That faith can be bolstered by: participation in the community, information gathering that is fair and accurate and balancing our endeavors. We need to sacrifice our personal wants and needs for the common good.

America, I need to go—I have another call, but don't worry, I'm not hanging up on you. I'm putting you on hold or on an answering service. You can call me collect anytime. I owe America and I guarantee I'll repay my debt in the 21st century.

I'll take charge of a local reforestation project and participate in discussions affecting my local area or even the nation. I'll make sure and stay informed and help others to do the same. Freedom is a part of the human spirit and helping others is what freedom is all about.

Thank you, young person for taking the time to listen to my call for action. If I have gotten through to you then there is hope for all of us.

Always remember what President Truman said at his inaugural address: ''Only by helping the least fortunate of its members can the human family achieve the decent, satisfying life that is the right of all people.''

## TRIBUTE TO THOMAS E. MOSELEY

### HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 23, 1996*

Mr. TEJEDA. Mr. Speaker, I rise to pay tribute to a veteran of education, Mr. Thomas E. Moseley. Mr. Moseley has touched the lives of students for 41 years, expanding minds and intellects as a teacher, a coach, a principal, and as superintendent. Mr. Moseley will retire at the end of this school year, and I could not let this event pass without commenting on his many achievements.

Mr. Moseley has served on every level of education. He began as a biology teacher and golf coach, first at Hondo High School and later at Robert E. Lee High School in San Antonio. After serving as a teacher and a State champion golf coach at Lee High School for 4 years, he moved up as the assistant principal of the school. Five years later, Mr. Moseley achieved the rank of principal of Nimitz Middle School. He held this title for 3 years and then moved over to Roosevelt High School to serve as principal. In 1980, Mr. Moseley became the superintendent of the Fort Sam Houston school district, where he has served for the past 16 years. Through these work experiences, Mr. Moseley developed a philosophy which took schools to higher educational levels.

As superintendent of Fort Sam Houston ISD, Mr. Moseley achieved numerous personal and educational honors. Both of the Fort Sam Houston schools have been named blue ribbon schools by the U.S. Department of Education through their excellence as impact aid schools. The Texas School of Business named Mr. Moseley the ''March Educator of the Month'' in 1990. In 1986, Mr. Moseley was named as ''Superintendent of the Year'' by region 20, an honor which speaks for itself. The University of North Texas named the educator ''Outstanding Alumni of the Year'' in 1992. In addition to his many honors, he currently serves on the University of North Texas Alumni Board, the USO Board, the Texas Academic Decathlon Board, as well as the Greater San Antonio Chamber of Commerce.

However, if Mr. Moseley were standing with me here today, he would not allow me to brag about his achievements. He is most honored by his students, his teachers, his friends—the people who benefited from his leadership and personal philosophy. Mr. Moseley's style of leadership is best described by his quote, ''much can be accomplished if you don't mind who gets credit.'' This justly sums up Mr. Moseley's method of leadership. This educator believed in the education business. He saw teaching as a service to the classroom and the students. His decisions on administration duties, teaching priorities, even coaching, were always based on what was best for the kids. Through the actions of Mr. Moseley, others benefited.

Mr. Thomas E. Moseley will close the book this year on one of the most successful educational campaigns—his own. As the educational career of this 41-year veteran comes to a conclusion, I stand here to applaud him for a job well done. Mr. Moseley, thank you for instilling the value of education in the numerous lives that you have touched. Thank you for your dedication to impact aid schools and the schools of San Antonio. I trust that in your retirement you will touch just as many lives as you have in your educational career.

## IN SUPPORT OF H.R. 3249, THE MARINE MINERAL RESOURCES INSTITUTE ACT

### HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 23, 1996*

Mr. WICKER. Mr. Speaker, today I am pleased to join my colleague from Hawaii, Mr. ABERCROMBIE, in support of H.R. 3249, legislation to continue a valuable marine minerals resource program. Since its inception in 1988, this program has had as its primary goal the environmentally responsible exploration and development of mineral resources found within our Nation's Exclusive Economic Zone [EEZ]. This region covers more area than the United States proper and contains a resource base estimated in the trillions of dollars. By successfully merging the skills of academia and the talents of industry, this program is working to place the United States well above its international competitors in underwater technology development. At the same time, this program invests in the future by providing graduate students with first-hand training in marine mineral development.

