the distinguished senior Senator from New York for contributions he has made in bringing this tax legislation to a successful conclusion. I can say in all honesty, it would not have happened without his wise counsel, his advice and willingness to work across the aisle. I greatly appreciate it.

I also wish to express my appreciation to the many staff people who worked so hard to bring this legislation to the Senate floor. While many of us were back home, perhaps working hard there in local offices, or celebrating our Nation's birthday, we had many, many staff members from Senator MOYNIHAN's office, the staff of the two leaders, as well as mine, dedicating long hours to trying to bring this legislation that we have just voted on to conclusion.

I would like to especially mention Lindy Paull, Frank Polk, Mark Prater, Rosemary Becchi, Sam Olchyk, Doug Fisher, Lori Peterson, Brig Gulya, Tom Roesser, as well as Mark Patterson, Jon Talisman, Patti McClanahan, and Maury Passman for their excellent work.

For the managers' amendment, I would like to express my thanks to Annette Guarisco and Susan Connell, of Senator LOTT's office.

From Senator DASCHLE's office: Larry Stein, Alexandra Deane Thorton, Glenn Ivey, Leslie Kramerich.

Again, I thank Senator MOYNIHAN and his very excellent staff for their help and cooperation.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to reciprocate and thank Mark Patterson and making a doubly reference to Lindy Paull.

This was the first major tax bill that our distinguished chairman has reported out of his committee and to the floor. I think it is a tribute to the way he has handled this matter, and it reflects his career in the Senate, that the bill passed by a 3-to-1 margin, 74 to 24. There will be no discussion of vetoes anywhere else in town. We will now appoint conferees.

I would like to say from our side that we look to the leadership of the chairman in conference. I am sure we will insist on our measures, and I expect to come back wholly pleased and honored by the association and more than pleased with the outcome.

Mr. KENNEDY. Mr. President, the vote earlier on the minimum wage was a resounding victory for the minimum wage, and a convincing repudiation of a cynical attempt to kill the bill. The Senate rose to the occasion to have the minimum wage. President Clinton can sign this bill with pride.

Enough is enough is enough. It has been a long time since Congress acted to make the minimum wage a living wage. Along with Social Security and Medicare, the minimum wage is one of the three most successful social programs ever enacted. In this context we have protected Social Security, we have protected Medicare, and today we are protecting the minimum wage.

Today's vote means that millions of Americans will soon receive the long overdue increase they deserve in the minimum wage. Today's vote means that a solid majority of the Senate has kept the faith with the fundamental principle of the minimum wage. No one who works for a living should have to live in poverty.

Today's vote means that minimum wage workers are no longer the invisible Americans. We see them every day—the child care workers who care for children, the health care aides who care for patients in hospitals, and senior citizens in nursing homes, teachers' aides who labor in the classroom to educate their pupils, and the millions of other Americans who work hard days and long hours to make America work. Their work is indispensable to our country. And today the Senate gave them a helping hand.

The minimum wage has not gone up in 5 years. We all know that the gap between the rich and poor is widening in America. The economy may be doing well. But the benefits are flowing primarily to those at the top.

Corporate downsizing and layoffs may not affect the wealthy, but the vast majority of Americans are being left out and left behind, and those at the bottom of the ladder are being left farther behind.

They need our help, and today they received it.

TEAMWORK FOR EMPLOYEES AND MANAGEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 295, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 295) to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senate is now considering S. 295. Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I am going to speak for a moment about the full bill, the Teamwork for Employees and Management Act, which has been called the TEAM Act, and why I think this is an important piece of legislation.

It is important because it improves the quality of life for workers on the job as well as the quality and productivity of American firms competing in the global marketplace. We are in a new era, Mr. President, and because of global competition I think we need to look at new and innovative ways in which we can encourage a cooperative spirit in the workplace. This is why I think this legislation is important and why I hope my colleagues will support this with a strong vote.

