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July 1, 2018: Can We Agree that not Everything Unions Do is Speech

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Title: Can We Agree that not Everything Unions Do is Speech

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7/1/2018--In *Janus v AFSCME*, the US Supreme Court struck down the agency fee for public sector unions. The agency fee is that portion of union dues that someone who does not wish to join a union must nevertheless pay. The agency fee deducts any political activity engaged in by the union. The rest of the fee--the agency fee--is supposed to be that portion of union dues that covers the provision of services to workers. Can we agree that not everything a union does is speech? So, for example, let's say a union is obligated to represent a worker who is fired if the worker files a grievance over the firing. I hope we can all agree that this representation is not speech, even though speech will be employed. Therefore, it cannot violate the first amendment to force a worker to pay for this service--even if the worker opposes this service. A person cannot be forced to pay for speech with which she disagrees, but is often forced to pay for services that he does not wish to have. [think of the government forcing you to buy auto insurance when you would rather self-insure.] Now take the case of collective bargaining. The union argues that wages should go up. But the worker does not believe that wages should go up because he opposes increases in government spending. This still seems to me like a service, rather than like speech. The government here occupies two roles--government sovereign and employer. The union may not argue that a law should be changed by the use of the agency fee, but only that workers should be treated in a certain way. I believe in Justice Alito's anti-union enthusiasm, he confused the question of whether there should be collective bargaining--advocacy about that would be speech--with the question of what wages should be in a particular job--not speech for worker representation.