At present, the United States is in danger of being surpassed by other nations that are aggressively pursuing the development of environmentally friendly ocean mining technology. Japan, the United Kingdom, France, and China, in particular, have devoted considerable time and money toward developing such technologies and promoting industry support. This program directs successful applied research efforts with numerous concrete accomplishments. To meet future challenges, researchers are working to develop surveying and sampling systems for use in locating important mineral deposits. The systems can be used for locating sand resources for coastline stabilization and beach replenishment. In addition, they are essential in assessing and monitoring pollutants in river and oceanic sediments. Researchers are also working to develop an acoustical filter system to control dredging turbidity and to process industrial waste.

For a relatively small input of Federal money, a strong relationship has been forged between Federal, academic, and industry teams to address problems in marine resources and the environment. I ask my colleagues to join us in supporting this exceptional program.

## COOPERATIVE TEAMS IN THE AMERICAN WORKPLACE

### HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 24, 1996*

Mr. SAWYER. Mr. Speaker, I rise today to insert in the RECORD the text of an address recently given by National Labor Relations Board Chairman William B. Gould on the subject of cooperative teams in the American workplace. I believe it is a significant contribution to the ongoing congressional debate on the legality of employee involvement structures.

Currently, the National Labor Relations Act prohibits employer-dominated teams if they discuss wages, hours or other conditions of employment. That policy was enacted over 60 years ago to prevent employers from setting up company unions as a means to block employee efforts to obtain truly independent representation for the purpose of collective bargaining.

Last year, Congressman STEVE GUNDERSON introduced H.R. 743, the Team Act, which was intended to make all workplace teams legal, regardless of the content of their discussions. When the House considered H.R. 743, I offered a substitute amendment that was intended to protect legitimate employee involvement structures, without allowing employer-dominated sham unions.

My substitute would have clarified that teams established to discuss productivity, efficiency or other competitiveness issues are currently legal under the National Labor Relations Act. More importantly, it would also have preserved one of the fundamental tenets of the NLRA—that employees must be able to choose effective independent representation for discussions of terms and conditions of employment, such as hours, wages, and other matters typically discussed in collective-bargaining negotiations.

However, my substitute also recognized that such issues are sometimes inextricably linked with competitiveness. It would have protected legitimate workplace teams, even if their discussions occasionally touched on directly related conditions of work.

In his speech, chairman Gould expresses support for this type of approach and issues a broad call for allowing the NLRB to conduct its statutory responsibility to apply the basic principles of the NLRA to specific cases. He specifically voices opposition to the Team Act, and makes the case that recent Board decisions have begun to address the concerns of Team Act supporters. He also reviews his successful efforts since becoming chairman 2 years ago to streamline and improve the Board's decision-making process.

Mr. Speaker, the Senate has begun to consider the legality of workplace teams, so these issues may be before the House again soon. In preparation for this, I commend chairman Gould's speech to my colleagues.

NATIONAL LABOR RELATIONS BOARD
LUNCHEON ADDRESS

(By William B. Gould IV, Chairman)

I am honored to address this Seventeenth Annual Labor-Management Relations Seminar, which has a long history of constructive contributions to labor-management relations in the United States. It is a pleasure to be here to discuss with you some of the recent developments and issues of current concern involving the National Labor Relations Board.

Not only is this a chance to access the direction of the Board on the eve of the second anniversary of my confirmation as Chairman by the Senate—but also on a more personal note on that same day, March 2, I will be in Los Angeles to attend the wedding of my second oldest son, Timothy Samuel Gould, the first of the three Gould boys to exchange marital vows. Thus, both professionally and personally, it is a time for celebration as well as reflection about the past and contemplation on the years to come.

The two years have passed quickly and have been a real learning experience, not so much in labor law—though I am continuously dazzled by new doctrines and precedents which somehow escaped my scrutiny in a quarter of a century of teaching and writing and 6 years of practice—but in the ways and politics of Washington. This was not new to me in an intellectual sense, but to live it has been a unique experience.

As you know, the TEAM Act was passed by the House of Representatives in September 1995, and is now pending before the Senate.

