

NLWJC- Kagan

Counsel - Box 008 - Folder 010

TEAM Act [1]

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

22-Aug-1996 10:33am

TO: Elena Kagan

FROM: Leanne Johnson
 Presidential Correspondence

CC: James A. Dorskind

SUBJECT: TEAM ACT

Hi Elena,

Could you approve/edit the following TEAM Act language. This response is going to John Pepper, CEO of Proctor and Gamble (he opposes the President's veto) and is for the President's signature. It is language you have already cleared, except for the second paragraph which has been rearranged somewhat. We would like to have this ready for the President by tomorrow. Thanks for your help with this!

Thank you for your letter regarding my veto of the Teamwork for Employees and Managers Act. I appreciate knowing your thoughts on this legislation, and I have shared your letter with my staff.

I understand your concerns, but I am confident that we have done the right thing for both labor and management. This bill would have allowed employers to establish company unions where no union currently exists and permit company-dominated unions where employees are in the process of determining whether to be represented by a union. In doing so, it would have abolished protections that ensure independent and democratic representation in the workplace.

As you know, current law provides for a wide variety of cooperative workplace efforts. It permits employers to work with employees in quality circles to improve quality, efficiency, and productivity. It also allows employers to delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96 percent of large employers already have established such programs.

Please be assured that my Administration supports workplace flexibility and high-performance workplace practices that promote cooperative labor-management relations. I firmly believe that in order for America to remain globally competitive into the next

century, employers and employees must work in partnership with each other to encourage innovation, improve productivity, and enhance efficiency and performance in the workplace.

As we continue our efforts to encourage true workplace cooperation, I look forward to your continued involvement.

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval, H.R. 743, the "Teamwork for Employees and Managers Act of 1995." This act would undermine crucial employee protections.

I strongly support workplace practices that promote cooperative labor-management relations. In order for the United States to remain globally competitive into the next century, employees must recognize their stake in their employer's business, employers must value their employees' labor, and each must work in partnership with the other. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American workplaces.

Current law provides for a wide variety of cooperative workplace efforts. It permits employers to work with employees in quality circles to improve quality, efficiency, and productivity. Current law also allows employers to delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96 percent of large employers already have established such programs.

I strongly support further labor-management cooperation within the broad parameters allowed under current law. To the extent that recent National Labor Relations Board (NLRB) decisions have created uncertainty as to the scope of permissible cooperation, the NLRB, in the exercise of its independent authority, should provide guidance to clarify the broad legal boundaries of labor-management teamwork. The Congress rejected a more narrowly defined proposal designed to accomplish that objective.

Instead, this legislation, rather than promoting genuine teamwork, would undermine the system of collective bargaining that has served this country so well for many decades. It would

do this by allowing employers to establish company unions where no union currently exists and permitting company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging true workplace cooperation, this bill would abolish protections that ensure independent and democratic representation in the workplace.

True cooperative efforts must be based on true partnerships. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance. Any ambiguities in this situation should be resolved, but without weakening or eliminating the fundamental rights of employees to collective bargaining.

William S. Clinton

THE WHITE HOUSE,

July 30, 1996.

EXECUTIVE OFFICE OF THE PRESIDENT

01-Aug-1996 02:27pm

TO: Elena Kagan
FROM: Leanne Johnson
Presidential Correspondence
SUBJECT: TEAM ACT letter

*OK with me.
You should
also run it by
Tom O'Connor.
Elena*

Hi Elena,

Following is this draft for your approval/edits. Thanks!

Thank you for writing to me about the Teamwork for Employees and Managers Act.

My Administration supports workplace flexibility and high-performance workplace practices that promote cooperative labor-management relations. I firmly believe that in order for America to remain globally competitive into the next century, employers and employees must work in partnership with each other to encourage innovation, improve productivity, and enhance efficiency and performance in the workplace.

I cannot approve legislation that, instead of promoting genuine teamwork, undermines the system of collective bargaining that has served this country so well for many decades. By allowing employers to establish company unions where no union currently exists and permitting company-dominated unions where employees are in the process of determining whether to be represented by a union, this bill would abolish protections that ensure independent and democratic representation in the workplace.

As we continue our efforts to encourage true workplace cooperation, I look forward to your continued involvement.

THE WHITE HOUSE

WASHINGTON
July 23, 1996

MEMORANDUM FOR JACK QUINN
BRUCE LINDSEY
KATHY WALLMAN

FROM: ELENA KAGAN *ek*

SUBJECT: TEAM ACT VETO STATEMENT



Attached is a draft veto message from the Labor Department on the Team Act; a cover memo from Robert Reich; and a note from Jennifer O'Connor reacting to the draft.

I agree with Jennifer's suggestion that this draft veto message is inadequate. At the least, the veto message should look something like the draft response to the CEO letter that John Hilley negotiated with the Labor Department; that draft, which I am also attaching, is less curt and less dismissive of management's position. Ideally, the President also should see the paragraph Bruce suggested adding to that draft response, which is the final attachment to this memo. The President might think such a paragraph, indicating the Administration's future approach to this issue, particularly appropriate in a veto message.

YES
YES

Do you agree? If so, do you have a sense of how to make this happen?

YES

*we need to talk to
Bruce b/c Jim not
sure where the matter
stands w/ Peters.*

JK

THE WHITE HOUSE

WASHINGTON

July 23, 1996

MEMORANDUM FOR JACK QUINN
BRUCE LINDSEY
KATHY WALLMAN

FROM: ELENA KAGAN *ek*
SUBJECT: TEAM ACT VETO STATEMENT

Attached is a draft veto message from the Labor Department on the Team Act; a cover memo from Robert Reich; and a note from Jennifer O'Connor reacting to the draft.

I agree with Jennifer's suggestion that this draft veto message is inadequate. At the least, the veto message should look something like the draft response to the CEO letter that John Hilley negotiated with the Labor Department; that draft, which I am also attaching, is less curt and less dismissive of management's position. Ideally, the President also should see the paragraph Bruce suggested adding to that draft response, which is the final attachment to this memo. The President might think such a paragraph, indicating the Administration's future approach to this issue, particularly appropriate in a veto message.

Do you agree? If so, do you have a sense of how to make this happen?

SECRETARY OF LABOR
WASHINGTON

JUL 22 1996

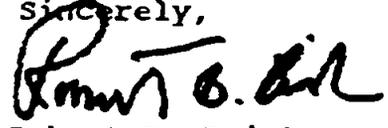
The Honorable Jacob J. Lew
Acting Director
Office of Management and Budget
Washington, D.C. 20503

Dear Acting Director Lew:

This is in response to your request for my recommendation on Presidential action on H.R. 743, the "Teamwork for Employees and Managers Act of 1995."

In accord with our proposed Message to the House of Representatives Returning Without Approval Labor-Management Team Legislation, which I am enclosing, I recommend that the President veto H.R. 743.

Sincerely,



Robert B. Reich

Enclosure

- TO: J Hilkey
- J Angell
- C Spauling
- E Kagan
- B Lindsey
- T Stern

From - J O'Leary

Re - TEAM Act veto Stmt

I think many edits will be needed to this, and that something will need to be done with the CEO letter we've been circulating, should be sent

**Message to the House of Representatives
Returning Without Approval
Labor-Management Team Legislation**

To the House of Representatives:

I am returning herewith without my approval H.R. 743, the Teamwork for Employees and Managers Act.

The Administration strongly supports workplace practices that promote cooperative labor-management relations. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American businesses.

Current law permits employers to work with employees to improve quality, efficiency, and productivity. As articulated in recent decisions of the National Labor Relations Board, the law leaves room for a wide variety of cooperative workplace efforts, with appropriate employee protections.

As I have previously stated, the Teamwork for Employees and Managers Act would undermine these crucial employee protections. The Team Act would allow employers to establish company unions where no union currently exists and would permit company-dominated unions where employees are in the process of determining whether to be represented by a union.

Rather than encouraging true workplace cooperation, the Team Act would abolish protections that ensure independent and democratic representation in the workplace and undermine the system of free collective bargaining that has served this country well for many decades. True cooperative efforts must be based on labor-management partnership not employer domination. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

Draft letter to CEO's

Dear Sirs:

I want to thank you for your letter regarding the Teamwork for Employees and Managers (TEAM) Act. I strongly support workplace practices that promote cooperative labor-management relations. In order for the United States to remain globally competitive into the next century, employees must recognize their stake in their employer's business, employers must value their employees' labor, and each must work in partnership with the other. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American workplaces.

Current law, as articulated in recent NLRB decisions, leaves room for a wide variety of cooperative workplace efforts. Employers can work with employees in quality circles to improve quality, efficiency, and productivity. They can delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96% of large employers already have established such programs.

I am all in favor of encouraging further labor-management cooperation within the broad parameters described above. As case law and workplace practices evolve, the NLRB will exercise its independent authority to provide guidance and clarify the legal boundaries of labor-management teamwork.

New
para

As I have previously stated, I will veto the TEAM Act because it will not increase genuine teamwork and would instead undermine the system of free collective bargaining that has served this country well for many decades. Rather than encouraging true workplace cooperation, the TEAM Act would abolish protections that ensure independent and democratic representation in the workplace.

I look forward to working with you in the future to encourage real labor-management cooperation. I know that we share the same goals. I am confident that, acting together, we can further promote the kind of cooperative workplace practices that will strengthen labor-management relations and the economic health of American companies.

NEW PARAGRAPH 4:

*1.0. C. W. ...
by B. ...*

To the extent that some employers may be reluctant to utilize such workplace cooperative efforts because of confusion over what may or may not be permitted, I would support reasonable clarification of current law. The N.L.R.B. may well have opportunities in the near future to make such clarifications. If the N.L.R.B. does not do so, legislation along the lines of S. _____, which spells out and specifically authorizes the wide range of workplace cooperative schemes allowed under N.L.R.B. decisions, might be appropriate. To be most fair and effective, however, such legislation should include associated proposals ^{ensuring} ~~restating~~ employees' ^{continued} access to collective bargaining.

E X E C U T I V E . O F F I C E O F T H E P R E S I D E N T

25-Jul-1996 08:20am

TO: (See Below)

FROM: Jennifer M. O'Connor
Office of The Chief of Staff

SUBJECT: TEAM Act letter

Assuming we are still on the same track with the TEAM Act veto statement, attached is a slightly edited version of the Dept. of Labor draft statement, attached to a modified version of the presidential decision memo draft that was floating around last week.

Distribution:

TO: Todd Stern
TO: John C. Angell
TO: John Hilley
TO: Bruce R. Lindsey
TO: Elena Kagan
TO: Gene B. Sperling

July 15, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: ??

SUBJECT: TEAM ACT LETTER TO CEOS

Attached is a draft veto statement for the TEAM Act. The statement rearticulates the message in the Statement of Administration Policy on the bill: 1) the Administration strongly supports labor-management partnerships; 2) labor management partnerships are flourishing under current law; 3) the TEAM Act wouldn't increase or strengthen these partnerships but instead would undermine the collective bargaining system. It also points out that the NLRB will independently continue to clarify the law in this area. It does not endorse any legislation to change current law.

Pros:

- Makes a strong statement in favor of labor-management partnerships and your consistent support of them.
- Will be consistent with the promise the Vice President made in his Bal Harbour appearance before the AFL-CIO in 1995
- Will not cause unintended consequences in the Congress.

Constituents who are most concerned about the TEAM Act fear that if you make a positive statement about changes to §8(a)(2) of the National Labor Relations Act, you will generate renewed interest in finding a legislative compromise that you could sign. They point out that the alternative Democratic bills have not generated any media stories suggesting that Democrats want to amend §8(a)(2). But they fear that presidential support for changes to §8(a)(2) is a different matter and will create momentum that will lead to actual changes in the law. They believe that any changes to §8(a)(2) risk making it more difficult for employees to organize new workplaces; and so they believe any such changes are tantamount to an assault on the right of employees to organize unions.

- Maintains a balanced approach to labor policy. While the NLRB estimates that an average of three businesses per year are ordered to disband labor-management

committees due to violations of 8(a)(2), it estimates that XX thousand businesses are found guilty each year of illegally firing employees because they support unions. It would appear unbalanced to address the business community's concerns without also addressing related employee/union concerns which also undermine cooperation in the workplace.

- Will not generate criticism from the labor movement. The AFL-CIO views this issue a threat to employees' ability to organize -- the very essence of the labor movement. Their sentiments on this issue are even more intense than their sentiments about NAFTA.

Cons:

- If this issue takes on a larger symbolic prominence in the public debate, we will be hard pressed to explain why you are not supporting an alternative bill supported by 202 Democratic House Members and 37 (check) Democratic Senators.
- Some in the business community argue clarification is needed and this letter addresses that concern merely by noting the NLRB's ability to clarify the law.
- Could be viewed as giving in to labor constituents' demands.

Alternative

The attached statement could also be amended to include a paragraph stating that to the extent some employers are reluctant to use labor-management cooperation efforts due to confusion about the law, you would welcome reasonable clarifications to the law, along the lines of the Democratic bill in the Senate. The advantage of this approach is it addresses the problems outlined in the "cons" section above, enabling you to state that you, like the many Democrats who voted for the bill, are in favor of legislative changes that facilitate labor-management partnerships. The disadvantage of this approach is that it negates all but the first "pro" outlined above, potentially leading to unintended congressional results and definitely leading to harsh criticism from supporters.

Options

_____ Statement as drafted _____ Alternative _____ Let's discuss

TO THE HOUSE OF REPRESENTATIVES

I am returning herewith without my approval, H.R. 743, the Teamwork for Employees and Managers Act, commonly known as the TEAM Act. This act would undermine crucial employee protections.

I strongly support workplace practices that promote cooperative labor-management relations. In order for the United States to remain globally competitive into the next century, employees must recognize their stake in their employer's business, employers must value their employees' labor, and each must work in partnership with the other. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American workplaces.

Current law leaves room for a wide variety of cooperative workplace efforts. As articulated in recent decisions of the National Labor Relations Board, current law permits employers to work with employees in quality circles to improve quality, efficiency and productivity. Current law allows employers to delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96% of large employers already have established such programs.

I strongly support encouraging further labor-management cooperation within the broad parameters ^{should} allowed under current law. As case law and workplace practices evolve, the NLRB ~~will~~ exercise its independent authority to provide guidance and clarify the legal boundaries of labor-management teamwork.

The TEAM Act, however, would not increase genuine teamwork and would undermine the system of collective bargaining that has served this country so well for many decades. The TEAM Act would allow employers to establish company unions where no union currently exists and would permit company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging true workplace cooperation, the TEAM Act would abolish protections that ensure independent and democratic representation in the workplace.

