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Why the Court's Ruling Against Mandatory Union Dues Is a Good Thing

Neal McCluskey

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The role of unions in education is highly contentious, eliciting intense emotions both for and against them. To many, unions are the first, most powerful force for protecting and advancing teachers' interests. To others, they are the most firmly planted, towering obstacles to reforms ranging from value-added assessments to school choice. But today's *Janus v. AFSCME* ruling should not be viewed through a lens of what is good or bad for unions, but whether justice has been served. And in the U.S. Supreme Court's finding that public employees cannot be forced to pay agency fees as a condition of government employment, it has been.

The entire idea of constitutional government, which gives specific powers to government and protects rights remaining with the people is, essentially, to declare that ends cannot justify means. You may want a specific outcome, you may even think it is crucial, but the government cannot exceed its delegated power or trample individual rights to get that outcome. Today's ruling adheres to that foundation, basically saying that no matter how important you think collective bargaining is for balancing the power between employer and employees, obtaining good wages, or amplifying teachers' voices, those ends cannot trump an individual's basic right not to pay for speech he or she finds unacceptable.

As Justice Alito writes in the court's decision, "prominent members of the founding generation condemned laws requiring public employees to affirm or support beliefs with which they disagreed." He notes that, "Jefferson denounced compelled support for such beliefs as 'sinful and tyrannical.'"

But what of freeloading? The dissenting employee gets the benefit of the union-bargained contract without paying for the service.

This argument does not pass principled muster, as it essentially declares that one should be forced to pay for a contract even if one dislikes—maybe even hates—its terms. It's akin to being forced to pay for a restaurant and having no choice about the meal on the grounds that, well,

you're getting fed aren't you? "But I'm a vegetarian," you might say, "and can't even eat this turkey sandwich."

The decision uses a different analogy, summarizing the petitioner's argument that, "he is not a free rider on a bus headed for a destination that he wishes to reach but is more like a person shanghaied for an unwanted voyage."

Of course, avoiding freeloading cannot justify crushing fundamental rights, even if the person whose rights are being abrogated happens to love the union-bargained contract. As the court states, "the First

Amendment does not permit the government to compel a person to pay for another party's speech just because the government thinks that the speech furthers the interest of the person who does not want to pay."

It is also impossible to accept that payment earmarked for collective bargaining is not paying for political speech, though the nature of the compelled speech should be irrelevant as a matter of principle.

Collective bargaining with a public school district is a political exercise because it involves negotiations with a government entity—yes, they are "government schools"—and efforts to influence what government does are inherently political. Add to this the fact that money is fungible: Dollars forced from agency-fee payers free up voluntary dues for everything from lobbying state capitals to organizing PR campaigns. The notion that forced fees are somehow hermetically sealed off from politics is illusory.

So we should be cheered by today's ruling. But not, crucially, because it weakens unions. Even if the unions may often stand against reforms you like, there is nothing inherently wrong with members of any profession working collectively for their shared good. Indeed, it is the right of all people to do so. Such action can be an important counterbalance against powerful forces, be they school districts or big corporations. What is crucial is that such collective action be voluntary, and that is what today's ruling does. It declares force unacceptable.

Perhaps this will even be good for the union movement, despite weakening unions in the short run. Even if they lose many members and significant revenue, they will almost certainly remain for many in the media and government the voices of millions of teachers—and that is where their real power lies. And perhaps the freeing of once-captive funders will incentivize them to work a little harder to convince teachers to join by moderating dues, decreasing some political advocacy that may seem tangential to the functioning of schools, or making teachers feel more heard.

That said, how the unions respond to the *Janus* ruling, or its effects on the political prospects for education reforms, are ultimately irrelevant to the reason that we should welcome this decision: By protecting basic individual rights, justice was served.

Neal McCluskey is the director of the Cato Institute's Center for Educational Freedom.