That bill would make inoperative Section 8(a)(2)'s strictures against employer dominated or assisted labor organizations to most situations where a ''sham'' union necessitates the intervention of law. My sense is that the TEAM Act is an inappropriate response to whatever problems exist under Section 8(a)(2) and that they would promote the rise of sham or dependent labor organizations, a result most undesirable under a statutory policy which promotes autonomy and self-determination. And, most important, the Board since last summer, has attempted to affirmatively promote legitimate employee cooperation programs under the statute as written.

As you know, there are two parts of the legal problem under the NLRA. In order for a company union problem to arise under Section 8(a)(2) an employee organization must be found to be a ''labor organization'' within the meaning of the Act. In this regard, the Supreme Court in NLRB v. Cabot Carbon Co. established an extremely broad definition for labor organization almost 40 years ago—it covers far more entities than unions which we typically think of as labor organizations—and, thus, has made many such employee mechanisms fit the statutory definition.

This is an important part of the problem because an organization can be only ''unlawfully'' assisted or dominated under Section 8(a)(2) if it meets the labor organization test. Last summer I addressed both issues in my separate concurring opinion in Keeler Brass Co. Though I found that the Grievance Committee in that case was a labor organization within the meaning of the Act, I explicitly stated that I would not find other employee groups to fall within the definition. I stated that I agreed with the Board decisions of the 1970s which had held employee participation groups not to be labor organizations. In those cases the Board held that employee groups which rendered final decisions and did not interact with management performed ''purely adjudicatory functions'' which had been delegated to it by employers and thus did not ''deal with'' the employer within the meaning of Section 2(5) of the Act which defines a labor organization. I stated that I fully agreed with the Board's decision and rationale in those cases and that they are '. . . consistent with the movement toward cooperation and democracy in the workplace which I have long supported,'' I further stated:

''This movement is a major advance in labor relations because, in its best form, it attempts nothing less than to transform the relationship between employer and employees from one of the adversaries locked in unalterable opposition to one of partners with different but mutual interests who can cooperate with one another. Such a transformation is necessary for the achievement of true democracy in the workplace. However, it does pose a potential conflict with the National Labor Relations Act, enacted in 1935 at at time when the adversarial struggle between management and labor was at its height.''

In Keeler Brass I concluded that the Committee, since it did not have the authority to adjudicate, was not covered by the precedent which I embraced in that opinion. Since it made recommendations about grievances and employment conditions—recommendations about which the Committee was not the final arbiter—it was a labor organization within the meaning of the Act. Accordingly, I then considered the question of whether the employer had unlawfully dominated or interfered with the labor organization in question.

In considering this issue I stated my approval of the Court of Appeals for the Seventh Circuit's approach to this issue in the landmark Chicago Rawhide decision. The court established in that case, as I noted in my concurring opinion, a demarcation line between support and cooperation. As I said:

''The court defined support as the presence of 'at least some degree of control or influence,' no matter how innocent. Cooperation, on the other hand, was defined as assisting the employees or their bargaining representatives in carrying out their 'independent intentions. The court went on to find that assistance or cooperation may be a means of domination, but that the Board must prove that the assistance actually produces employer control over the organization before a violation of Section 8(a)(2) can be established. Mere potential for control is not sufficient; there must be actual control or domination. The court set forth the following test: 'The test of whether an employee organization is employer controlled is not an objective one but rather subjective from the standpoint of the employees.'''

I said in Keeler Brass—and say here again today—that I approve of the Seventh Circuit's statement holding promoting good and cooperative relationships. I also agree that the subjective views of the employees must be taken into account as the Seventh Circuit said in both Chicago Rawhide and Electromation—but that to rely completely upon employee satisfaction would undermine extant Supreme Court precedent.

Although the employee cooperative program in Chicago Rawhide originated with the employees, I said in Keeler Brass that an employee group does not have to originate with employees but can be promoted or suggested by the employer and not run afoul of the prohibitions against assistance and domination. As I said:

''I do not think these efforts are unlawful simply because the employer initiated them. The focus should, instead, be on whether the organization allows for independent employee action and choice. If, for example, the employer did nothing more than tell employees that it wanted their participation in decisions concerning working conditions and suggested that they set up a committee for such participation, I would find no domination provided employees controlled the structure and function of the committee and their participation was voluntary.''

