the same boss for an insurance company in Colorado Springs to design a billing system, so they weren't unhappy with my work, it was just a difficult situation. These guys were nice people, but they really were politically shallow and real Rush Limbaugh-devotees, so I kind of felt like I had done that, you know, been-there-done-that a little bit, so I wanted to refocus on this phase of my own center.

That was up until 1999. Then, John became a father and husband.

#### Fatherhood and Marriage

John and Kaiya's mother were together for a year and Kaiya was conceived. They did not marry. Kaiya was born in 2000. "Kaiya's mom pulled up stakes and went to Massachusetts. Kaiya was born in Massachusetts," John said.

Later, in 2000, John had "false accusations" made against him by Kaiya's mother and he was "kept away" from his daughter. In 2004, John married Patricia Fisher, whom he had first met in 1985. They dated at that time, then went separate ways. "My wife Patricia was willing to move with me to Massachusetts and get court orders and so on that we needed." I asked John how that changed him. He told me,

The manner in which it happened for me was really like the day before my first Father's Day, I was let out of jail in Massachusetts. Because the mother said I had shaken her older daughter, which was just a lie, and that resulted in a restraining order. Then by me putting a sign up saying "Please Do The Right Thing I Want To See My Daughter" and that provoked a response from the maternal family and ended with me being in jail. So there was a lot of agony for the 14 months I didn't see my daughter, ever, my first child, my older child, I mean it was devastating personally for me, emotionally. And watching the legal process out there, just so, so cynical, and this mother, who's done everything wrong -- she feeds the kid so she's the best parent -- the presumption is the child belongs with her. That's not horrible except that her whole family was really involved in what happened and it was just wrong. I ran into a number of people within the justice system who seemed to have little sense of what fatherly love might mean, at least as I had known it to be in my life. The system showed no real concern over false accusations that were made about me, and other false statements. I seemed to be shouldered aside by others who figuratively, and sometimes literally, seemed to want to take my place as my daughter's father. Luckily, we're over the worst parts of all of that, I think, and now there's a court order that I can get every weekend with Kaiya during the school year and I get four weeks in the summer. Last year, the mother was in contempt of court and she didn't allow Kaiya to come here for the summer, just once and she is supposed to come four times. Then I sued for contempt, the second time I've done that, and the court doesn't want to find the mother in contempt, so I have the expense of all of that, too, and then the court's just so biased. I mean, there's a 14<sup>th</sup> Amendment, Equal Protection. It's a real issue, Massachusetts is the worst, the father's rights movement out there is, there's a lot of really upset dads.

John continued,

The justice and social services systems did not see that the attack upon me was also an attack upon my daughter. To the extent that I am harmed by unjust attacks made against me, a father, my children are also harmed. So my whole family depends upon the justice system to support us, by establishing justice. The system cannot just ignore all of these issues, claiming that the rights of the child supercede all other issues. The establishment of justice would, in itself, be a legacy belonging to the child. To allow respect for truth and justice to go wanting, is a theft of our children's legacy.

In 2004, John became a father again when he and wife Patricia had a son, John "Fisher." With his son, John was the primary caregiver early in his life. He said,

My wife worked in Massachusetts as an executive assistant, so I've really enjoyed raising Fisher and being close to him and I wouldn't trade it for anything. I'm real happy to be a dad and having both my kids with me now has been just great.

I asked John about his legacy. How does he hope his children remember him? He told me,

I hope my kids remember me as someone who helped them unfold and helped them bloom and blossom, but not as someone who tried to stuff content into their center. I hope they think of me as someone who nourished them and helped them grow rather than as someone who tried to control them.

How does John hope his wife Patricia remembers him? He hopes that his wife remembers him the same way. He replied,

I want my wife to not see me as arrogant or as dictatorial or anything like that, but as a nurturing type. I want her to know that although I try to be active in current affairs, I don't want that to jeopardize our family and I think she recognizes that. I'm really intent on being a family man and I think she sees me as a good father, so that's important.

Next, I asked John to describe himself. "Who are you?" I asked.

#### John, Self-Described

I asked John the above question in an open-ended manner so as not to have his thought process defined by me. I wanted him to interpret the question in his own way, respond in any way he wanted. John told me,

I want to touch base with my nature. I feel amazed to inhabit a creature form that has taken millions of years to evolve and I really want to be as much as possible a wild natural animal on the face of the earth, but I don't want my primary identification to be a role in society or I don't want to be a Chiefs fan or a Yankees fan or I don't want to have a favorite TV show, I don't want to have a favorite brand of cola, there's lots of things I don't want to be. I want to be a human being, I want to access the full depth within me to the degree that can locate it and bring it out, I want to be a good father, I want to pass forward a good spirit to the future. I want to find work that keeps me in shape physically, I want a

certain amount of physical activity, mental activity. I want to be as directly aware as I can be of what the world is at this point in my life.

Next, I asked John about his childhood. "You wanted to grow up to be what?" Fill in that blank, I requested. He responded,

When I was a kid, I thought I was going to be a minister. My dad was a Methodist minister, Christo-centric to use that language, but also had a real sense of the poetry of it and he talked about the Christian mythology, the representation of the symbols from religion into the real world, the present world, that's really what it's for, and the idea of making the world a better place, rather than the metaphysics and being saved and so on. I don't think he felt the need to be saved. But in terms of the pastoral care of a community, a neighborhood, I just gradually became religiously more liberal. I read a sermon once by Danish philosopher Soren Kierkegaard and he's saying where we came from, where we're going those are not our realm, our human realm is the here and now, the present day. I kind of like that approach. So I lost interest in institutionalized religion. Then my dad, if he'd miss Sunday service -- I mean when he was a minister, he was obviously always there -- but later it was like his desk was his altar and the things he was working on that's what he was really expressing his faith through and I felt that made sense. I read somewhere about Albert Schweitzer the missionary and doctor and he said when your work's interesting you don't need entertainment, so I've tried to do that. Career-wise at this point, I'm happy to be kind of a jack-of-all-trades. I feel like I can go toward what I'm interested in currently. Like the website, it's an encyclopedia of current events, and just to try to get a framework for what the heck is going on in the world.

Did he think about becoming an attorney as a result of his legal experiences? John continued,

I thought about going to law school and for what it's worth, my thought process went something like: well there are other First Amendment lawyers that are working hard, that are smart, and they are dedicated on this project, I always thought that I would find my niche by sort of trying to be the missing part. I would try to see whatever is missing then I'll try to fill that role. So my metaphor coming from way in my youth is like gluing -- when you glue two things together -- think of when you're done, think of the shape of the glue. It's that space that fits right between the two and I always thought that in life I would like find the missing piece and try to be the missing piece. So the academic community, the lawyers, they certainly have it pretty well put together. We won this First Amendment Free Speech case, but we were peace activists and, you know, where

are the jobs for the peace activists? And that's what I've kind of made my own job: a peace activist. The website is certainly my attempt to do that.

In both passages John mentioned his website. He had been a programmer for a long time and that was a natural extension.

#### Schema-Root.Org

John told me he has had his website for about six years. He was invited by the American Civil Liberties Union of West Virginia to go on a speaking tour with a student named Katie Sierra, who had been "kicked out" of school in Charleston, West Virginia, for wearing a shirt expressing her opposition to the bombing in Afghanistan. John felt Katie needed a website, so he built one for her and then one thing led to another. John said,

On my website, I can respond to things that touch me in some way or other and so it's a real outlet for me to express my social concerns. Most readers of myself probably see me as relatively neutral because I do very little editorial comment on the website, very, very little. Mostly, it's in what topics I choose.

He continued,

Recently, I've been dealing with kid issues, going to Massachusetts and back, and the move back to Missouri, so I've been involved with that, but as things settle down I'll be spending more time on my website trying to get that to go. It doesn't make enough to live on, but it makes some and it gives me hope that I can improve it to the point where it is a living wage. It's been a project, the website, and as it becomes popular you also become targeted for attacks and just anybody who's doing a real website that's got traffic knows the problem. You get a lot of attack-type traffic and so the engineering around a website is really significant, not just presenting your material but how do you keep it stable, how do you keep it running. It's pretty much there now, and I'm adding content so I've got 10,000 pages. I need to be looking at my front page and making sure that the topics are there, I need to do that daily. I need to be spending at least a few hours every day with the site.

John does not organize any anti-war activities. He sells ribbons, magnetic ribbons.

One says "Bring Them Home" and the other says "Support The Truth" and that comprises his anti-war activity. He explained,

My website is really an antiwar activity, but most people that visit the website don't recognize that. It's ok with me, too. There's a tendency for anybody that comes in through Google -- most people come in through Google searches -- whatever topic they land on, if they stay there for any length of time, they're going to brush against the topics that I care about. That's my social activity. I correspond with some email discussion groups, the main one is really about engineering issues sidestepping into politics now and then. It's nice they respect me as an engineering-type of mind and they know about the armband case, but we don't discuss it much. When First Amendment issues come up in society, we'll mention it. They respect my opinion about the war. At first they didn't and it was uphill, but then as the war went the way it did, people started to see that maybe I wasn't so crazy after all. It's a sense of fulfillment to be engaged with ordinary decent people going about their own ordinary lives in their own ways without the special set of concerns that I have, but conversing and for them to be able to hear my concerns and me to be able to hear their concerns. I enjoy that, so a lot of my writing has been email discussion groups. I just started to blog to a set of software blogs, a couple of them, and I'm hoping to get more conversational-type interaction that way. That's pretty much my political activity, and hosting the Howard County Progressives. It's held the last Saturday of the month. It is totally not about the armband case, it's about local politics and local views on national politics, it's a potluck and there's lots of discussion. It's a very interesting grassroots democratic institution. It's very neat, democracy in action. My sister Hope is a physician in town and the Howard County Progressives is an organization that Hope helped put together.

John said that what this country really needs is for more people to recognize that democracy is not necessarily the natural order of things. That a descent into "Brave New World" or "1984" might be more natural to the species. Lastly, John talked about his life as a peace activist.

#### Peace Activism

John told me that the future of the world was a real issue for his family so they were in the habit of taking the social activism seriously.

John talked again about his mother and her activism. John's father passed away in 1978, his mother in February 2008. He told me,

She had a one-person anti-war protest a few years ago in our downtown at the square. She's holding a big sign and it said "War Is Bad" and I got a picture of her. It's perfect, you know, because that's just the level of argument that we really feel. It's just bad.

Also, John mentioned his sister Bonnie, who is active in gay and lesbian issues and also against the war. Said John,

She was just arrested in Oregon for stopping a tank. She and her partner Sarah, they're part of the Raging Grannies, so they're trying to draw attention to the militarization of our society. I get to cover that on my website.

John shared that he never expected to live to be 40 years old. He is now 57, born October 13, 1950.

We came from "duck and cover," do you know what I mean? Civil defense -- when the bombers come and the sirens go off get under your desk. I did that. I thought the world was going to blow up, the world we grew up in, the times, plus the fact that my parents were both focused on it.

Added John, "You do want to really change things, and in the armband case you get a sense of you can actually do it, you can actually." The armband case came out of a peace movement.

