

WEST VIRGINIA STATE BOARD OF EDUCATION V. BARNETTE BRIEF

In 1942, Marie and Gathie Barnett were expelled from a West Virginia elementary school. The two sisters had refused to salute the American flag and say the Pledge of Allegiance. Their religion, Jehovah's Witness, saw the pledge as worshipping idols, and they viewed pledging allegiance to a flag as a form of idolatry. With nearly 2,000 students around the country facing similar punishments, Jehovah's Witnesses tried to reverse the Supreme Court's 1940 decision in *Minersville School District v. Gobitis*, in which it was ruled that a required flag salute was constitutional.

The following year, Walter Barnett (whose name was misspelled in court records by a clerk) was able to bring his daughters' case before the Supreme Court. The justices had to think about the following question: If students are forced to say the Pledge of Allegiance, does this violate their First Amendment rights to freedom of speech and religion? On Flag Day in 1943, six of the nine justices decided that a required flag salute was unconstitutional. As a result, the *Minersville* decision from three years earlier was reversed.

Justice Robert H. Jackson was one of the six justices who held the concurring (majority) opinion of the Supreme Court. He believed that, according to our Constitution, no one in a position of power can be allowed to force American citizens to make known their patriotism and religious beliefs in a public setting. With this ruling in place, schools could no longer force students to say the Pledge of Allegiance in the classroom. However, there are many states today that still require students to say the Pledge of Allegiance, but exceptions can be made for students who object to the requirement.

Justice Felix Frankfurter was one of the three who held the dissenting opinion (one that disagrees with the majority's ruling). He believed that the Constitution prevents citizens from being forced to follow the religious beliefs of others, but it should not allow citizens to use their own religious beliefs as a means of excusing themselves from their civic duties.