Thus, I noted in *Keeler Brass* that the factors in favor of dismissal were that the employer did not create the committee in response to a union organizational campaign, that the committee was voluntary and employees were the voting members of the committee and all of them were elected by employees. Accordingly, I was of the view that there was some measure of free choice and ''scope for independence.'' On the other hand, the fact that the employer set time limits for terms for membership, established eligibility rules and election procedures and conducted the election, announced the results of the election, dictated the number of employees who could serve on the committee, established meeting days and allowed special meetings to be held only with management approval argued in favor of unlawful domination. As I said:

''These elements of control indicates that the committee is not capable of action independent of the employer. Perhaps the most telling aspect of dependency is that the committee cannot even make a decision about when it will meet without prior approval from the employer.''

I am of the view that the Board in these past two years moved closer to the support for employee cooperative programs which I expressed last summer in a series of decisions issued on December 18, 1995. For instance, in *Stoody Company* a unanimous Board said: ''We support an interpretation of the Act which would not discourage such [employee participation] programs.'' In this case the employer created a committee, the Handbook Committee, to gather information about sections in the handbook which were inconsistent with the current practice, that were obsolete or that were misunderstood by employees. The committee was not established to discuss wages, benefits or working conditions. But during the only meeting of the committee, which lasted one hour, employees raised questions concerning vacation time and the employer's representative participated in these discussions. Subsequently, the company stated again that the committee was not designed to discuss such subjects.

The Board in *Stoody Company* rejected the view that the employee group in question was a labor organization within the meaning of the Act. Thus, the prohibitions regarding unlawful assistance and domination were inapplicable. In an important passage which ought to get the attention of the Senate when it considers the TEAM Act in the coming months, the Board said the following:

''Drawing the line between a lawful employee participation program and a statutory labor organization may not be a simple matter because it may be difficult to separate such issues as operations and efficiency from those concerning the subjects listed in the statutory definition of labor organization. If parties are burdened with the prospect that any deviation, however temporary, isolated, or unintended, from the discussion of a certain subject, will change a lawful employee participation committee into an unlawfully dominated labor organization, they may reasonably be reluctant to engage in employee participation programs.''

The Board then noted that employees had initiated the discussion of working conditions which would have argued for a labor organization finding and said the following:

''What happened here appears to us to be the kind of situation that is likely to occur when an employer is attempting something new and its supervisors have little or no experience with participation efforts. Absent evidence of a pattern or practice, or of a design to interfere with the organizing efforts of an independent labor organization, we do not think such conduct violates the Act.''

The labor organization aspect of this issue was also presented in *Webcor Packaging, Inc.* where a plant council was designed to offer recommendations to management about proposed changes in working conditions, such as wages, and management would consider whether to accept or reject these recommendations. The Board found that the council existed to deal with variety of grievances involving employment conditions including issuing employee vacation paychecks, payment for safety shoes. Unlike the cases which the Board had decided in the '70s in which I found to be appropriate decisions in *Keeler Brass,* the council had no authority to make decisions on its own. All that was involved was an obligation on the part of management to take the matter under advisement and consider the employee proposal very seriously. Said the Board:

''We accordingly conclude that the record evidence establishes that the Plant Council existed for the purpose, at least in part, of following a pattern or practice of making proposals to management which would be considered and accepted or rejected, and that such a pattern in fact occurred.''

''Accordingly, the Board found that the council was a labor organization which was ''dealing with'' management. Since the record established that the council was a creation of management and that its structure and function were essentially determined by it, unlawful domination under Section 8(a)(2) was found to exist.''

In another decision, Vons Grocery Co., the question was whether an employee participation group interfered with the union's role as exclusive bargaining representative. In this case, the employer created an entity known as the Quality Circle Group (QCG). The group dealt with dress code matters and an accident point system for truck drivers, reaching agreement on the former matter. We concluded that there was no pattern of practice of making proposals to management and that the proposals on a dress code and accident point policy were ''. . . an isolated incident in the long life of the QCG.'' And we noted that even in that situation, the union was informed of proposals and brought into consultation before any decision was made. When the union complained about the role of QCG representatives, the employer immediately changed the format so as to include a union steward at each meeting. The Board concluded, in a vein similar to Stoody, that one incident did not make a pattern of practice of dealing with the employer within the meaning of Section 2(5). We thus dealt with this matter in a manner similar to our conclusion in Stoody. We said:

''In sum, we do not believe that this one incident [the dress code and accident policy] should transform a lawful employee participation group into a statutory labor organization. We do not believe that what happened here poses the dangers of employer domination of labor organizations that Section 8(a)(2) was designed to prevent.''