The Senate has already spent a considerable period of time debating the TEAM Act. As I stated earlier in that debate, it responds to a series of decisions by the National Labor Relations Board that cast doubt on the legality of employee involvement programs, particularly in nonunion settings.

For instance, just last December, the board invalidated an employee involvement program in my own State of Kansas. A committee of workers and managers at Dillon's stores in Wichita, Newton, and Wellington, KS, met quarterly to discuss workplace issues and minutes of the meetings were then distributed to all employees. Employee representatives served voluntarily on the committee for 1-year terms and were elected by secret ballot.

Over the course of 7 years, the committee discussed such issues as whether the company would begin providing day care services for workers; whether Dillon's stores would begin providing a gym for workers to exercise in; whether better lifting equipment could be used for stocking shelves; whether the no-smoking lounge could be better maintained and a total no-smoking policy be implemented; and whether safety goggles could be provided for bakery employees.

These commonsense suggestions, Mr. President, are precisely the type of contributions that we need to promote. It is the type of discussions regarding the environment that both employees and employers are involved in that I think just make good sense for us today. There is nothing devious about this. This is not an attempt to try to diminish the unions. These are, however, issues that are of importance to every employee, and they are issues which the employers should care about as well.

Supervisors might not be focused on day care or new ways to stock shelves or the need for safety goggles, but these are the issues of concern for workers. Regrettably, the National Labor Relations Board said that discussing these issues in worker management committees violated Federal labor law.

Mr. President, I continue to be surprised by the level of opposition that some Members of the Senate express toward employee involvement. Quite simply, the TEAM Act removes the barriers in Federal labor law that prevent workers and supervisors from meeting in committees to discuss workplace issues.

I thought I might take a moment just to read the language of the TEAM Act, since I think it is very straightforward. The bill states that it shall not be illegal 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.

This language is clear. It says that Federal labor law will not prevent supervisors and workers from discussing matters of mutual interest. I do not think we need to fear these type of discussions in the workplace. If so, we have already created a hostile environment—one that is full of dissension, potentially, among employees and between employees and employers.

Some opponents of the TEAM Act suggest that workers will be exploited if the TEAM Act becomes law. But I fail to see why these discussions about workplace issues exploit workers.

The law seems to be clear that employers in nonunion companies unilaterally can address workplace issues. For instance, in the Dillon's stores that I mentioned a few moments ago, the company could decide on its own to provide safety goggles, to begin day care or to expand a no-smoking policy, but the management probably did not know these issues were important for workers.

That is not to say employers should not have known that these issues were important, but as we have seen all too often over the years there is a lack of communication that many of us think often takes place between employers and employees. This legislation is simply designed to encourage communication, and to make sure that there is an understanding that they will not be in violation of the National Labor Relations Act.

Under the TEAM Act, workers retain the right at any time to select a union to represent them, and firms must recognize and bargain with the union once workers choose that representation. The TEAM Act is clear that employee teams may not ''have, claim or seek authority to negotiate or enter into collective bargaining agreements.''

This legislation is not a camel's nose under the tent. This is not an effort to have a sham type of union. All these have been accusations that have been made that clearly are not true nor were ever the aim of this legislation.

In the 1930's, employers did create company unions to compete with independent unions that workers chose. The employer would then refuse to bargain with the independent union in favor of the company union.

Significantly, this practice would be patently illegal under the TEAM Act. Once the workers seek the union the employer must recognize the union as the employee representative. Employers may not use teams to bypass an independent union.

I have an amendment to be offered later that will make crystal clear that the TEAM Act does not apply once workers have selected union representation.

I have an additional point that I would like to make regarding employee exploitation. During our hearings in the Labor Committee, we heard from workers who participate in employee teams. I think that all the Senators who heard the Labor and Human Resources Committee hearings were impressed with the workers. They are the ones who enjoy teamwork. They are the ones whose ideas are implemented. They are also the ones whose economic future is at stake.