I am always tempted to, like when I talked to the reporter earlier today, it's like I am looking for any opportunity to inject propagandistically my point of view and so I'm looking for an opportunity to talk about Iraq. I didn't, but I still identify as a peace activist and I'm still interested in the more basic question of whether some kind of substantial peace is possible for the human race or not.

John told me that keeping our country a free democratic country is “active work.” He added, “You have to actually perceive and behave and work toward it. You can’t just relax and veg out and wait for whatever naturally happens to happen.”

Before I left Missouri to return to Colorado, I returned books I had borrowed overnight from John’s personal library. My last face-to-face conversation with John came in the form of a statement. I told John he should write a book. I am writing about him; others have written about him. Why not write about yourself? He replied,

I’m not sure what, maybe it’s a lack of time, it’s a big undertaking. I haven’t quite settled on whether it should be one magnum opus. One I’ve been working on -- it’s not about the armband case -- but it’s called the Tao of Analysis, and it’s part of a philosophy book, my own kind of world view of how I think about things. Another is about the realm of salvage and why salvage could be our salvation. But those are not armband-related things. When I think of armbands, I think maybe: John Tinker Tells His Armband Story, but more like an autobiography where the armband case is just one segment. People say: You’ve had an interesting life. You know, I’ve tried to do interesting things in my life, but I wasn’t planning it, I wasn’t doing it to write an autobiography about it. I’m thinking I may try to write an autobiography. I’ve been collecting, slowly trying to sift things toward a center, and when my life settles down some I think I probably will write. But for four years, I’ve been out in Massachusetts, not in my own home, in a rental, and kids running about. Hopefully, this situation will settle down some. I’m really looking forward to writing a book.

In summation of this chapter, the aim of this dissertation was to make John’s realness and his stories come alive. I wanted readers to understand that this was a living, breathing person with something important to say and contribute, both publicly and personally.

In order to achieve that, semi-structured interviews with John were conducted and tape recorded. Although I had created interview prompts, detailed questions were not written down as I wanted to hear whatever John wanted to reveal and explore whatever direction he wanted to go. I saw my role as an active listener and co-constructionist. I

considered our conversations to be reflexive. I was open to whatever emerged from John, then followup questions enriched his earlier statements. At the same time that I was gathering John's story, I watched him. I collected additional information through my personal observations of John. Also, each draft was mailed and/or emailed to John for his review.

The result was that John shared his story from his point of view; I heard his story and interpreted it from my point of view. The end result is a view of Tinker on *Tinker* (the legal case), as well as Tinker on Tinker (the person). Together we co-constructed a biography and turned these life stories into text.

Our tape-recorded conversations occurred over 14 hours throughout two days and via follow-up phone calls and email correspondence. These conversations did not occur concisely or linearly. When needed, his comments on this day and that day, at this time and at that time, in this format or in that format, were coded and co-constructed by me into a coherent quotation on the subject at hand. This is John's story, but it has been selected, shaped, and arranged by me. I did not seek John's approval, nor was it given.

Also, from the time my study was approved in November 2006 until today, October 2008, John has not presented a public speech about his legal case, which he had done in the past. I wanted to attend his speeches and hear what he would say about *Tinker* to an audience, as well as hear the questions the audience asked him. It was not to be. John mentioned that he kept a list of frequently asked questions from students, which he had answered, on his website: [www.schema-root.org](http://www.schema-root.org). Including it is a way to provide an audience-related interaction, although in a different format than I originally planned. What I discovered was doctoral candidates and high school students ask similar questions

and receive similar answers. That communication comprises Appendix E, titled “Tinker Writes About *Tinker*.”

Next is the interpretation. It is presented in two segments: The Missourian and The Iowan.

## Chapter Five: Interpretation

Studying my data in Chapter Four led me to organize my interpretation into two sections. The first is titled *The Missourian*, and the second is titled *The Iowan*.

The first passage of this chapter is centered on the schoolhouse that John calls home. Room-by-room John walked me through his life. It is how I came to understand that John lives at 209 West Morrison, not 704 Grandview. He is firmly embedded in his present, not his past.

To do this type of study justice, again, I thought it necessary to be personal and subjective, not distant or neutral and objective. For example, I began this study fully believing that I would like and respect John Tinker as a person. That bias was present from the beginning and remains today. I consider him a good person, genuine and kind. In the co-construction of John's story, my story overlapped.

In the second passage of this chapter, titled *The Iowan*, I reflected on my challenge of finding information about Tinker and *Tinker v. Des Moines* in Des Moines or Iowa, the city and state where it transpired. First though, the section named *The Missourian*.

### *The Missourian*

It is June 2007 and John and I walked around the outside of his Missouri home. His home is a schoolhouse, his yard a former schoolyard. The three-story brick Laurence J. Daly school was built in 1928 and utilized as a school until 1978. John purchased it in 1995. John explained that kindergarten was held in the house on the corner, a "regular" house, which he used to own also, while first- through sixth-graders attended school at his location. "I think it fell victim to handicap access issues," John explained. "You have

to go up and down stairs in the course of the day.” That, the students did. John pointed out where stair steps were worn from decades of pounding little feet.

There are 12 classrooms, roughly 18,000 square feet, and around 130 windows in the building. There are six main rooms downstairs and six smaller rooms upstairs. The cafeteria was in the basement. “The cafeteria is a real pit right now. When I got the building it was like this creek had flowed across the basement floor.” John took me on a grand tour of his school. His essence started coming through, and it was not focused on his landmark legal case. He told me,

In setting up the school, it was quite a project because it took me months to just know the school. I’d come down on the weekend, unload stuff, then go back to Iowa and on the drive back I’d be thinking about the school and what was where and how many rooms I had to deal with and trying to divide up the things in my life to fit the available space. It was an interesting project and that’s why I landed on this cosmology that we have here: the library, the print shop, the art room, the nature room, and so on. The nature room, besides accepting a nature-oriented library, also gives me a place for rocks and bird nests and we made soap last winter.

John and I spent the bulk of our time together in his library, which was originally a classroom. His library was filled with shelves of books, stacks of books, piles of books, and boxes and boxes of books and magazines. We talked about Rappaport’s book, Hoose’s book, Johnson’s book, and other authors who have written about John or the *Tinker* case. He pointed out books written by William Eckhardt, Those were the only hints to his *Tinker* persona. John has a vast book collection. My impression was that he was introspective and well-read.

We looked at a display of photos on the wall in the library. John pointed to a photo of his daughter with his mother. “That’s really within five minutes after they first met. To see Kaiya looking into her grandma’s eyes, and there are a few more similar

photographs, is very important,” John said. I appreciated his sentimentality, his family focus. Displayed were photos of his son, family, friends, and John throughout his years. We walked across the hallway to the print shop.

Having watched many a newspaper being printed in my career as a reporter and editor, I examined the large printing press and imagined how it worked. “The print shop has a letter press which is two or three generations obsolete at this point,” John said. I asked if he used the printing press, told him it would be my favorite item to play with. I suggested he print T-shirts emblazoned with the quotations from his legal case. He replied that he has printed a lot of postcards with peace quotations and bumper stickers.

Said John,

I went to the Great March on Washington, I think it was 1984 or 1985. I went to Washington at the end of that march with my bumper sticker collection and it sold -- I had a piece of regular plastic, window plastic kind of sheeting, and I sewed it over so I had a bunch of little cubby holes and I slipped my bumper stickers in there and I sold bumper stickers. I sold 305.

He pointed out that one of his favorite bumper stickers was “If Reagan Is Right Then Jesus Is Wrong.” “I was trying to hit a nerve,” John said. I was struck by his inventiveness and his honesty. We ventured into the art room.

In the art room, we stopped and looked at a camera the size of large furniture.

Said John,

This is a big camera from a small magazine in Minnesota. When they went out of publication, the guy brought me down the camera to Iowa and gave it to me. I’ve never used it. I actually have a bigger one of the same idea up in Iowa still.

Then, John pointed to a rectangular bookcase. He added,

Remember early this morning, when I said Robert's here? He's a street person and he has a two-wheel dolly. He runs all around town and does Dumpster diving and everyday he brings me his latest find. Sunday he came over with this large bookcase on a two-wheel dolly. He had been carrying that right down the street broadside.

John's warmhearted nature was evident. How many people know and befriend homeless people?

We continued on our journey of the school. The school was "pretty much" empty when John bought it. "This room had old vending machines in it, like a 20-year-old candy store, and I tried it and it was edible. Twenty-year-old lemon drops still taste like a lemon drop." I was a little surprised by that confession and we laughed.

What was once the nurse's office is now daughter Kaiya's bedroom. "And the original library, and in fact, I think you can see this is where the shelves went," John stated, as he motioned his hand along a wall.

In the office, John had his grandfather's antique camera collection displayed. The room also functions as the family's home office. John's computer is in here. He mentioned his website.

In the music room is John's grandmother's piano, as well as an assortment of other musical instruments. During one day of our interview, his daughter practiced the piano and it wafted beautifully throughout the school. We journeyed into the kitchen.

John said,

The kitchen was my main residence when I first moved here. The rooms all had furnaces in them, so I used just this one room to save on heat. Before I was able to see Kaiya, I spent the winters here. I've got a wood furnace in the basement and so if I've brought a lot of wood I can burn a lot of wood. That's really one of my projects now is get a wood splitter and store up wood.

Next, we walked across the gymnasium floor. Above it, in the round, were tiered wooden seats, stadium-style. His son Fisher played there one day. On another day, his daughter rode her Big Wheel across the full-sized basketball court. We walked to the sewing room. He added,

This is going to be Patricia's room and it's also going to be a sewing room, but it's got a lot of fixing up to left to do. I have an old sewing machine here. I want to have a real range of basic industrial equipment like sewing machines.

With each room, I saw a little more of his personality emerge. I thought of a tartan as we left the sewing room. Each color illustrated an aspect of his personality, a portion of his life story. He smiled and laughed more as he gave me a grand tour of his school. As we walked to a computer room, I realized John was multi-dimensional; the *Tinker* legal case was not the only thing that interested him.

John showed me a bank of computer monitors, keyboards, and more, that lined a wall. He told me, "See these Apple II E's, I don't know if I can keep them long enough until they become valuable or not. It seems unlikely, there must be zillions because they gave them out to schools." He showed me his first computer and his second computer, and so on. John explained,

This is going to be the computer museum. The goal here is to have each machine be a working machine, everything that doesn't work will be put somewhere else in storage, but I'd like to have a number of different systems working so that people can experience what it's like.

The computers are all different. Computers in all shapes and sizes fill a table. John continued, "They feel different when you're using them: the Commodore 64, this is an early Pent it was the business model, and Commodore 128..."

I asked John what does he not collect. He replied,

The things I turn away are things that are available in surplus on the consumer level, like old computers are getting to be that way, old monitors. There's so many of them. There's nothing rare or unusual about them. I really like the rare odd item, that's my favorite.

At one point, John described his organizational system. He answered,

Workshop, all kinds of cables and so on that I might need, reference books, then there are things like this pile essentially broken things that need to be disassembled or fixed, this is broken things that need to be disassembled, this is radio equipment, these are all various parts and they're sorted. It's roughly organized.

