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High Court to Reconsider Forced Union Dues

Judges and Lawmakers Have Duty to Protect Employees' Free Speech

Today more than 20 states have laws on the books explicitly requiring all or some front-line public servants who are subject to Big Labor monopoly bargaining in the workplace to pay dues or fees to a union they may not want as a condition of employment.

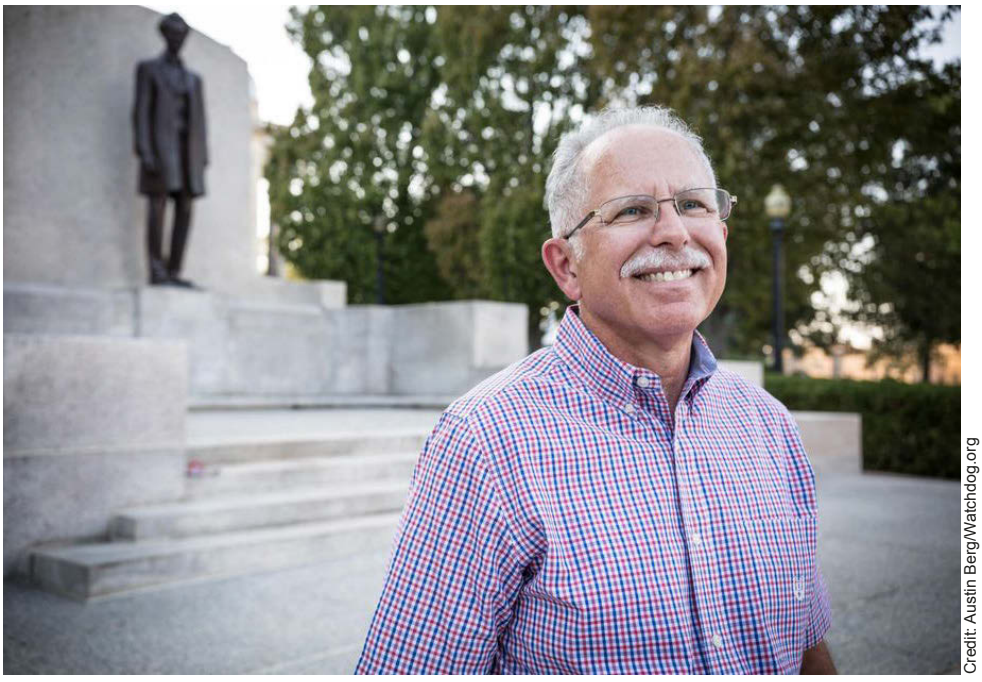
And roughly five million unionized public employees -- that is, the vast majority of all such employees across the U.S. -- reside in states where forced financial support for government unions is authorized and promoted.

However, late this month the U.S. Supreme Court is scheduled to hear a case that directly challenges the constitutionality of compulsory financial support for government unions.

Mark Janus, the plaintiff in *Janus v. American Federation of State, County and Municipal Employees, Council 31*, is a child support specialist at the Illinois Department of Health Care and Family Services.

Granting a 'Private Entity' Taxation Power Over Public Workers 'Undeniably Unusual'

"Mark Janus contends that laws and legislation aimed at requiring public employees like him to pay forced fees to a union they never asked for violate their First Amendment rights," explained National Right to Work Committee President Mark Mix.



Credit: Austin Berg/Watchdog.org

Illinois child support specialist and plaintiff Mark Janus: "The union voice is not my voice. The union's fight is not my fight. But a piece of my paycheck every week still goes to the union."

"He is being represented by staff attorneys for the National Right to Work Legal Defense Foundation, the Committee's sister organization, as well as the Winston & Strawn law firm and the Liberty Justice Center in Chicago."

Federal courts have repeatedly conceded over the years that public-sector forced union dues and fees are constitutionally problematic.

For example, the late Justice Antonin Scalia admitted in the 2007 majority opinion for the Foundation-won *Davenport* case that it is "undeniably unusual for a government agency to give a private entity the power, in essence, to tax government employees."

Abood Gave Union Bosses License to 'Interfere' With Employees' Free Association

It was in another Foundation case, 1977's *Abood v. Detroit Board of Education,* that the Supreme Court originally sanctioned this "undeniably unusual" privilege for government union bosses.

Abood gave a judicial nod to forced financial support for government unions' bargaining-related activities in jurisdictions where union officials are granted monopoly power to "represent" employees who don't want a union along with those who do.

If legislators grant union officials the latter privilege, theorized Justice Potter Stewart while writing the *Abood* opinion, legislators must also have the option to empower union bosses to force unwilling workers to pay union dues or fees as a condition of employment.

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Supreme Court Showdown

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Justice Stewart all the same admitted that compulsory payments to unions may well "interfere in some way with an employee's freedom to associate for the advancement of ideas, or to refrain from doing so, as he sees fit."

Up to now, federal courts have swallowed Big Labor's monopoly-bargaining excuse for public-sector forced union dues, even though it has left a bad taste in the mouths of many jurists.

But this excuse never made any sense whatsoever to Mark Janus.

