

 END CORPORATE RULE. LEGALIZE DEMOCRACY.

# MOVE TO AMEND

## ***Janus v. AFSCME* Supreme Court Decision Likely to Cripple Unions, Further Empowers Corporations**

Today's *Janus v. American Federation of State, County and Municipal Employees (AFSCME)*, Supreme Court ruling means that millions of public employees will have the ability to opt out of financially supporting unions, even though their unions must continue to bargain on their behalf.

*Janus* is modeled after so-called "right to work" private sector laws in 28 states. In those states, median household incomes are \$8,174 less than in non-right to work states, people under 65 are 46 percent more likely to be uninsured, infant mortality rates are 12 percent higher, and workplace deaths occur 49 percent more often, according to National Nurses United, a labor union strongly opposed to the decision.

The case, *Janus v. AFSCME*, was brought by Mark Janus, a child support specialist at the Illinois Department of Healthcare and Family Services. Janus is not a member of the union but works under a contract negotiated by Illinois, a state that requires equal treatment by the union for all in the bargaining unit. Unlike 28 "right to work" states, [nonunion workers in Illinois must pay a "fair share" or agency fee covering the costs of collective bargaining.](#)

**Janus sued the union, saying he doesn't agree with its politics and should not have to pay for its activities. He claims this mandatory fee violates his First Amendment rights of speech and association.** The questions before the Court was to determine whether nonunion workers have to pay for collective bargaining. In 1977 the Supreme Court's *Abood v. Detroit Board of Education* decision held that such "fair share" fees are Constitutional. A limited fee for the union's wage and benefit role, the justices reasoned, would contribute to labor peace by avoiding "free riders."

The ruling in *Janus*, has major consequences for U.S. labor. [The decision against AFSCME makes "right to work" public sector law in 22 more states affecting about 5 million workers.](#) As the First Amendment restricts only government not private action, private sector union employees will not be directly affected by the ruling. As we know, workers already have no First Amendment protections within private corporate workplaces!

Janus is not alone in protesting the dues-paying policy of his Illinois public sector union. Nonunion workers in "right-to-work" states have long been rallied by the deep-pockets of corporate employers and wealthy shareholders hankering to sue against "fair share" dues. **Eager to bankrupt unions and cripple their power, corporate-serving politicians and wealthy conservatives have never appreciated union influence on public policy -- education, safety nets, workplace protections, healthcare, etc.**

A case similar to *Janus* was before the Court in 2016, *Friedrichs v. California Teachers Association*, but resulted in a 4-4 split decision following the death of Antonin Scalia. ["This \[Janus\] case is of great importance to corporate interest groups. It is one of the cases that made Senate Republicans so](#)

[determined to block President Obama's nominee to the Supreme Court,](#)" said Celine McNicholas, an Economic Policy Institute labor counsel. It's also a case that brings generous corporate donations to Congressional candidates who will see to it that favored justices are appointed to the Supreme Court.

**With Neil Gorsuch confirmed, corporate powers saw this an ideal year for rulings that will overturn Court precedents in support of unions, shrink union membership and slash their financial resources.** And the current state of unions is already not strong. The Bureau of Labor Statistics reports that only 10.7 percent of U.S. workers belong to a union. That's half the 1983 rate and pales in comparison to roughly 33% in the 1950s. The rate of union membership among public employees is 34.4 percent, a figure now severely threatened by the *Janus* case. The private sector rate is just 6.5 percent.

Conservative philanthropists dumped gobs of money into like-minded groups such as the Illinois Policy Institute, the Liberty Justice Center (representing Mr. Janus and supported by the Koch Foundation) and the National Right to Work Foundation. In 2011 these organizations were elated when Wisconsin limited public unions to bargaining only for wages and exempted nonmembers from paying *any* fees. Once a stronghold of the modern labor movement, [the number of unionized public sector workers in Wisconsin dropped by half in five years.](#)

Janus' lawyers held that the work of public unions related to fair wages, benefits and worker safety, is similar to lobbying and, therefore, political. The case, they claim, is all about freedom of speech and association, meaning that it is a violation of workers' First Amendment rights when compelled to pay for activities they do not support.

**How ironic it is to see corporate interests eager to defend workers' First Amendment protections when it saps unions of their collective power and how keen to deny workers those same rights on private corporate property.**

The only silver lining is that the *Janus* ruling could bring unintended consequences for corporate employers. Agency fees allowed for all members in a bargaining unit to be represented, which has maintained labor peace. In exchange for those fees the union commits to a no-strike contract clause. Without those clauses, workplace discord will surely rise and hopefully the Labor Movement will recognize the need for a more militant and aggressive response to the attack on their ability to protect workers, and for unions to exist at all. Perhaps it is also time for the Labor Movement to consider the need for a Constitutional Amendment guaranteeing workers a right to collectively bargain. Such an amendment would be a systemic solution to the erosion of worker's rights so successfully implemented by the corporate elite.

*Help us deny constitutional rights to corporations and reverse the Supreme Court's decision that equates money with political speech. Sign our national petition for the 28<sup>th</sup> Amendment and engage in a grassroots movement for real democracy. **To learn more about Move to Amend see our website at [www.movetoamend.org](http://www.movetoamend.org).***