We walked into a mechanical room. Boxes and drawers and tables of gadgetry stacked a room. Labels read "Switches" and "Filters" and more. Said John, "This is the mechanical version of the electronic room. This is the mechanical workshop, mechanical parts over here, and the electronics are basically not here, non-electronic stuff."

John and I walked outside again, another humid 90-degree day, and continued the school tour. "When it rains, a lot of water comes down off the roof so I'm working on a little pond," John said as he pointed to it. I was impressed with his resourcefulness. We walked around the school grounds.

We stopped and looked at the chimney. "We've got hundreds of swallows that live in that chimney and at night, at dusk, they come and one-by-one dive down in, really hundreds of them." We stopped to watch a rabbit. The focus was on that moment. Then, I snapped a picture of John and his daughter in their large garden.

John mentioned his battle with the City of Fayette over what the police chief saw as weeds on John's property and John saw as wildflowers. This was not his first legal battle. In addition to the *Tinker* case, he is familiar with the courts in Massachusetts. John

stands up for his rights. He had an incredible legal experience at age 15, and has had incredible experiences to date, age 57.

While on John's schoolhouse tour, I thought of Clandinin and Connelly (2000). I observed interaction, continuity, and situation (Clandinin & Connelly, 2000, p. 50). I learned that John lives in the present and not the past. The present is where he is firmly planted, yet he returns to the past occasionally. John is social, yet he is not a conformist. He talked about his past life experiences in the last chapter, and in this chapter he showed where he is now. I believe I saw a real John -- his essence, his core self -- at his home in his schoolhouse in Missouri. I felt John's enthusiasm and his personality the most when he took me on a grand tour of his school and described the uniqueness of each room.

John has shared his legal story over 40 years. Perhaps my repetitious questions lead to boredom. He was gracious through and through and I was grateful and enthralled, but when we talked about *Tinker* it felt the most like he was operating on autopilot. When I sensed this, to compare and contrast I asked for another grand tour of the school on the second day. John came to life more when he was talking about non-*Tinker* interests. I deduced that there is more to this Tinker than just that *Tinker*. I discovered that John did not define himself by *Tinker*. When I examined the transcripts of our conversations, *Tinker* was mostly discussed only when I broached the subject.

When I came to that realization, I thought of Clandinin and Connelly (2000) again. I thought of this turning-point moment in terms of the four directions (Clandinin & Connelly, 2000, p. 50) of inward, outward, backward, and forward. *Tinker* does have meaning to John, but it does not occupy the sole focus of his life. John was comfortable

enough in his self and his life story that he did not have to continually bring up his past story. He was freely living in the present and future.

Also, I saw that as an epiphany for myself. Am I guilty of typecasting Tinker as *Tinker*? Are we held hostage by other people's ideas of what is important? That thought first occurred to me as I explored the Boonville leg of the Lewis and Clark National Historic Trail, which traverses through 11 states including Missouri, that maybe I was forcing *Tinker* upon Tinker. John and I had met that day and were to meet again the next day. Did I persuade John to revisit something that he has moved beyond? Is he trying to live in a private world and people like me show up and force him to live in a public world? I am still thinking about that.

Through analysis of data, and a desire to "see the other in the other's own terms" (McVicker Clinchy, 2003, p. 41), I have come to see that there are two John Tinkers. One is a public namesake of a landmark legal case. That Tinker speaks about the legal *Tinker* and understands that a part of himself is public. The other Tinker is a private man whose face softens when he talks about his wife, children, family, and his interests, such as his schoolhouse. That Tinker speaks about the personal Tinker. One is more rehearsed, one is more spontaneous. One is genuinely public, one is sincerely personal. One is in the past, one is in the present, yet they intersect. Two parts of one self that overlap.

In the evening, as I took photos of the Missouri River, a statement John made preoccupied my mind: "I'd say *Tinker's* had a positive effect on my life, but if you tried to ask me what that effect has been I'd say how can I know because I haven't seen the other side." I considered that an epiphany for him, as well as another for me.

How would one know? I had not thought of that before. One year later, I still do not have the answer to that question asked by John: "...how can I know?..." Ultimately, I concluded that there is a positive impact on his life or John would not have *Tinker* on his website today or have presented speeches about *Tinker* in the recent past. But what I have learned mostly is that *Tinker* is simply one aspect of Tinker's full life.

I think that is an important realization. That is what this study contributes to educational literature in general. *Tinker* is known as a name on an education-related legal decision, but there is a real person behind that name. He has a first name and a life and a history and thoughts and feelings and he is a human, a human who happened to be involved in an extraordinary event 40 plus years ago; he was 15 then, he is 57 now. The personal account was missing from the literature, which is what I wanted to contribute. I could find abundant information about his legal case, but not much about him as a person. The human perspective was absent. Now it is present.

One may wonder what does this topic have to do with the field of higher education? As an educator, why is this study important? Well, you have a public high school student – Tinker; a 1965 collision of educational policy and Constitutional law, a current student in Community College Leadership – me, and a Higher Education Law class. The principles outlined in *Tinker* apply to all public education.

Talking and listening to Tinker through a biographical study provided insight into how one public high school student stood up for his Constitutional rights and ultimately set the standard for free speech rights for all public school students. Two implications of this study, and my hope, is first, that those who work in public education will want to learn and apply the *Tinker* standard, and second, that those who work in public education

will realize that this was a good student who believed strongly in something and sometimes one has to be contrarian to create lasting change.

In the end, I believe what I contributed to the field of education is a biographical study of a living person who shared his unique perspective as a human being and as the namesake behind a landmark legal decision. That is what I set out to do. I wanted to tell and inscribe one person's remarkable story. It was a story created from one point in time and it will remain inconclusive. "...There is no truth in the painting of a life, only multiple images and traces of what has been, what could have been, and what it now (Denzin, 1989, p. 81). In this version, John's humanness was revealed; he was a person first and a legal case namesake second.

Lastly, is the second passage. It is named The Iowan.

#### The Iowan

Where is the *Tinker* Museum? There is not one. In September, I toured the former Monroe Elementary School in Topeka, Kansas, now a National Park Historic Site. It honors *Brown v. Board of Education*, the United States Supreme Court landmark decision that abolished racial segregation in public schools. Why is there not a site similar for *Tinker v. Des Moines*? *Tinker* recognized the free speech rights of public school students. I believe *Brown v. Board of Education* is our single most important Supreme Court case. I would postulate that *Tinker* is the second most important Supreme Court case. Three ordinary Iowa students stood up for their Constitutional rights and achieved something extraordinary; *Tinker* should be honored, too.

I traveled to Iowa several times to look for information on the *Tinker* case. I did not expect it to be so difficult to find information. I returned home empty-handed. From

my home, I thoroughly researched the websites of several Iowa schools – Grand View College, Drake University, Iowa State University, the University of Iowa – and I could not find so much as a permanent *Tinker* exhibit. There should be. Grand View College is where John's mother, Lorena Jeanne Tinker, taught; Drake University has a law school; Iowa State University has a journalism school; John attended the University of Iowa, among other compelling reasons.

In June, I remarked to John that I looked recently online and *Tinker* is mentioned on Harding Junior High School's website, but I could find no mention of *Tinker* on the websites of North High School or Roosevelt High School. Also, neither John, Mary Beth, nor Chris are in the Hall of Fame at their respective schools. There is scant mention of *Tinker* in the Des Moines Public Schools' 1846-1976 history, which is an embarrassment.

When I understood that John would not be presenting any public speaking engagements about *Tinker*, he provided me with a list of places he had spoken in the past, out-of-state as well as in-state. As I made my way down the list using email and phone calls – the Des Moines Area Community College, Drake University, the State of Iowa Historical Building – I discovered no one bothered to record his presentations. It should not be difficult to find information on *Tinker* in Des Moines, or Iowa, after all, it transpired there.

Every so often there is a glimmer of hope though. The Des Moines Public Library possesses four books on *Tinker v. Des Moines* according to its website, and one was checked out. Also, I discovered online that the University of Iowa Library holds the papers of Judge Roy L. Stephenson, who presided over *Tinker v. Des Moines* in the United States District Court in 1966 and ruled in favor of the school district. But sadly, he

killed himself in 1982. That makes me feel a real sense of urgency to gather the stories from people who were involved in the *Tinker* case, as well as to accumulate a collection of archival documentation -- now. Time is of the essence.

While in Iowa, I found a Roosevelt High School Class of 1968 Commencement program in a box at a Des Moines-area antique store and it listed Chris Eckhardt's name. The Rev. L. Robert Keck, Vice President of the Board of Education, gave the address. There is some documentation out there, there is some research about the people who were involved. But it must be preserved soon, as 40 years have already passed. At the point of the May graduation exercises in 1968, the decision of the lower court stood as the *Tinker* case was split on appeal. The oral arguments before the United States Supreme Court would not occur until November.

I tried to retrace John's steps when I was in Des Moines and I took photos as I did. Last summer, as John and I sat across from each other in his library in Missouri, we looked at an envelope of photos I had taken. They are of John, the North High School student from 40 years ago, from his yearbooks. John and I looked at him in Home Room 243, the first one in the second row. We looked at a class photo; he is in the third row, third student in. We looked at a photo of him in the cast of "The Diary of Anne Frank." He is the first person standing in the fourth row, his sister Mary Beth is in the second row. In the index of students, under "Tinker, John Frederick" this was listed: Home Room Secretary, Band, Orchestra, and Thespians with four plays identified. John and I looked at a photo of the Board of Education, page 9, in the North High School yearbook. Superintendent Dwight Davis is in the fourth chair on the right; Ora Niffenegger is in the third chair on the left. John and I looked at photos of Harding Junior High School and

Roosevelt High School. I showed John a picture of his father's church, the Epworth United Methodist Church. We looked at a photo of his house on Grandview Avenue.

When I stopped the car at 704 Grandview Ave., I absorbed the Tinker home circa 1965. I imagined Leonard and Lorena Jeanne Tinker with their children Leonard, Bonnie, John, Mary Beth, Hope, and Paul. I pretended it was 1965 and John was thinking about wearing an armband to school. I imagined that he pedaled his bicycle east until he intersected with East Ninth Street and then turned north. A couple blocks ahead, at 836 Hull Avenue, was the Ben Franklin where he purchased a few yards of black fabric then pedaled home. It is August 2007 and I walked around the area. The former Ben Franklin is now a tavern. I passed Grand View College, where Mrs. Tinker was a professor. It is also my father's alma mater a few years prior. Mrs. Tinker earned a Ph.D. -- her major subject was Guidance and Counseling -- at Iowa State University in 1969. That is my alma mater, years later. Again I imagine, this time John riding his bicycle to Wallace Elementary -- it seems a long way to me -- but then again, I lived closer to Wallace and was able to walk to school there, a decade removed. John and I both shared fond memories of the nearby Riverview Amusement Park. I walked back up Grandview Avenue and a minivan pulled into what was the Tinker's driveway. I wondered if they knew about the family that resided there in 1965. I doubted it. I had never heard of *Tinker* until my Higher Education Law class at Colorado State University and I was born and raised in Des Moines, in Iowa.