As Ms. Molly Dalman, a team member from Donnelly Corp. in Michigan testified:

> Our goal is to keep each other informed, to produce a high-quality product in the most efficient manner. This helps us to be competitive in the market * * *. I know my job, what I need to do, and how to do it, better than my team leader or any engineer. Therefore, I need to feel as if I have some control in my work area, and by working in teams, I have that control.

This is part of the hearing record. It exemplifies what many workers have said to us regarding their relationship in the workplace and why they believe this legislation would benefit them.

She concluded:

> I cannot imagine how any company could function without the active participation and support of all employees from all areas working together. Teamwork promotes a better working environment [and] a better company. I cannot envision [my company] without the support of its teams.

Another team member testified that her team dealt with multiskill work design, quality, training, rotation, and overtime guidelines. Not only was the ''product line much better equipped,'' she said, ''to respond quickly to a fast-paced, very sophisticated market,'' but she personally felt a greater degree of job satisfaction and ''just a sense of ownership.''

I think, Mr. President, that her comments exemplify what I feel. This is an important bill—it is one that should not be in any way viewed as something nefarious, something that we are trying to do to undermine the unions. It is designed to address the workplace as it exists today and give the employees a sense of being involved.

These workers are not being exploited. Instead, the TEAM Act gives workers the tools they need today, to do an ever better job. We need to harness our human resources, not to silence them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum and that the time be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is that the unanimous consent agreement allows for the introduction of an amendment with a 1-hour team agreement, 30 minutes on each side, on behalf of the minority leader or his designee.

AMENDMENT NO. 4437

(Purpose: To provide for a substitute amendment)

Mr. DORGAN. Mr. President, I call up an amendment under that unanimous consent request and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 4437.

Mr. DORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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 decision-making, 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) the prohibition of the National Labor Relations Act against employer domination or interference with the formation or administration of a labor organization has produced uncertainty and apprehension among employers regarding the continued development of employee involvement structures.

(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. LABOR PRACTICES.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end thereof the following new subsection:

''(h)(1) The following provisions shall apply with respect to any employees who are not represented by an exclusive representative pursuant to section 9(a) or 8(f):

''(A) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to meet with the employees as a group, or to meet with each of the employees individually, to share information, to brainstorm, or receive suggestions or opinions from individual employees, with respect to matters of mutual interest, including matters relating to working conditions.

''(B) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to assign employees to work units and to hold regular meetings of the employees assigned to a work unit to discuss matters relating to the work responsibilities of the unit. The meetings may, on occasion, include discussions with respect to the conditions of work of the employees assigned to the unit.

''(C) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to establish a committee composed of employees of the employer to make recommendations or determinations on ways 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 to discuss matters relating to the committee. The meetings may, on occasion, include discussions with respect to any directly related issues concerning conditions of work of the employees.

''(2) The provisions of paragraph (1) shall not apply if—

''(A) a labor organization is the representative of the employees as provided in section 9(a);

''(B) the employer creates or alters the work unit or committee during any organizational activity among the employer's employees or discourages employees from exercising the rights of the employees under section 7;

''(C) the employer interferes with, restrains, or coerces any employee because of the employee's participation in or refusal to participate in discussions with respect to conditions of work, which otherwise would be permitted by subparagraphs (A) through (C) of paragraph (1); or

''(D) an employer establishes or maintains a group, unit, or committee authorized by subparagraph (A), (B), or (C) of paragraph (1) that discusses conditions of work of employees who are represented under section 9 without first engaging in the collective bargaining required by this Act.

''(3) An employee who participates in a group, unit, or committee described in subparagraph (A), (B), or (C) of paragraph (1) shall not be considered to be a supervisor or manager because of the participation of the employee in the group, unit, or committee.''.

Mr. DORGAN. Mr. President, we are now discussing something called the TEAM Act, which to a lot of Americans will not mean very much. It is an acronym that talks about teamwork.