True cooperative efforts must be based on true partnerships. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 7-25 ACTION/CONCURRENCE/COMMENT DUE BY: 7-26 2pm

SUBJECT: TEAM Act -- Veto Message

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McCURRY	<input type="checkbox"/>	<input type="checkbox"/>
PANETTA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McGINTY	<input type="checkbox"/>	<input type="checkbox"/>
McLARTY	<input type="checkbox"/>	<input type="checkbox"/>	NASH	<input type="checkbox"/>	<input type="checkbox"/>
ICKES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	QUINN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LIEBERMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RASCO	<input type="checkbox"/>	<input type="checkbox"/>
LEW	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REED	<input type="checkbox"/>	<input type="checkbox"/>
BAER	<input type="checkbox"/>	<input type="checkbox"/>	SOSNIK	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CURRY	<input type="checkbox"/>	<input type="checkbox"/>	STEPHANOPOULOS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EMANUEL	<input type="checkbox"/>	<input type="checkbox"/>	STIGLITZ	<input type="checkbox"/>	<input type="checkbox"/>
GIBBONS	<input type="checkbox"/>	<input type="checkbox"/>	STREETT	<input type="checkbox"/>	<input type="checkbox"/>
HALE	<input type="checkbox"/>	<input type="checkbox"/>	TYSON	<input type="checkbox"/>	<input type="checkbox"/>
HERMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HAWLEY	<input type="checkbox"/>	<input type="checkbox"/>
HIGGINS	<input type="checkbox"/>	<input type="checkbox"/>	WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>
HILLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Angell</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KLAIN	<input type="checkbox"/>	<input type="checkbox"/>	<u>Kagan</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LAKE	<input type="checkbox"/>	<input type="checkbox"/>	<u>Spearing</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LINDSEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Comments to this office

RESPONSE:

TO THE HOUSE OF REPRESENTATIVES

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I strongly support encouraging further labor-management cooperation within the broad parameters allowed under current law. As case law and workplace practices evolve, the NLRB will exercise its independent authority to provide guidance and clarify the legal boundaries of labor-management teamwork.

The TEAM Act, however, would not increase genuine teamwork and would undermine the system of collective bargaining that has served this country so well for many decades. The TEAM Act would allow employers to establish company unions where no union currently exists and would permit company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging true workplace cooperation, the TEAM Act would abolish protections that ensure independent and democratic representation in the workplace.

True cooperative efforts must be based on true partnerships. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

NEW PARAGRAPH 4:

To: Elena Kagan
by Bruce

To the extent that some employers may be reluctant to utilize such workplace cooperative efforts because of confusion over what may or may not be permitted, I would support reasonable clarification of current law. The N.L.R.B. may well have opportunities in the near future to make such clarifications. If the N.L.R.B. does not do so, legislation along the lines of S. _____, which spells out and specifically authorizes the wide range of workplace cooperative schemes allowed under N.L.R.B. decisions, might be appropriate. To be most fair and effective, however, such legislation should include associated proposals restating employees' access to collective bargaining.

Harold and Ten -

After Bruce and I talked last night, he came up with this slightly weakened version of Paragraph 4.

Elena

URGENT

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

LRM NO: 5138

FILE NO: 526

7/23/96

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 3

TO: Legislative Liaison Officer - See Distribution below:

FROM: Janet FORSGREN *Janet Forsgren* (for) Assistant Director for Legislative Reference

**OMB CONTACT: Connie BOWERS 395-3803 Legislative Assistant's Line: 395-7362
C=US, A=TELEMAIL, P=GOV+EOP, O=OMB, OU1=LRD, S=BOWERS, G=CONSTANCE, I=J
bowers_c@a1.eop.gov**

SUBJECT: Proposed Veto Message RE: HR743, Teamwork for Employees and Managers Act

DEADLINE: 1:00 p.m., today Tuesday, July 23, 1996

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

DISTRIBUTION LIST:

- AGENCIES: 18-Council of Economic Advisers - Liaison Officer (vacant) - 3955084**
- 61-JUSTICE - Andrew Fols - 2025142141**
- 76-National Economic Council - Sonyia Matthews - 2024562174**
- 80-National Labor Relations Board - John E. Higgins, Jr. - 2022732910**

- EOP: Ken Apfel/M. Cassell**
- Chuck Kieffer**
- Larry Haas**
- Laura Tyson/Dena Weinstein**
- Mark Mazur**
- Jeremy Ben-Ami**
- Elena Kagan**
- Bob Damus**
- Barry White**
- Larry Mattack**
- Janet Himler**
- Debra Bond**
- Jim Murr**
- Janet Forsgren**

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

LRM NO: 5138
FILE NO: 526

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Connie BOWERS 395-3803
Office of Management and Budget
Fax Number: 395-6148
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

SUBJECT: Proposed Veto Message RE: HR743, Teamwork for Employees and Managers Act

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

**Message to the House of Representatives
Returning Without Approval
Labor-Management Team Legislation**

To the House of Representatives:

I am returning herewith without my approval H.R. 743, the **Teamwork for Employees and Managers Act**.

The Administration strongly supports workplace practices that promote cooperative labor-management relations. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American businesses.

Current law permits employers to work with employees to improve quality, efficiency, and productivity. As articulated in recent decisions of the National Labor Relations Board, the law leaves room for a wide variety of cooperative workplace efforts, with appropriate employee protections.

As I have previously stated, the **Teamwork for Employees and Managers Act** would undermine these crucial employee protections. The **Team Act** would allow employers to establish company unions where no union currently exists and would permit company-dominated unions where employees are in the process of determining whether to be represented by a union.

Rather than encouraging true workplace cooperation, the **Team Act** would abolish protections that ensure independent and democratic representation in the workplace and undermine the system of free collective bargaining that has served this country well for many decades. True cooperative efforts must be based on labor-management partnership not employer domination. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

Ten -

I've tried to edit this so that Bruce would feel comfortable with it. Let me know if you have any problems with incorporating my changes.

Elena.

Todd -

I sent the attached to Ten O'Connor. The most important thing is to describe the alternative paragraph (which I assume you still have) fully and fairly.

Elena .

July 15, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: ??
SUBJECT: TEAM ACT LETTER TO CEOS

Attached is a draft letter responding to 634 CEOs who wrote to ask you not to veto the TEAM Act. ~~This draft is consistent with the legislative strategy that was successful during both the House and Senate consideration of the TEAM Act. When the Senate voted last Wednesday, all Senate Democrats but two (Hollings and Nunn) voted against the TEAM Act, and Senator Ben Nighthorse Campbell joined the Democrats voting "no."~~

The letter ^{we} articulates the message ~~that was successful in Congress, and was articulated in the~~ Statement of Administration Policy: 1) the Administration strongly supports labor-management partnerships; 2) labor management partnerships are flourishing under current law; 3) the TEAM Act wouldn't increase or strengthen these partnerships but instead would undermine the collective bargaining system. It also points out that the NLRB will independently continue to clarify the law in this area. It does not endorse any legislation to change current law. ^{our}

Pros:

- Makes a strong statement in favor of labor-management partnerships and your consistent support of them.
- Will not cause unintended consequences in the Congress.

Constituents who are most concerned about the TEAM Act fear that if you make a positive statement about changes to §8(a)(2) of the National Labor Relations Act, you will generate renewed interest in finding a legislative compromise that you could sign. They point out that the alternative Democratic bills have not generated any media stories suggesting that Democrats want to amend §8(a)(2). But they fear that presidential support for changes to §8(a)(2) is a different matter and will create momentum that will lead to actual changes in the law. They believe that any changes to §8(a)(2) risk making it more difficult for employees to organize new workplaces; and so they believe any such changes are tantamount to an assault on the right of employees to organize unions.

Jim -

I think this is a bit much, given that the Senate Dems had, as part of their strategy, alternative legislation - precisely the thing not mentioned here. If you think he needs to know the Senate vote, I wouldn't be averse to a more factual way of stating the matter.

As an immediate matter, the House has yet to vote on the Senate version of the TEAM Act. Any positive presidential statements about amending the law prior to that vote could potentially lead to the same problems outlined above.

- Maintains a balanced approach to labor policy. While the NLRB estimates that an average of three businesses per year are ordered to disband labor-management committees due to violations of 8(a)(2), it estimates that XX thousand businesses are found guilty each year of illegally firing employees because they support unions. It would appear unbalanced to address the business community's concerns without also addressing related employee/union concerns which also undermine cooperation in the workplace.
- Will not generate criticism from the labor movement. The AFL-CIO views this issue a threat to employees' ability to organize -- the very essence of the labor movement. Their sentiments on this issue are even more intense than their sentiments about NAFTA.

Cons:

- If this issue takes on a larger symbolic prominence in the public debate, we will be hard pressed to explain why you are not supporting an alternative bill supported by 202 Democratic House Members and 37 (check) Democratic Senators.
- Some in the business community argue clarification is needed, and this letter addresses that concern merely by noting the NLRB's ability to clarify the law, ^{may not seem to take seriously that concern.}
- Could be viewed as giving in to labor constituents' demands.

and the NLRB ~~does not~~ ^{fails to} address this issue,

Alternative

The attached letter could also be amended to include a paragraph stating that to the extent that some employers are reluctant to use labor-management cooperation efforts due to confusion about the law, you would welcome reasonable clarifications to the law, along the lines of the Democratic bill in the Senate. The advantage of this approach is it addresses the problems outlined in the "cons" section above, enabling you to state that you, like the many Democrats who voted for the bill, are in favor of legislative changes that facilitate labor-management partnerships. The disadvantage of this approach is that it ~~negates all but the first "pro"~~ ^{will} outlined above, potentially leading to unintended congressional results and definitely leading to harsh criticism from supporters.

Options

but also including proposals ensuring employees' continued access to collective bargaining

Letter as drafted Alternative Let's discuss

Then - if it's a balanced legislative proposal, Pro 3 may not be negated.
P... 2 + 4

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

15-Jul-1996 09:38pm

TO: (See Below)

FROM: Jennifer M. O'Connor
Office of The Chief of Staff

SUBJECT: TEAM Act cover memo

The attached is a draft cover memo to the draft TEAM Act letter to CEOs. It aims to explain to the President why he is getting the version that doesn't endorse legislative amendments of the NLRA. Please get me your comments as soon as you can.

Also -- who is it from? Leon? The bunch of us?

Also -- should it indicate who on the staff is where on these issues?

Distribution:

TO: John C. Angell
TO: Gene B. Sperling
TO: John Hilley
TO: Elena Kagan
TO: Tracey E. Thornton

CC: Elisa M. Millsap
CC: Jason S. Goldberg

John Dorschner

The President
The White House
Washington, DC 20500

June 21, 1996

*sent 6/24
to Gulin*

*Leanne - group letter from important folks to up/d
to Eleanor*

JUN 21 1996

Dear Mr. President:

In your State of the Union address this January, you said, "When companies and workers work as a team, they do better—and so does America."

We agree, and your leadership is needed now to allow 85% of the American workforce to respond effectively to your call.

Recent government decisions have put at risk the ability of groups of employees and managers to put their heads together and cooperate in non-union workplaces. Yet, at the same time, companies large and small have been encouraged by your Administration and its predecessors to compete for the Malcolm Baldrige National Quality Award. The regrettable irony is that in order to win the award, a company must use the very employee involvement teams these recent decisions are closing down. This just doesn't make sense.

There is legislation to correct this situation and bring common sense to bear. It is called the "TEAMwork for Employees and Managers (TEAM) Act." It has passed the House of Representatives on a bipartisan basis and is soon to be considered by the full Senate. Even William Gould, National Labor Relations Board Chair, recently acknowledged that the Congress and the President should pass legislation to clear up this problem.

However, some of your senior advisors have stated opposition to the legislation, and they are recommending that you veto it. We urge you to reject a veto and seize this chance to lead by supporting legislation that enables employees and managers to cooperate.

American companies in all industries are rediscovering the spirit and value of cooperation. Employees and employers are working together in teams to address and solve workplace issues such as health and safety, quality, flexible work schedules, and diversity. We stand ready to work with you to do what you have extolled the nation to pursue—embrace teamwork.

Respectfully,

Louis V. Gerstner, Jr.

Louis V. Gerstner, Jr.
Chairman and CEO
IBM Corporation

Bill Budinger

Bill Budinger
CEO
Rodel, Inc.

George M. Fisher

George M. Fisher
Chairman, President and CEO
Eastman Kodak Company

Charles Briggs

Dr. Charles Briggs
President and CEO
Sunsoft Corporation

Donald F. Chandler

Donald F. Chandler
President
Precision Filters, Inc.

George A. Lorch

George A. Lorch
Chairman and CEO
Armstrong World Industries,
Inc.

To: Tach, Bruce, Kathy -

A new letter from
Labor, in response to
pressure from John Hilkey
(and also John Angell?)

Elena

June 21, 1996

*Hand 6/24
to Gulin*

*Learn - group sites from
important - note to 6/24*

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JIM 21 1996

THE WHITE HOUSE
WASHINGTON

Tach, Bruce, Kathy -

I was given there two letters this morning. One is John Hilley's; The other is DOL's. John and DOL have been talking to Jen O'Connor, who is sending both to Harold. I also asked her to send the new, slightly weakened version of A4 proposed by Bruce. I don't think anyone knows what Harold is going to do with all this. Again, I think the responsible thing to do is to settle on a single letter with two alternate 4th paragraphs-- the Lindsay version and the Hilley version--

and present that letter to the
President. I'll let you know if
I hear anything more.

Elena

Draft letter to CEO's

Dear Sirs:

I want to thank you for your letter regarding the Teamwork for Employees and Managers (TEAM) Act. I strongly support workplace practices that promote cooperative labor-management relations. In order for the United States to remain globally competitive into the next century, employees must recognize their stake in their employer's business, employers must value their employees' labor, and each must work in partnership with the other. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American workplaces.

Current law, as articulated in recent NLRB decisions, leaves room for a wide variety of cooperative workplace efforts. Employers can work with employees in quality circles to improve quality, efficiency, and productivity. They can delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96% of large employers already have established such programs.

I am all in favor of further encouraging labor-management teamwork. As part of this effort, I would welcome clarification of current law -- to let employers know, with no fuzziness or confusion, the proper bounds of such cooperative efforts. The NLRB may well have opportunities in the near future to clarify current law through developing case law or rulemaking.

Rather than encouraging true workplace cooperation, the TEAM Act would abolish protections that ensure independent and democratic representation in the workplace. Management could decide unilaterally what employee committees could--and could not--discuss and would be free to hand-pick employee representatives and to disband the committee at any time. It could refuse to allow employees to vote or to speak out. In short, management could create a company union--interfering with employees' rights to self-organization.

As I have previously stated, I will veto the TEAM Act because it will not increase genuine teamwork and would instead undermine the system of free collective bargaining that has served this country well for many decades.

I look forward to working with you in the future to encourage real labor-management cooperation. I know that we share the same goals. I am confident that, acting together, we can further promote the kind of cooperative workplace practices that will strengthen labor-management relations and the economic health of American companies.

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THE WHITE HOUSE
WASHINGTON

John and John -

After I told Bruce
last night about some
of the objections to
the letter as written,
he came up with slightly
weakened substitute for
Paragraph 4.

Elena

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Dear Sirs:

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I strongly support workplace practices that promote cooperative labor-management relations. I believe that, in order for the United States to be globally competitive in the next century, employees must recognize their stake in their employer's business, employers must value their employees' labor, and each must work in partnership with the other. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American workplaces.

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2/7

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org.

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7
Lol
submit

← veto threat

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An Unbalanced Labor Law Proposal

The Republican-led Senate, after grudgingly handing workers a well-deserved boost in the minimum wage, is to vote today on handing employers an undeserved gift. The Team Act would undermine a 61-year-old prohibition on company-dominated unions by permitting managers in non-union workplaces to pick workers with whom to discuss subjects like wages and working conditions. Current law limits such conversations to representatives of labor picked by workers, not by management. There may come a time when these restrictions can be lifted, but that time is not now.