Again, I think of the work of Clandinin and Connelly (2000, p. 50). This passage illustrates interaction, continuity, and situation. Also in this passage, I have looked

inward, outward, backward, and forward (Clandinin & Connelly, 2000, p. 50) in an attempt to understand Tinker and *Tinker* in a local context, in the place where it began.

Last month, my degree chair and advisor asked me where I was going to include how this study on Tinker and *Tinker* has changed me. As the first woman in my entire family history to go to college, I earned my bachelor's degree because it had not been done before. I earned my master's degree because it had not been done before. I enrolled in my doctoral program because it had not been done before. Others take these things for granted, but not in my family tree. The high school dropouts outnumber the college graduates and it is my goal to change our status quo. It is as simple as that. It is being a family pioneer.

*Tinker* has changed me because now I am aware. It is that enrichment -- that knowledge -- that is transformational. I have an obligation now to continue the study of the free speech rights of public school students. If it is challenging for me to find information about *Tinker*, then who else is not receiving that message? Public school students! That is my mission: students must be informed of their free speech rights. My hunch is that students do not understand their First Amendment rights. Additionally, educational leaders must be informed of the free speech rights of students.

I have begun to sketch out a high school play about *Tinker*. My enthusiasm for playwriting is greater than my genius. I have taken only one playwriting class; I need to find someone skilled in this area for a collaborative effort. I see this as an educational history activity that occurs in a classroom, as opposed to a presentation in an auditorium. I want to focus on the auditory, tactile, and visual learning styles of students, so therefore I am creating individual notecards to be provided to each student. On each notecard is a

person who was involved in the *Tinker* case and on each notecard is a little information about that person and his or her role. By using notecards, each student can read and hear it, hold and act it, observe what transpires from it and watch history come alive. Student-by-student and chronologically, *Tinker* will be re-enacted, and ultimately, the *Tinker* legal standard will be emphasized.

*Tinker* was an educational pioneer. That is his legacy. As a result of my doctoral experience, it is my responsibility to further the message of *Tinker*. *Tinker* was an educational trailblazer. Maybe that is what it is. Maybe in all pioneers there is a part of us that does what we choose to do, and there is a part of us that feels an obligation to continue with something already started. It is about balancing choice and a sense of obligation. Perhaps it boils down to learning how to balance two selves. Perhaps that is another epiphany.

In conclusion, there is a *Tinker* in baseball, John and I talked about him. “*Tinker* to Evers to Chance,” John replied. When people ask and I mention I am working on a doctoral dissertation about *Tinker*, people always ask me if it is about the baseball player, Joe *Tinker*. When I reply no, my dissertation pertains to John *Tinker*, symbolic speech, and the First Amendment, I usually get a blank and sometimes disappointed look. John replied that his Granddad *Tinker* would mention *Tinker* to Evers to Chance, so he knew of them since he was a little boy, but is no relation to Joe *Tinker*.

Interestingly, that *Tinker* is in a Hall of Fame. Why is this *Tinker* not honored in a similar way? There is a lot of available legal information about *Tinker v. Des Moines*, but where is that educational and historical exhibit about three Iowa teenagers who did something extraordinary? It does not exist. It seems to have been forgotten that it

occurred locally. Or, has it yet to be celebrated locally? I find it inexcusable that, at minimum, there is not one permanent display that acknowledges the place and the people who played a role in the landmark Supreme Court case *Tinker v. Des Moines*.

Appendix A, Noteworthy People

WHO	WHAT	INFORMATION
<p>John Tinker North HS student</p>	<p>Namesake</p>	<p>15 when he wore armband to school; 57 now; lives in MO</p>
<p>Leonard Tinker</p>	<p>Father</p>	<p>Minister; Deceased</p>
<p>Lorena Jeanne Tinker</p>	<p>Mother</p>	<p>Ph.D; Deceased</p>
<p>Mary Beth Tinker Harding MS student</p>	<p>Sister also wore armband</p>	<p>Nurse in MO</p>
<p>Hope Tinker</p>	<p>Sister also wore armband</p>	
<p>Paul Tinker</p>	<p>Brother also wore armband</p>	
<p>Leonard Tinker</p>	<p>Brother also wore armband</p>	
<p>Ross Peterson</p>	<p>Friend also wore armband</p>	<p>Armbands were his idea;</p>

Roosevelt HS student		wrote school newspaper article that informed principals about the armband plan
Bruce Clark Roosevelt HS student	Friend also wore armband	Armbands were his idea
Chris Eckhardt Roosevelt HS student	Friend also wore armband	Lives in FL
William Eckhardt	Father; Family friend	Psychologist; Deceased
Maggie Eckhardt	Mother; Family friend	Activist; Deceased
Mr. Ellsworth Lory	Teacher who sent Tinker to the principal's office	
Donald Wetter	Principal of North High School	
Ora Niffenegger	School board president	

Dwight Davis	Superintendent of the Des Moines Independent Community School District	
Craig Sawyer Dan Johnston	Attorney for students Attorney for students	Iowa Civil Liberties Union 28 at trial; lives in NYC
Allan Herrick	Attorney for school district	70 at trial; Deceased
Roy Stephenson	Rendered opinion for United States District Court	Upheld armband ban
Abe Fortas issued majority opinion Hugo Black and John Harlan dissented	United States Supreme Court Justices	Ruled in favor of students

Appendix B, Timeline

YEAR	EVENT
1950s	<p>John Tinker born</p> <p>His parents, Leonard and Lorena Jeanne, are politically active</p> <p>He has siblings</p>
1954	Vietnam War begins
1963	Medgar Evers assassinated
1963	John F. Kennedy assassinated
1965	Malcolm X assassinated
1968	Martin Luther King Jr. assassinated
1968	Robert F. Kennedy assassinated
1965	<p>Tinker attends anti-war demonstration in Washington, DC</p>

1965	Discusses idea to wear symbolic black armbands to schools to mourn the war dead and show support for a Christmas truce
1965	School principals ban the wearing of armbands
1965	School district adopts ban
1965	Students formalize plans to wear armbands
1965	Others wear armbands; Tinker ponders committing this act of civil disobedience
1965	Tinker wears armband to school and is suspended
1965	School board meeting held; Iowa Civil Liberties Union becomes involved on behalf of the students; the school board votes to continue the ban
1966	School board upholds the armband ban
1966	The armband wearers all return to school;

	they wear black clothing to school in protest
1966	Aftermath at school
1966	Iowa Civil Liberties Union files suit in federal court on behalf of the students, citing: <ul style="list-style-type: none"> <li>• 42 United States Code § 1983</li> <li>• The First Amendment to the United States Constitution</li> <li>• The Fourteenth Amendment to the United States Constitution</li> </ul>
1966	<i>Tinker v. Des Moines</i> case heard
1966	United States District Court Opinion/armband ban upheld
1967	<i>Tinker</i> case is argued before the United States Circuit Court of Appeals
1967	United States Circuit Court of Appeals Ruling/judges split 4-4

1968	Tinker graduates from high school; family moves to Missouri
1968	Oral arguments before the United States Supreme Court
1969	<p>United States Supreme Court</p> <p>Opinion/ruled in favor of the armband wearers</p> <p>Justice Abe Fortas issues majority opinion</p>
1969-Today	The importance of the <i>Tinker</i> ruling
1969-2000	<p>Attends the University of Iowa; quits</p> <p>Moves into his truck</p> <p>Works on a shrimp boat</p> <p>Drives a city bus</p> <p>Works at a radio station</p> <p>Starts his own business</p> <p>Organizes a project for Nicaragua</p> <p>Becomes a computer programmer</p> <p>Creates his own website</p>

	<p>Buys a school in Missouri in which to live</p> <p>Becomes a father to a daughter</p> <p>Moves to Massachusetts</p>
1975	Vietnam War ends
1978	Leonard Tinker dies
2004	<p>John marries Patricia</p> <p>Becomes a father to a son</p>
2008	<p>Lorena Jeanne Tinker dies</p> <p>Tinker resides in Missouri</p> <p>He is a peace activist</p>

Appendix C, Biography chart citing Smith (1994)

Discipline	Perspective	Terminology
Literature	<p>“...fine biographies give us both a glimpse of ourselves and a reflection of the human spirit (p. 294)”</p>	<p>Literary biography</p> <p>Artistry vs. reality</p> <p>“Granite” and “Rainbows” (p. 292)</p>
History	<p>The collective study of lives</p> <p>Insight into the larger political and social problems</p>	<p>Prosopography = group biography</p> <p>Examples include mapping and case studies</p>
Anthropology	<p>Cultures can be written through lives</p>	<p>Examples include life histories and ethnographies</p>
Psychology	<p>Psychoanalytic perspective</p> <p>– probes problems, issues, and interpretations</p>	<p>Examples include psychobiography and psychohistory</p>

	<p>Psychologist perspective – passion for truth, experiment, quantify, and test</p>	
<p>Interpretive (Social Sciences)</p> <p>*Mine falls here</p>	<p>Concepts, interpretations, and explanations</p>	<p>Examples include life histories, case studies, interpretive biographies, and oral histories</p>
<p>Feminist and Minority Perspectives</p>	<p>Hear excluded voices; those who have been left out, ignored, or powerless</p>	<p>Examples include narratives, interpretations, life writing, autobiography, and “auto/biography” (p. 289, p. 300, p. 302)</p>
<p>Education</p>	<p>Find voice among the disenfranchised, the powerless, and those with alternative views</p>	<p>Examples include essays, nonmainstream voices, and action research</p>

Appendix D, Des Moines newspaper articles about the armband protest, 1965-1966

The following are local newspaper accounts of the time span immediately surrounding the armband incident. It is contained here for informational purposes and to provide an additional account of the armband situation from the viewpoint of a neutral press.

The newspaper accounts here conclude with the 1966 ruling in the United States District Court, which ruled against the students. It is at this point where one can see how there might not have been a *Tinker* legal standard. John Tinker might not have been the namesake of the landmark case regarding the free speech rights of public school students.

The United States Circuit Court of Appeals heard the case in 1967 and issued no opinion. The United States Supreme Court rendered its decision in 1969, which ruled in favor of the students.

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The Des Moines Register

December 15, 1965, Page 1

D.M. Schools Ban Wearing of Viet Truce Armbands

By Jack Magarrell

Des Moines school officials said Tuesday that high school students will not be permitted to wear black armbands at school in support of a truce in Vietnam. A few students at Roosevelt High School were reported planning to wear the armbands Thursday. Several groups of Iowa college students opposed to U.S. policy in Vietnam

have designated Thursday as a day of fasting and wearing black armbands to encourage U.S. acceptance of a Viet Cong offer of a 12-hour cease-fire on Christmas Eve.

Roosevelt Principal Charles Rowley refused to comment on the school's attitude toward the armbands. E. Raymond Peterson, director of secondary education, met with high school principals Tuesday to assure a uniform policy. Questioned about the policy, Peterson said, "For the good of the school system, we don't think this should be permitted."

"The schools are no place for demonstrations," Peterson said. "We allow for free discussion of these things in classes." Peterson said the decision not to allow students to wear the black armbands was based on a general school policy against "anything that is a disturbing situation within the school."