We have gone through a kind of interesting and difficult time in our country in recent years. We have seen a transition to a global economy, a period during which it has been, at least for some companies, difficult to deal with new rules of competition. These companies have had to deal with global competition, have had to experience the reality of competing with companies that produce elsewhere in the world and which have production facilities that are not required to meet the same rules or the same obligations as we are required to meet in this country.

They do not always have to worry about child labor laws. They do not have to worry so much about antipollution concerns, do not have to worry about things like minimum wages. The result has been that American enterprises find themselves competing with, in many cases, enterprises in other parts of the world that hire 12-year-old kids and pay them 24 cents an hour, throw chemicals into the water, pollution into the air, and produce a product and ship it to Pittsburgh or ship it to Denver or Bismarck or Topeka and sell it and compete against local businesses while they do that.

This has been an increasingly challenging time for American businesses. There are those who say—and I believe they are correct, especially the new breed of American entrepreneur—that the only way that we can meet this difficult international competition and do so successfully and do so in a way that allows us to win in international economic competition, is if we have more teamwork and if we have more cooperation between those who run American businesses and those who work for those businesses. I have no disagreement about that at all.

I think we have a requirement in this country, with the new global economy, to have educated, dedicated, motivated workers who come to the workplace and say, we want to be part of a team, we want to succeed, we want to produce good products and sell them at a good price and earn good wages, and we want the company to earn good money.

That is part of what this is all about. There is not a disagreement on the floor of the Senate about the value of teamwork. The disagreement exists about precisely how we would change the law to accommodate these concerns.

Most companies in this country already have work units, teams, employee groups that are established to talk about what those companies are doing, what their goals are, what their day is like, how to be more efficient. Most of the largest employers in America already have, in both unionized and nonunionized settings, employee involvement structures of one kind or another. That exists in some 30,000 workplaces in this country.

So it is not a case where this does not already exist. In fact, if you take a look at some of the case studies of some of the very successful companies in our country, you will see that they have established workplace teams in a very successful way. They have involved employees in helping make some of the decisions on how to produce most effectively and efficiently. So there is not going to be a disagreement on the floor of the Senate about whether teamwork is valuable. Of course it is.

The findings and purposes to the amendment that I have offered to the legislation being considered on the floor talks about the escalating demands of global competition. It requires an increasing number of employers to make changes in the workplace and changes in employee-employer relationships. I talk about the changes that involve an enhanced role for the employee in workplace decision-making. It is often referred to as employee involvement, which has taken a lot of different forms including self-managed work teams, quality of work teams, quality circles, joint labor-management committees, and many more. It is being done all across this country.

In addition to enhancing the productivity and the competitiveness of American businesses, these kinds of structures have had a positive impact on the lives of many employees, better enabling them to reach their potential as employees. I also point out that foreign competitors have successfully utilized employee involvement techniques. Congress has encouraged the same thing, as well.

However, having said all that, and wanting to encourage teamwork, let me emphasize that we want to encourage teamwork in the right way. We do not want someone to come to the floor of the Senate, or some group to come to the floor of the Senate and address a problem in a manner that causes more problems and more difficulties. That is what we fear the underlying bill does.

The amendment I am offering is very straightforward. There are some who say, and I think they are correct, that NLRB decisions have created uncertainty about the conditions under which certain employee involvement teams or organizations can be permitted or will be permitted, uncertainty about where the lines are and about what employers can do. To the extent that is correct, and I believe it is, there is that uncertainty that does exist. My amendment attempts to clarify those areas that are now causing such uncertainty, but it does so in a way that does not cause injury in a range of other areas.

My amendment creates certain safe harbors for employers who establish work units, quality circles and other employer-employee committees or teams, provided that working conditions are discussed only on an occasional basis incidental to the purpose of the committee. In other words, we do not want to have a circumstance where some employer-dominated committee—some employer-dominated committee—selected by the employer

for a specific purpose, runs off and gets involved in a whole range of discussions about matters that are more appropriately a part of collective bargaining or matters outside the purview of what is allowed in the NLRB.