Owners are allowed under current law to set up groups of workers with whom to discuss issues like productivity and quality. But if wages and working conditions become the major focus, the law requires that workers be represented by independent unions. These restrictions can thwart employers who in good faith want to consult workers. But the restrictions also protect workers from managers whose

primary purpose in consulting workers is to block union organizers.

A 1994 Presidential commission headed by Prof. John Dunlop of Harvard pointed out that a minority of employers illegally circumvent unions by firing union organizers, delaying elections to certify unions and, once unions are certified, refusing to negotiate a contract in good faith. The Dunlop commission offered a balanced set of reforms that would make the right to organize unions a realized fact and not just a legal fiction. If those reforms were in place, it would make sense to unshackle employers because workers who did not like the representatives the manager chose could take matters into their own hands.

But workers are not free to choose their representatives without intimidation in some workplaces today. The Team Act would give unscrupulous employers an additional tool to stymie union organizers. It should be defeated.

Invasion of the Audience-Snatchers

"Independence Day," the new invaders-from-another-planet action movie, has been so fabulously successful in its opening week that people will be analyzing its Deeper Meaning well into the football season. This summer has already given us killer tornadoes that travel in herds, and Arnold Schwarzenegger fighting off Central Park Zoo alligators with the size and temperament of velociraptors. Yet it is the computer-generated space aliens that seem to have grabbed the nation's imagination.

The plot of "Independence Day" is based on the "Jurassic Park" formula — B-list actors being chased around by A-list special effects. The extraterrestrials arrive in spaceships as big as Belgium. They are slimy and uncommunicative, and announce their entrance by blowing up New York, Washington and Los Angeles. The President, during the movie's single close encounter, asks one of the new arrivals just what they expect earthlings to do. "Die," he replies, getting right to the point.

All questions about peaceful coexistence thus resolved, it is just a matter of time before the earthlings come up with a long-shot plan to whip the

seemingly invincible enemy. It is true, as Jeff Greenfield of ABC has pointed out, that this plan will only work if the laptop of a cable TV worker turns out to be compatible with the computers on a spaceship from another solar system, but no matter. The world is saved, and \$100 million in tickets will be sold the first week.

Space aliens are clearly going to be Hollywood's answer to the nation's post-Communist villain shortage. They are the long-sought ethnic group that all races can join together in hating. Even the Iraqis are on our side in this one. The invaders are also full of the character flaws young moviegoers understand to be unacceptable — self-centered, bigoted and environmentally incorrect. (The movie takes a very hard line in favor of recycling.)

But the most significant thing about "Independence Day" may be its attitude toward sex and violence. A half-billion people are killed, but none of them really die in front of the camera. One of the lead characters is an exotic dancer, but the on-screen sex is minimal. This could be the harbinger of a new era of tell-don't-show moviemaking.

Mongolia Swaps Leaders

Eight centuries ago, the Mongols startled half the world as Genghis Khan's mounted archers swiftly mastered most of Asia and Europe, founding history's biggest overland empire. Last week the conqueror's descendants set a different example by peacefully voting out of parliamentary power the party that has ruled Mongolia for 75 years, first as Communists and since 1990 as former Communists. It could not be a more timely counterpoint to the claims by Chinese, Indonesian and Burmese authoritarians that multi-party elections and political accountability are somehow alien, un-Asian ideas.

Credit is due to the former Communists for adopting reforms leading to the orderly transition from a Stalinist-style tyranny to a free-market democracy. In 1989, as Soviet rule crumbled in Eastern Europe, Mongolia permitted opposition parties and a year later held the first multi-party election. Soon after, the ruling party disavowed Communism and a free-market economist was named Prime Minister. Meanwhile, the Soviet Union completed the withdrawal of 50,000 troops

from what had been a Soviet protectorate since 1921. All this was happening in a country whose 2.3 million people are mostly nomadic herders and where livestock outnumber people 12 to 1.

Before this month's election, Mongolia's third multi-party vote, it was generally believed that former Communists would again prevail. But the collapse of the Soviet Union has meant harder times for a country long dependent on trading subsidies. Discontent, especially among the young, brought down the Mongolian People's Revolutionary Party.

The leaders of the victorious coalition, mostly novices, promise to speed market reforms while helping pensioners, the jobless and civil servants, the big losers in Mongolia's transformation. President Punsalmaagiyn Ochirbat, himself a weather-beaten nomad who owns a herd of 500 sheep, struck exactly the right note in a post-election interview. The speedy growth of Mongolian democracy and the first smooth transfer of power in his country's modern history, he said, can be an inspiration to all Asia. Indeed it can.

Weather
Today: Breezy, low humidity.
High 80, Low 62, Wind 12-22 mph.
Thursday: Mostly sunny, warm.
High 82, Low 62, Wind 8-16 mph.
Yesterday: Temp. range: 72-93.
AQI: 73. Details on Page D2.

The Washington Post

Friday
Inside Food,
Today's Contents on

119th Year No. 218

WEDNESDAY, JULY 10, 1996

Prices May Vary in Areas Outside
Metropolitan Washington Area on AD

Military Underestimated Terrorists, Perry Says

Gulf Commanders Defended at Contentious Hearing

By John Mintz and R. Jeffrey Smith
Washington Post Staff Writers

Secretary of Defense William J. Perry said yesterday that both the force and sophistication of the bomb that killed 19 airmen in Saudi Arabia indicated that U.S. military commanders there had underestimated the capabilities of terrorists in the region, as Senate Republicans both demanded he explain why more steps were not taken earlier to protect U.S. troops.

Appearing in one of the most contentious hearings he has faced since his 1994 appointment, Perry also confirmed to the Senate Armed Services Committee that Saudi Arabian officials had failed to act on requests by mid-level U.S. military officials

for security upgrades and said he wished the officials had informed him of the resistance before the blast, in time to apply more pressure.

But Perry also defended the actions of senior military officials responsible for security at U.S. military bases in the Persian Gulf, as several Democratic senators tried to distance him and Gen. John Shalikshvili, chairman of the Joint Chiefs of Staff, from the political fallout.

Some other Democrats joined the GOP members, however, in questioning why Air Force commanders in the desert kingdom failed to press reluctant Saudi officials to expand the security perimeter at the high-rise building in Dhahran, and failed



WILLIAM J. PERRY
"we can expect further attacks"

to take other steps to thwart intruders.

Perry said intelligence reports on Mideast terrorist threats before the June 25 blast were "fragmentary and inconclusive," but said that did not amount to an "intelligence failure."

See BOMBING, A14, Col. 4

Senate Backs 90-Cent Raise In Hourly Minimum Wage

GOP Bid to Exclude Millions of Workers Defeated

By Helen Dewar
Washington Post Staff Writer

The Senate yesterday joined the House in voting overwhelmingly to raise the federal minimum wage by 90 cents an hour after rejecting a Republican attempt to exclude millions of workers from the increase.

The 74 to 24 vote, which followed months of delay and bickering, marked a major step toward enactment of the legislation and provided a rare legislative victory for President Clinton and the Democrats, who have sought to make the minimum wage a defining issue for this fall's campaign.

At a news conference following the vote, Clinton said it was a "very

good day for America's working families" and urged Congress to send him the legislation for signature as soon as possible. "There's no reason that minimum-wage workers should have to wait any longer for their raise. This is not a time to nickel and dime our working families," he added.

Clinton also called on Republican rival Robert J. Dole to urge the GOP leadership to speed final passage of the measure.

"If you're looking for a straw in the wind" about the way politics is moving in America, "look no further than this vote," Vice President Gore said at a news conference on Capitol Hill, where he went to preside over the vote to help dramatize its importance.

But Republicans accused Democrats of capitulating to organized labor, which lobbied hard for the bill's passage, and a spokesman for Dole accused Clinton of playing "maximum politics with minimum wage" by ignoring the issue until he ran for reelection.

There also were some lingering signs of trouble for the bill. Senate Majority Whip Don Nickles (R-Ore.) said he would seek to block appointment of conference negotiators to resolve relatively minor differences between House and Senate versions of the bill until a tangled dispute over separate health care legislation is resolved.

But other key Republicans had
See WAGE, A4, Col. 1

ALL-STAR BREAK



BY RICH LEFFLER—THE WASHINGTON POST

Baltimore Orioles shortstop Cal Ripken discusses his broken nose with assembled reporters at the All-Star Game in Philadelphia.

Testing Iron Man's Mettle

Cal Ripken Plays Despite Broken Nose

By Mark Maske
Washington Post Staff Writer

PHILADELPHIA, July 9—Baltimore Orioles shortstop Cal Ripken, baseball's all-time iron man, suffered a broken nose this evening when he accidentally was struck by a flailing forearm of Chicago White Sox pitcher Roberto Hernandez, who lost his balance as American League players were having a team picture taken two hours before tonight's All-Star Game at Veterans Stadium.

Ripken returned to the field after having his nose reset and played in his 14th straight all-star game, staying in the game for 6½ innings and going hitless

in three at-bats. He said he expects to extend his record consecutive games streak—now at 2,239—when the Orioles begin a four-game series against the New York Yankees on Thursday at Oriole Park at Camden Yards.

Ripken's nose was "a little crooked," as he put it, in addition to being bruised and swollen. It also was bloodied by the incident. But he insisted during a pregame news conference that the only real damage he suffered was to his dignity.

"I was a little bit embarrassed, and now I'm up here increasing the embarrassment," he said, seated at a table at the front of a
See RIPKEN, A11, Col. 1

Dole Drops Vow to Kill Gun Ban

Republican Backs Computer Checks

By Spencer S. Hsu
Washington Post Staff Writer

RICHMOND, July 9—Republican presidential candidate Robert J. Dole backed away today from his promises to help repeal a 1994 federal ban on some assault weapons, saying the nation had "moved beyond the debate" over whether to outlaw such guns.

His campaign spokesman said repeal was no longer on "Senator Dole's agenda." Dole said he would emphasize the need to computerize records in all 50 states to allow instant criminal background checks for gun-buyers, a provision of the Brady gun law.

Dole's apparent abandonment of his May 1995 pledge as then-Senate majority leader to the National Rifle Association's top lobbyist to repeal "the ill-conceived gun ban" ended a long, delicately choreographed retreat that began soon after he sewed up the Republican presidential nomination fight in March. Some public opinion polls have consistently shown that 70 percent or more of Americans favor keeping the ban.

Addressing a crowd of Republicans and at least 40 state and county troopers, Dole today singled out a Virginia state database that allows 3,600 federally licensed gun dealers to check the criminal backgrounds of would-be gun owners in two to three minutes.

"We've moved beyond the debate over banning assault weapons ... it's a nice sound bite," Dole said.
See DOLE, A6, Col. 4

Reluctant politician Powell's comments create stir. Page A6



Among plaintiffs in class action suit against ATF are Donald Albritton, Curtis Cooper, Larry Cooper, Vanessa McLamore, Mark Jones and Larry Stewart. The agency has struggled with credibility in civil rights matters.

Judge Approves ATF Bias Settlement

Agency to Pay Black Agents \$4.6 Million in Compensation

By Pierre Thomas
Washington Post Staff Writer

Larry D. Stewart, a U.S. Treasury agent, can still remember the chill he felt when an undercover assignment went bad and a gunman put a .357 Magnum revolver to his head on a summer night in 1982.

Surviving only because the gun failed to fire, Stewart also remembers how he felt the next day.

"I asked myself, over and over, why would I put my life on the line for an agency that would let agents call me nigger," said Stewart, 42, an 18-year veteran of the Bureau of Alcohol, Tobacco and Firearms. "I had a training supervisor call me nigger. Supervisors calling [black custodial workers]



Larry Stewart talks how he was nearly killed in undercover case.

nigger ... telling jokes using the word nigger."

Yesterday, U.S. District Judge Royce C. Lamberth granted preliminary approval to a settlement of a class action lawsuit that will pay Stewart and 240 other current and former black ATF agents

in excess of \$4.6 million in compensatory damages and another \$1.2 million for attorney fees. In addition, the agreement, completed through a federal mediation program, will largely overhaul ATF's procedures for hiring, training, discipline and performance assessments.

The settlement in the six-year-old suit comes as the ATF, a branch of the Treasury Department, leads the federal investigation into the wave of black church burnings in the South and struggles to regain its credibility on civil rights matters following disclosures last summer that ATF agents participated in "Good Ol' Boys Roundups," annual social gatherings of law enforcement of
See ATF, A10, Col. 1

Illegal Contributions To Glendening Alleged

Racetrack Operator De Francis Charged With Laundering \$12,000

By Paul W. Valentine and Fern Shen
Washington Post Staff Writers

Joseph A. De Francis, majority owner of Maryland's two largest thoroughbred racetracks, was charged yesterday with illegally using three New York relatives to launder \$12,000 in contributions to Gov. Parris N. Glendening's 1994 campaign.

In a single misdemeanor count filed by State Prosecutor Stephen Montanarelli, De Francis, 41, was accused of making political contributions under false names. The charging papers said he issued three checks for \$4,000 each to his aunt, uncle and grandmother, in Buffalo, who in turn sent personal checks for the same amounts to the campaign of Glendening (D) and his running mate for lieutenant governor, Kathleen Kennedy Townsend.

De Francis, who controls three-fourths of the voting stock in Laurel and Pimlico racetracks, issued a statement through his attorney, Richard M. Karceski, denying any attempt to cover up the contributions. He said his relatives, including his 91-year-old grandmother, made "independent decisions" to give the money after he asked them to contribute.

He said that he reimbursed them "contemporaneously with their contribution" and that "everything was done above board and in the open." De Francis said he asked them to contribute to make a fund-raiser he was helping sponsor a success.

If convicted, De Francis faces up to one year in prison

INSIDE

Reform Party Bid

Ex-Democratic governor Richard D. Lamm said he will seek presidential nomination of Perot's Reform Party. NATION, Page A6

Melvin Belli Dies

Melvin Belli, one of America's most celebrated and controversial trial lawyers, died at age 88. OBITUARY, Page B4



The First Olympics

The modern games started a mere 100 years ago. Visit the original, 2,600 years older, in ancient Greece. Another 100-year-old is the American auto industry. Learn about the first American car sold—the 1896 Duryea. HORIZON, Behind Food



FACE TO FACE BUT FAR APART

Israeli Prime Minister Benjamin Netanyahu walks with President Clinton in Rose Garden after a meeting in which they came no closer in divergent views on Middle East peace. Story, Page A13.

Verdict on D.C. Tax System: 'Garbage In, Garbage Out'

Computer Mix-Up Amplifies Mismanagement

By Vernon Loeb
Washington Post Staff Writer

When Joan Abrams and her husband refinanced their house in the 500 block of 15th Street SE three years ago, their mortgage company appraised the property for \$141,000. But the city asked for more tax money and increased their assessment the next year to \$161,000, even though market values on Capitol Hill were falling through the floor.

The assessment hasn't budged since then, leaving the Abramses, who are senior citizens living on a fixed income, to pay hefty taxes on a property they doubt would sell now for any more than \$90,000. "It just seems so unfair," Abrams said yesterday. "And it isn't just me—everybody feels their homes are overestimated."

Many of them are right. The District's residential real estate assessment system has grown increasingly unreliable over the last seven years, the victim of gross mismanagement, a retirement-driven brain drain and woefully inadequate technology, according to specialists

This year's assessments have proved so problematic that city officials extended the legal appeals deadline by six months to handle thousands of potential challenges by disgruntled property owners.