'Just Because I Care About Kids Doesn't Mean I Also Want to Support a Government Union'

In a 2016 op-ed for the Chicago *Tribune,* Mr. Janus explained that it is his job as a child support specialist to "fight for the little ones."

He continued: "Sometimes when parents aren't together any more, kids get caught in the crossfire. These scars can last well beyond childhood, and they often mean kids don't get the resources they need to lead a decent life.

"So I advocate for these children, hoping that maybe if this process goes a little bit smoother, their futures will be just a little bit brighter.

"I went into this line of work because I care about kids.

"But just because I care about kids doesn't mean I also want to support a government union. . . .

"When I was hired by the state of Illinois, no one asked if I wanted a union to represent me.

"I only found out the union was involved when money for the union started coming out of my paychecks."

In Mr. Janus' view, AFSCME and other government union bosses' advocacy of higher and higher government spending has been bad for union members "who face the threat of layoffs or their pension funds someday running dry" as well as for other ordinary taxpaying citizens.

"The union voice is not my voice. The union's fight is not my fight," he declared. "But a piece of my paycheck every week still goes to the union."

With the help of the Foundation and its partners, in 2015 Mr. Janus and other plaintiffs began pursuing a case challenging forced union dues and fees as a condition of public employment on First Amendment grounds.

Before reaching the High Court, the case went through federal district and appellate courts.

'Nonmembers Are Being Forced By The Government to Travel With' a Mandatory Union

During oral arguments on February 26, Mr. Janus's counsel of record, Right to Work Foundation attorney Bill Messenger, will make a presentation on and address questions about the compelling and multifaceted case against Big Labor's monopoly-bargaining excuse for "interfering" with public servants' First Amendment freedom.

In the merits brief they submitted to the High Court late last November, Mr. Janus and his attorneys pointedly observed:

"[F]ar from benefitting nonmember employees, exclusive [union] representation forces them to accept an agency, advocacy, and contractual terms that they may oppose and that may not benefit them [citation omitted]. . . .

"[N]onmembers are being forced by the government to travel with a mandatory union advocate to policy destinations they may not wish to reach."

"Freedom-loving Americans from coast to coast are hoping the High Court will take the opportunity it has in *Janus v. AFSCME, Council 31* to correct the grave error it made 41 years ago in *Abood*," said Mr. Mix, who is the president of the Right to Work Foundation as well as the Committee.

Missouri Lawmakers 'Solemnly Swear' They Will 'Support' The U.S. Constitution

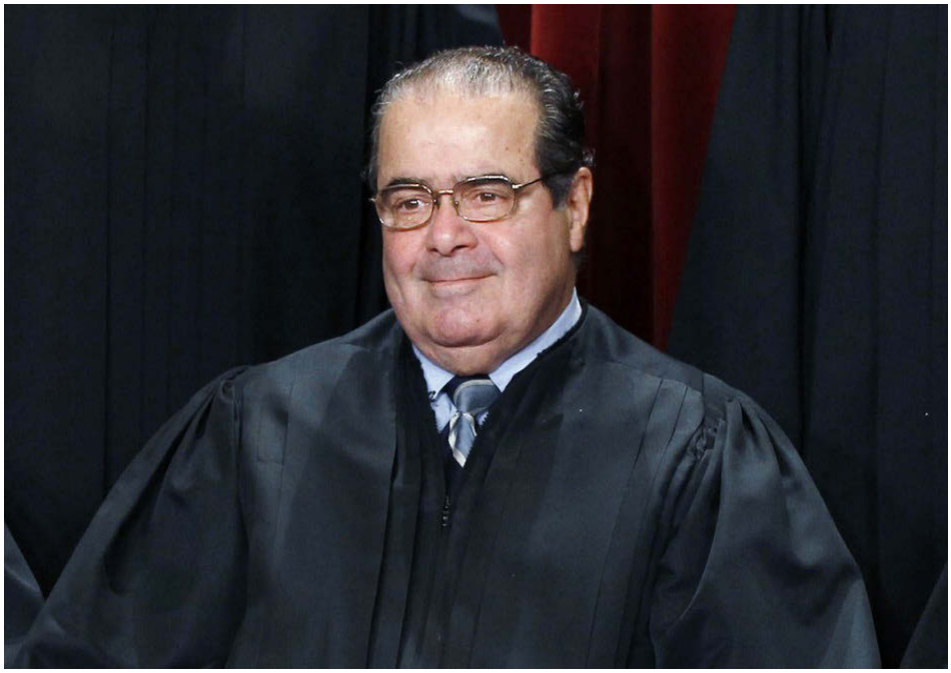
"But it's not only courts that have a duty to uphold the U.S. Constitution," Mr. Mix continued.

"In all 50 states, including the states that currently have laws or policies enabling government union bosses to trample public employees' free speech by forcing them to pay union dues or fees as an employment condition, elected officials take an oath to defend the federal Constitution.

"In Missouri, for example, legislators 'solemnly swear' or 'affirm' as they are installed that they will 'support the Constitution of the United States.'

"Yet this year in the Show-Me State many elected officials are actively campaigning for passage of a Big Labor-backed ballot measure that would overturn Right to Work protections adopted in 2017 and empower union bosses to get private employees and public servants fired for refusal to pay union dues or fees.