In the legislation I have offered, we provide specific guidance in these areas, and I think we do so in a way that is appropriate. Page 4 of the amendment provides:

(A) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to meet with the employees as a group, or to meet with each of the employees individually, to share information, to brainstorm, to receive suggestions or opinions from individual employees, with respect to matters of mutual interest, including matters relating to working conditions.

(B) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to assign employees to work units and to hold regular meetings of employees assigned to a work unit to discuss matters relating to the work responsibilities of the unit. The meetings may, on occasion, include discussions with respect to the conditions of work of the employees assigned to the unit.

(C) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to establish a committee composed of employees of the employer to make recommendations or determinations on ways 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 to discuss matters relating to the committee. The meetings may, on occasion, include discussions with respect to any directly related issues concerning conditions of work of the employees.

When the U.S. House, the other body, debated this issue, there was an amendment offered by Congressman SAWYER that received, I believe, 204 votes. It did not prevail, but it was a very close vote and received some bipartisan support. The amendment I offer today is very similar to the Sawyer amendment that was offered in the House—identical with respect to the provisions, similar with respect to the language that establishes those provisions.

This is not a new subject. It was substantially debated in the House of Representatives. My colleagues who followed that debate will recognize that what I am attempting to do here in the Senate is exactly what Congressman SAWYER did in the House. I changed some of the language in the amendment but did not change the substance of the amendment itself.

Again, let me say that I believe cooperation in the workplace has merit. I believe it enhances our country's capability. It enhances the opportunity of businesses to be more productive, to be more efficient. It is helpful to both the employer and the employee. It will not, under any condition, be helpful to harmony in the workplace, to efficiency, or to improving this country's competitiveness, to do something that changes labor law under the guise of the TEAM Act, that will cause more uncertainty and more strife with respect to organized workers in this country.

That will happen if we enact legislation that infringes in areas that are now of the province of what normally would be collectively bargaining. We do not want to retreat to a circumstance where employers pick their team and say, ''By the way, we now have a cooperative team of employees.'' It so happened that Uncle Joe, the person who runs this place, picked the four of them, handpicked the four, and now these four presumably speak for all other employees. Well, that moves directly toward the establishment of management unions, which, in my judgment, is and should be a violation of labor law. We do not want to pass a TEAM Act that does that. We do want to pass a TEAM Act that fosters, enhances, and encourages cooperation in the workplace.

My amendment, I believe, does that. I hope the Senate would view the amendment in a positive way. We will have more discussion on it, but other Members on my side would like to use some time. With that, I yield the floor.

Mrs. KASSEBAUM. Mr. President, I will briefly respond to the Senator from North Dakota, because much of what he said echoes my earlier comments. We are both addressing the importance of cooperation in the workplace, and both of us are acknowledging that there is a problem with the law at this point, and there needs to be a clarification regarding the National Labor Relations Act.

For a long time, it has been argued that there is no problem with the law—that teams could continue without running afoul of the National Labor Relations Act. I think the Senator from North Dakota acknowledges that there needs to be some clarification. However, I am not sure from what was said—and I have not had a chance to read the language of the amendment that has been introduced because it is different than we had thought it was going to be—about what sort of specific guidance he was laying out in his amendment and what he believes are the problems in the TEAM Act itself that cause the disturbance that he believes it would in the workplace.

These are things that I hope, Mr. President, we can explore, as we have a chance to address some questions regarding the amendment that was put down by the Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield 10 minutes to the Senator from Illinois, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I thank my colleague. I rise in support of the Dorgan amendment. I think it makes sense. It provides balance. It makes it clear that if the Kempthorne Industries, for example, decide they want to have a committee to look at the question of plant safety or plan a picnic for the staff, or anything else, they can do that.

But the Dorgan amendment also says if you are going to get into a question of wages and hours, and the traditional benefits, the traditional labor-management things, that should be left up to the conventional process. You should not have employers appointing a committee of employees. The employees, when you get into labor-management issues like wages and hours and so forth, should be left to a committee picked by the employees. I think that makes sense. I think it contains balance.