At a recent community meeting, Chief Financial Officer Anthony A. Williams branded the appraisal system "dysfunctional" and told angry residents: "Garbage in, garbage out. We're just trying to do assessment of the damage."

Williams and other officials say there is widespread evidence that the system is near collapse. For example:

■ A quarter of all residential properties in the District were over-assessed in fiscal 1996 by more than 10.5 percent, and an equal proportion were under-assessed by more than 15.5 percent, according to the District's own statistics.

See TAX, A10, Col. 1



Senate Debates Right to Set Up Worker Teams

By GLENN BURKINS

Staff Reporter of THE WALL STREET JOURNAL

How much freedom should employers get when setting up worker-management teams?

Should they be allowed to finance the groups, set the groups' agendas or hand-pick the employees who participate? And when does a workplace committee cross over to become an illegal labor organization?

These are among the issues that will be addressed in Washington as the Senate begins final debate—scheduled for today—on the Teamwork for Employees and Management Act, known as the TEAM Act. The proposed legislation, which President Clinton has threatened to veto, would make it easier for nonunion employers to set up employee committees to make recommendations to management on everything from wages to smoking policies to work schedules.

Groups opposed to the legislation—mainly labor organizations—say that any benefits companies get from worker-management teams are outweighed by the potential harm to workers. The real motive behind the TEAM Act is to stop union-organizing drives, maintains Peggy Taylor, legislative director of the AFL-CIO. Employers have no real interest in empowering workers, she argues, and if an employer is allowed to finance a committee, pick its members and set its agenda, then employees are being denied an independent voice.

The TEAM Act debate comes as an increasing number of U.S. companies institute worker-management teams. Business groups that support the legislation estimate that as many as 30,000 nonunion

Please Turn to Page B8, Column 3

Continued From Page B1

companies now have teams in one form or another, though in recent years, dozens of those have been challenged as illegal.

Critics say the current law is ambiguous. For example, there is a dispute over whether an employer may finance the teams, and if so, what issues may then be discussed. In short, says William B. Gould IV, chairman of the National Labor Relations Board, the issue boils down to whether a worker-management committee constitutes an illegal union that is dominated by the employer.

For companies like Polaroid Corp., what happens on Capitol Hill will be felt in executive offices and on shop floors alike. For nearly 50 years, Polaroid has been a leading proponent of worker-management teams. It instituted its first one in 1949 and has formed dozens since then, not all of them deemed legal. Just last month, the company's Employee Owner Influence Council was struck down as illegal by an administrative law judge of the National Labor Relations Board. The council, one of Polaroid's bigger employee-management committees, had a broad mandate covering a range of working conditions.

Polaroid's Employee Owner Influence Council was formed in 1993. The council's 30 members were selected from a pool of volunteers, and the group's agenda was set by company officials. The company provided office space and supplies, and all council work was done on company time. Polaroid asked the council to offer opinions on pay, benefits and other company policies and to act as a sounding board on issues of corporate strategy.

Anne Liebowitz, an independent consultant to Polaroid, says the group, which continues to exist while the NLRB ruling is being appealed, functions much like a "focus group." Members of the group, selected to reflect the company's work

force in terms of race, gender and job categories, were asked to give their personal opinions on company matters, she says. The company was under no obligation to consider members' recommendations and comments. Even more important, she says, the company has always emphasized that council members speak only for themselves, not their fellow workers.

But in ruling that the Polaroid council was illegal, Marvin Roth, the administrative law judge, said the company gave only "lip service" to the council's independence. In reality, he said, the council did represent other workers, and Polaroid encouraged the group to seek consensus on key issues.

For example, in an effort to determine group consensus, he noted, Polaroid officials sometimes asked for a show of hands when members were polled on such policies as the company's employee stock option plan.

The judge even questioned Polaroid's motives for creating the council. One motive, he said, may have been to "discourage or prevent" real unions from attempting to organize the company's 8,000-member work force. Polaroid's workers have never been unionized.

Ms. Taylor says it appears almost certain the TEAM Act will pass the Senate, but not by a veto-proof majority. "I think the Democrats will stick together, and we may even pick up a few Republican votes" against the bill, she says. A similar bill has already passed the House.

But it appears likely that President Clinton will carry out his veto threat. Last month more than 600 corporate chief executives signed a letter to Mr. Clinton asking him to sign the bill. But last-minute efforts to reach a compromise that would be acceptable to organized labor appeared to have fallen through late yesterday.

FTC Staff Objects to Time-Turner Combination

By BRYAN GRULEY
And EBEN SHAPIRO

Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON — Top staff members at the Federal Trade Commission have formally recommended that the commission block Time Warner Inc.'s \$7.5 billion purchase of Turner Broadcasting System Inc., unless the companies agree on measures to resolve antitrust concerns.

While not surprising, the recommendations suggest settlement talks between the government and the companies are drawing to a close. "Things are coming to a head," said one person involved. The move increases pressure on the companies to offer ways to address regulators' concerns that a combined Time Warner-Turner would wield too much clout in the cable television and programming businesses.



Gerald Levin

The four separate recommendations prepared by the FTC staffers, members of the Bureau of Competition and the FTC Bureau of Economics, could be discussed by the full commission as early as next week, people familiar with the matter say. Commissioners previously have seen at least one draft recommendation that the media merger be blocked, but have not discussed the matter formally. An FTC spokeswoman declined to comment.

Major Sticking Point

A key sticking point in settlement talks has been the role Tele-Communications Inc. would play in a combined Time Warner-Turner. TCI, the Englewood, Colo., cable operator, owns 21% of Turner and would own about 9% of the merged company; that stock would be voted by Gerald Levin, chairman of Time Warner. Regulators are concerned that the direct link would reduce TCI and Time Warner's incentives to compete against each other. TCI is the nation's biggest operator of cable systems and Time Warner is No. 2.

FTC officials are seeking provisions that would sharply limit TCI's influence over the new company and put enough distance between TCI and Time Warner that the two would effectively remain competitors. In the view of some at the FTC, such steps would prevent the merged

company from using its control of some of the nation's most valuable channels, including Time Warner's Home Box Office and Turner's Cable News Network, to thwart competition from smaller programmers and cable operators.

Joe Sims, a TCI attorney with the Washington law firm of Jones, Day, Reavis & Pogue, said the FTC wants to assure "that their incentives are to compete with each other wherever it's profitable to do so. It's not that [remedial steps] are going to create new competition where there wasn't competition; they want to make sure it doesn't reduce whatever competitive incentives already exist."

Steps Under Consideration

Among the many complex steps being discussed are: capping TCI's investment in the company, converting the TCI stake to non-voting shares, and altering a provision that would provide TCI a 20-year discount on programming supplied by Time Warner. Under terms of the merger, TCI Chief Executive John Malone would relinquish his Turner board seat and wouldn't be a director of the new company.

TCI has signaled its willingness to alter
Please Turn to Page A11, Column 5

Continued From Page A3

the discount pact, but it's unclear how Mr. Malone would respond to other steps. His input is crucial because, according to the merger agreement, he can veto the deal if any change affects TCI. A TCI spokeswoman said, "Until we are officially aware that changes are necessary, it is difficult to know how we will proceed. Mr. Malone has said publicly that he remains flexible to a point." A spokesman for Time Warner declined to comment.

One critic of the merger said even the changes under consideration wouldn't protect independent programmers trying to get their shows carried on either Time Warner or TCI cable systems. "I don't care if John Malone's investment is on Mars, he gains financially by anything that benefits Time Warner," said Gene Kimmelman, co-director of the Washington office of Consumers Union, a consumer advocacy group.



John Malone

The companies have been trying to persuade FTC officials and staff that the legal case against the merger is shaky and that antitrust concerns could be addressed by agreements in which the companies would promise not to compete unfairly. The companies have focused their settlement pleas on FTC Competition Bureau Director William Baer, a close confidant of FTC Chairman Robert Pitofsky, and George Cary, one of Mr. Baer's top deputies. Mr. Baer's recommendation to the commission, while citing serious antitrust problems, holds out the possibility that a settlement can be reached.

The companies have yet to start running a clock that would force the FTC to act within two weeks. The full commission is tentatively slated to discuss the matter at one of three private meetings scheduled next week. No vote is required, but the panel could issue a decision to block the merger if it wants to put even more pressure on the companies to offer more significant changes.

THE WALL STREET JOURNAL WEDNESDAY, JULY 10, 1996

WORKING DRAFT 5/17

The National Labor Relations Act is amended by adding a new section (h) at the conclusion of section 8 to read as follows:

(h) **Employee Involvement.** With respect to any employees who are not represented by an exclusive representative pursuant to section 9(a):

^{8(a) or}
(1) **Discussions with Employees:** Nothing in section 8 (a) (2) shall be construed to prohibit an employer from meeting with the employees as a group, or from meeting with individual employees, to share information, brainstorm, or receive suggestions or opinions from individual employees with respect to matters of mutual interest.

(2) **Work Teams:** It shall not be an unfair labor practice under section 8 (a) (2) for an employer to group employees into work units, and to hold regular meetings of the employees assigned to the unit to discuss the unit's work responsibilities, at which discussions of those employees' work conditions may on occasion occur.

(3) **Quality Circles:** It shall not be an unfair labor practice under section 8 (a) (2) for an employer to create a committee to recommend or decide upon means of improving the quality of, or method of producing and distributing, the employer's product or service, and to hold regular meetings of the committee at which discussions of directly related issues concerning conditions of work may on ^{isolated} occasion occur.

(4) **Labor-Management Committees:**

(i) It shall not be an unfair labor practice under section 8 (a) (2) for an employer to deal with employees with respect to their conditions of work through independent labor-management committees which do not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer.

(ii) A committee is independent if:

(A) The committee is authorized, and can only be disbanded, by a majority vote of the affected employees in an election;

(B) The employee representatives on the committee are elected by the affected employees; and

(C) The employee representatives have the right to raise for discussion in the committee any issue of concern to the employees; to meet with the employees at reasonable times to discuss the work of the committee; and to secure the assistance of outside experts in addressing issues before the committee.

(iii) All elections held pursuant to this paragraph must be secret ballot referenda conducted without employer interference and using fair and reliable procedures conforming to regulations issued by the Board pursuant to section 6.

(5) Protection of Employee Rights:

(i) It shall be an unfair labor practice under section 8 (a) (1) for an employer to interfere with, restrain, or coerce any employee because of the employee's participation in or refusal to participate in discussions of conditions of work permitted by, or in any vote provided for by, this section.

(ii) Employee participation in a work unit or committee established or maintained pursuant to this act shall not constitute or be evidence of supervisory or managerial status.

(iii) An employer that deals with employees through a labor-management committee in accordance with paragraph four shall provide a labor organization which files a petition under section 9 (c) seeking to represent employees, some or all of whom are covered by the committee, the same rights of access to the employer's premises, and of communication with the employer's employees, as are granted to members (including supervisors or managers) of the committee.

(iv) Nothing in this section shall be construed to permit an employer to create or alter a work unit or committee while a petition for a representation election is pending before the National Labor Relations Board or to discourage employees from exercising their rights under section 7 of the Act.

After it has knowledge of organizing campaign.



Related
letters
same topic

169666
JOHN F. MEESE
President
General Offices:
AFL-CIO Bldg.
815 16th Street, N.W.,
Washington, D.C. 20006
Tele. 202-347-7255
FAX 202-347-0181

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Tenth Vice-President

Metal Trades Department

American Federation of Labor and Congress of Industrial Organizations

May 20, 1996

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

As we write this letter, a long-overdue increase in the minimum wage is being debated by Congress, and if the noxious TEAM Act rider is dropped from the bill, millions of American workers will see some improvement in their living standards. At the same time, you are preparing, next week, to host a conference on the issue of corporate responsibility. These are just two examples of how your Administration has lived up to its promise to help American families, and to "level the playing field" for American workers.

You also have been a strong advocate for collective bargaining and the rights of American workers to join unions, if they choose. This is reflected in your appointments to the National Labor Relations Board, an Agency that, once again, is fulfilling its statutory mandate to protect workers who seek to organize and to promote the process of collective bargaining. Indeed, the Agency is doing an admirable job, with a reduced staff and budget, and in spite of being singled out for venomous and time consuming attacks by the Republican Congress.

This is the good news. We write today, however, because much of what your Administration has sought to accomplish in the area of worker rights is being undercut by an antiquated and blind system of awarding huge government contracts -- particularly defense contracts -- to companies with abysmal worker rights, health and safety, and collective bargaining records. This makes no policy sense, and, in these times, it certainly makes no fiscal sense.

We would like to relate to you one astonishing example of a company that receives most of its revenue from one federal government agency, the United States Navy, and then spends countless thousands of those same government procurement dollars fighting the orders and complaints of another federal government agency, the National Labor Relations Board.

Avondale Industries, Inc. operates a large shipyard in New Orleans, Louisiana, and is one of the Navy's premier contractors. In 1993, alone, the Navy awarded Avondale over \$1 billion in new contracts. Also in 1993, Avondale employees sought union representation, and on June 25, 1993, the National Labor Relations Board conducted a representation election among a unit of Avondale's employees.

Despite an intense and intimidating anti-union campaign run by Avondale officials, approximately 2000 employees voted in favor of being represented by the Metal Trades Department, AFL-CIO. But this overwhelming vote in favor of representation did not deter Avondale officials from their commitment to preventing collective bargaining. Hundreds of ballots were challenged, and the Company filed dozens of objections to the conduct of the election -- a time-tested method by which employers try to defeat employee free choice.

Normally, election challenges and objections are heard in a matter of days at an NLRB hearing, with decisions quickly following. In this case, however, a high-priced team of Avondale attorneys dragged out the process for more than 84 days over a six month period. Largely because of the volumes of materials filed by the Company, the NLRB Hearing Officer's Report, overruling Avondale's objections, did not issue for another year.

In the meantime, in July, 1994, the NLRB began prosecuting a series of unfair labor practice complaints against the Company encompassing literally hundreds of unfair labor practice charges. To date, there have been 160 days of trial and over 2000 exhibits introduced concerning charges of unlawful discharge and discrimination against union supporters, interrogations and threats, and other egregious and unlawful conduct. The cost of prosecuting these cases is incalculable but it may well be one of the most expensive cases ever brought by the NLRB.

And, who is financing Avondale's shameless misconduct and "spare-no-expense" resistance to its employees union organizing efforts? The United States Government! Mr. President, there is something seriously wrong with this picture.

Let us be clear. The Metal Trades Department, its affiliated unions, and the Avondale employees we represent are not asking the Navy to withhold contracts won by Avondale after a competitive bidding process. We are painfully aware that any reduction in orders could well result in a loss of work to Avondale employees. But the status quo is unacceptable.

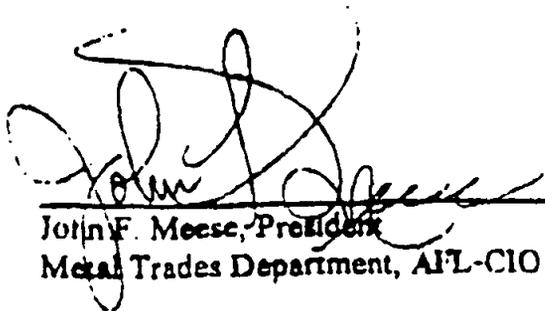
Previous complaints about this situation resulted in a cursory Defense Contract Audit Agency (DCAA) review allowing Avondale to charge its anti-union meetings and activities as an allowable "indirect cost" to be reimbursed by the federal government. At the very least, Avondale should be required to fund its anti-union campaign out of non-federal revenues. This is only one step that should be considered. We implore you to help find others.