"Appalling as it may seem, lawmakers in Missouri and many other states will readily violate their oaths of office just to please Big Labor bosses."



Credit: Larry Downing/Reuters

As the late Antonin Scalia put it in a 2007 U.S. Supreme Court majority opinion, public policy in many states gives "private entities," i.e. labor unions, "the power, in essence, to tax government employees."

Stakes High in Compulsory-Unionism Battle

Virulently Anti-Right to Work Union Bosses Accused of Dues Theft

Over the past couple of years, Al Bond, the executive secretary-treasurer of the St. Louis-Kansas City Carpenters Regional Council (STLKCCRC) union, has made a name for himself as one of Right to Work's bitterest enemies in Missouri.

In fact, Big Labor ex-Gov. Jay Nixon, who vetoed Show-Me State Right to Work legislation in 2015, was so impressed by STLKCCRC union bosses' free-spending campaign to sustain his veto that, just before leaving office, he wrote Mr. Bond to tell him he was proud to have worked "shoulder-to-shoulder" with him.

A year ago this month, Mr. Bond and his cohorts suffered a setback when newly-installed Gov. Eric Greitens signed a Missouri Right to Work law less than three months after decisively defeating a union boss-backed opponent in a campaign in which compulsory unionism vs. the Right to Work was a major issue.

If Successful, Pending Ballot Measure Will Wipe Right to Work Off the Books

But the many freedom-loving Missourians who had for years been working to pass a state law revoking union officials' forced-dues and forced-fee privileges could only briefly celebrate their victory.

Mr. Bond and the seven other construction union bosses on the STLKCCRC have been leaders in a drive to strangle Right to Work in the cradle that was launched last winter.

Big Labor has been able to use a quirk in the Missouri legal code to block Right to Work implementation by gathering petitions from roughly one-sixth as many citizens as those voting for the state's unabashedly pro-Right to Work governor in 2016.

The union bosses' petition drive also put on the November 2018 ballot a measure that will, if successful, permanently wipe Missouri's Right to Work law off the books.

Over the past year, Mr. Bond has frequently taken it upon himself to act as the spokesman for the multi-million-dollar Big Labor drive, funded primarily by money extracted from workers as a condition of employment, to ensure that Right to Work never goes into effect in Missouri.

What Mr. Bond never mentions as he repeats long-discredited claims about Right to Work laws and their impact is that, since August 2016, he and every other STLKCCRC union officer have been defendants in a state civil case filed by Jonathan Gould, a floorlayer and a former compliance officer for the council.

'Union Dues Are Being Appropriated, Stolen' And 'Embezzled'

According to the lawsuit, Missouri carpenters union kingpins have for years been "embezzling money from members to inflate their own pensions and cash in on travel perks for spouses."

Until Thanksgiving weekend last year, there had been no media coverage regarding Mr. Gould's lawsuit or union lawyers' efforts to delay it.

Mr. Bond et al. apparently hoped they could continue to wage war against Right to Work in Missouri without having to answer questions about Mr. Gould's charge that they have "a long-standing practice of stealing and squandering [forced] union dues."

But on November 26, the St. Louis *Post-Dispatch* ran a well-documented news story by Joel Currier regarding the civil case against the "entire Carpenters' council," which controls 34 union locals in Kansas, Missouri and Illinois, as well as individual union bosses.

The case is set to go to trial a few weeks after this Newsletter edition goes to press in early January.

"Union dues are being appropriated, stolen, embezzled and converted from the union coffers to inflate the pensions of Carpenters' officials without the consent of the union members," wrote Mr. Currier, quoting directly from Mr. Gould's civil complaint.

Former Union Staffer Charges He Was Fired 'For Exposing Alleged Fraud and Theft'

Mr. Gould contends he was fired from his job as a union compliance officer in August 2014 "for exposing alleged fraud and theft . . . ."

He further claims the STLKCCRC hierarchy "has inflated paychecks and pensions for years for 51 executives through an 'illegal vehicle policy'" and "misspent [forced] dues money on airfare for spouses and on alcohol purchases at labor conventions."

He also accuses several union officials of defaming him by "allegedly saying he was 'a liar,' had 'gone crazy,' and suffered mental breakdowns."

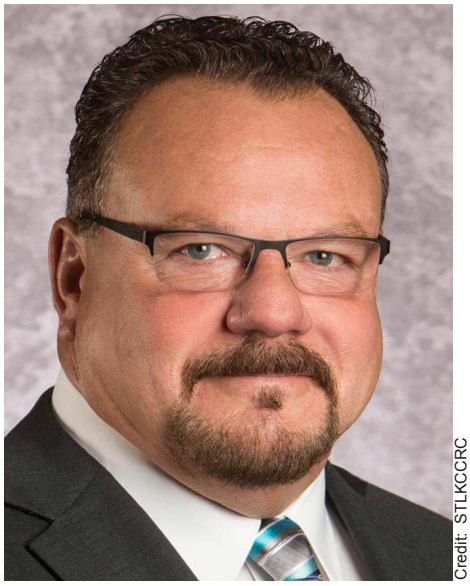
National Right to Work Committee Vice President John Kalb commented:

"Big Labor bosses like Al Bond have publicly suggested again and again that they are waging their forced dues-funded fight to retain their power to deny employment to workers who refuse to bankroll a union for Missouri workers' 'own good.'