School officials believe the educational program would be disturbed by the students wearing armbands, he said. Peterson said the meeting with high school principals dealt with several other matters which school officials considered more important than a proposal by "eight or 10 students" to "get publicity" by wearing armbands.

The Des Moines Register

December 17, 1965, Page 1

### Wear Black Arm Bands, Two Students Sent Home

By Jack Magarrell

Two students were sent home from school here Thursday for wearing black arm bands in mourning for those killed and wounded in Viet Nam and in support of a Christmas truce.

School officials had decided Tuesday not to permit students to wear the arm bands on grounds that it would disturb the educational program.

Ora Niffenegger, school board president, said he personally was "absolutely opposed to this type of demonstration within the confines of the school."

#### Suspended

At Roosevelt High School, Chris Eckhardt, 15, of 3818 Lanewood drive, was suspended Thursday morning because he wore a black arm band. He is a tenth-grade student.

Don. K. Blackman, vice-principal, said that Eckhardt was the only high school student he knew of who wore such an arm band Thursday.

Blackman said there was no commotion or disturbance at the school in connection with the arm band wearing.

At Harding Junior High School, Mary Beth Tinker, 13, of 704 Grandview ave., was sent home for wearing a black arm band. She is in the eighth grade.

Chester Pratt, Harding principal, said that the girl's arm band caused no disturbance, but she was sent home in line with the ban on arm bands announced earlier by school officials.

### Attend Meeting

About 25 persons – students who were interested in wearing the arm bands and their parents – attended a meeting Thursday evening. The meeting was called by the Rev. Leonard Tinker, father of the suspended girl, who is peace education director for the American Friends Service Committee here.

After the meeting, a spokesman said the group “expressed deep concern” that the students had been “deprived of an important opportunity to participate in this form of expression.”

The group disputed the school officials’ contention that the wearing of the arm bands would disrupt the educational process of the public schools.

School board president Niffenegger said he had been asked by some of the students to call an “emergency meeting” of the board on the arm band issue.

Niffenegger said it wasn’t important enough to require a special board meeting. He said he told the students they would have the same right as anyone else to speak at the board’s next regular meeting, Tuesday afternoon.

“This is a disciplinary measure that should be handled by the school,” Niffenegger said. He said he fully supported the school administrators in the matter.

#### ‘Disturbing’

“Speaking only for myself,” he said, “I would not condone the wearing of arm bands because I think it is a disturbing influence.

“We’re running an educational institution and I don’t think this is any part of it.

“Our country’s leaders have decided on a course of action and we should support them.”

The wearing of black arm bands was suggested by Iowa college student organizations which have disagreed with U.S. policy in Viet Nam.

### The Des Moines Register

December 18, 1965, Pages 1 and 5

#### Liberties Union Supports Students on Arm Bands

By Jack Magarrell

The Iowa Civil Liberties Union called on the Des Moines School Board Friday to permit students to express their views, even when those views are unpopular.

School officials suspended three students Friday for wearing black arm bands to school. Two students were suspended Thursday for the same reason.

The students said they were wearing the armbands in mourning for those killed and injured in Viet Nam and in support of a Christmas Eve truce in Vietnamese fighting.

#### Student Counsel

Craig Sawyer, assistant professor of law at Drake University, said he will represent the suspended students before the School Board next Tuesday at the request of the Iowa Civil Liberties Union.

The Iowa Civil Liberties Union is a non-partisan organization which seeks preservation of constitutional rights of the individual. The organization's board of directors issued a statement Friday which said:

"In connection with the present prohibition against the wearing of black arm bands in the Des Moines Public Schools, the Iowa Civil Liberties Union expresses regret that students have been suspended for using what is otherwise a permissible means of expression.

"While the Iowa Civil Liberties Union recognizes the interests of the school in protecting the educational atmosphere of the school, a complete prohibition of such activity is unfortunate.

"It is hoped that the School Board will review the action of the school administration and in so doing fully recognize and protect the students' rights to freely express themselves, even though the subject matter is controversial or concerns an unpopular point of view."

#### Davis Comment

Des Moines School Superintendent Dwight Davis said Friday that the rule against arm bands was not intended to prevent students from expressing their views.

"There should be an opportunity to discuss controversial issues in school," Davis said. "Our question is how far a school should be involved in demonstrations.

"It's kind of a gray area. We thought it might be orderly or it might not have been. It's a question of how a person expresses himself. It could lead into a disruptive influence at the school."

"You have to draw the line somewhere. It's not that we don't think these students should have views and be willing to stand up for them."

School Board President Ora Niffenegger said earlier he was "absolutely opposed to this type of demonstration within the confines of the school."

#### Those Suspended

The students suspended Friday were Christine Singer, 15, of 2407 Maryland Pike, a Roosevelt High School sophomore; Bruce Clark, 17, of 925 Twentyninth st., a Roosevelt senior, and John Tinker, 15, of 704 Grandview ave., sophomore at North High School.

John Tinker's sister, Mary Beth, 13, an eighth-grade student at Harding Junior High School, was sent home Thursday for wearing an arm band

Also suspended Thursday was Chris Eckhardt, 15, of 3818 Lanewood drive, a Roosevelt sophomore who wore an arm band.

Mrs. Leonard Tinker, mother of the suspended Tinker children, said they would not return to school "until we see a change in this policy."

"We are concerned that our children get the kind of education that will prepare them to be responsible citizens in a democracy," Mrs. Tinker said.

"We feel we must support our children at this point," Mrs. Tinker continued. "Our children have been raised in a home where we've held certain values. We feel we are responsible for our children's actions.

"They are, in their way, witnessing to the values we believe in."

The Rev. Leonard Tinker, father of two suspended Tinker children, has been peace education director of the American Friends Service Committee here, serving an eight-state area.

Previously, he was pastor of Epworth Methodist Church here.

He has been active in peace and civil rights organizations. He spoke against U.S. policy at a demonstration by students protesting U.S. policy in Viet Nam last Oct. 17 at the Des Moines Post Office.

The suspended Eckhardt boy is the son of Mrs. William E. Eckhardt, president of the Des Moines Chapter of the Women's International League for Peace and Freedom.

Mrs. Eckhardt and her son attended a Washington, D.C., demonstration Nov. 27 which was sponsored by the American Friends Service Committee and other organizations to urge an end to U.S. bombing of North Viet Nam and increased efforts toward negotiations to settle the Vietnamese conflict.

The decision not to permit students to attend school wearing black arm bands was made Tuesday morning at a meeting of E. Raymond Peterson, director of secondary education, and high school principals.

Peterson said he believed students wearing the arm bands would disrupt the educational program of the schools.

College students belonging to Students for a Democratic Society and other organizations critical of U.S. policy in Viet Nam had designated Thursday as the date to begin wearing the black arm bands.

#### The Des Moines Register

December 22, 1965, Pages 1 and 3

#### Extend Ban on Arm Bands

DM School Board Split on Issue, 4-3

200 Jam Room for 2-Hour Debate

By Jack Magarrell

The disputed right of students to wear black arm bands to school sharply divided the Des Moines School Board Tuesday.

After a two-hour debate in a meeting room packed with 200 persons – students and adults – the board voted, 4-3, to continue a ban on arm bands.

The board's 4-3 decision lets stand, prodding further study, school administrators' policy of suspending students who insist on wearing the arm bands.

Five students were suspended indefinitely last week for wearing black arm bands. They said they wore the arm bands in mourning for those killed and wounded in Viet Nam and in support of a Christmas truce there.

The debate Tuesday was student freedom versus school discipline. Arguments on both sides came from board members and from the audience.

#### Parents Speak

Craig Sawyer, assistant professor of law at Drake University, spoke for the Iowa Civil Liberties Union and for the parents of some of the suspended students.

He called for immediate reinstatement of the suspended students, lifting of the arm band ban and adoption of a policy approving all means of peaceable expression.

Board Member George Caudill asked Sawyer if he also would support a student's freedom to wear a Nazi arm band, symbolizing hate and violence.

"Yes," replied Sawyer, "and the Jewish Star of David and the Cross of the Catholic Church and an arm band saying, "Down with the School Board.""

When Board Member John Haydon opened the move to postpone a decision, Sawyer said: "I am demanding that you decide it. Take a stand! That's what you're here for."

Merle Emerson, 2812 Arthur ave., who identified himself as a World War II veteran, said he was "very much opposed to the students wearing arm bands in the schools."

"One of the first things you learn when you go in the Army is discipline, and if you don't have discipline, you don't have anything – and it's the same in our schools."

As arm-banded students and their supporters left the meeting after the vote to postpone, some sang the civil-rights anthem, "We Shall Overcome."

There was some talk of court action to seek reversal of the no-arm-band policy.

Outside the school board office, a picket line formed, protesting the board action. Most of the picketers were students from Drake University here and from Iowa State University, Ames.

Most of the picketing students were members of Students for a Democratic Society (S.D.S.), a national student organization which has been critical of U.S. policy in Viet Nam.

#### Last Thursday

S.D.S. was one of the organizations which earlier this month suggested that the black arm bands be worn, starting last Tuesday.

School superintendent Dwight David said the arm bands were banned because "we thought it was a potentially disturbing element in our schools."

He said all the high school principals agreed on this policy last Thursday.

Two board members spoke in favor of reversing the school officials' rule. They were Arthur Davis, an attorney, and the Rev. L. Robert Keck, pastor of St. John's Methodist Church.

Mrs. Rolland Grefe, housewife and former teacher, voted with Davis and the Rev. Mr. Keck in favor of deciding the arm band issue then, rather than postponing it. Mrs. Grefe did not say how she would have voted on the arm-band policy itself.

#### Delay Favored

Voting in favor of postponing action and letting the ban continue were Board President Ora Niffenegger, attorney and former college administrator; Haydon, district manager of an electric-shaver company; Dr. Caudill, a children's physician, and Merle Schlamp, retired junior high school principal.

The Rev. Mr. Keck said he understood school officials had banned the arm bands for two reasons: To avoid disturbance of the educational program and to protect the arm-band wearers against violence by students who disagreed with them.

"I fail to see any significant difference between this demonstration and that of wearing political campaign buttons, which has been allowed," he said.

"Controversy is at the heart of education," he said, "and the disturbance of set thinking is the catalyst."

#### "Ruffian Element"

As for protecting arm-band wearers against violent students, the Rev. Mr. Keck said: "We have been intimidated by the threat of violence and have thus let the ruffian element dictate educational policy."

Dr. Caudill said he did not oppose discussion of controversial subjects in the classroom, but said, "Schools should not and cannot be used for demonstrations."

"Regardless of the type of demonstration, it will be disruptive to some degree," he said.

Schlampp said, "we still have the problem of keeping control in the school."

He said the arm-banded students and their parents should have followed the rule and sought to change it by appealing to the superintendent and School Board.

Arthur Davis called the controversy a clear issue of an individuals' constitutional right of free expression.

He said the issue might have been resolved much more easily if school administrators had consulted with the board before adopting a policy on arm bands.

Davis said school officials had tried to "hide behind timid policies" and "handled this just as the Army would have handled it."

While Davis argued for the students' right to wear the arm bands, he said he thought "it was unwise for them to do so."