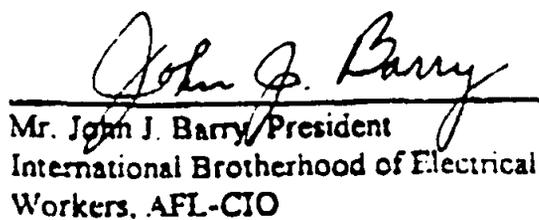
We ask that you immediately convene a high level meeting among officials at the Departments of Labor and Defense, the National Labor Relations Board, Avondale's President and CEO, and the leadership of the unions involved. We think the personal involvement of Secretary of Labor Reich is essential.

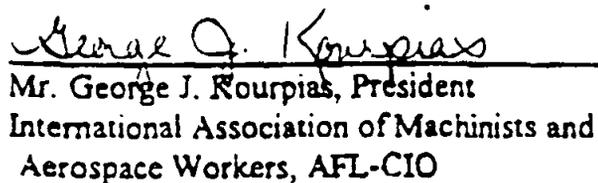
We also suggest that a Task Force be created to consider the ongoing problem of the federal government awarding taxpayer financed contracts to companies which then use that taxpayer money to fight the orders of other government agencies. In view of the uncertain legal status of executive orders debarring federal labor law violators, other options should be considered. At a minimum, there should be government-wide enforcement of "collection by administrative offset" -- the procedure which permits the federal government to withhold money from a federal contractor if that contractor has failed to comply with an NLRB order to restore wages or benefits.

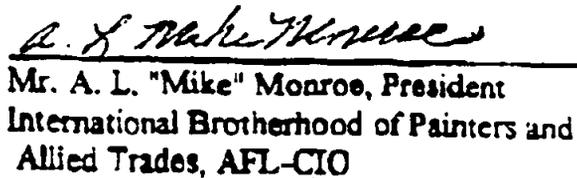
We appreciate your immediate attention to this problem. Avondale's employees deserve the level playing field that your Administration has begun to achieve for so many American workers. American taxpayers deserve a financially sound and sensible federal contracting system.

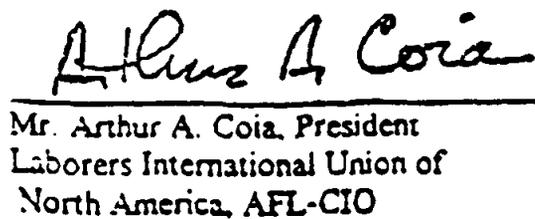
Sincerely yours.


John F. Meese, President
Metal Trades Department, AFL-CIO


Mr. John J. Barry, President
International Brotherhood of Electrical
Workers, AFL-CIO

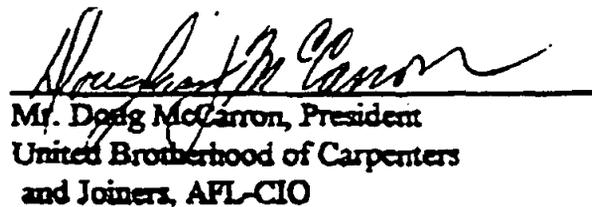

Mr. George J. Kourpias, President
International Association of Machinists and
Aerospace Workers, AFL-CIO

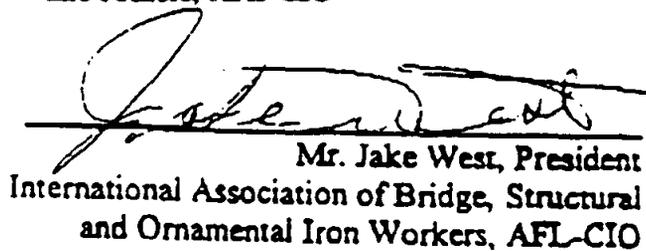

Mr. A. L. "Mike" Monroe, President
International Brotherhood of Painters and
Allied Trades, AFL-CIO


Mr. Arthur A. Coia, President
Laborers International Union of
North America, AFL-CIO

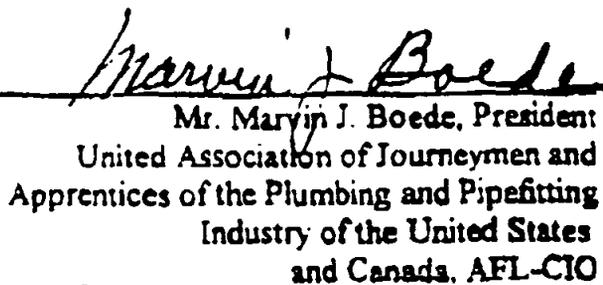
cc: Honorable Robert Reich
Honorable William J. Perry
Honorable William Gould
General Counsel Fred Feinstein

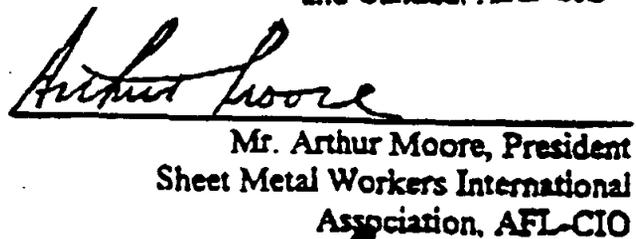
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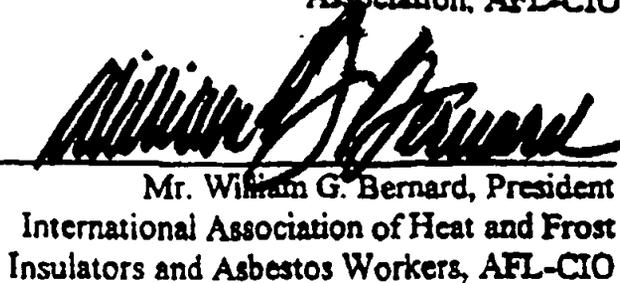

Mr. Doug McCarron, President
United Brotherhood of Carpenters
and Joiners, AFL-CIO


Mr. Jake West, President
International Association of Bridge, Structural
and Ornamental Iron Workers, AFL-CIO


Mr. Frank Hanley, President
International Union of Operating
Engineers, AFL-CIO


Mr. Marvin J. Boede, President
United Association of Journeymen and
Apprentices of the Plumbing and Pipefitting
Industry of the United States
and Canada, AFL-CIO


Mr. Arthur Moore, President
Sheet Metal Workers International
Association, AFL-CIO


Mr. William G. Bernard, President
International Association of Heat and Frost
Insulators and Asbestos Workers, AFL-CIO



170366

175 Ghent Road
Fairlawn, Ohio 44333-3300

Tel: 330-869-4300
Fax: 330-869-4410

John B. Yasinsky
Chairman and
Chief Executive Officer

10/1
B. 2/1

2955004

May 30, 1996

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Re: Support for the Teamwork for Employees and Managers Act (TEAM Act)

Dear President Clinton:

I am writing to respectfully urge you to reconsider a threatened veto of the TEAM Act legislation. The bill takes a genuine step toward increasing cooperation in the workplace, a concept you have endorsed and encouraged corporations to adopt.

As you indicated in your State of the Union message this year, "when companies and workers work as a team they do better, and so does America." I wholeheartedly agree and that's why I support the TEAM Act. As President and CEO of GenCorp, with 10,000 employees, I recognize that many times employees are in the best position to identify and implement innovative ideas that increase efficiency, boost product quality, and safeguard working conditions. When they are given a greater voice in workplace decisions, employees are also more motivated and find their jobs to be more rewarding. The TEAM Act would empower employees to provide such input in workplace decisions by addressing the legal uncertainty surrounding employee involvement programs. As a participant in the recent White House conference on corporate citizenship, I believe the bill also goes a long way in meeting the five corporate challenges you raised, including: 1) creating family-friendly workplaces; 2) providing economic security; 3) investing in employees; 4) partnering with employees; and 5) providing safe and secure workplaces.

I want to emphasize that the TEAM Act does *not* in any way lessen current protections for employees or lead the nation back to the days of employer-dominated unions. Rather, the bill takes an appropriate approach to clarifying recent NLRB decisions. First, the bill ensures that employee involvement teams would not be allowed to have, claim, or seek authority to negotiate or amend collective bargaining agreements. Second, the bill clearly prohibits employers from blocking the establishment or operation of a union.

Cooperation is fundamental to the success of any workplace – whether it be a government agency, commercial office, or manufacturing facility – and, therefore, it is imperative that we eliminate the artificial barriers that prevent employees and management from working together to improve U.S. competitiveness and the lives of employees. I strongly urge you to sign the TEAM Act when it reaches your desk.

Sincerely,

172367



PPG Industries, Inc.
One PPG Place Pittsburgh, Pennsylvania 15272 USA Telephone: (412) 434-2581 Fax: (412) 434-2571

Jerry E. Dempsey
Chairman and
Chief Executive Officer

May 28, 1996

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D. C. 20500

*Received in
Orlando from
Amplis
6/7/96*

Dear Mr. President :

I write to urge you not to veto H. R. 743 (S. 295), the TEAM Act. This legislation is essential to the competitiveness of PPG Industries in the global marketplace of today and the future. Hence, it is a matter of real concern that, to the best of my knowledge, you remain opposed to granting workers in non-union environments the same right to participate with management in cooperative decision-making as that enjoyed by employees in union settings.

Opponents of the legislation contend that it would enable employers to deny employees the right to self-organization and independent representation by setting up "sham" company unions. On the contrary, the bill specifically retains the law's prohibition against "sham" unions. By amending the National Labor Relations Act with regard to Section 8(a) (2), it simply enables employers to do what they are already doing to maintain America's competitive position without having to worry about being ordered by the National Labor Relations Board to shut down an integral component of their workplace culture. Moreover, the TEAM Act continues all of the protections and procedures that currently exist in the law to protect the right of employees to self-organize and elect unions as their independent representatives.

At present, PPG and other successful American businesses are receiving conflicting signals from the Federal Government. In your State of the Union message and other statements, you have encouraged employee participation in workplace decisions and stated that America works better when employees and managers work as a team. Yet, at the same time, in recent cases the NLRB has banned employee involvement dealing with not only conditions of work, but also where to put the plant soft drink machine and the very existence of a company softball team!

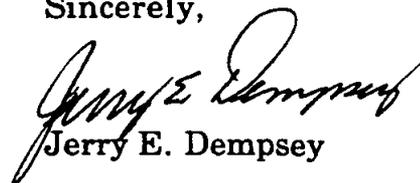
Employee involvement is also strongly supported by workers. This was demonstrated by a recent broad Princeton Survey Research study which found that, when workers were presented with a choice between employee involvement teams, unions, or more protective laws, 63% chose teams, 20% chose unions, and 15% chose laws. At PPG, flexible work teams and employee involvement have proven to be popular and effective in both union and non-union environments.

Recently, Senators Daschle (D-SD) and Kennedy (D-MA) have proposed an amendment to S.295, the Senate version of the TEAM Act, which does nothing more than restate existing law, and thus is itself a "sham". It continues the law's patronizing view of American workers by requiring that they have "independent representation" in discussing matters such as health and safety, flexible scheduling, day care, work assignments, training, first aid procedures, length of rest breaks, etc. with employers in non-union settings, unless the dialogues occur only "on occasion". Thus, it appears that Senators Daschle and Kennedy trust workers to express their views and contribute their ideas only infrequently, and "without representation" only on issues of little or no consequence. Clearly, the Daschle-Kennedy amendment is not only impractical in the modern, rapidly changing manufacturing environment, but also unacceptable in that it is demeaning to the American worker.

Companies like PPG Industries are attempting to reestablish the preeminent position of the United States in the global business arena through enhanced employee involvement in workplace decisions. By tapping the intellectual and leadership abilities of our employees, we are maximizing our capability to meet the needs of our global customers through the effective use of the total quality management process. The TEAM Act removes a threatening and demotivating legal obstruction to this process and creates a win-win situation for all American workers and employers, as well as the nation's economy.

Please reconsider your position regarding the TEAM Act, and provide your leadership in having this essential legislation enacted into law as soon as possible.

Sincerely,



Jerry E. Dempsey

JED/faf

Fair who-GR corp

critical / good / widespread

90% of firms have

positive force

current law enables to go forward.

Debate of value of current law -

entire element to bad behavior by
bad actors.

necessary.

constructive for NCPB to
clarify

Elaine Kamareh

Dan 09 com'v -OK.

THE WHITE HOUSE
WASHINGTON

6106
Mon.

Cheri Carter
dropped by -
looking for response
to CEO letter to
POTUS on Team Act.
Leon's office indicates
POTUS wants to see
get out before vote -
on Wednesday -

Please call.

X62682

THE WHITE HOUSE
WASHINGTON

Harold -

Needs - better

- justification for our
public stance



not be supporting alternative



Kennedy / Daschle

AFL-CIO

subst bill/
switch order/
cover for Dems.
[TEAM ACT
Veto

JEAN TO DO -

GET HER FAX #

<u>THIS SEARCH</u>	<u>THIS DOCUMENT</u>	<u>GO TO</u>
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Bill 2 of 2

There is 1 other version of this bill.

References to this bill in the Congressional Record	Digest and Status Information About this Bill.	Download this bill. (6,001 bytes).
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Teamwork for Employees and Management Act of 1995 (Reported in the Senate)

S 295 RS

Calendar No. 389

104th CONGRESS

2d Session

S. 295

[Report No. 104-259]

To permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

IN THE SENATE OF THE UNITED STATES

January 30, 1995

Mrs. KASSEBAUM (for herself, Mr. JEFFORDS, Mr. GREGG, Mr. GORTON, Ms. HUTCHISON, Mr. ASHCROFT, Mr. SMITH, Mr. HELMS, Mr. THOMAS, Mr. BROWN, Mr. MCCAIN, Mr. GRASSLEY, Mr. COATS, Mr. FRIST, Mr. HATCH, Mr. MCCONNELL, Mr. NICKLES, Mr. WARNER, Mr. SHELBY, Mr. FAIRCLOTH, Mr. THURMOND, Mr. MACK, Mr. BURNS, and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

May 1, 1996

Reported by Mrs. KASSEBAUM, without amendment

A BILL

To permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Teamwork for Employees and Management Act of 1995'.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- Congress finds that--

- (1) the escalating demands of global competition have compelled an increasing number of American employers to make dramatic changes in workplace and employer-employee relationships;
- (2) these changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as 'employee involvement', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;
- (3) employee involvement structures, which operate successfully in both unionized and non-unionized settings, have been established by over 80 percent of the largest employers of the United States and exist in an estimated 30,000 workplaces;
- (4) in addition to enhancing the productivity and competitiveness of American businesses, employee involvement structures have had a positive impact on the lives of those employees, better enabling them to reach their potential in their working lives;
- (5) recognizing that foreign competitors have successfully utilized employee involvement techniques, Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful employee involvement structures in the workplace through such incentives as the Malcolm Baldrige National Quality Award;
- (6) employers who have instituted legitimate employee involvement structures have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930s when employers established deceptive sham 'company unions' to avoid unionization; and
- (7) employee involvement is currently threatened by interpretations of the prohibition against employer-dominated 'company unions'.

