

---

---

## FOREWORD

### REFLECTIONS ON *TINKER*

MARY BETH TINKER\*

On February 25, 2009, one day after the 40th Anniversary of the Supreme Court's decision in *Tinker v. Des Moines Independent Community School District*, I waited to board a plane at the Thurgood Marshall Baltimore Washington International Airport on my way to Indianapolis to attend the Indiana High School Press Association's celebration of the First Amendment. As I waited, I reflected on the rights of students and how my life became and continues to be linked with young people. I had been asked by students of the *American University Law Review* ("AULR") at American University's Washington College of Law to participate in their upcoming symposium on students' rights, which would commemorate the anniversary of the *Tinker* decision, and I was happy to support them. One reason I wanted to participate is because of the law school's commitment to the rights of young people. I have experienced this commitment firsthand through my involvement with Marshall-Brennan Constitutional Literacy Project, which sends law students into local high schools to teach constitutional law. I also knew that the invited speakers to the symposium, and the authors of the of AULR's symposium book, who are well-known scholars and practitioners on free speech and speech rights in schools, would be making an important contribution to the ongoing debate on the subject and I was excited to be a part of it.

As I waited for the plane at the Thurgood Marshall BWI Airport, with my lapel pin bearing Marshall's smiling face on a 37-cent stamp—a gift to me from his wife Cissy—safely tucked away in my bag, I was also thinking about stories that I could share with the students I would soon be addressing in Indianapolis. I settled on a story about Justice Marshall, who

---

\* Mary Beth Tinker was a plaintiff in the 1969 case *Tinker v. Des Moines Independent Community School District*. She is now a nurse and lives in Washington, D.C.

---

---

lived in Baltimore in 1930 near the University of Maryland law school, but who could not attend it because it was for whites only. Instead, he attended Howard University Law School in Washington D.C. After graduating, he sued the University of Maryland, forcing it to integrate. At the time, many people fought his actions, but now there is an airport named after him. I love telling students that story because it shows how history changes, and how the unpopular can become the popular.

For an occupation, I am a pediatric nurse in Maryland. But on my days off, I work on my hobby: encouraging young people to express themselves and change the world. Frankly, I have decided it is good for their health. So, with my copy of the Constitution, my precious Thurgood Marshall pin, and five First Amendment T-shirts from Iowa State University (each a different color portraying a different “right”), I was on my way to tell students how ordinary people like themselves can bring the Constitution to life. I should know: if ever there was an ordinary person, it was me in 1965, the year I wore a black armband to school along with other students to mourn the deaths caused by the Vietnam War and urge a Christmas truce.

The story of how I decided to wear a black armband for peace in eighth grade, when I was thirteen, has a lot to do with my upbringing and the experiences of my family during the early years of the Cold War and with the Civil Rights Movement. I was the third youngest of six children, and we lived on the “East Side” of Des Moines, Iowa. In many ways, I had a typical, Midwestern childhood. Often for fun, I went roller skating with my best friend Connie, whose father owned a local tavern. On warm evenings, we organized hide-and-seek games with neighborhood kids. My little sister and I liked to dress like twins and set up a lemonade stand on the corner, or collect pop bottles to return for 2 cents each. On Halloween, we would “trick or treat” and collect money for UNICEF so kids all over the world could eat. I looked up to my older brother, John, who could figure out any problem, and who read the dictionary for fun. I loved to put on blue jeans and help with his paper route.

My father was a Methodist minister, and my parents considered themselves part of a “Social Gospel.” Their involvement with the church defined our lives with meaning, but also brought controversy and hardship. My father’s sermons related Christian ideals of brotherhood and peace to issues of the 1950s and 1960s, such as racial discrimination and the growing disarmament movement. My parents believed in embodying Christianity right here, right now, for their time on earth. And what a time it would turn out to be!

My mother became the first teen activist in our family in 1935 when she was only fourteen; that was the same year that Marshall sued the University

---

---

of Maryland. A new, young preacher had come to Corpus Christi, Texas, where my mother lived. Maybe he had been influenced by A. Philip Randolph and the National Association for the Advancement for Colored Peoples (“NAACP”) or by the anti-lynching campaigns of the time, but he suggested that my mother’s youth group do a survey of the “colored” part of town.