"My personal view is that the banners of the Vietnamese war should not be brought to the classroom," he said. "The School Board did not start the Vietnamese war and it cannot end it."

Francis Pickray, jr., 2920 Cleveland ave., spoke from the audience in support of the ban against arm bands to "maintain law and order in the schools." He told how it was when he was a boy.

#### Parental Respect

"We had respect for authority," he said. "We also had a greater respect for our parents.

"If we did something wrong, we didn't go home and brag about it, because Heaven help us, we got the stick again."

Bruce Clark, 17, of 925 twenty-ninth st., a Roosevelt High School senior who was suspended Friday for wearing an arm band, said Roosevelt students had not been prohibited earlier from wearing black arm bands in mourning for Negro children killed in a southern church bombing or, another time, in mourning for the "death of the school spirit."

Curtis Page, Drake English professor, said school administrators should have more confidence in the large majority of students and teachers "who believe ideas must be countered by ideas."

"Any search for the truth is, by its very nature, unsettling," he said.

#### Cites Constitution

George Telford, associate professor of social science at Drake, said, "I am here to protest against a violation of the spirit and the letter of the Constitution of the United States."

Robert Hamilton, executive secretary of the Des Moines Education Association, said that organization of teachers and administrators "urges the board to rely upon and concur with the judgment of the school administrators."

Sawyer said education at Roosevelt High School might be less disrupted by the arm bands than by some buttons which students have been allowed to wear there.

He said these included buttons which bore the legends, "Down With Pants," "Go Riders" and "We Try Harder." The Roosevelt sports team nickname is "Riders."

Gordon McCollum, 17, of 3701 River Oaks drive, president-elect of the Roosevelt Student Council, said wearing an arm band was more disruptive than wearing a "Go Riders" button.

McCollum said the arm bands might be compared more accurately with wearing a "Go Riders" button at East High School.

Frank Singer, 2407 Maryland pike, a social worker, told the board: "I know nothing of constitutional law, but I have a feeling this rule is not right.

"No subject of genuine interest to young people is so taboo that we can't tolerate free discussion."

#### Returns to School

Singer's daughter, Christine, 15, a Roosevelt sophomore, was suspended last Friday for wearing a black arm band. She returned to school, without the arm band, this week, he said.

Singer said threats of violence are a poor reason for banning peaceable demonstrations.

"Individuals have to learn what risks to take in life as right for them," he said.

William E. Eckhardt, 3818 Lanewood drive, a psychologist, said after the board meeting: "It seems too important an issue to be dropped. I have a feeling that we are being told we have freedom, but we are not to use it."

Eckhardt's son, Chris, 15, a Roosevelt sophomore, was suspended last Thursday and has remained out of school.

Mrs. Eckhardt is president of the Des Moines Chapter of the Women's International League for Peace and Freedom, which joined with S.D.S. in recommending that the arm bands be worn.

Mary Beth Tinker, 13, eighth-grade student at Harding Junior High School, who was sent home from school Thursday for wearing an arm band, said after the meeting that she intended to remain out of school until the policy is changed.

He brother, John, 15, a North High sophomore, also is out of school under suspension for wearing an arm band.

Mrs. Tinker told the School Board that she and her husband have "not encouraged our children to be defiant." She said both Mary Beth and John were honor roll students and that she believed the other students in the arm band group were also good students.

Sawyer, the Civil Liberties Union spokesman, told the board that students had tried to petition the School Board on the arm band question, but the petitions were "confiscated."

After the meeting, Sawyer said the parents "have attempted as fairly as they can to go through the proper procedures to settle the matter promptly and the board has refused."

He said he did not know whether the Iowa Civil Liberties Union would seek any further action in the case.

#### Called 'Detrimental'

Ron Cohen, 17, of 1911 Thirty-sixth st., current president of the Roosevelt Student Council, said he believed the arm bands would be "detrimental to education."

After the School Board's vote, the Rev. Leonard Tinker, father of two of the suspended students, said the children had attempted to follow the school system's ordinary procedures but the "ordinary channels are not capable of making a decision."

The Rev. Mr. Tinker is peace education director for the American Friends Service Committee in this area.

Joe Knock, Iowa State University senior and a member of the I. S. U. chapter of S. D. S. called the board action "an insult to the very principles of free speech and free petition."

Pickets, in addition to Knock, included:

Gregory Calvert, I. S. U. history instructor and S. D. S. member; Linda Tomlinson, 22, of Grand Junction, Colo., Drake senior in sociology and S. D. S. member; Robert Anderson, 22, I. S. U. student; Don Slano, 23, Uhrichsville, Ohio, graduate physics student at I. S. U. and S. D. S. board member; Glen Meredith, 22, Drake student and S.D.S. member; Billy King, 26, Des Moines, community organizer for Community Union Improvement Project.

### The Des Moines Register

January 3, 1966, Pages 1 and 6

#### Board Hears Attorney on Arm Bands

By Stephen Seplow

The Des Moines School Board, at its meeting this evening, will "clearly" uphold the ban on students' wearing black arm bands to school, board president Ora Niffenegger said Sunday.

Niffenegger said the decision will be based on a legal opinion read to the board at a closed meeting Friday at the Hotel Savery by Allan A. Herrick, the board's attorney.

Niffenegger quoted Herrick as saying:

"The right of freedom of speech and freedom of expression is not an absolute and unqualified right at all times, at all places. Here, it must be balanced against the right of the school administration to adopt and enforce regulations necessary and proper to maintain discipline in the school."

The board president said, "I am not voting on the right to wear arm bands. I'm voting on the right of the school administration to make the ruling," and added:

"The question is not whether the decision was a wise one; the question is whether they (school principals) had the authority to make the decision."

Niffenegger said he was certain the vote would be at least 4-3 to uphold the ban.

The board meets at 7:30 tonight in its meeting room at Des Moines Technical High School, Eighteenth street and Grand avenue.

It was disclosed Saturday that the board met with Herrick at a closed door meeting Friday at the Hotel Savery. The session "was not secret in the sense of cloak and dagger," Niffenegger said Sunday. "It's true, of course, the press wasn't invited."

#### Denied Meeting

Niffenegger denied to a reporter Friday that the meeting had been held. Sunday he claimed his denial "was a play on words." The reporter "asked me if there was going to be a meeting, and I said 'No' (because) the meeting had already been held. I wasn't going to volunteer anything."

The board president defended the closed meeting as "appropriate, proper and necessary," because particular students, parents and faculty members were discussed. There are "a lot of personalities tied up with this," he said.

Five students have been suspended from Des Moines schools for wearing black arm bands to school. They said the bands were a symbol of mourning for those dead in Viet Nam and an appeal for a Christmas truce there.

Roosevelt High School basketball coach Al Comito and football coach Don Prior were accused by several students of charging that students who wore the arm bands were disloyal Americans or Communists. Both coaches have denied the accusations.

Niffenegger said the coaches' activity was discussed at the board's meeting Friday, but nothing "concrete" was learned. He said the matter should be investigated by Dwight Davis, school superintendent, in about six weeks, when the issue has "cooled."

The board president criticized a letter sent to him by Dr. William Eckhardt and the Rev. Leonard Tinker, fathers of three of the students suspended for wearing black arm bands to school.

#### Peaceful Thought

The letter states that black arm bands are "a special instance of the freedom of peaceful thought, feeling, or opinion."

Niffenegger called the word peaceful "misleading." Some people are being asked "to turn their heads and submit to the rights of other folks," he said.

He then asked: "Do I have a right to drive my car as I choose on a highway as long as I don't hurt anyone?"

At tonight's board meeting, Niffenegger said he expects first to make a statement on the legality of banning arm bands. "I would then expect some board member to make a motion that the administration be overruled. I expect a second."

He said he will then call for comments from board members. And "if any visitors have anything new to say, we will take a few minutes to hear them. If the meeting is packed we will cut down the debate. We can't take all night hashing it over."

A vote will be taken after the discussion.

Mrs. William Eckhardt, mother of Chris Eckhardt, who was suspended from Roosevelt High School, said her son will not attend school until Tuesday, when the board has reached a decision.

Mrs. Leonard Tinker, whose son, John, was asked to leave North High School and whose daughter, Mary Beth, was suspended from Harding Junior High, said her children had not decided whether they will wear arm bands to school today.

The Des Moines Register

January 4, 1966, Pages 1 and 3

Ban on Arm Bands Upheld

D.M. School Board Split on 5-2 Vote

Divided Over Issue Of Student Rights

By Jack Magarrell

The Des Moines School Board voted 5-2 Monday night against permitting students to wear arm bands to school.

The vote came after three weeks of controversy and three board meetings – two jam-packed public sessions and one secret meeting – on the arm band issue.

Five students were suspended Dec. 16 and 17 for wearing black arm bands to school. They said they wore the arm bands to mourn those killed in Viet Nam and in support of a Christmas truce there.

The students were suspended for as long as they refused to remove the arm bands.

School Superintendent Dwight Davis said school administrators adopted a policy forbidding arm bands because they considered them a “potentially disturbing element in the schools.”

The students who wore the arm bands, and supporters of the students, including the Iowa Civil Liberties Union, contended that the ban violated constitutional rights of free, peaceable expression.

Board member Arthur Davis proposed that the board “reverse the announced policy of the administration banning arm bands and allow any students who so choose to wear arm bands at their leisure and for whatever purpose they choose.”

The Rev. L. Robert Keck was the only board member who sided with Davis on this.

Board President Ora Niffenegger, Mrs. Rolland Grefe, John Haydon, Merle Schlampp and Dr. George Caudill voted against permitting arm bands.

Suspended Students

Of the five students suspended, Christine Singer, 15, of 2407 Maryland pike, a Roosevelt High School sophomore, returned to school Monday, Dec. 20, and Bruce Clark, 17, of 925 Twenty-ninth st., a Roosevelt senior, returned Monday, Jan. 3.

Schools were closed for vacations, Dec. 23 through Jan. 2.

The other three suspended students did not return to school Monday when classes resumed.

They are Chris Eckhardt, 15, of 3818 Lanewood drive, a Roosevelt sophomore; John Tinker, 15, of 704 Grandview ave., a North High School sophomore, and his sister, Mary Beth, 13, an eighth-grade student at Harding Junior High School.

Eckhardt's mother, Mrs. William Eckhardt, is chairman of the Des Moines Chapter of the Women's International League for Peace and Freedom.

The Tinker children's father, the Rev. Leonard Tinker, is regional peace education director for the American Friends Service Committee.

After the board meeting Monday night, Craig Sawyer, an attorney representing the Tinker and Eckhardt families, said it was undecided whether the three children would return to school today.

#### 'Disappointed'

Both families were "extremely disappointed" in the board's action upholding the ban against arm bands, he said.

Court action was "under consideration," he said.

"I'm not sure a School Board meeting is the place to determine constitutional law," he said.

"I'm certain that the Eckhardts and the Tinkers are not going to forget this issue," Sawyer said.

Arthur Davis contended that school administrators had mistakenly considered the arm band wearing as the same sort of student conduct as wearing sloppy clothes.

This, he said, was a "failure to see the difference between the peccadilloes of youth and the convictions of youth." In this case, students' convictions were involved, as were the convictions of their parents, he said.