"But the evidence in *Jonathan Gould v. STLKCCRC* points to another, more plausible explanation: Compulsory union dues and fees help Big Labor bosses run their organizations for their own benefit, at workers' expense.

"Right to Work proponents have long argued that forced union dues and fees foster union corruption by prohibiting employees who suspect union bosses are misappropriating their dues from fighting back by cutting off all financial support for the union without having to lose their jobs.

"And it now appears the carpenters union brass in Missouri may be a powerful illustration of Right to Work supporters' point."



Credit: STLKCCRC

Al Bond purports to favor the forced unionization of workers for their own good. Is that really so?

Connecticut 'Looks Like the Canary in the Mine'

Pro-Union Monopoly Policies Plunging Nutmeg State Into Deep Debt

Late last year, Connecticut Gov. Dannel Malloy (D) signed a state budget that has papered over a vast $5.1 billion deficit, but utterly failed to correct fiscal imbalances that are primarily the result of labor policies authorizing and promoting monopolistic unionism in government.

In the wake of a series of tax increases that have foisted on Connecticut residents one of the heaviest state-and-local tax burdens in America, state revenues are projected to drop by $1.5 billion, or 3.6%, in 2019 and 2020, as businesses and employees flee the state.

Meanwhile, total state payroll expenditures for health care and pensions covering Connecticut's 69%-unionized government workforce are poised to soar by nearly 15%, to $10 billion.

Credit: Jason Reed/Reuters

Forced-unionism advocate and soon-to-retire Gov. Dannel Malloy rammed through two huge tax increases. But revenue from personal income, sales, and corporate taxes has flatlined in Connecticut.

'From a Fiscal Standpoint,' Hartford Is Fighting 'With Its Hands Behind Its Back'

Though Connecticut itself is tottering on the edge of insolvency, state lawmakers recently agreed to establish a special fund that their capital city, Hartford, can tap into to stave off a bankruptcy that otherwise appeared imminent.

With taxes already exorbitantly high (for example, the annual property assessment on a $300,000 home in Hartford is nearly $22,300) and expenditures on core services already slashed to enable the city to meet its soaring payroll costs, Democrat Mayor Luke Bronin and the city council remain in a tight spot.

State law effectively prevents them from doing anything to stem the growth of payroll costs without the permission of union bosses or arbitrators who have a flagrant bias in favor of Big Labor.

"Right now, from a fiscal standpoint, you have a capital city fighting with its hands behind its back," lamented Mr. Bronin last year.

Other Big Labor-Ruled States 'Have Similarly Bloated Ranks of Public Employees'

In a sober analysis of Connecticut's plight penned for *National Review Online*, Connecticut business consultant and political commentator Red Jahncke pointed out that the state budget itself projects a "deep $4.5 billion deficit" in the 2019-20 biennium and "a deeper abyss thereafter."

While the Nutmeg State's "outlook is dire," Mr. Jahncke suggested residents can take cold comfort in the fact that a number of other states (all of which authorize and promote union monopoly bargaining and compulsory unionism in the government sector) are also in big trouble:

"The state looks like the canary in the mine.

"Other high-tax, big-government blue states have similarly bloated ranks of public employees earning unaffordable benefits that have generated severely underfunded pension and health obligations.

"Illinois, New Jersey, and California come to mind. They should take heed."

Politicians in Right to Work States Have a Lower Incentive to Be Profligate

National Right to Work Committee Vice President Mary King noted that, on average, both state-local tax burdens and unfunded public pension liabilities per capita are far lower in states where unionism is voluntary than in states where it is compulsory.

"Obviously," she acknowledged, "Right to Work laws in themselves do not suffice to prevent politicians from making pension promises to government union officials that taxpayers can't reasonably be expected to fulfill.

"But they do evidently help keep politicians' irresponsibility from getting totally out of hand.

"The reason why isn't hard to see. In jurisdictions where forced union dues and fees are permitted and union monopoly bargaining in the public sector is authorized and promoted, union bosses negotiate with government employers over civil servants' pay, benefits, and working conditions.

"At the same time, government union chiefs funnel a large portion of the forced dues and fees they collect into efforts to influence the outcomes of state and local elections.

"And the outcomes of those elections often determine who represents the public at the bargaining table.

"Because of union bosses' extraordinary special privileges, many politicians in states like Connecticut, Illinois, California, and New Jersey would rather cut core services and raise taxes again and again instead of standing up to Big Labor.

"To reassert control over their public-pension obligations and protect taxpayers, states like Connecticut need, as a first step, to eliminate compulsory union dues and fees.

"Right to Work laws and repeal of government-sector monopoly-bargaining statutes are indispensable parts of public budget reform."

Workers Corralled Into Underfunded Pension Plans

Organized Labor-Controlled Funds Have Been Appallingly Mismanaged

Roughly a year after being sworn in as America's 45th President, Donald Trump is coming under increasing pressure to defuse a number of policy "time bombs" planted by his predecessor during his second term in office.

