



## **Crockett: Forced public employee union fees violate the nation's Constitution**

Kim Crocket

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On Monday morning in the nation's capital, Americans exercised their right to demonstrate peacefully on the steps of the Supreme Court. Hundreds of public employees, unions officials, and lawyers like me from all over the country, came with signs and chants to demand two very different versions of freedom.

Inside the courthouse the Supreme Court heard arguments for and against requiring public employees, as a condition of employment, to pay so-called "fair-share" fees to a union. The central legal argument in *Janus v. AFSCME* is simple and compelling: all public-sector collective bargaining is inherently political because it directly affects the cost, size and nature of government. Forcing employees to pay for union speech violates the First Amendment.

Mark Janus asked the Court to overrule a 1977 decision in which the Court said that public employees could not be forced to join the union but thought it was fair to force them, as a condition of employment, to cover the "administrative costs" of collecting bargaining. Otherwise, it reasoned, they would be "free-riders." And besides, the Court said, forced-fees would appease unions and "promote labor peace."

That terrible compromise over 40 years ago made public employees second-class citizens. The Court has forced employees to pay a ransom to government unions for decades with "fair share" fees. Because government unions funnel most of their spending to Democrats, and increasingly leftwing candidates and causes, employees who disagree are forced to fund their opposition. But even if unions were more "bi-partisan," forced-fees would still fail the constitutional test.

American Experiment has joined Cato Institute and the National Federation of Independent Business (NFIB) in a friend of the court brief urging the high court to rule in favor of Mark Janus. The Center and allied policy organizations are also asking the Court to rule that a public employee's right to opt out "does not become a dead letter" by clarifying that a union may only collect fees from non-members who give their affirmative consent.

Former St. Paul teacher Aaron Benner was the first to address the rally on the Supreme Court steps. "I support Mark Janus because I want the choice of paying union dues," Benner said. "After paying dues for 15 years to the Saint Paul Federation of Teachers, I had faith my union would fight for me when I was accused of frivolous infractions after having zero infractions

throughout my entire teaching career. Not in my case. Fifteen years' worth of union dues and this was the representation I received: Silence.”

Currently government employers in Minnesota deduct “fair share” fees, about 85% of full union dues, from employee paychecks and deposit the cash in union accounts. The teachers’ union in Minnesota, for example, took in \$57 million last year.

The outcome will not affect collective bargaining laws. It also does not affect private sector collective bargaining, where unions and employers bargain over profits.

But if Janus wins, government unions will no longer be able to take members and their money for granted; instead of treating them as captives without a choice, unions will have to treat members as clients, or potential customers. They will earn their revenue; that will be good for employees and the state.