

Flag Salutes and Other Compelled Speech.—One question that has arisen is whether the government may compel a person to publicly declare or affirm a personal belief. In *Minersville School District v. Gobitis*,⁵⁶⁸ the Court had upheld the power of Pennsylvania to expel from its schools certain children—Jehovah’s Witnesses—who refused upon religious grounds to join in a flag salute ceremony and recite the pledge of allegiance. “Conscientious scruples have not, in the course of the long struggle for religious toleration, relieved the individual from obedience to a general law not aimed at the promotion or restriction of religious beliefs.”⁵⁶⁹ But three years later, in *West Virginia State Bd. of Educ. v. Barnette*,⁵⁷⁰ a six-to-three majority of the Court overturned *Gobitis*.⁵⁷¹ Justice Jackson, writing for the Court, chose to ignore the religious argument and to ground the decision upon freedom of speech. The state policy, he said, constituted “a compulsion of students to declare a belief. . . . It requires the individual to communicate by word and sign his acceptance of the political ideas [the flag] bespeaks.”⁵⁷² The power of a state to follow a policy that “requires affirmation of a belief and an attitude of mind,” however, is limited by the First Amendment, which, under the standard then prevailing, required the state to prove that for the students to remain passive during the ritual “creates a clear and present danger that would justify an effort even to muffle expression.”⁵⁷³

The rationale of *Barnette* became the basis for the Court’s decision in *Wooley v. Maynard*,⁵⁷⁴ which voided a requirement by the state of New Hampshire that motorists display passenger vehicle license plates bearing the motto “Live Free or Die.”⁵⁷⁵ Acting on the complaint of a Jehovah’s Witness, the Court held that the plaintiff could not be compelled by the state to display a message making an ideological statement on his private property. In a subse-

⁵⁶⁸ 310 U.S. 586 (1940).

⁵⁶⁹ 310 U.S. at 594. Justice Stone alone dissented, arguing that the First Amendment religion and speech clauses forbade coercion of “these children to express a sentiment which, as they interpret it, they do not entertain, and which violates their deepest religious convictions.” *Id.* at 601.

⁵⁷⁰ 319 U.S. 624 (1943).

⁵⁷¹ Justice Frankfurter dissented at some length, denying that the First Amendment authorized the Court “to deny to the State of West Virginia the attainment of that which we all recognize as a legitimate legislative end, namely, the promotion of good citizenship, by employment of the means here chosen.” 319 U.S. at 646, 647. Justices Roberts and Reed simply noted their continued adherence to *Gobitis*. *Id.* at 642.

⁵⁷² 319 U.S. at 631, 633.

⁵⁷³ 319 U.S. at 633, 634.

⁵⁷⁴ 430 U.S. 705 (1977).

⁵⁷⁵ The state had prosecuted vehicle owners who covered the motto on their vehicle’s license plate.