These four December 18 decisions are all compatible with the strong support for employee cooperation that I articulated in my July 14, 1995 concurring opinion in Keller Brass. Acceptance of this approach makes it clear that the TEAM Act, as presently drafted, is unnecessary.

Nonetheless, as I wrote 3 years ago in Agenda for Reform, a revision of Section 8(a)(2) is desirable. The difficulties involved in determining what constitutes a labor organization, under the Act as written, subjects employees to unnecessary and wasteful litigation and mandates lay people to employ counsel, when they are only attempting to promote dialogue and enhance participation and cooperation.

The law's insistence upon a demarcation line—a line admittedly made less rigid by the common sense approach that we undertook in both Stoody and Vons Grocery—between management concerns like efficiency on the one hand, and employment conditions on the other, simply does not make sense. The line is synthetic and inconsistent with contemporary realities of the workplace where it is impossible to distinguish between the pace of the work or production standards and quality considerations for which all employees can and should have responsibility.

Accordingly, Congress and the President should amend Section 8(a)(2) so as to allow all employee committees and councils and quality work circles to function, addressing any and all subjects outside any cloud of illegality—and to allow employers to devise proposals and assist such mechanisms free from liability so long as employee automony is protected and respected. In connection with such employee groups, the Act's prohibition against assistance should be eliminated altogether. In this way, employee participation and involvement would be promoted, sham unions discouraged, and wasteful, sometimes acrimonious litigation about what constitutes a labor organization eliminated. But this is hardly the answer to what ails Section 8(a)(2) set forth in the TEAM Act.

This was the objective of Congressman Thomas Sawyer's bill which he proposed last fall as a substitute for the TEAM Act. It was designed to encourage productivity and quality teams without opening the door to sham unions—which I believe is a constructive approach.

We must move beyond the ''them and us'' mentality of an adversarial model which exclude cooperation between employees and management. Employees should be able to collaborate with management in establishing such teams, setting the agenda for meetings, determining voting procedures for election of representatives and on debated issues.

Only a month ago, in his State of the Union message, President Bill Clinton said:

When companies and workers work as a team, they do better. And so does America.

The President's road is the road of dialogue, cooperation and settlement processes rather than litigation. That is the road taken by our small and independent administrative Agency through our new ALJ rules, my concurring opinion in Keeler Brass and our December 18 rulings.

## HONORING THE TAYLORS CROSSROADS VOLUNTEER FIRE DEPARTMENT

### HON. BART GORDON

OF TENNESSE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 24, 1996*

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Taylors Crossroads Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, ''These fireman must have an overwhelming desire to do for others while expecting nothing in return.''

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

## CHERNOBYL NUCLEAR DISASTER RESOLUTION

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 24, 1996*

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to introduce a resolution which recognizes the 10th anniversary of the Chernobyl nuclear disaster, the worst in recorded history, and supports the closing of the Chernobyl nuclear powerplant. Yesterday, I chaired a Helsinki commission hearing that examined the devastating consequences of the Chernobyl disaster. That hearing, Mr. Speaker, featured the ambassadors of Ukraine and Belarus, the two countries most gravely affected by the disaster. Professor Murray Feshback of Georgetown University and Alexander Kuzma of the Children of Chernobyl Relief Fund also provided sound scientific and medical details about the public health crisis that exists.

A decade ago, in the early morning hours of April 26, 1986, reactor No. 4 at the Chernobyl nuclear powerplant exploded, releasing into the atmosphere massive quantities of radioactive substances. The highest amount of radioactive fallout was registered in the vicinity immediately surrounding Chernobyl, some 60 miles north of Ukraine's capital, Kiev. At that time, the prevailing winds were directed north to northwest, so that Belarus received some 70 percent of the total radioactive fallout. Subsequent shifts of the wind, and rainfall, affected northern Ukraine, southwest Russia and beyond, with excessive levels of radiation recorded in northern Scandinavia, various parts of continental Europe, and even as far away as coastal Alaska. Estimated total radioactivity from the blast was 200 times more radioactivity than was released from the atomic bombs dropped at Hiroshima and Nagasaki combined.

Ten years ago, Mr. Speaker, Chernobyl left its indelible mark on the world's consciousness. Given the monumental consequences of Chernobyl and its devastating toll on the environment and on the health of the surrounding