I add that I think balance is the one word we need in labor-management relations in this country today. I was interested a while back in picking up the New York Times and seeing where George Shultz, whom we think of primarily as the former Secretary of State, and noting that George Shultz also was the Secretary of Labor at one point under a Republican administration, saying our laws have gone out of balance in terms of not being balanced enough in the direction of encouraging labor organizations and the result is going to be a loss of productivity in our country. I think that point is an extremely important point.

I have introduced a series of seven bills that I think also provide a little balance. For example, in this whole area of labor-management relations, if you have a pattern in practice of violating the Labor Relations Act, you can still get a Federal contract; while, if you have a pattern in practice of violating civil rights laws, you cannot get a Federal contract. I think the example of the civil rights laws is what we ought to follow in the labor laws also. I do not know why we should award companies that have a pattern and practice of violating labor laws with Federal contracts. I mention this because I think there we need balance. I think the Dorgan amendment provides balance.

I think what we want is to say to an employer, if the Kempthorne Corporation, or the Kassebaum Corporation, or the Dorgan Corporation, or the Simon Corporation, if as an employer I want to appoint a committee to look at plant safety, or lighting in the plant, or planning an annual banquet, that is a fine thing. I do not think plant management ought to have the ability to say this is a committee of employees that is going to negotiate with me in terms of wages and hours. I think the National Labor Relations Act should be left as it is on that issue.

So I am going to strongly support the Dorgan amendment. I think it is a move in the right direction. I hope that we can get a majority to favor it.

One of the things that has happened, Mr. President, over the years in my 22 years here is that we have become excessively partisan. I have said this before on the floor. I think an amendment like the Dorgan amendment is one that frankly Republicans and Democrats alike ought to be supporting. I think it makes eminent good sense.

Mr. President, I am about at the end of my time. I see two of my colleagues standing. I yield the floor at this point.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, if I may respond for a moment, just to assure the Senator from Illinois that I wish I could support the amendment of the Senator from North Dakota. I think there is still some difficulty with it that we need to consider, however. But I want to assure you that the TEAM Act does nothing to change the ability for collective bargaining on wages and hours. This specifically is stated—that it in no way wants to reinterpret the National Labor Relations Act, and it is not an infringement on that. It is a clarification where actually the chairman said there needs to be a clarification regarding section 882. On the other hand, I want to make clear that he does not support the TEAM Act. But I would like to so ask some questions.

Mr. SIMON. Mr. President, if my colleague will yield.

Mrs. KASSEBAUM. I am happy to yield.

Mr. SIMON. Just to respond by saying when you say it needs clarification, the reality is we have had clarification. For example, California has had 29,000-and-some cases brought before the NLRB. They have had two cases before the NLRB which said you have a problem here in creating a company union through management. And then they did not fine anyone. They just sent it back to them and said restructure it. The State of Illinois with 12 million people—I do not know how many cases; I forget; just one case nationally. We have only had half a dozen. I really do not think there needs to be the clarification that my friend and colleague from Kansas suggests is needed.

Mrs. KASSEBAUM. Mr. President, I can appreciate that. But just that one case which came up, as I gave an illustration of—the Dillon stores in Kansas—the grocery stores, and a ruling then that had the chilling effect and has caused a number of nonunion settings of employees and employers to be very uncertain. And actually that is what I think the Senator from North Dakota was saying. There was some uncertainty, and in trying to address with specificity I think it becomes too specific.

If I just may mention, at least as I understand it, that there are three categories that are addressed in the amendment of Senator DORGAN. I think again it goes back to a rigidity and a lack of flexibility that I think is important. I do not think you can have three categories and three sizes that would fit all. I would like to see if I am correct in this.

One would be an employee in a brainstorming discussion group that can only meet for a short duration of time to discuss matters of mutual interest. If workers and supervisors want to discuss important workplace issues on a regular basis, that would not be permitted under this category. When important workplace issues are raised, managers would have to tell workers that further discussions would be illegal. If that is, indeed, the intent of the language in the amendment, I think again specificity that does not allow for a flexibility that we were trying to encourage with employer-employee discussions.