My mother had only been to that part of town to pick up the family’s laundry, but, encouraged by the preacher, she and her friends walked door to door, asking people if they had electricity, plumbing, or heat. She discovered that the funny smell on the laundry was kerosene because there was no electricity. Her eyes were opened to unpaved roads and outhouses without plumbing. But when the youths took the survey results to the church’s board of education, confident that the adults would take action, the students were told, “Honey, those people like living like that.” Soon after that, Dr. W. Faulkner, an African American dean of Fisk University, came to my mother’s church youth camp, but was not allowed to stay with the white faculty. Asking why he would come to such a segregated place, my mother was moved by his reply: “So you will change these things.”

My parents met in Chicago while they were studying theology. They married, and in 1950, during the Korean War, moved from Chicago and its blaring air raid sirens that were part of the “Red Scare” to a safer location: Iowa. It was the year that President Harry Truman had approved production of the hydrogen bomb, stating that “our homes, our nation . . . are in great danger.” My mother decided it was less dangerous in rural Iowa than Chicago, and it was there that I was born in 1952, the year the first hydrogen bomb was detonated by the United States.

My parents followed the developing civil rights and disarmament movements of the time. In 1951 there was a school strike in Farmville, Virginia—organized by Barbara Johns, John Stokes and their friends—to protest conditions at their segregated school. The resulting case, along with the Topeka case and others, became *Brown v. Board of Education*. Then, in 1954, when I was two years old, Marshall and the NAACP won the famous, unanimous decision, with Marshall exclaiming, “We hit the jackpot!”

At around the same time, my parents followed a different kind of explosion taking place far off in the Bikini Atoll. It was there in 1954 that the U.S. detonated another hydrogen bomb, one which was a thousand times more powerful than the bombs dropped on Hiroshima and Nagasaki during the Second World War. Many Americans, including my parents, became concerned about nuclear war and vocal. The Fellowship of Reconciliation, the oldest interfaith peace group in the world, called for a halt to further tests.

---

---

During this time, an important event in the Civil Rights Movement also took place and it is one that I enjoy telling students about. That year Claudette Colvin, a fifteen-year old black student in Montgomery, Alabama, refused to give up her seat on a bus. After being dragged off the bus and handcuffed, her case was taken by lawyers at the NAACP office where Rosa Parks worked. Later, of course, Parks had her own sit-down strike, and the Montgomery bus boycott, as well as the modern Civil Rights Movement, was now in full swing. I was three years old.

My father was an active member of the larger Methodist community. In 1956, he went to Japan with other clergy on a mission of peace and understanding. His trip influenced me, even though I was very young at the time. For years, my siblings and I hauled around the dolls, kimonos, and picture books that he brought back. And in fourth grade, I got in hot water with my teacher because of my interest in doing a project on Hiroshima, something she would not allow me to do until my persuasive mother changed her mind.

But in 1957, when I was five, it was my father who was in hot water. That year, which was also the year of the Little Rock Nine, the youth group at our church decided it was not right for the local swimming pool in our small town, Atlanta, to have a “whites only” policy. The youths must have had the sense of fairness that Iowans are now known for, and they asked my father to support them. He did, but the controversy caused him to lose his church. Soon, we were moving to Des Moines, where my mother wrote in her 1957 family Christmas letter that we were “surrounded by Christian Fellowship that was truly heartwarming.”

I was aware of the Cold War as a young child in second and third grades at Clarkson Elementary School, where we were required to prepare for nuclear war by practicing diving under our desks. Air raid shelters started to pop up all over town, and I remember trying to make sense of news reports that our milk might be contaminated with Strontium 90 fallout. Skeptical and confused, like the other children, I felt reassured that some people—the adults of the world—must know what they were doing. Others, however, were not so sure, and groups like the Quakers stepped up their opposition.

In the early '60s, a large focus of the Civil Rights Movement was implementation of the *Brown* decision, as many states were still violating it. Indeed, schools in Virginia closed in protest of the decision, and in Louisiana, Federal Marshalls had to help students, such as six-year-old Ruby Bridges, who would be hailed as a hero along with her mother, integrate their elementary schools. Other students were on the move as well. In 1960, four North Carolina A&T freshmen sat at a Woolworth's lunch counter. In 1961, integrated buses of young “freedom riders” rode to

---

---

Birmingham, Alabama, and were beaten mercilessly. In 1962, 10,000 U.S. troops were sent to guarantee the safety of James Meredith at Ole Miss.

Back in Des Moines, the warmth of our congregation toward my parents' activism was cooling. Seeing the activity in the South, we felt we should at least invite our black friends to church, and tension only grew when my mother joined picketing at the local drug store. In 1962, my father was removed from this church, too. The going-away party was thrown for us in the church basement. Over a potluck supper that only a Midwest protestant can appreciate, we unwrapped a pointy brass wall clock. The scene made a lasting impression on my eleven-year old sense of fairness. We would lose our home and my father would lose his church and his job. But the clock? The clock was ours.