#### Return to School

Davis urged the students who had worn arm bands to return to school, telling them:

"We are closer now to the freedom you children have sought than we were on the day you first wore the arm bands because attention has been focused on it, because the public is thinking about what your rights are and because you have some members of the school board who agree that you have this right."

Mrs. Grefe, who had voted with Davis and the Rev. Mr. Keck Dec. 21 in favor of deciding board policy on the issue then, took her stand Monday.

She said the issue was a question of "who is to administer the schools in Des Moines." She said the schools should not be ruled by students "under the spurious label of free speech."

She said school administrators did not act out of timidity but out of long experience in dealing with school problems.

Mrs. Grefe said she would "support policies which uphold rules dealing with proper conduct in the schools."

The Rev. Mr. Keck said he recognized that there must be some curtailment of freedom in the classroom but he believed that "the quiet, orderly and non-violent wearing of arm bands" should be permitted.

Banning the arm bands for fear of violence by opponents of arm bands, he said, told the "ruffian element" that they could have their way by threatening violence.

"We should teach the ruffian element that we live in a society that not only allows but encourages dissent," the Rev. Mr. Keck said.

Dr. Caudill said he "felt that the students who were wearing arm bands were completely out of order."

#### Obey the Rules

"Obeying rules of a legally constituted authority is good citizenship and it is compulsory."

William Eckhardt, whose son was suspended for wearing an arm band, spoke from the audience to disagree with the principle of following authority, right or wrong.

This principle was much admired in Nazi Germany, he said, but he would not follow it. Eckhardt said he would refuse, by non-violent means, to follow a rule or law that violated his conscience.

Mrs. Eckhardt also spoke, saying that freedom was not won by patriots who followed their country, right or wrong, but by "men who had the courage to rebel, dissent and act as individuals."

"I am proud that my son had the faith to follow his convictions," she said.

Chris Eckhardt said students had worn arm bands on previous occasions without disturbance because teachers and school officials paid no attention to them.

The Rev. Mr. Tinker said:

"We mourn the war in Viet Nam in our family. We feel anguish with every American family that has lost a son in this conflict."

His family also feels compassion for the people of Viet Nam who have suffered, even those who fight against the U.S., he said.

"This war," he said, "is a tragedy of history.

#### Right of Children

"I think you ought to be protecting the right of my children to act out the anguish we feel as a family.

"I don't believe you have the right to blunt the feeling of my children for the suffering of the world."

Bonnie Tinker, 17, another Tinker daughter, now a Grinnell College freshman, was one of several students who spoke in favor of permitting arm bands.

The others were James Armstrong, 2600 Littell st., a Drake University student; David Dillon of 821 Fortieth place, a Grinnell student, and Max Knauer, a Lincoln High School junior.

Knauer said campaign buttons indicating opposition and support of the U.S. administration were permitted in the schools and pins saying "Get out of Viet Nam" also were permitted.

The Iowa Civil Liberties Union, represented by its chairman, Mrs. Louise Noun, urged the school board to reverse the school administrators and act "in favor of the students' freedom to identify themselves with ideas and causes, at least when done, as here, by means of unobtrusive symbols.

Mrs. Glenna Johnson, 536 ½ Fortieth st., a national director of the Women's International League for Peace and Freedom, said there are "periods in history when an individual's only course may be to refuse to comply with government actions which violate the individual's conscience."

Dr. L. O. Ely, 5400 Woodland ave., a surgeon, spoke from the audience in support of the ban against arm bands. He said responsibility is the other side of the coin of freedom.

School officials must impose rules to carry out their educational responsibilities, he said.

Richard Gaynor, 6223 S.W. Twelfth st., also spoke from the audience in favor of banning arm bands.

In Privacy

"When I and other people I know mourn our dead, we do it in the privacy of our home, at the cemetery or in the church or synagogue of our choice," he said.

Gaynor said it might be all right for a student to wear an arm band in school if it were one of his parents he was mourning.

"Those principals have enough problems trying to do their jobs without these kids making more problems for them," Gaynor said.

About 300 persons filled the School Board's meeting room. A similar crowd packed the board's meeting Dec. 21 when the arm band issue was debated. At that time the board voted 4-3 to delay a decision pending further study.

A secret board meeting, attended only by the seven board members and the board's attorney, A. A. Herrick, was held last Friday at Hotel Savery.

Board members said they discussed Herrick's legal opinion on the arm band question at the hotel meeting.

In that opinion, Herrick said he believed the school administrators had a legal right to ban arm bands. He said his opinion did not deal with the question of the wisdom of the decision.

Herrick's opinion said that school officials did not clearly understand the purpose of the students in wearing the arm bands at the time the officials adopted the ban last Dec. 14.

#### Policy Protest

"At the time the prohibition was placed in effect," Herrick said in his opinion, "it was the understanding of the school administration that the arm bands were being worn as an expression of protest against the policy of the United States government in Viet Nam."

The students had maintained they wore the arm bands in mourning for those killed in Viet Nam and in support of a Christmas truce.

The opinion said:

"The administration certainly would have the right and authority to prohibit the carrying of placards into the classroom protesting against the policy of the United States government in Viet Nam, because such placards would obviously result in disturbances and a breakdown in school discipline.

"If the purpose of the arm bands was the same as the carrying of placards, in my opinion the arm band clearly fall within the classification of conduct which may properly be prohibited by rules of the administration."

The League of Women Voters, in a letter to Board President Niffenegger, objected to the secret meeting which he called last Friday.

The letter, from the league president Mrs. D. D. Tucker, said:

"The League of Women Voters of Des Moines has studied for many years and has recently reviewed the issue of open meetings of all governmental bodies arriving at the position that meetings of all governmental bodies, except those for discussion of personnel and sites, should be open to the public. Thus, it is with deep concern that the league read of the recent closed meeting of the Board of Education. The reported quote of one board member that many problems were discussed is the cause for this concern.

"The League hopes this meeting will not set a precedent for future closed sessions."

Niffenegger said at the opening of Monday night's meeting that he attended the secret meeting and "I assume full responsibility for it."

"I apologize to no one for that meeting," he said. "As often as necessary, whenever a sensitive and delicate matter is to be discussed pertaining to individuals and personnel, I will attend such a meeting."

## Des Moines Tribune

September 1, 1966, Pages 1 and 15

### Judge Backs School Ban on Arm Bands

#### He Cites Factor of Discipline

#### D. M. Students Denied Injunction

By Richard Hatfield

U.S. District Judge Roy Stephenson Thursday upheld the right of the Des Moines School Board to ban the wearing of black arm bands in the schools.

Stephenson denied a request by three Des Moines students and their fathers, who contended the board's action denied them freedom of speech, for an injunction to prevent the School Board from enforcing such a ban.

Stephenson ruled that such a ban infringes on the students' freedom of speech "only to a limited extent" since "they are still free to wear arm bands off school premises."

#### Discipline

School officials, he said, must be given "wide discretion" to maintain order and discipline in the schools.

The students wore the arm bands to school last December, they testified, "to mourn those who had died in the Viet Nam war" and to support a proposal that a truce proposed for Christmas Day, 1965, be extended indefinitely.

"While the arm bands themselves may not be disruptive," Stephenson said, "the reactions and comments from other students as a result of the arm bands would be likely to disturb the disciplined atmosphere required for any classroom."

"It is the disciplined atmosphere of the classroom, not the plaintiffs' right to wear arm bands on school premises, which is entitled to the protection of the law," Stephenson said.

The suit to overturn the school board's ban on arm bands was filed by John F. Tinker, 15, a North High School student; his sister, Mary Beth, 13, A Warren Junior High student; their father, the Rev. Leonard Tinker; Christopher Eckhardt, 15, a Roosevelt High student, and his father, William.

The Tinkers live at 704 Grandview ave., and Eckhardts at 3818 Lanewood drive.

The Rev. Mr. Tinker is regional peace education director for the American Friends Service Committee. The Eckhardt boy's mother, Mrs. William Eckhardt, is president of the Des Moines Chapter of the Women's International League for Peace and Freedom.

#### Three Suspended

Last Dec. 14, E. Raymond Peterson, director of secondary education, met with the principals of the five public senior high schools and decided to ban the wearing of arm bands and suspend any students who refused to remove them.

Mary Beth Tinker and the Eckhardt boy were suspended Dec. 16 for wearing arm bands to school and John Tinker was suspended for the same reason Dec. 17.

The students stayed away from classes before Christmas vacation began but returned to school Jan. 4 when the vacation period ended.

#### Board Vote 5 to 2

The School Board at a meeting Jan. 3 voted 5 to 2 to maintain the ban against arm bands. Arthur Davis and the Rev. L. Robert Keck voted in favor of allowing students to wear them. Board President Ora Niffenegger, Mrs. Rolland Grefe, John Haydon, Merle Schlampp, and Dr. George Caudill voted to uphold the ban.

Defendants in the court action, in addition to the seven School Board members, were 14 administrators and teachers in the Des Moines school district.

The Iowa Civil Liberties Union, which supported the students in their unsuccessful effort to get the School Board to drop the arm band ban, paid the cost of the federal court action.

School officials, Stephenson said in his opinion, "not only have a right, they have an obligation to prevent anything which might disrupt a scholarly, disciplined atmosphere within the classroom."

#### Demonstrations

The judge noted that his decision took into consideration highly publicized demonstrations against the United States involvement in the Viet Nam war.

He noted that when the students wore their arm bands "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," he added. "At that time, two highly publicized draft card burning cases were pending in this court..."

It was against this background, Stephenson said, that the court reviewed "the reasonableness" of the regulation against arm bands.

"It was not unreasonable in this instance for school officials to anticipate that the wearing of arm bands would create some type of classroom disturbance," Stephenson said.

"School officials involved had a reasonable basis for adopting the arm band regulation."

Students are free to express their views on the Viet Nam war "during any orderly discussion of that subject," the judge said.

Dan Johnston of Des Moines, attorney for the plaintiffs, said later Thursday that the Iowa Civil Liberties Union has offered to pay the expenses needed if the Tinkers and Eckhardts decide to appeal Judge Stephenson's ruling.

## Appendix E, Tinker Writes About *Tinker*

The following is posted by John Tinker on his personal website: [www.schema-root.org](http://www.schema-root.org). It is contained here for informational purposes and to illustrate his continued connection to *Tinker v. Des Moines* nearly 40 years later. Today's students write to John and ask him about *Tinker*. John has taken the most frequently asked questions and answered them and has posted the exchange on his website.

He has organized the students' questions into six categories: School Projects, Our Protest, The Decision, Our Family, Our Town, and Personal Reflections. The first category is School Projects.

### **School Projects**

**Would you be willing to help me with my school project?**

Yes, I will be very happy to help you with your school project.

**Can you provide photos related to the case?**

Unfortunately I do not have any photos related to the case. I do not own rights to the photos that are available through various websites and other sources.