Also, there would be employee work teams that were established for a duration that could discuss quality and productivity issues. But discussions on workplace issues like health and safety, or vacations, or other issues, child care and so forth, could occur only sporadically. When work teams have exhausted their quota of discussion time on important issues like safety, then managers would have to terminate further discussion, or face violating Federal law.

I do not want to add words that are not theirs. But it seems to me that these are providing conditions that even further confuse what could or could not be done.

Then the third is what I think are called employee committees which may discuss again workplace issues like safety and no smoking policies as often is desired. However, the employees chosen by secret ballot election under NLRB procedures have a new entitlement—the assistance of outside experts to address issues before the committee. I understand that was taken out. But I do not know what the third employee committee does. But it is a committee structure that I think in the specificity lends itself to even further concern about whether there would be a clear understanding of what could or could not be done.

So again, I think it is very important for us to explore this and with a clear understanding of whether we have actually complicated the procedure or have enhanced clarification.

Mr. COVERDELL addressed the Chair.

Mrs. KASSEBAUM. I yield the Senator from Georgia 10 minutes.

Mr. COVERDELL. That will be fine. I appreciate the yielding of time from the Senator from Kansas.

Mr. President, I rise in support of the amendment of the Senator from Kansas and the Senator from Maine, Ms. Snowe, called the TEAM Act.

I might, in my opening statement here, make the point that the workers themselves from my State are those who are contacting our office in support. It is the laborers, it is the working men and women of my State who have created a steady flow through our office in support of what the Senator from Kansas is endeavoring to do.

A recent example. There is a company in Lawrenceville, GA, which is just northeast of Atlanta. It reduced its manufacturing costs within its plant $6 million through the efforts of teamwork. The team consisted of nine employees, people from the assembly line to plant managers. They met for 6 months. They brought in experts throughout the company to give advice. The end result? A savings of nearly $6 million from these workers.

The problem with this is that without the amendment being offered by the Senator from Kansas, this company and people engaged in this activity are at risk from the National Labor Relations Board. They could be held to be in violation of the law and regulations. So the effort by the Senator from Kansas is to create legislation that does enormous good in the workplace because it allows teams like this one I have just described to assemble and yet not be at risk. Great good could occur throughout our country.

I want to read a press release I just received the other day from the Employment Policy Foundation. It reads:

> Lost in the current political controversy about increasing the minimum wage and passing the TEAM Act is the fact that only the TEAM Act promises a better economic future for most of America's working families. American living standards and workers' compensation have been rising slowly over the past decade largely because productivity has been growing slowly. The TEAM Act, which reforms outdated rules that impede the formation of workplace teams in nonunion settings, sets a path to a higher productive growth. It does so by clarifying the legal status of teams whose continued and expanded use are in jeopardy—

Just as I said a moment ago.

> because of a series of National Labor Relations Board decisions.
>
> The Foundation's recent study estimating the potential productivity in real wage effects of employee involvement reports documented productivity gains of 18 to 25 percent from workplace employee involvement systems in which teams play a central role.

Mr. President, much of the workplace today is governed by laws and legislation that is three to four decades old. We are coming on a new century, and it is time to modernize and make more flexible the workplace of the new century. It is time to turn away from the status quo. The TEAM Act is a progressive idea. It is an inclusive idea. It is an idea that will help stimulate the economy and make more comfortable the workplace for thousands and thousands of American families.

By a 3-to-1 margin when asked to choose between two types of organizations to represent them, workers chose one that would have no power but would have management cooperation over one with power but without management cooperation. In this same survey, the worker representation and participation survey conducted in December 1994 by Princeton Survey Research Associates, 79 percent of workers who had participated in employee management teams reported having personally benefited from the process.