And one of the most seemingly intractable of these "time bombs" pertains to an estimated $600 billion in unfunded promises made by private pension plans controlled by Big Labor, either exclusively or in partnership with unionized employers. (The jointly controlled benefit funds are commonly referred to as "multiemployer" pension plans.)

Hundreds of union and "multi-employer" plans are in deep trouble primarily for one reason:

The contributions going into these funds, in amounts determined through union monopoly bargaining, were never realistically sufficient to pay for the pensions that union bosses and their agents told workers they would provide.

Today's Crisis Stems From A Law Signed by Barack Obama in Late 2014

Although the long-term outlook for "multiemployer" plans like the Teamsters Central States Pension Fund (CSPF) is very bleak, relatively few are poised to go bankrupt during the Trump Administration.

But Mr. Trump nevertheless faces a crisis in 2018 because of the so-called "Multiemployer Pension Reform Act," championed in a lame-duck Congress by soon-to-be ex-Senate Majority Leader Harry Reid (D-Nev.) and signed by Barack Obama just over three years ago.

Under the MPRA, which altered more than 40 years of labor law, pension plans that are classified as "critical and declining" are potentially eligible to reduce benefits by 30% to 65%, without ever having to file for bankruptcy.

Credit: Reuters

For decades, union bosses like Teamsters chief Jim Hoffa have misled workers about their pensions.

So far, three union-controlled pension plans have succeeded in slashing benefits with the MPRA's help.

Most recently, the Teamsters New York State Conference Pension and Retiree Fund (NYSCPRF) cut most retirees' benefits by 29% and active employees' benefits by 18% last August.

National Right to Work Committee Vice President Matthew Leen commented: "Well over a million other unionized active employees and retirees now realize that, unless the legal landscape changes, their benefits could be targeted for major, MPRA-authorized reductions in the near future.

"Understandably, current and future retirees who are in troubled, Big Labor-dominated plans are turning up the pressure on Congress to find a way to ensure that their pensions are fully or nearly fully funded."

Union Bosses Who Cheated Workers Must Not Be Let Off the Hook

Mr. Leen added that many of the workers who now face steep pension cuts never even voluntarily joined the union whose officers are responsible for having egregiously mismanaged their benefit funds.

Rather, they were corralled, with federal labor laws' abetment, into a union and a union benefit fund as a condition of employment.

"Congressional leaders and President Trump may reasonably conclude they must support legislation to help workers and family members who have counted on Big Labor-run pensions and now face grave financial hardship," said Mr. Leen.

"But that doesn't mean that any measure purporting to boost the pensions of union retirees is acceptable.

"Any citizen who sincerely cares about workers and their financial security should oppose schemes that supposedly protect pension benefits, but let union bosses off the hook for cheating workers out of their contracted compensation.

"Such schemes are wrong not only because they are unfair, but also because, if adopted, they will encourage Big Labor to continue to lure unsuspecting employees with nice-sounding pension promises, and to continue failing to find a way to fund those promises.

"And ultimately, Congress must end the pro-union monopoly federal labor policies that are largely culpable for the pension shortfalls faced by millions of unionized workers today.

"If front-line workers, acting as individuals, could opt out of the union in their workplace and personally direct where employer contributions to their retirement are invested, it would be much more difficult for union bosses to get away with foisting underfunded plans on their voluntary members.

"Rolling back government-promoted union monopoly bargaining in the private-sector workplace won't be easy, of course.

"But the unfolding union and multiemployer pension debacle illustrates why fundamental labor-law reform is necessary."

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Georgetown Report Is Bad News For Big Labor

Many Forced-Dues States See 'Good Job' Opportunities Fall Sharply

The National Right to Work Committee has furnished numerous analyses over the years citing U.S. Census Bureau data that show forced-unionism states as a group chronically fail to offer appealing job opportunities to retain and attract college-educated, working-age adults.

For example, an article published in this Newsletter last August reported that, among the 47 states that were exclusively Right to Work or forced-unionism from 2009 to 2015, the five states with the lowest percentage gains in working-age, college-educated population over that period were all forced-dues states. And 11 of the 12 bottom-ranking states were forced-dues states.

On the other hand, the seven states with the highest percentage growth in their college-educated populations, aged 25-64, from 2009 to 2015 are all Right to Work states.

Now a report jointly prepared by Georgetown University's Center For Education and the Workforce and J.P. Morgan Chase confirms that states that stubbornly continue not to protect employees from forced unionism are failing to offer good job opportunities for people with less than a bachelor's degree as well.

'These Good Jobs Have Median Earnings of $55,000 Annually'

The report (entitled "Good Jobs That Pay Without a BA") gauges changes over time in the availability of blue-collar and skilled-services jobs that do not require a bachelor's degree and enable workers "to make a salary large enough to own a home" and comfortably raise a family:

"There are 30 million good jobs [that don't require a BA] in the United States today . . . . These good jobs have median earnings of $55,000 annually . . . ."

Nationwide the absolute number of such jobs increased modestly from 1991 to 2015.

But a minority of states experienced substantial declines in the number of good jobs for workers who don't have a BA.

Connecticut, Illinois, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and West Virginia all experienced decreases of 7.7% or more.