(b) PURPOSES- It is the purpose of this Act to--

- (1) protect legitimate employee involvement structures against governmental interference;
- (2) preserve existing protections against deceptive, coercive employer practices; and
- (3) permit legitimate employee involvement structures where workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. AMENDMENT TO SECTION 8(a)(2) OF THE NATIONAL LABOR RELATIONS ACT.

Section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) is amended by adding at the end thereof the following: '*Provided further*, That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain or participate in any organization or entity of any kind, in which employees participate to address matters of mutual interest (including issues of quality, productivity and efficiency) and which does not have, claim or seek authority to negotiate or enter into collective bargaining agreements under this Act with the employer or to amend existing collective bargaining agreements between the employer and any labor organization;'

SEC. 4. CONSTRUCTION CLAUSE LIMITING EFFECT OF ACT.

Nothing in the amendment made by section 3 shall be construed as affecting employee rights and responsibilities under the National Labor Relations Act other than those contained in section 8(a)(2) of such Act.

Calendar No. 389

104th CONGRESS

2d Session

S. 295

[Report No. 104-259]

A BILL

To permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

May 1, 1996

Reported without amendment

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Bill 4 of 4

There are 3 other versions of this bill.

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Teamwork for Employees and Managers Act of 1995 (Passed by the House)

104th CONGRESS

1st Session

H. R. 743

AN ACT

To amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

HR 743 EH

104th CONGRESS

1st Session

H. R. 743

AN ACT

To amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Teamwork for Employees and Managers Act of 1995'.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- Congress finds that--

- (1) the escalating demands of global competition have compelled an increasing number of employers in the United States to make dramatic changes in workplace and employer-employee relationships;**
- (2) such changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as 'Employee Involvement', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;**
- (3) Employee Involvement programs, which operate successfully in both unionized and nonunionized settings, have been established by over 80 percent of the largest employers in the United States and exist in an estimated 30,000 workplaces;**
- (4) in addition to enhancing the productivity and competitiveness of businesses in the United States, Employee Involvement programs have had a positive impact on the lives of such employees, better enabling them to reach their potential in the workforce;**
- (5) recognizing that foreign competitors have successfully utilized Employee Involvement techniques, the Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful Employee Involvement programs in the workplace through such incentives as the Malcolm Baldrige National Quality Award;**
- (6) employers who have instituted legitimate Employee Involvement programs have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930's when employers established deceptive sham 'company unions' to avoid unionization; and**
- (7) Employee Involvement is currently threatened by legal interpretations of the prohibition against employer-dominated 'company unions'.**

(b) PURPOSES- The purpose of this Act is--

- (1) to protect legitimate Employee Involvement programs against governmental interference;**
- (2) to preserve existing protections against deceptive, coercive employer practices; and**
- (3) to allow legitimate Employee Involvement programs, in which workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.**

SEC. 3. EMPLOYER EXCEPTION.

Section 8(a)(2) of the National Labor Relations Act is amended by striking the semicolon and inserting the following: `: *Provided further*, That it shall not constitute or be evidence of an unfair

labor practice under this paragraph for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees who participate to at least the same extent practicable as representatives of management participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity, efficiency, and safety and health, and which does not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization, except that in a case in which a labor organization is the representative of such employees as provided in section 9(a), this proviso shall not apply;'

SEC. 4. LIMITATION ON EFFECT OF ACT.

Nothing in this Act shall affect employee rights and responsibilities contained in provisions other than section 8(a)(2) of the National Labor Relations Act, as amended.

Passed the House of Representatives September 27, 1995.

Attest:

Clerk.

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*NLRB Regs?
This legislation
codifies existing
NLRB law -*

WORKING DRAFT 5/17

The National Labor Relations Act is amended by adding a new section (h) at the conclusion of section 8 to read as follows:

(h) Employee Involvement. With respect to any employees who are not represented by an exclusive representative pursuant to section 9(a):

*WPA
1601
or*

(1) Discussions with Employees: Nothing in section 8 (a) (2) shall be construed to prohibit an employer from meeting with the employees as a group, or from meeting with individual employees, to share information, brainstorm, or receive suggestions or opinions from individual employees with respect to matters of mutual interest.

(2) Work Teams: It shall not be an unfair labor practice under section 8 (a) (2) for an employer to group employees into work units, and to hold regular meetings of the employees assigned to the unit to discuss the unit's work responsibilities, at which discussions of those employees' work conditions may on occasion occur.

(3) Quality Circles: It shall not be an unfair labor practice under section 8 (a) (2) for an employer to create a committee to recommend or decide upon means of improving the quality of, or method of producing and distributing, the employer's product or service, and to hold regular meetings of the committee at which discussions of directly related issues concerning conditions of work may on occasion occur.

isolated

(4) Labor-Management Committees:

(i) It shall not be an unfair labor practice under section 8 (a) (2) for an employer to deal with employees with respect to their conditions of work through independent labor-management committees which do not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer.

(ii) A committee is independent if:

(A) The committee is authorized, and can only be disbanded, by a majority vote of the affected employees in an election;

(B) The employee representatives on the committee are elected by the affected employees; and



(C) The employee representatives have the right to raise for discussion in the committee any issue of concern to the employees; to meet with the employees at reasonable times to discuss the work of the committee; and to secure the assistance of outside experts in addressing issues before the committee.

(iii) All elections held pursuant to this paragraph must be secret ballot referenda conducted without employer interference and using fair and reliable procedures conforming to regulations issued by the Board pursuant to section 6.

(5) Protection of Employee Rights:

(i) It shall be an unfair labor practice under section 8 (a) (1) for an employer to interfere with, restrain, or coerce any employee because of the employee's participation in or refusal to participate in discussions of conditions of work permitted by, or in any vote provided for by, this section.

(ii) Employee participation in a work unit or committee established or maintained pursuant to this act shall not constitute or be evidence of supervisory or managerial status.

(iii) An employer that deals with employees through a labor-management committee in accordance with paragraph four shall provide a labor organization which files a petition under section 9 (c) seeking to represent employees, some or all of whom are covered by the committee, the same rights of access to the employer's premises, and of communication with the employer's employees, as are granted to members (including supervisors or managers) of the committee.

(iv) Nothing in this section shall be construed to permit an employer to create or alter a work unit or committee while a petition for a representation election is pending before the National Labor Relations Board or to discourage employees from exercising their rights under section 7 of the Act.

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IMMEDIATE OFFICE OF THE SOLICITOR

FAX TRANSMITTAL SHEET

TO: Elena Kagan / 456-1647

FROM: John Colwell

DATE: June 25, 1996

PAGE NUMBER ONE OF 20 PAGES

COMMENTS: Per Marvin Krislov's request.

**F YOU HAVE ANY QUESTIONS REGARDING THIS
FAX, PLEASE CALL: 202/219-7675**

June 25, 1996

NOTE FOR ELENA KAGAN

FROM: JOHN COLWELL
DoL Solicitor's Office.

SUBJECT: TEAM Act

Marvin Krislov has asked me to provide you with materials on the TEAM Act.

Attached are: (1) Secretary Reich's April 16, 1996 letter to Senator Kassebaum; (2) NLRB Chairman Gould's May 9, 1996 letter to Senator Feinstein; (3) NLRB General Counsel Feinstein's May 14, 1996 letter to Senator Kennedy; (4) "Talking Points on S. 295, the TEAM Act;" (5) "The Facts about the TEAM Act;" (6) the Minority Views of the Senate Committee on Labor and Human Resources; and (7) an excerpt from the transcript of a press conference by Vice President Gore.

Please feel free to call me at 219-7675.

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

APR 16 1996

The Honorable Nancy Landon Kassebaum
Chairman
Committee on Labor
and Human Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Kassebaum:

We understand that your Committee may consider S. 295, the "Teamwork for Employees and Managers Act," on Wednesday, April 17. This bill would amend section 8(a)(2) of the National Labor Relations Act (NLRA) to broadly expand employers' abilities to establish employee involvement programs. I am writing to emphasize the Administration's opposition to S. 295, and to urge your Committee to not order the bill reported.

Section 8(a)(2) of the NLRA states that it is an unfair labor practice for an employer to dominate or interfere with the formation or administration of any labor organization. This provision protects employees from the practice of unscrupulous employers creating company, or sham, unions. Although S. 295 does not state an intent to repeal the protection provided by section 8(a)(2), S. 295 would undermine employee protections in at least two key ways. First, the bill would permit employers to establish company unions. Second, it would permit employers, in situations where the employees have spoken through a democratic election to be represented by a union, to establish an alternative, company dominated organization. Neither of these outcomes is permissible under current law nor should they be endorsed in legislation. Either one would be sufficient to cause me to recommend that the President veto S. 295 or other legislation that permits employers to unilaterally set up employee involvement programs.

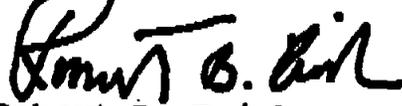
The Administration supports workplace flexibility and high-performance workplace practices that promote cooperative labor-management relations, but has concerns about the impact of the TEAM bill. Current interpretations of the law permit the creation of employee involvement programs that explore issues of quality, productivity, and efficiency.

It should be noted that the National Labor Relations Board has recently decided five cases involving employee involvement programs. In two of the five cases the Board found that the cooperative group at issue did not violate section 8(a)(2). The other three present classic cases supporting the concerns voiced above. Moreover, it appears that several more cases are pending before the Board which concern the relevant issue.

For the foregoing reasons, the Administration opposes the enactment of S. 295. If S. 295 were presented to the President, I would recommend that he veto the bill.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert B. Reich". The signature is written in a cursive style with a large initial "R".

Robert B. Reich

NATIONAL LABOR RELATIONS BOARD
1099 14TH STREET, N.W.
WASHINGTON, D.C. 20570-0001

May 9, 1996

William B. Gould IV
Chairman
Honorable Dianne Feinstein
United States Senate
SH-331 Hart Senate Office Building
Washington, DC 20510-0504

Dear Senator Feinstein:

In response to your inquiry regarding my views on the TEAM Act, I would like to say the following:

1. I oppose the TEAM Act.
2. Under the National Labor Relations Act as written nothing stops employees, unions and employers from talking about anything they want -- all that is prohibited is that employers not dominate or assist organizations which discuss employment conditions;
3. Our Board has promoted employee participation with the decisions which are enclosed;
4. The TEAM Act overreaches because it would deny workers the democratic assumption of American society which ought to apply in the workplace;
5. I believe the statute should be amended, not along the TEAM Act lines, but to:
(a) allow employers to sponsor and financially assist employee organizations in non-union establishments without any limitation; (b) to continue to discuss whatever they want without any limitation; (c) to determine their own representatives, agenda, structure, etc. democratically. The TEAM Act does not do this.

I believe that my proposals would simplify our law, allow lay people whether they be small business people, average employees or union officials to understand the law without the need for high-priced counsel. My reforms would promote genuine democratic employee participation.

With kind regards,

Sincerely yours,


William B. Gould IV
Chairman

14/05/96

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NO. 032 002



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

May 14, 1996

FACSIMILE

The Honorable Edward M. Kennedy
Senator, United States Senate
Committee on Labor and Human
Resources
Washington, DC 20510-6300

Dear Senator Kennedy:

This is in response to your request of May 11, 1996 for my assessment of the accuracy of certain claims concerning the proper interpretation of Section 8(a)(2) of the National Labor Relations Act (NLRA) with reference to S. 295 (the "Team Act"). As General Counsel of the National Labor Relations Board (NLRB), it is my responsibility to investigate alleged violations of the NLRA and prosecute meritorious claims. The responses to the questions you posed set out below are based on my considered judgment of the proper interpretation of Board cases. They constitute my view of the applicable law, as General Counsel, and do not constitute an opinion of the Board or its individual members.

1. An organization whose purpose is to deal with an employer to discuss quality, productivity, and efficiency would not constitute a labor organization, provided it did not also deal with the employer concerning grievances, labor disputes, wages, rates of pay, hours, or working conditions, or exist in part for such purposes.

Assuming the employee organization did deal with the employer concerning working conditions and thus constituted a labor organization, the employer would not "dominate" such an organization simply by providing it with office supplies and meeting space. "Domination" is typically found where an employer exercises a strong influence over the organization, by such actions as initiating the committee, presiding over meetings, selecting the employee representatives, or selecting the topics to be discussed. See Electromation, Inc., 309 NLRB 990, 995 (1992), enf'd., 35 F.2d 1148 (7th Cir. 1994).

The NLRB has also made it clear that an employer would not violate Section 8(a)(2)'s proscription on providing unlawful "support" to a labor organization simply by providing a meeting room or office supplies, provided it did not do so in the context of other acts of domination, interference, or support of the organization.

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NO. 022 003

The Honorable Edward M. Kennedy
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Keeler Brass Co., 317 NLRB 1110 (1995); Electromation, 309 NLRB at 998 n. 3; Duquesne University, 198 NLRB 891, 891 & n.4 (1972). See, for example, Sunnen Products, Inc., 189 NLRB 826 (1971).

2. A "labor organization" under the NLRA is a body in which employees participate and deal with the employer concerning "grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work." Discussions of quality, productivity and efficiency do not necessarily constitute dealing with the employer on conditions of employment within the statutory definition.

3. The NLRA does not authorize the NLRB to fine companies for violating the NLRA. The appropriate remedy for a violation of Section 8(a)(2) would require the employer to cease any unlawful assistance to or disestablish an unlawfully dominated organization and reestablish the status quo ante.

4. Talking to employees does not constitute dealing. The NLRB has made clear that nothing in the NLRA prevents an employer from encouraging its employees, for example, to become more aware of safety problems in their work, or from seeking suggestions and ideas from its employees. Therefore, brainstorming groups, whose purpose is simply to develop a range of ideas, are not engaged in dealing. Similarly, a committee that exists for the purpose of sharing information with the employer, but makes no proposals to the employer, is not ordinarily engaged in dealing. E.I. DuPont & Co., 311 NLRB 893, 894, 897 (1993).

Dealing requires a pattern or practice whereby employees make proposals to management and management responds to those proposals. Where there is no dealing, there is no labor organization and, therefore, no unlawful domination of a labor organization. Of course, where the employees are represented by a collective bargaining agent, the employer is required to discuss bargainable matters through the representative.

5. Nothing in the NLRA prohibits employees from talking to their employer about tornado warning procedures. Talking to employees does not constitute dealing between employees and their employer. The NLRB's decision in Dillon Stores, 319 NLRB No. 149 (1995), does not hold that it is illegal for workers to talk with their employers about tornado warning procedures. That case held that the employer unlawfully dominated employee committees that presented to management proposals and grievances on virtually every possible aspect of the employment relationship. Although at one meeting there was a question and answer about tornado warning procedures, that topic was wholly peripheral to the NLRB's decision. The decision does not describe the nature of the question or answer. Nor does it even remotely suggest that that exchange was relevant to the finding that the committee existed for the purpose of dealing with the employer in

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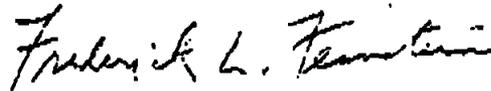
The Honorable Edward M. Kennedy
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(December 18, 1995) (employee participation group devoted to considering specific operational concerns and problems did not have a pattern or practice of making proposals to management on subjects listed in Section 2(5), and therefore was not a labor organization).