Even without a church, my father proudly remained a Methodist minister. Like so many preachers of the time, however, he found a job with the Quakers and began working for the American Friends Service Committee. The silence of Sunday Quaker meeting seemed boring to me, now in fifth grade, but at least I got to read my books. I became fascinated with one of them, "One Hundred Years of Lynchings," and decided to do a school project on it. Like my mother, my young eyes were being opened. At times, I traveled with my father to Nebraska, Kansas, or one of the other states where he was now a "peace secretary." It was a special time, and I was proud to be his "assistant," helping set out pamphlets and books on important issues like racial injustice, the Arab-Israeli conflict, or the Vietnam War.

The next few years would be important for the country and our family. In 1963, Martin Luther King wrote the "Letter From Birmingham Jail," and days later, in one of the most valiant efforts ever undertaken by youth, the Birmingham Children's Crusade began. Thousands of teens and children, some as young as six years old, gathered in a series of demonstrations over eight days. Over 2400 youths were arrested. Many were beaten and attacked by fire hoses or the snarling teeth of German Shepherds. We watched in horror and with awe, and eventually the students prevailed.

Also in that year my sister, Bonnie, won the Iowa NAACP's essay contest with an essay that began with the uplifting phrase that, "A great sore, caused by slavery, was opened by the Emancipation Proclamation . . . and that sore is still healing." In fact, our whole family was named "Family of the Year" that year by the Iowa NAACP. I do not know exactly why we won, but it probably had to do with the number "freedom stamps" we sold, or the "freedom ride" my parents took into the South with an integrated group of Des Moines college students, or the fact that my younger brother Paul was shown on TV carrying an "equal" sign. Bonnie used her five hundred dollars in prize money to represent our family at the

---

---

March on Washington, D.C., that August. Two weeks later, four girls were killed in the church bombing in Birmingham. At services in Des Moines, we mourned for the girls, who were about my age. Bill Eckhardt, the father of our friend Chris, wore a black armband to commemorate their deaths.

In the summer of 1964, hundreds of college students joined civil rights workers in Mississippi as part of "Freedom Summer," a voter registration and education campaign. Immediately, three of the young people were killed: Schwerner, Goodman and Chaney. A call went out for clergy and others to come support the efforts and my parents responded, traveling to Ruleville, Mississippi. They returned with stories of the brave people they met there, such as Fannie Lou Hamer, a sharecropper who had just returned from leading the Freedom Democratic Party at the Democratic Convention. My parents told us she lost her job and the house she had lived in for eighteen years because she tried to register to vote. They also told us about an older woman they stayed with whose house and dog were shot at. We listened in awe, but also with admiration for such courage.

Early the next year, in 1965, Jimmie Lee Jackson was killed in Marion, Alabama, after attempting to register to vote. He was another hero of the civil rights movement, and his death sparked "Bloody Sunday" and the eventual signing of the Voting Rights Act by President Johnson. Other important legislative victories included the passage of the Civil Rights Act and the Nuclear Test Ban Treaty.

By Christmastime in 1965, about 1000 U.S. soldiers had been killed in Vietnam, with more and more boys in Des Moines being drafted. In November, my mother and John attended a march against the war in Washington D.C., along with Chris Eckhardt and his mother. Returning to Iowa, they talked about supporting Senator Robert Kennedy's call for a Christmas truce. They heard of the idea of wearing black armbands, possibly from a Quaker named Herbert Hoover, who shared the famous name of his distant cousin, President Herbert Hoover. Students in the Unitarian youth group became interested, and one of them, Ross Peterson, wrote an article about the idea in the Roosevelt High School newspaper. Being upset about the war, especially the gruesome news on TV most nights as my sister and I cooked dinner, we wanted to wear armbands to school, too.

But on December 14, before we had made a decision on whether to wear the armbands, the school administrators ruled that we would be forbidden from wearing black armbands to school. This created a dilemma for me: I had been a good student with top grades who always followed rules. But I knew about the First Amendment's right to free speech and expression, and I thought students should have such rights, too. I was also influenced by a popular saying at the time, "Eichmann only followed orders," referring to

---

---

the fact that Nazis were able to commit atrocious crimes because there were not enough courageous people to question the orders they received. And I was influenced by the examples of brave people like the Birmingham children and the people in Ruleville. So, I decided to wear the armband on December 16, along with my younger brother Paul and my sister Hope, and our family friend Chris Eckhardt. My brother John decided not to wear one that day, but to try and reason with the administrators first.