"Eleven of these 12 otherwise diverse states have one thing in common," noted National Right to Work Committee Vice President Greg Mourad. "They lacked Right to Work protections for the entire quarter-century period covered by the study."

Twelve of 13 Top-Ranking States For Growth in Good Jobs Are Right to Work

Mr. Mourad added that the sole exception, Michigan, was actually a forced-unionism state for roughly 90% of the years analyzed. Michigan's Right to Work law took effect during the spring of 2013.

He continued:

"During the same study period, 13 states experienced increases of more than 40% in the number of good-paying jobs that don't require a BA.

"Among these 13, 12 -- Arizona, Arkansas, Florida, Georgia, Idaho, Louisiana, Nevada, North Dakota, South Dakota, Texas, Utah and Wyoming -- were Right to Work states that prohibit the termination of employees for refusal to pay dues or fees to an unwanted union for the entire period covered by the study."

Overall, the 21 states that were already Right to Work as of 1991 experienced a 41% increase in the number of these "good-paying jobs" over the past quarter century, while the 25 states that were still forced-unionism as of the end of 2015 experienced a 4% decline in good-paying jobs.

"Of course, the primary reason the Committee and our members are fighting to pass more state Right to Work laws and a national Right to Work law is that it's just plain wrong to force employees to bankroll a union they don't want, and never asked for, or be fired," commented Mr. Mourad.

"But the ever-growing pile of evidence that forced unionism is economically detrimental for all kinds of employees is another important reason why expanding Right to Work protections to the millions and millions of employees who still lack them today is so important."

States Losing The Most 'Good Jobs' That Don't Require a BA, 1991-2015

STATE	PERCENTAGE	JOBS LOST
New York	22.9%	460,000
Massachusetts	18.8%	125,000
Ohio	13.8%	182,000
Illinois	13.4%	192,000
West Virginia	11.7%	21,000
Rhode Island	11.6%	13,000
Maryland	10.0%	71,000
Connecticut	9.5%	40,000
New Jersey	8.2%	80,000
New Hampshire	7.9%	12,000
Pennsylvania	7.7%	103,000

All 11 states are forced-unionism.

States shown suffered the largest percentage losses in "good jobs" from 1991-2015. Since Indiana, Michigan, Oklahoma and Wisconsin switched from forced-unionism to Right to Work during the years covered by the study, they are excluded. States that did not become Right to Work until 2016 or 2017 are counted as forced-unionism here.

Source: Georgetown University's Center for Education and the Workforce

Among the 46 states that were either exclusively Right to Work or exclusively forced-unionism from 1991 to 2015, the 11 suffering the steepest declines in "good jobs" were all forced-unionism.

Forced Fees Pay For Politics

Continued from page 8

to workers' terms and conditions of employment.

And at the end of last year, the Washington, D.C.-based Competitive Enterprise Institute (CEI) filed a brief with the Supreme Court that documents in unprecedented detail Big Labor's "use of [forced] agency fees to fund overtly political and ideological activities . . . ."

Assumption That 'Economic And Political Concerns Are Separable' Is 'Rather Naïve'

The CEI submitted this brief in support of a pending Foundation Supreme Court case, *Janus v. AFSCME, Council 31*, that challenges the constitutionality of all forced union dues and fees as a condition of public employment, regardless of how union bosses spend the loot. (To find out more about *Janus,* see page one of this Newsletter.)

As the CEI and its attorneys persuasively argue, the facts regarding Organized Labor advocacy have vindicated Justice Felix Frankfurter's 1961 observation, in his dissenting opinion in *Machinists v. Street*, that the judicial assumption that "economic and political concerns are separable" is "rather naïve."

Among the remarkable examples of forced fee-funded union politicking cited by the CEI brief are the proceedings of the American Federation of State, County and Municipal Employees 42nd International Convention, which took place in July 2016.

Forced Fee-Funded Union Convention Mobilized Support For Hillary Clinton Campaign

As an Illinois civil servant, Mark Janus, the plaintiff in the *Janus* case, is forced to pay fees to the AFSCME union and its Chicago-based Council 31 subsidiary, or be fired.

And union operatives specifically informed him that, as a nonmember, he would be forced to pay for the 2016 AFSCME convention.

One core purpose of this event was to mobilize support for Hillary Clinton's presidential candidacy and opposition to the candidacy of Donald Trump.

In fact, the convention's "general session featured a lengthy 'AFSCME FOR HILLARY' program, culminating with a speech by the candidate herself."

And union President Lee Saunders told the crowd that the union rank-and-file would "stand with her in every corner of the nation" and "were proud to stand with her today."