**Do you have contact information for other participants in the case?**

Mary Beth Tinker's email address is: [mtinke@sbcglobal.net](mailto:mtinke@sbcglobal.net). Christopher Eckhardt's email address is: [r25288@yahoo.com](mailto:r25288@yahoo.com). I'm sorry, but I do not have contact information for our lawyer in the case, Dan Johnston. If anyone has this, please let me know. You can write to me (John Tinker) at: [editor@schema-root.org](mailto:editor@schema-root.org).

**What further research resources would you recommend?**

I maintain a webpage containing current news stories related to *Tinker v. Des Moines*. It also has links to some of the best websites related to the case that I am aware of.

The next category is titled Our Protest.

### **Our Protest**

#### **What impact did the 1965 march on Washington have on you?**

It made a great impression on me. In Iowa, people who were part of the Peace Movement were a small minority. I was used to the idea that my beliefs were not very widely appreciated by the majority of the people. But then, when I was in that huge crowd in Washington, it felt great to be surrounded by so many people who thought that the war in Vietnam should be ended. So it was very encouraging to me personally. The main impression of being in that crowd in D.C. was the realization of the vast numbers of people who thought that the U.S. should not be in Vietnam. I had been aware of the small percentage of people who thought like I did about the issue. But the march in Washington drew from such a large area, that even a small percentage turned into a great number of people. I had never seen so many people together in one place before.

Coming home on the bus, the group as a whole was discussing how to continue the protest against the war. An Iowa Quaker named Herbert Hoover (a distant cousin of the president) mentioned, I believe, that he had heard of the Students for a Democratic Society's (SDS) plan to wear armbands. As far as I know, that was the origin of the armband idea. But we were not members of SDS. Four people on that bus trip, Bruce Clark, Ross Peterson, Chris Eckhardt and myself, were members of a Unitarian youth group in Des Moines called Liberal Religious Youth (LRY). Bruce and Ross told the rest

of the LRY about the idea of wearing armbands to protest the war. We discussed it, and decided to do it as a group.

**Did you want your protest to spread to other schools?**

Yes. I would have been happy for the protest against the war to spread throughout the whole country.

**If violence would have occurred do you think the administration would have right to ban the armbands?**

We were very clear about the nonviolent nature of our protest. If others had been violent toward us, I think it would have been the responsibility of the administration to deal with those who were being violent. We cannot allow violent people to prevent nonviolent people from protesting.

**Did you feel more strongly that your rights were violated, or about the war?**

I felt more strongly about the war. I did feel that our rights were violated, but that was a secondary matter. I was mostly interested in communicating my opinion about the war. Freedom of speech was a tool, not the message. But it was, and is, a very important tool. Especially for people who feel that they have something to say. I am a very strong believer in the fundamental importance of freedom of speech to democracy, and to peacefully working out the problems of the world at large.

**Why was Mary Beth suspended when she willingly took off the armband?**

That brings into question the real motivations of the school authorities, at least in her case. In my case, I was told that if I took off the armband and went back to class, it would all be forgotten. Chris Eckhardt went to school and reported directly to the office,

because he knew he was going to be kicked out. The assistant vice principal even threatened him physically.

Although they claimed in court that they were trying to avoid a disruption, my opinion is that I do not think that was their real motivation. When there is a war going on, a certain mindset develops in the population, and is encouraged by those who wish to make the war. There are people who consider themselves to be super-patriots, and who feel like they must punish and suppress anyone who disagrees with them about the desirability of making war. The whole country was going through something like that in 1965. The school administrators may have felt that if they allowed their students to express opinions against the war, that they themselves, the administrators, would be seen as unpatriotic. I think they may have acted essentially out of fear, not of disruption, but for the security of their own positions.

The Decision follows.

### **The Decision**

#### **What was the outcome of the case?**

The Supreme Court decided 7-2 in our favor. It established that public school students have First Amendment rights unless there is a real threat of violence or a substantial disruption to the educational environment.

#### **Is the decision in *Tinker v. Des Moines* respected by school authorities?**

It is a big country, and the situations are different in different school districts. Some schools want their students to know what their rights are, and to exercise their rights. But other schools apparently do not want that. At one school in Dearborn, Michigan, the principal actually misrepresented the case to a student, quoting to the

student from Justice Black's dissenting opinion. Luckily the student had studied our case on his own, and knew that what the principal was saying was not true.

The next category is Our Family.

### **Our Family**

#### **What motivated your family to be so active in civil rights?**

My mother grew up in South Texas, which was a pretty racist society at the time. I suspect that back then many white people did not really notice their own racism. But my mother's parents (my maternal grandparents) had grown up in Pennsylvania, and they noticed the racism in South Texas. My grandparents refused to treat black people badly. As my mother grew up, she was aware of when black people were being mistreated, and she felt really sad when she saw it happen. My father grew up in Upstate New York. When my parents met at college and decided to get married, they decided to move to Iowa as a compromise, to be about halfway between Texas and New York.

When I was a small child, my father was a Methodist minister in the small town of Atlantic, Iowa. There was only one black family in town, but they were not allowed to use the swimming pool. My mother was the leader of the church youth group, and she suggested that the youth group contact the city council, and ask them to allow the black family to use the swimming pool. But the city council refused, and my father's church asked him to leave, because they said that he was causing trouble. So we moved to Des Moines, where my father became a minister at another church. It was in a mixed race neighborhood, but none of the black people came to our church. So my mother invited some of them to come to church, and they did. But the white people at that church still had some racist attitudes, and they asked my father to leave there, too. At that point the

Quakers asked my father to come work for them. They were quite happy to have someone who cared so much about civil rights. They gave him the job title of Peace Education Secretary. Once, as part of his job, he helped arrange for Martin Luther King Jr. to come to Des Moines to give a speech.

**What motivated your family to bring a lawsuit?**

We contacted a lawyer from the Iowa Civil Liberties Union, and he thought we had a case. We felt strongly that we had acted out of conscience, and that we had been very reasonable and civil in our protest. We had not been disruptive. We felt that we were within our rights to do what we had done. We felt that the society would be worse off if the school systems were to be permitted to act as they had.

**Was there a lot of stress on your family?**

In retrospect, the answer to that is yes. At the time, however, it all seemed kind of normal for us. I would say that the stress did not come from the lawsuit, so much as from a misunderstanding of the Civil Rights Movement and the Peace Movement by the society in general. Social change means confronting "the powers that be." And they had access to mass media that we did not have. The opinions of middle America were largely influenced by a relatively few major media channels, while we were trying to influence the opinions of middle America from the grassroots, up. It was a power struggle, and so it was stressful. But both of my parents were very strong, in their own ways. I learned from them that not all power does its work from the top down.

Our Town is the next category of questions found on John's website.

**Our Town**

**What was the reaction of the town to the protest, the suit, and the fact that you won?**

The reaction in Des Moines at the time was mixed. The Des Moines Register wrote an editorial agreeing that we had the right to do what we did. But plenty of people disagreed with us, too. After we won, I think more people came to realize that the decision of the Supreme Court was good. And I think the teachers and administrators of the Des Moines public school system are generally proud of what we did. We have been welcomed back a number of times to visit with classes.

Next, the category is Personal Reflections.

### **Personal Reflections**

**Would you do it again?**

I hope I would. I think so. But real world situations do not always happen the way one imagines they might. Real acts of conscience are often not easy. Other than the anxiety I experienced the day I wore the armband, our case was not emotionally difficult for me. But there is no guarantee that the consequences of other acts of conscience will not be painful. On the other hand, there are many rewards that come from doing what you really think is the right thing to do. Looking around the world, it is easy to find people who have suffered greatly, both emotionally and physically, for doing what they felt they must do.

**Would you allow your children to wear armbands?**

Absolutely. I would lose a few points if I didn't, wouldn't I?

**When did you realize that it would become an important case?**

For a long time I didn't realize that our case would become an important free speech precedent for public school students and teachers. Our motivation was to work against the war. It was only secondarily that the free speech issue was an issue for us. But the free speech issue is now what makes *Tinker v. Des Moines* important for the whole society.

**Were you ever unsure of your decision to continue?**

Dan Johnston, our lawyer, really did most of the work. The kids and teachers at school didn't make a big deal out of it while it was in the legal process. For me, pursuing the case was not stressful.

**Would you do things differently, if you had another chance?**

Looking back, I think things went pretty well. There have been a few second thoughts about only asking for one dollar, ha. But, all things considered, everything and everyone worked pretty well together. If we would have been more aggressive, perhaps it wouldn't have come across as well that our protest was entirely non-disruptive. If we had been less assertive, I wonder if we would have reached the Supreme Court.

**How did the other students feel about you wearing the armband?**

There were mixed reactions. Some students and teachers were critical. Some said we were dupes of Communists. Some actually said that we were probably Communists ourselves. Others said that we were not being patriotic. Probably most students did not feel very strongly one way or the other. Many students who disagreed with us about the war still thought that we should have the right to express our opinion. And some students - and teachers - supported what we had done, and agreed with us about being against the war.

**Why did you appeal the lower court decisions?**

We thought that we were right. We had strong opinions about the war, and we thought that the Constitution protected our right to express our opinions.

**Did you think you would win?**

I thought we would win in the first court, the Federal District Court in Des Moines. But, of course, we didn't. Then I thought that we would win at the Court of Appeals in St. Louis. But they split 4-4, and so the decision of the lower court was upheld. I did expect that we would win at the U.S. Supreme Court, but it surprised me that it was by 7-2 in our favor. The reason I felt confident that we would win, was that I couldn't imagine that students could be forbidden from wearing such things as political buttons and religious symbols, which in my mind were analogous to our black armbands.

**Do you think you would win if the case were brought to court today?**

This is a very good question. Unfortunately I may not be the best person to answer it. If a similar case came before the Court today, I do think that the Court would uphold *Tinker v. Des Moines*. It has been a precedent for 37 years, and I think the country is generally comfortable with it.

**But...What would the Court do today, if our case had not been decided as it was in 1969?**

I just do not know a good answer to that question. I feel quite sure that repressive forces are still active in society, just as they were in 1965. The idea that our freedom requires constant vigilance, seems right to me.

**How did the *Hazelwood* case of 1988 affect the results of your 1969 case? How did it decrease student civil liberties in most states?**

The decision in the *Hazelwood* case said that schools may exercise editorial control of school publications, including a student-edited school paper. However, some states have passed legislation that prevents much of the *Hazelwood* decision from being applied in their states. My opinion is that *Hazelwood* narrowed the application of the "*Tinker* test" (free speech unless the speaker causes substantial disruption), excluding First Amendment protection from certain school-sponsored activities. But student speech that is independent, that does not imply school sponsorship of the ideas expressed, is still protected. The metaphor I use is that the "plateau" of the *Tinker* decision is still just as high, but that sides, as it were, have been eroded somewhat.

**How do you want to be remembered?**

I would like to be remembered by my children as having been a good father. There are several things that I wish people would remember. I would like people to remember that the good things we have received from the past must be passed forward to the future generations. I would like people to remember to *think for themselves*, and to *try to figure out what is going on in the world*, even if it seems like a hopeless project to do so. I really believe that the efforts we make to try to understand the world, and the efforts to try to change it for the better, are valuable, even if things progress more slowly than we had hoped. Keeping alive the dream of a better world is worth the effort. To the extent that I have worked towards these goals, people can remember that about me if they like.

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