Human Events®
POWERFUL CONSERVATIVE VOICES

Supreme Court rules against unions extracting dues from non-members

By John Hayward

June 30, 2014

It's interesting to ponder whether the *other* big Supreme Court decision that came down today might have even more profound ramifications than the Hobby Lobby decision against ObamaCare's contraceptive mandates. Much will depend on how the precedents affect future cases. There are more cases that could be very bad for Big Labor coming up right behind this one.

As with the Hobby Lobby decision, there is much talk about how today's *Harris v. Quinn* ruling is "limited" in scope, since it applies to a relatively narrow group – in this case, "partial-public employees." The Associated Press sums up the decision:

The Supreme Court dealt a blow to public sector unions Monday, ruling that thousands of home health care workers in Illinois cannot be required to pay fees that help cover a union's costs of collective bargaining.

In a 5-4 split along ideological lines, the justices said the practice violates the First Amendment rights of nonmembers who disagree with the positions that unions take.

The ruling is a setback for labor unions that have bolstered their ranks and their bank accounts in Illinois and other states by signing up hundreds of thousands of in-home care workers. It could lead to an exodus of members who will have little incentive to pay dues if nonmembers don't have to share the burden of union costs.

But the narrow ruling was limited to "partial-public employees" and stopped short of overturning decades of practice that has generally allowed public sector unions of teachers, firefighters and other government workers to pass through their representation costs to nonmembers.

The Supremes weren't buying it, because these unwilling revenue targets don't have "most of the rights and benefits of state employees." The entire situation was created by the sort of government scale-tilting that unions have come to rely on, and which has corrupted many of them into something very different from their original purpose:

The case involves about 26,000 Illinois workers who provide home care for disabled people and are paid with Medicaid funds administered by the state. In 2003, the state passed a measure deeming the workers state employees eligible for collective bargaining.

A majority of the workers then selected the Service Employees International Union to negotiate with the state to increase wages, improve health benefits and set up training programs. Those workers who chose not to join the union had to pay proportional "fair share" fees to cover collective bargaining and other administration costs.

A group of workers led by Pamela Harris – a home health aide who cares for her disabled son at home – filed a lawsuit arguing the fees violate the First Amendment. Backed by the National Right to Work Legal Defense Foundation, the workers said it wasn't fair to make someone pay fees to a group that takes positions the fee-payer disagrees with.

The workers argue they are not different from typical government employees because they work in people's homes, not on government property, and are not supervised by other state employees. And they say the union is not merely seeking higher wages, but making a political push for expansion of Medicaid payments.

As with most of the other big decisions of late, the Court passed on the opportunity to render a more sweeping decision that might have wiped out these compulsory "fair-share fees" entirely. Naturally, the liberal justices think there should be even *more* compulsory government power in the equation, creating a situation from which no escape or appeal is possible:

Justice Elena Kagan wrote the dissent for the four liberal justices. Kagan said the majority's decision to leave the older case in place is "cause for satisfaction, though hardly applause."

Kagan agreed with the state's arguments that home care workers should be treated the same as other public workers because Illinois sets their salaries, resolves disputes over pay, conducts performance reviews and enforces the terms of employment contracts.

"Our decisions have long afforded government entities broad latitude to manage their workforces, even when that affects speech they could not regulate in other contexts," Kagan said.

So you get dragooned into service as a "quasi-public" employee, and then you shut up while labor organizations siphon fees out of you, using the government itself as a bill collector, diverting much of that fungible money into political actions you disagree with, but which benefit both the State and its very special partners. Nice racket! I can see why they didn't want to give it up.

Joining a labor organization voluntarily is one thing, but any form of compulsory organization, or compulsory financial support for those organizations, is abhorrent, and the very concept of a *public* union is absurd – it's a quasi-government agency lobbying the government for more money, to their mutual benefit, while the people actually paying the bills are kept on the wrong side of locked doors. It has been said by critics of today's decision that if the Court had not sharply limited it to the somewhat unusual class of semi-public employees – pretty much limited to these home caregivers at present – it might have spelled doom for public employee unions in general, because they would lose their power to compel membership. America should be so lucky.

This case has been framed in partisan and ideological terms, such as the *Chicago Tribune's* list of conservative groups like the Cato Institute and Illinois Policy Institute stepping in on behalf of Harris, while equivalent liberal interests sided with the unions. *National Journal* puts it together with other recent decisions to judge that "from campaign finance law (*Citizens United*) to the Affordable Care Act's contraception mandate (*Hobby Lobby*), the First Amendment has become the GOP's ironclad defense against government regulations."

I don't remember reading anything about "the GOP" in the text of the First Amendment. Wouldn't it be better to say that the Left has been trampling on the First Amendment protections of *all* Americans, and the Court keeps pulling them back? At any rate, we can only wish it was an "ironclad defense against government regulations." In a few highly specific instances, limits to what the government (and its special partners, from big corporations to Big Labor) can compel us to do have been discovered. It will be interesting to see if these cases lead us to stronger protections for liberty. It's at least equally likely that conservatives will be told to quietly cherish their small victories.