Besides Electioneering, Forced Fees Pay For Controversial Union Advocacy

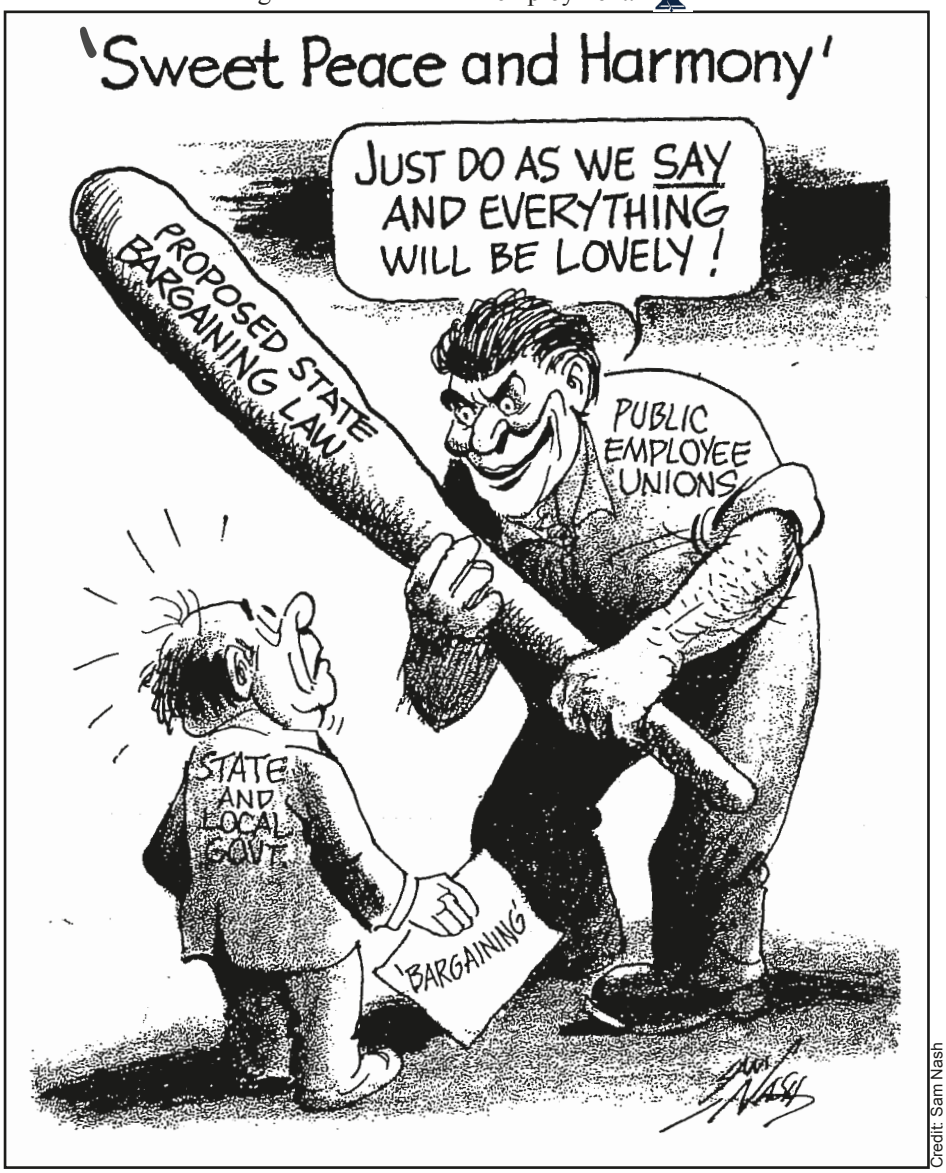
Mr. Saunders and other AFSCME bosses spend nonmembers' forced fees not just on electioneering in presidential, U.S. Senate, gubernatorial and other political campaigns, but also directly to advance their preferred positions on controversial issues like gun control, marijuana legalization, and immigration.

And, as the CEI brief pointed out, "AFSCME is not alone among public-sector unions in using non-members' [forced] agency fees to fund political and ideological advocacy."

The brief went on to cite multiple examples of political/ideological forced-fee expenditures by top bosses of the National Education Association and American Federation of Teachers teacher unions and the Service Employees International Union.

National Right to Work Committee President Mark Mix commented: "As the Supreme Court acknowledged six years ago, when Big Labor negotiates with the government, it takes 'many positions' that 'have powerful political and civic consequences.'

"In practice, you can't enforce the First Amendment half-way. The only way to stop government union bosses from systematically trampling civil servants' free speech rights is to prohibit all forced union dues and fees in public employment."



Credit: Sam Nash

Statutes in well over 30 states empower union officials to act as public servants' monopoly-bargaining agents. And when Big Labor negotiates with the government, it takes "many positions" that "have powerful political and civic consequences."

Forced Fees Pay For Big Labor Partisan Politics

'In Practice, You Can't Enforce the First Amendment Half-Way'