10. An employer can talk to employees about matters such as day care centers, softball teams, the employee lounge, vacations, dress codes, and parking regulations. Employees can provide information or ideas without engaging in dealing under the NLRA. Further, employees can made proposals through an organization, to which the employer may respond, where the employees have control of the structure and function of the organization.

I reiterate that these responses represent only my considered judgment of the applicability of Board precedent to the questions you pose.

Sincerely,



Fred Feinstein
General Counsel

Talking Points on S.295, the TEAM Act

1. Teamwork Already Exists in the American Workplace

Teamwork between employers and employees is a vital part of the American workplace. Legitimate labor-management cooperation can improve productivity, encourage innovation, and increase employee satisfaction.

- Companies like United Electric Controls in Watertown, Massachusetts, routinely tap into the creativity of their employees. United Electric's Valued Ideas Program lets workers themselves take the lead in identifying problems and finding solutions.
- Across the country, employers and unions are working together under the team concept. At New United Motor Manufacturing in California, where employees are represented by the United Auto Workers, production work is organized around a team system. Team members are encouraged to make decisions on their own. Employees also participate in a formal suggestion program -- and most employee suggestions are implemented.

2. Current Law Does NOT Prevent Teamwork at the Workplace

Companies that want to involve their employees in this kind of teamwork can do so under current law. The prohibition against employer-dominated organizations, Section 8(a)(2), has been in place since 1935. It doesn't require employers to use command-and-control management. And it hasn't prevented legitimate labor-management cooperation.

- Today, 30,000 employee involvement plans are already up and running. According to a recent survey, 96 percent of large employers have such plans.

Even more labor-management cooperation -- the kind the law already allows -- deserves to be encouraged. If Republicans simply want to make the law clearer, that goal would be worth working toward.

3. The TEAM Act is Actually a Trojan Horse

Some companies talk about teamwork and mean something else. They support the TEAM Act because it will enable management to create, control and terminate employee organizations that deal with wages, benefits and working conditions. They want to keep independent unions from organizing workers and winning higher wages and better working conditions. Most of the legal controversies surrounding Section 8(a)(2) actually involve employers like these.

- Take the recent EFCO case. There, the employer created or revived employee committees when the Carpenters Union tried to organize workers. The company picked the committee members itself, chose subjects for the committees to discuss, and kept veto power over the committees' actions. At the same time, the company committed other unfair labor practices designed to discourage workers from exercising free choice.

Under the TEAM Act, employers like EFCO would get free rein.

THE FACTS ABOUT THE "TEAM" ACT

Section 8(a)(2) of the National Labor Relations Act protects employees from company unions and other sham employee representation schemes. It also ensures that nonunion employers do not force undemocratic forms of "representation" on their employees and that unionized employers cooperate with their employees' democratically chosen collective bargaining representative in implementing employee involvement programs.

Senator Nancy Kassebaum (R-KS) and Rep. Steve Gunderson (R-WI) have introduced bills that, if passed, would effectively repeal of Section 8(a)(2). The Clinton Administration strongly opposes the bill — the Teamwork for Employees and Management (TEAM) Act (S. 295/H.R. 743). The TEAM Act would not encourage employee participation, but employer domination. This fact sheet provides background on Section 8(a)(2), employee involvement, and the reasons the TEAM Act would harm labor relations in our country.

1. PRESIDENT CLINTON AND SECRETARY REICH HAVE LONG RECORDS OF SUPPORTING EMPLOYEE INVOLVEMENT AND LABOR-MANAGEMENT COOPERATION.

Increased participation by rank and file employees in decision-making is one of the key ingredients in the recipe for creating high performance workplaces. As such, this concept has bipartisan support. The President and Secretary of Labor have long championed employee involvement.

2. SECTION 8(a)(2) PROTECTS WORKERS AGAINST COMPANY UNIONS AND SHAM EMPLOYEE REPRESENTATION SCHEMES.

Before the National Labor Relations Act was passed in 1935, one of the most popular strategies among employers bent on preventing their employees from forming their own union was to create company unions or other forms of phony employee representation schemes. When such employer-dominated representation schemes reached their peak in 1934, they covered about three million workers, more than belonged to independent unions at the time. In sum, employers succeeding in occupying the field, setting up a "representation" system in which they sat on both sides of the table and retained absolute control, but telling employees it was "their" committee or council.

Section 8(a)(2) of the Act played the key role of discrediting those "employee participation programs" that purported to represent employee interests on questions of wages and working conditions but really left the final say to management. It made room for employees to choose freely whether to form an independent union to negotiate with the boss on such matters. This particular protection of employee free choice is afforded by no other part of the labor law.

3. SECTION 8(a)(2) LEAVES ROOM FOR EMPLOYEE INVOLVEMENT IN WORKPLACE DECISION-MAKING.

Under present law, employers may use many tools to encourage employee participation without running afoul of the NLRA. In particular, brainstorming groups, information sharing committees, and suggestion boxes are considered safe havens, even on traditional collective bargaining issues. Similarly, an employer may meet with its employees individually or as an entire group to discuss such issues.

In addition, an employer may allow employee work teams or committees to make decisions regarding traditional collective bargaining subjects such as hours and job assignments, as long as the workers involved really have the final say on the matters delegated to them. And employers are free to set up any kind of structure or process they want to involve employees in issues other than wages, hours and working conditions, such as product quality, efficiency, and productivity.

An employer only violates 8(a)(2) if it engages in a pattern or practice of dealing with a group of employees about certain subjects. The employees involved must make suggestions that management actually accepts or rejects. Otherwise, no violation can be found.

4. SECTION 8(a)(2) HAS NOT PREVENTED EMPLOYEE PARTICIPATION PROGRAMS FROM PROLIFERATING RAPIDLY.

A study of Fortune 1000 companies showed a dramatic increase in the use of employee involvement programs among employers from 70% in 1987 to 86% in 1990. A more recent study conducted by the Labor Policy Association (an employer-funded think-tank) and other employer groups suggests continued growth among the largest employers: 96% of employers with more than 5,000 employees reported using employee involvement programs. The study also shows that these programs are spreading to all kinds of employers -- more than 75% of all responding companies used employee involvement programs in 1994. Small employers have been catching up. The study found that most of the growth in employee involvement programs in recent years has been among companies with fewer than 50 employees.

Not only has the sheer amount of employee involvement been growing, but employers have also been able to create many different kinds of participatory structures under current law. Most companies that utilize employee involvement structures report using 10 or more different types in their operations.

5. THE NUMBER OF SECTION 8(a)(2) CASES BEFORE THE NLRB REMAINS MODEST.

Cases involving Section 8(a)(2) are actually quite few in number compared to other unfair labor practice cases -- a small fraction of the NLRB's total caseload. In the last 20 years, the NLRB has issued just 58 orders requiring an employer to disband a program under Section 8(a)(2). In all but three of those cases, the employer had committed other unfair labor practices in an effort to subvert an existing union or defeat an organizing campaign.

The flood of 8(a)(2) cases some predicted in the wake of the NLRB's 1992 *Electromation* decision has failed to materialize. In congressional hearings on the TEAM Act, proponents of weakening Section 8(a)(2) could identify only six cases pending before NLRB administrative law judges, the NLRB itself, or federal appeals courts. This does not represent a significant increase in cases concerning employee involvement programs, and pales in comparison to the large number of pending cases involving other unfair labor practices.

6. THE TEAM ACT WOULD GUT THE WORKER PROTECTIONS CONTAINED IN SECTION 8(A)(2).

(A) The TEAM Act Includes No Meaningful Protection Against the Return of Company Unions.

The TEAM Act includes no limits on the issues employer-initiated involvement programs can discuss or the extent to which employers can manipulate and control them -- even if such programs purport to represent employee interests. The proposed legislation includes only one limitation. It prohibits formal collective bargaining between the employer and committees or other groups the employer initiates or dominates.

History teaches that prohibiting formal collective bargaining provides *no meaningful protection* against company unions. The reason is simple. Even in their heyday in the early 1930s, company unions virtually never negotiated contracts with management. Formal negotiations and signed agreements were not necessary. Management simply sat on both sides of the table, got the "suggestions" it wanted from the "employees' voice," and called that "cooperation" or "participation." American Federation of Labor President William Green summed up the situation in congressional testimony when the Wagner Act was under consideration: "Show me a company union through which a wage agreement, signed and sealed by the representatives of the union and management, has ever been consummated. Never one." Thus, the single most important fact to remember in the debate over 8(a)(2) may be this: if the TEAM Act had been the law of the land in the early 1930s, the company unions then in existence would have been legal!

Management creates company unions to give their employees the false sense of having an organization to represent their interests without having to cede any real power -- like that which goes with a legally enforceable contract. Thus, no sincere proponent of a healthy collective bargaining system can support reform of Section 8(a)(2) that leaves a ban on formal contracts as the sole barrier to the spread of sham labor organizations. Such "reform" would turn Section 8(a)(2), and indeed the NLRA, into a hollow shell.

(B) In Nonunion Facilities, Employers Could Set Up Old-Fashioned Company Unions.

The TEAM Act would allow employers to establish, support, and dominate fake labor organizations as long as they did not collectively bargain with them. Employers would be free to set up internal labor organizations under their control to deal with all matters now left to unions. For example, an employer and its labor organization could discuss and informally agree on wages, health insurance, vacations, holidays, hours of work, and a seniority system.

As long as formal bargaining was avoided, an employer could establish a joint committee or a system of such committees that was comprehensive in scope and representative in character. The employer could decide unilaterally what the committee could and could not discuss. It could hand pick the employee "representatives" allowed to serve on the committee. It could put management representatives on the committee and give them veto power over the proposals the committee could submit to management. It could disband or change the representative structure unilaterally at any time, with no say for employees. It could refuse to allow employees to vote or speak out at any point in the process. Plainly, this is not genuine worker-management cooperation or employee involvement.

These measures bear a striking resemblance to the company unions of old. In sum, the TEAM Act does not update a 60-year-old statute. It turns back the clock on workers' rights sixty years.

(C) In Unionized Facilities, Employers Could Set Up Parallel Organizations to Undermine The Employees' Democratically Chosen Representative.

Section 8(a)(2) requires employers whose employees have chosen to join a union to work together with the union in setting up joint committees, work teams, and other employee involvement efforts that touch on wages, hours, and working conditions." This system has worked very well in practice. Unionized workplaces lead the nation in the extent and depth of employee involvement programs. The Administration has lent its support to the growth of labor-management partnerships through initiatives in both the Labor Department and the Commerce Department.

The TEAM Act would weaken the protections contained in Section 8(a)(2) for unionized and nonunion facilities without distinction. The proposed language contains no specific protection against the abuse of employee participation programs in unionized workplaces. Under the proposed legislation, an employer could set up a joint committee or other mechanism for employee involvement without consulting the union and in this way effectively undermine the employees' democratically chosen representative. This runs counter to the most basic principles of collective bargaining, not to mention democracy.

(D) There are No Other Provisions of the National Labor Relations Act that Provide the Same Protections As Those Contained in Section 8(a)(2).

Section 4 of the TEAM Act says the act would allow NLRA provisions other than Section 8(a)(2) to remain in place. NLRA Section 8(a)(5) provides some protection against improper use of employee involvement programs to undermine unions. That provision requires the employer to bargain with the union on wages, hours, and working conditions.

However, employer conduct in the employee participation area that violates Section 8(a)(2) may not violate other provisions of the NLRA, including Section 8(a)(5). The TEAM Act would render such conduct in a unionized setting legal. For example, the NLRB and the courts could interpret the new law as allowing an employer involved in contract talks with a union to set up a parallel organization to handle any topic, so long as the employer did not refuse to discuss that topic in negotiations with the union. In periods between negotiations, the act could be interpreted as allowing an employer to set up a parallel organization to deal with any issue it negotiated about in good faith with the union in the last negotiations.

At the least, the proposed legislation would seem to allow an employer to bargain to impasse on one or more issues, establish an alternative labor organization, and deal with that organization rather than the union on the subjects in question. There is no limit on the scope of the subjects that could be diverted from the employees' chosen representative in this way.

**TEAMWORK FOR EMPLOYEES AND MANAGEMENT ACT OF
1995**

MAY 1, 1996.—Ordered to be printed

Mrs. KASSEBAUM, from the Committee on Labor and Human
Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 295]

The Committee on Labor and Human Resources to which was referred the bill (S. 295) to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. INTRODUCTION

In his State of the Union address in 1996, President Clinton told the country: "When companies and workers work as a team, they

tices, and to allow legitimate employee involvement programs in which workers may discuss issues involving terms and conditions of employment to continue to evolve and proliferate.

Section 3 amends section 8(a)(2) of the National Labor Relations Act (NLRA) to provide that it shall not constitute or be evidence of an unfair labor practice for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity and efficiency. The legislation also provides that such organizations or entities may not have, claim, or seek authority to negotiate or enter into collective bargaining agreements between an employer and any labor organizations.

Section 4 provides that nothing in section 3 of the legislation shall affect employee rights and responsibilities under the NLRA other than those contained in section 8(a)(2) of the NLRA.

IX. MINORITY VIEWS

Labor-management cooperation and employee involvement are critical to the future success of our economy. Any bill that promises to encourage them appears at first blush to be a good idea. But what S. 295 promises and what it delivers are two very different things.

In 1993 and 1994, the Commission on the Future of Worker-Management Relations (the Dunlop Commission), a bi-partisan group of labor relations experts from business, academia, and unions, conducted an intensive study of labor-management cooperation and employee participation. The Commission held 21 public hearings and heard testimony from 411 witnesses, received and reviewed numerous reports and studies, and held further meetings and working parties in smaller groups. The Commission made one recommendation that is of particular relevance to S. 295:

The law should continue to make it illegal to set up or operate company-dominated forms of employee representation.¹

Yet now, after only two hearings, the Labor and Human Resources Committee has voted along party lines to report this bill, whose sole purpose is to make company-dominated forms of employee representation lawful. The committee's action is ill-considered and unwise. It is destructive of rights fundamental to a democratic society and is inherently anti-union.

The administration has pledged to veto S. 295, and we applaud that decision.

1. The National Labor Relations Act prohibits company-dominated labor organizations because they are inherently destructive of workplace democracy and true employee empowerment

Section 8(a)(2) of the National Labor Relations Act is one of the core provisions of American labor law. By making employer domination of labor organizations illegal, section 8(a)(2) ensures that all labor organizations will genuinely represent the employees they purport to represent, rather than the owners and managers with whom they deal over issues relating to the terms and conditions of employment, including wages and hours of work.

The law has recognized for more than 60 years that it is profoundly anti-democratic to allow an employer to select the representative of his employees. It is also profoundly arrogant for this Committee or any employer to think that the employer should make that choice for the employees.

If a labor organization, employee representation plan or committee is to be the genuine voice of the employees, its members must

¹Commission on the Future of Worker-Management Relations, "Report and Recommendations"

be selected by the employees and allowed to operate without outside interference. This principle of independence is so important that it is separately protected by the Landrum-Griffin Act, which makes employer financial assistance to a labor organization a violation of criminal law.

