
The Supreme Court on The Pledge

The last time the U.S. Supreme Court ruled on the Pledge of Allegiance was in June 1943 in West Virginia State Board of Education vs. Barnette. In 1942, West Virginia's State Board of Education mandated that the flag salute become "a regular part of the program of activities in the public schools." Any student failing to comply could be charged with insubordination and expelled. For religious reasons, Walter Barnette, a Jehovah's Witness, refused to allow his children to salute the flag and say the Pledge. In a 6-3 decision, the Supreme Court ruled in his favor. Below are excerpts from the decision, which can be found at <http://laws.findlaw.com/us/319/624.html>.

To sustain the compulsory flag salute we are required to say that a Bill of Rights which guards the individual's right to speak his own mind, left it open to public authorities to compel him to utter what is not in his mind. ...

Struggles to coerce uniformity of sentiment in support of some end thought essential to their time and country have been waged by many good as well as by evil men.

As first and moderate methods to attain unity have failed, those bent on its accomplishment must resort to an ever-increasing severity. As governmental pressure toward unity becomes greater, so strife becomes more bitter as to whose unity it shall be. Probably no deeper division of our people could proceed from any provocation than from finding it necessary to choose what doctrine and whose program public educational officials shall compel youth to unite in

embracing. Ultimate futility of such attempts to compel coherence is the lesson of every such effort from the Roman drive to stamp out Christianity as a disturber of its pagan unity, the Inquisition, as a means to religious and dynastic unity, the Siberian exiles as a means to Russian unity, down to the fast failing efforts of our present totalitarian enemies. Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only the unanimity of the graveyard.

It seems trite but necessary to say that the First Amendment to our Constitution was designed to avoid these ends by avoiding these beginnings. ...

We set up government by consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce that consent. ...

To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds. ...

But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. ...

We think the action of the local

authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control. ■

Teaching Ideas

In your own words, summarize why the Supreme Court found that no one could be compelled to salute the flag or say the Pledge of Allegiance.

Choose several quotes and write your reactions. This can be agreement, argument, questions, or other observations.

What is the relationship between patriotism and saying the Pledge? Novelist Barbara Kingsolver wrote after Sept. 11 that, "Patriotism seems to be falling to whoever claims it loudest..." Have students write definitions of patriotism. Ask them to give examples of "patriotism in action."

An early 20th Century leader of the U.S. Socialist Party, Eugene Debs, once said, "I have no country to fight for; my country is the earth, and I am a citizen of the world." Can one be patriotic to a nation-state but also be a citizen of the world? Explain.