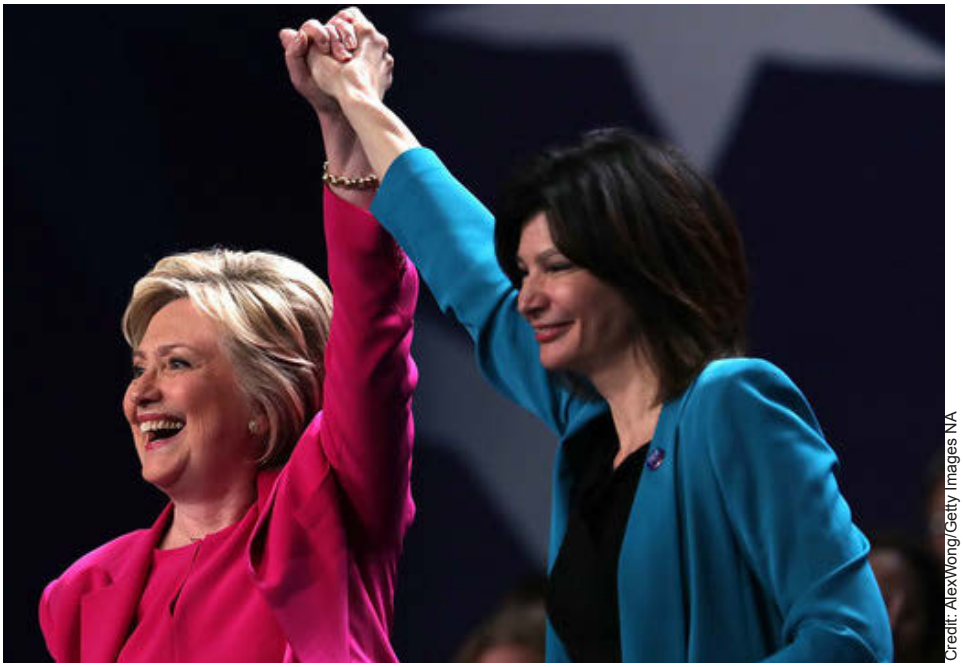
Four decades ago, when it first considered a National Right to Work Legal Defense Foundation-backed challenge to the constitutionality of government-sector forced unionism, the U.S. Supreme Court tried to "split the baby" with regard to civil servants' First Amendment rights.

Writing for the court in *Abood v. Detroit Board of Education* (1977), Justice Potter Stewart declared that forcing public employees to bankroll, as a condition of employment, union advocacy on workplace matters with which they disagree is constitutional.

But forcing such workers to bankroll union political advocacy regarding non-workplace matters isn't constitutional, added the justice.

The faux distinction the *Abood* court attempted to draw between constitutionally protected and unprotected speech was and remains illogical.

And four decades of experience demonstrate it is also unenforceable.



Credit: AlexWong/Getty Images NA

National Education Association teacher union bosses treated the NEA's 2016 "representative assembly" as "fully chargeable" to forced-fee paying nonmembers. This event featured a "rousing and passionate" campaign speech by Hillary Clinton.

Big Labor Political/Lobbying Expenditures Top $1.7 Billion Per Federal Campaign Cycle

Drawing on a variety of published sources, the National Institute for Labor Relations Research has estimated that Big Labor spent more than $1.7 billion on politics and lobbying in 2015 and 2016.

The Institute's analysis relies almost entirely on reporting forms filed by union officials themselves with federal and state government agencies.

The LM-2 forms that private-sector and some government-sector unions with annual revenues exceeding $250,000 are required to file with the U.S. Labor Department, along with other publicly available resources, show that union officials control by far the most massive political machine in America.

Current labor laws, as interpreted by federal courts, authorize the firing of private and public employees for refusal to pay for unwanted monopoly bargaining, unless the employees are protected by a Right to Work statute or state constitutional amendment.

But according to *Abood* and other precedents that National Right to Work Legal Defense Foundation attorneys helped establish, the U.S. Constitution prohibits terminating employees for refusal to pay for Big Labor's non-bargaining activities -- regardless of where the employees live.

And since a 2003 LM-2 revision survived a union-boss court challenge and took effect more than a decade ago, many union officials have been required to report each year how much they spend on two major non-bargaining activities -- electioneering and lobbying.

'A Shadow Army Much Larger' Than Barack Obama's 2012 'Re-Election Staff'

The Institute review of all LM-2 forms filed for 2015 and 2016 shows that unions filing such forms spent a total of nearly $1.3 billion on "political activities and lobbying" over those two years alone. And there is plenty of Big Labor political spending LM-2's don't cover.

Government unions that have no private-sector members, including many affiliates of the National Education Association teacher union and other deeply political state and local unions, don't have to file LM-2's.

The Institute analysis added up political spending by such government unions appearing in state campaign finance reports and came up with 2015-16 expenditures totaling roughly $228 million. Union PAC and "527 group" expenditures not reported elsewhere added another $193 million to the 2015-2016 war chest.

Union bosses wield treasury funds consisting primarily of forced dues and fees to "mount intense campaigns -- with workplace fliers, phone calls and door-knocking -- to get their members to vote for the [organized] labor-backed candidate," as veteran labor reporter Steven Greenhouse wrote in 2016.

And, as a July 2012 front-page *Wall Street Journal* story documented, the scale of Big Labor bosses' compulsory dues-fueled electioneering campaigns is breathtaking:

"[T]he hours spent by union employees working on political matters were equivalent in 2010 to a shadow army much larger than President Barack Obama's [2012] re-election staff."

Union Bosses Sidestep Theoretical Ban on Forced-Fee Electioneering

In theory, thanks to Foundation-won precedents such as *Abood*, neither government nor private-sector union bosses are supposed to bankroll their electioneering machine with money forcibly extracted from union nonmembers who have explicitly objected to paying for Big Labor political activism.

In practice however, union officials in non-Right to Work states have for decades routinely gotten away with using objecting nonmembers' forced fees to subsidize union political and ideological advocacy that has no substantive connection

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