Senator Robert Wagner, the author of the National Labor Relations Act (the Wagner Act), considered the prohibition of company-dominated labor organizations to be essential to the goals of the act, which include "encouraging the practice and procedure of collective bargaining" and "protecting the exercise by workers of full freedom of association." When he introduced the bill that became the Wagner Act, Senator Wagner declared:

Genuine collective bargaining is the only way to attain equality of bargaining power. * * * The greatest obstacles to collective bargaining are company-dominated unions, which have multiplied with amazing rapidity. * * * [only] representatives who are not subservient to the employer with whom they deal can act freely in the interest of employees. * * *

For these reasons, the very first step toward genuine collective bargaining is the abolition of the company-dominated union as an agency for dealing with grievances, labor disputes, wages, rules or hours of employment.²

The majority goes to great lengths to argue that Senator Wagner and Congress did not have in mind employee representation plans that do not negotiate labor agreements or committees like those at the Donnelly Corporation or EFCO when they condemned "company unions" in 1935 and prohibited the domination of "labor organizations." But in fact, they did have such plans in mind, since the overwhelming majority of company unions in 1935 never entered into any collective bargaining agreement. The evil that Senator Wagner addressed in 1935 is the same one S. 295 would legalize today.

In *NLRB v. Cabot Carbon*, 360 U.S. 203 (1959), the Supreme Court examined the legislative history of the Act's definition of "labor organization" and concluded definitively that Congress had not meant to limit it to organizations that engaged in collective bargaining. First, Congress explicitly considered and rejected in 1935 a proposal by the Secretary of Labor to limit the Wagner Act's definition of "labor organization" to organizations that bargain collectively.

Second, during consideration of the Taft-Hartley Act in 1947, Congress rejected a proposal very much like S. 295, which would have permitted an employer to form or maintain "a committee of employees and discuss with it matters of mutual interest, including grievances, wages, hours of employment, and other working conditions, if the Board has not certified or if the employer has not recognized, representative as their representative under section 9."³ Congress has consistently rejected the notion that company-domi-

nated labor organizations are acceptable as long as they do not attempt to negotiate a contract.

No good purpose is served by allowing the employer to choose and dominate the employees' representative. Cooperation is not truly furthered, because the employer is not really dealing with the employees if he is dealing with his own hand-picked "representative." An employer does not need the pretense of a team or committee if he only wants to cooperate with himself.

2. *Employer-formed teams, committees, and employee involvement plans that do not deal with the subjects of collective bargaining have always been legal. S. 295 is not needed to make them legal and serves no legitimate purpose*

Under section 8(a)(2) of the NLRA, employers are free to communicate with their employees about the terms and conditions of employment. Section 8(c) specifically guarantees employers the right of free speech, and section 9(a) protects the right of employees to present their grievances individually or in groups and the right of the employer to respond and resolve those grievances. The NLRB has upheld the right of employers to establish suggestion boxes and to establish groups of employees for brainstorming and for sharing information. *E.I. Dupont*, 311 NLRB No. 88 (1993).

The NLRB's 1977 *General Foods* decision, 231 NLRB 1232, made clear that employers have the right under section 8(a)(2) to set up production processes in which significant managerial responsibilities are delegated to employee work teams. In that case, employee teams, acting by consensus of their members, made job assignments to individual team members, assigned job rotations, and scheduled overtime among team members. As the NLRB took pains to emphasize in *Electromation*, 309 NLRB 990 (1992), section 8(a)(2) does not proscribe employee involvement programs that deal with issues of productivity, efficiency and quality control. Where teams do not purport to represent other employees, they will not be considered labor organizations and will not run afoul of section 8(a)(2) even when they stray from issues of quality and productivity and enter a grey area on issues relating to wages, hours, and working conditions. *NLRB v. Streamway Division of Scott & Fetzer Co.*, 111 LRRM 2673 (6th Cir. 1982).

Finally, the NLRB and the courts have taken a common sense approach to section 8(a)(2) that ensures that companies will not violate the law if their employee involvement programs include isolated, occasional, or unintended instances of dealing with the subjects of collective bargaining. See *Vons Grocery Co.*, 320 NLRB No. 5 (1995), *Stoody Co.*, 320 NLRB No. 1 (1995), and *NLRB v. Peninsula General Hospital*, 36 F. 3d 1262 (4th Cir. 1994).

The flexibility of the law is reflected in the fact that employee involvement plans are widespread in American industry and are gaining in popularity. As the Majority admits, 75 percent of all employers surveyed by the Princeton Survey Research Associates in 1994, and 96 percent of large employers, already had employee involvement plans. By the Majority's own estimate, 30,000 employee involvement plans are already in operation. Section 8(a)(2) has not

3. S. 295 would legitimize employer conduct that should remain unlawful

The only decided cases the Majority has cited in support of its argument that section 8(a)(2) should be amended (*Electromation*, *EFCO Corporation*, and *Keeler Brass*) are cases that have nothing to do with quality circles, self-managed work teams, front-line efficiency, the introduction of new technology or work practices, or expanding employee decision-making.

As the NLRB wrote in *Electromation*:

[T]his case presents a situation in which an employer alters conditions of employment and, as a result, is confronted with a workforce that is discontented with its new employment environment. The employer responds to that discontent by devising and imposing on the employees an organized committee mechanism composed of managers and employees instructed to "represent" fellow employees. The purpose of the Action Committee was, as the record demonstrates, not to enable management and employees to cooperate to improve "quality" or "efficiency", but to create in employees the impression that their disagreements with management had been resolved bilaterally. 309 NLRB at 182 (emphasis added).

Far from being a legitimate cooperative effort on the part of management, the action committees at *Electromation* were nothing but a technique to manipulate the employees. As the Court of Appeals noted:

[T]he company proposed and essentially imposed the action committees upon its employees as the only acceptable mechanism for resolution of their acknowledged grievances. * * * *Electromation* unilaterally selected the size, structure, and procedural functioning of the committees; it decided the number of committees and the topics to be addressed by each * * * Also, as was pointed out during oral argument, despite the fact that the employees were seriously concerned about the lack of a wage increase, no action committee was designated to consider this specific issue. In this way, *Electromation* actually controlled which issues received attention by the committees and which did not.

In *EFCO*, 17-CA-16911 (1995), the Administrative Law Judge (ALJ) found that the employee committees in question, which dealt with benefit issues relating to employee stock option plans and profit sharing, were different from those in *Electromation* only "in form, not substance." (17-CA-16911 at 28.) He found that *EFCO*'s committees were established unilaterally by management, which chose the initial membership, participated in almost all of the meetings, the various committees, and selected some of the issues the committees dealt with.

maintaining an invalid no-solicitation rule, creating the impression of surveillance, and soliciting grievances from employees.

EFCO's employee committees did not empower workers. They were created or revived in the context of an organization drive by the United Brotherhood of Carpenters, which began organizing *EFCO* in 1991 and had assigned two additional organizers to the campaign as employees in 1992.

EFCO's committees were delegated no real power, and *EFCO* reserved for itself the authority to decide which recommendations, suggestions, policies, safety rules, and employee benefits would be adopted. In particular, the safety committee had "lapsed into inactivity" for some three years until its reactivation during the organizing drive. The ALJ found that the safety committee was not taken seriously by the employees, that there was "widespread disregard, even ridicule, of the safety committee's efforts to improve plant safety."

In *Keeler Brass*, 317 NLRB No. 161 (1995), the employee committee in question was established to handle employee grievances. The Board found that, rather than empowering employees to handle grievances free of company influence, the company dominated the committee by determining the committee's membership eligibility rules, approving candidates, conducting the election, counting the ballots, and soliciting employees to vote for particular committee members.

Since the activities found violative of section 8(a)(2) in *Electromation*, *EFCO* and *Keeler Brass* had nothing to do with quality circles, self-managed work teams, increasing efficiency on the front-lines, improving the quality of a product or service, introducing new technology or work practices, or expanding employee decision-making, these cases do not support the majority's contention that section 8(a)(2) needs to be amended.

The other two cases cited by the majority, *Polaroid*⁴ and *Donnelly*,⁵ have not yet been tried by an ALJ. Moreover, the *Donnelly* Equity Committee, by claiming to be the exclusive collective bargaining representative of workers at one of its plants, would still be illegal under S. 295. The bill expressly excludes committees which "claim or seek authority to negotiate or enter into collective bargaining agreements."

Testimony provided to the committee by Alan Reuther, Legislative Director of the United Automobile, Aerospace, and Agricultural Implements Workers Union (UAW), recounted efforts by *Donnelly* to use its company-created Equity Committees to thwart organizing efforts by the UAW. In particular, Mr. Reuther testified that *Donnelly* had actively resisted the UAW's organizing drive, distributing anti-union literature to workers while trying to bolster the credibility of this Equity Committee by expanding worker representation and referring to the committee's work as a "grievance resolution process."

According to Reuther, 70 percent of the employees signed authorization cards that designated the UAW as their representative and asked for a representation election. *Donnelly* then de. . . .

cret ballot union representation vote by prompting the "Equity Committee" to seek resolution of pending unfair labor practices prior to the vote.

In short, the Equity Committees so vigorously defended by Donnelly are neither democratic nor independent. Members are not elected by employees in a secret ballot, but appointed by supervisors or a public show of hands. Donnelly finances the activities of its committees and sets their agendas, and members have no authority to investigate grievances independently.

The case law cited by the majority in support of the TEAM Act does not justify the sweeping changes to §8(a)(2) the majority has proposed. As Professor Charles Morris has written, *Electromation* is a case "more significant for its hype than its type."⁶ The same might also be said of *Electromation's* successor cases.

4. The real purpose of S. 295 is to impede union organizing

As Senator Wagner recognized, company-dominated labor organizations are a major obstacle to the development of real unions that represent employers vis a vis their employers and that can help them achieve improvements in their wages and working conditions.

James Rundle, a researcher at Cornell University, has shown that employers that institute employee involvement plans after a union organizing campaign has begun are much likelier to defeat the union than employers who do not institute such plans. Other researchers, including Fiorito, Grenier, Bronfenbrenner, and Juravich, have also found profound negative effects on union organizing where employers institute such plans, especially where the plan or committee deals with the employer on pay or discusses the union organizing campaign.

Not surprisingly, employers know about the effect of employee representation plans on union organizing, and union avoidance is an explicit purpose of many such plans. As Charles Morris reports in his law article, "Deja Vu and (a)(2), What's Really being Chilled by *Electromation*," a study of employee representation plans published by the Harvard Business School Press in 1989 found that in every company studied, managers cited the plans as "a valuable and proven defense against unionization."

Electromation is a perfect illustration of how company-dominated employee committees impede union organizing, and how their disestablishment pursuant to section 8(a)(2) promotes employee empowerment by protecting the right of employees to form independent labor organizations. The International Brotherhood of Teamsters petitioned for an election in 1989, while the "action committees" were in operation. The company mounted a vigorous anti-union campaign and suspended the committees until after the election. The union lost the election. A second election was held after a National Labor Relations Board Administrative Law Judge found the action committees to be in violation of section 8(a)(2) and ordered them disbanded. The union won the election. Subsequently, after a de-certification petition was filed, a third election was held, and the union won that vote, too.

If the proponents of S. 295 had their way, the employees at *Electromation* would never have voted for a union. Today, the workers have a 3-year collective bargaining agreement that their union negotiated on their behalf.

5. S. 295 ignores the real impediments to employee involvement and empowerment

According to the majority report, the *Electromation* decision marked the beginning of the end of employee involvement, leaving employers in a "legal never-never land."

There were only 87 cases in 1994 in which employers were required to disestablish employee participation committees. By contrast, there were 7,947 orders in 1994 requiring employers to reinstate employees they had unlawfully discharged, and 8,559 orders for backpay.

In fact, it is employees who are seeking empowerment through a union who are in a legal never-never land. Their right to free association and free choice about representation has not been protected, and tens of thousands of them have suffered at the hands of anti-union employers. If the committee were truly concerned about employee involvement it would strengthen the remedies for unlawful discharge and seek ways to deter employer violations—particularly during union organizing campaigns. The right to form a union is not effectively protected by remedies that may take 3 or more years to obtain, long after the representation election they were meant to affect has been lost.

Employer violations of the rights of their employees to form and join a union have escalated dramatically over the years.

The proportion of NLRB elections in which union supporters are discharged is five times greater now than in the late 1950's. Union supporters are illegally fired in one out of four elections, according to the Dunlop Commission.

The effect of this widespread, unlawful employer activity extends far beyond the individuals who lose their jobs and the means to support themselves and their families. Employees all across the Nation are afraid to seek union representation. The Dunlop Commission found that 79 percent of workers say it is likely that employees who seek union representation will lose their jobs.

President Clinton and I want to continue that kind of partnership with the AFL-CIO. We are looking forward to their Union Summer activities, which are very promising. We look forward to working with them to prevent the kind of damage the Newt Gingrich-controlled Congress is attempting to do. And we believe that we will be successful. And then, of course, in November we are going to be working very hard together for the reelection of President Clinton and the Clinton-Gore ticket.

So, with that let me throw it open to your questions.

REPORTER: Did you talk about any of the other legislation in Congress and what the president would do?

GORE: Yes, the president will veto the TEAM Act or any legislation that attempts to create company dominated unions. That's not the American way. We don't support that. The president will veto the TEAM Act. And as has been previously said, any measure that eliminates Davis-Bacon would also be vetoed. I said that last year.

REPORTER: There have been some proposals and some ideas kicked around by Sen. Kennedy, Labor Secretary Reich and just a few moments ago Congressman Gephardt about trying to use the tax structure to get corporations to be better citizens. What's the president's position on that?

GORE: Well, we believe that a variety of measures are warranted in the area of education, health care and child care. The president publicly called for passage of the Kennedy-Kassebaum Bill which requires portability of pensions.

The president has called for a tax deduction for educational expenses for college or technical school, up to \$10,000. Where individual employees are concerned, of course, one of the biggest changes in our tax code in recent years was the change called for and passed by President Clinton to vastly expand the earned income tax credit. It has given a reduction of taxes of more than \$1,000 per family -- up to \$1,600 per family of four -- for families making under \$26,000 per year. That's been a huge change for the better because it is in those amounts spread out over so many millions of families. It doesn't get the headlines, it doesn't get the attention, but it has been a very big change. For the first time in 25 or 30 years, just in the last two years we have begun to see a slow rise in every income category. It's not enough. As I've said before, we want to take steps to accelerate it dramatically. Incidentally, one other measure that will very effectively deal with this growing gap between the rich and the poor would be an increase in the minimum wage.

I talked about that at some length in the meeting, as well. This year, without changes, the minimum will fall to a 40-year low, after you adjust for inflation. President Clinton and I believe the minimum wage must be increased. Every single Republican candidate is opposed to an increase in the minimum wage and the Republican majority leader in the Congress said he would fight any increase in the minimum wage with every breath in his body. Can you imagine? A person in a position like that, when the minimum wage is at a 40-year low, saying that he is going to fight any change with every breath in his body. It really is amazing.

But that's what the election is all about in 1996 -- whether wages are going to grow or continue to stagnate.

REPORTER: As unions step up their organizing activity, as they have promised, more American workers will be faced on the job with a choice, yes or no on a union. How do you recommend they vote on that?