At school that morning, almost no one commented on my armband. At lunch, some boys teased me, saying "I want an armband for Christmas." But then, they always teased me. By the time I got to math class, however, my teacher, Mr. Moberly, was waiting with a pink paper in his hand that directed me to the principal's office. There, the vice principal asked me to take off the armband, which I did. I returned to class but was soon summoned to the office again, where I was suspended, and then walked home.

At the same day at Roosevelt High School, Chris Eckhardt was also suspended after enduring threats from students, a teacher, and even an administrator, who asked him if he wanted a busted nose. To my surprise, that evening the local media took an interest in our story. And when the School Board President refused to negotiate or speak with us, saying it was a trivial matter, John decided to wear an armband the next day and was suspended as well. In all, five students were suspended. My younger siblings, Paul and Hope, were not. In fact, we heard that their creative elementary school teachers used the occasion to teach the Bill of Rights.

When the Iowa American Civil Liberties Union offered to take our case, it went to court. Craig Sawyer and Dan Johnston were the attorneys that represented us. I remember testifying at the deposition, where the School Board pressed us to say that our parents instructed us to wear the armbands, provided the cloth and planned the event, all of which was not true. Our parents did have their influence, but it was of a different kind. We went to hear the case before the district court and to the appeals court in St. Louis, where I was thrilled to fly for the first time, at age fifteen. To be truthful, I thought that we would lose our case because I did not think that kids had a chance going up against a School Board. Also, although we received considerable support in Des Moines, our actions made us quite unpopular with others who accused us of being unpatriotic or Communists. Red paint was thrown at our house, postcards with hammers and sickles came, saying "Go back to China or Russia." A local radio host threatened my dad on the air, and one "patriot" threatened to bomb our house on Christmas Eve. A woman called and told me she was going to kill me. We were scared, but we had our examples, and our strong parents stayed calm and saw us through.

---

---

Despite this negative treatment, life for us in Des Moines and for people across the country went on. In 1967, the Lovings won their case confirming the right to interracial marriage, even though the people of Virginia had voted against it. Martin Luther King was killed in 1968 and racial tensions escalated, as well as anti-war sentiment.

In November of 1968, when I was in eleventh grade, my family moved to St. Louis. Soon after our move, we traveled to Washington, D.C., for the oral arguments in our case, which was now before the U.S. Supreme Court. Preoccupied with adjusting to my new school, I barely heard the arguments. The following February, the Court, on which Justice Thurgood Marshall sat, ruled 7-2 in our favor. My mother wrote to my father, who at the time was at one of the Paris peace talks, saying that we celebrated with ice cream and soda. In 1970, I graduated high school, still fairly oblivious to the far-reaching significance of our victory.

One of the happiest years of my life was 1973 because in that year, the American Psychiatric Association determined that homosexuality would no longer be considered a mental illness. My mother, a psychologist, had been troubled by the realization that I was gay, which we both discovered in my teen years. Now, there was a turning point in my relationship with my mother and my feelings about myself.

I grew up and became a nurse. Working with children, I became increasingly alarmed at their conditions. Unwrapping gauze dressings on a two-year-old who was burned in a house fire, and then dipping the screaming child into a whirlpool bath, I remembered learning that house fires were a leading cause of injury to St. Louis children. I became angry at the slum landlords who ignored the building codes, and frustrated at cuts in education and mental health funds for youths. As a nurse there were so many sorrows and frustrations: tiny babies who shouldn't have been born premature but for a lack of prenatal care, the ten-year-old boy who had been slammed against a wall and would never walk or talk again; the teenager pregnant by her father; the three-year-old who had gotten into dad's cocaine, teens with chest tubes placed in their young lungs after gunshots or stabbings, and so many more.

My work as a nurse, coupled with my upbringing, led me to speak up on the issue of students' rights. I have come to view the *Tinker* decision in the context of children's rights and international human rights, and decided that if democracy means anything, it means that the ones affected by policies—including young people—should have a voice in those policies. By sharing my experience and the experiences of other youths, I found that I could empower students to be active participants in democracy, taking steps that may not always be popular, but could have important lasting effects and ultimately change history.

People often ask me why students do not speak up about the issues that affect them. My answer is that a great many of them do: about their schools, religion, the environment, war and peace, racial justice, human rights and many other issues. It has been my privilege to encourage young people, as well as the teachers and adults who care about them. As I tell students, when you join with others all over the world to stand up for something you believe in, life is so interesting and meaningful. It certainly has been for me.