I can personally testify that the corporation in which I grew up has employed a vast series and array of employee-managed teams. It has had an enormous effect on that company, a very positive effect on the company. Everybody is engaged in the overall

welfare of the company and where it is going. Morale is higher. It has been a tremendous asset to this company in which I have personal knowledge.

What happened by looking at this personal situation, though, is nothing more than a reflection of what is going on or potentially can go on all across our country.

Mr. President, on Friday, June 21, of this year, a letter signed by the chief executive officers of 624 companies and trade associations who support passage of the TEAM Act was delivered to President Clinton asking the President to reject a veto and seize this chance to lead by supporting legislation that enables employees and managers to cooperate.

Again, Mr. President, what I am saying here is that this legislation, sponsored by the Senator from Kansas, is a move to the new century. It is a move to a modern workplace. It is a move to flexibility. It is a move to better morale. We have great anxiety and frustration in the workplace today. This kind of legislation, which offers a move toward a modern setting, is absolutely required.

The letter that I referred to a moment ago was prepared in response to repeated statements by Secretary of Labor Robert Reich and the AFL-CIO that few companies care about passage of the TEAM Act.

I do not know where they are getting their information, but it is not corroborated by any survey I have seen. It is not corroborated by any of the employees who have come at their own expense to Washington from Georgia to argue in support of what the Senator from Kansas is endeavoring to do. It is not supported by anything I have personally seen in the workplace. I have had a chance to look at these teams and watch what it does to company productivity and company morale.

The letter to the President, as I said, is dated June 21. It said:

> In your State of the Union Address this last 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 percent of the American work force to respond effectively to your call.

The only way you could characterize opposition to this modern device in the workplace is that old ideas adopted by AFL-CIO labor leaders in Washington simply cannot abide by modernizing the workplace. They are benefited by leaving things just the way they are, where they feel they can be in complete control.

I point out that the measure very carefully does not affect collective bargaining. It just allows American workers the same benefits that are accruing in industrialized nations all around the world and that have threatened our competitiveness. It is time for us to modernize our workplace. It is time for us to allow our creative workplace to do those things that our competitors are doing so we can match them in this global economy.

Mr. President, I yield back any time I have remaining to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I wish to express my appreciation to the Senator from Georgia for his comments. I know that he cares a great deal about trying to make sure we can have a creative and constructive environment in the workplace, certainly in the State of Georgia. He also recognizes how that environment has helped businesses grow in the State of Georgia.

I would like to add a comment about something else that was stated earlier, that there was really no need for us to have this legislation; that, as a matter of fact, there were many cases that had been favorably handled and that there was not a worry in the workplace.

I would just like to give an example of why there is concern. A National Labor Relations Board administrative law judge has handed down a decision in the long-awaited Polaroid case. The Polaroid Co. has been heralded as one of America's most progressive companies, having championed workplace collaboration since the 1930's.

Following the NLRB's decision in the 1992 Electromation case, which sparked this effort to try to clarify the National Labor Relations Act, Polaroid concluded that its 60-year-old teams violated the Board's rule. The company tried to restructure its committee organization to comply, but the NLRB's June 14 decision shows the futility of such efforts. Even though the new committee structure was much weaker than the old, the administrative law judge ordered it disbanded.

Polaroid further illustrates for employers the clear rule on meaningful workplace cooperation: If it happens in a nonunion setting, it is regarded as illegal.

The Polaroid case also addresses another argument propounded repeatedly by the opponents of cooperation in nonunion settings: The TEAM Act is not necessary because antiteamwork NLRB decisions only happen in small companies that are not household names. Certainly Polaroid is a household name. It is one we have all heard of, and I think the Polaroid case clearly illustrates why the current law has caused uncertainty throughout the Nation's companies as they try to comply with the letter of the law.

To quote from a press release of Bill Gould, Chairman of the National Labor Relations Board, on June 6, in which he said in a speech in Omaha:

> In a non-union situation, the sensible response to all of this is to allow employee groups, with or without a management representative component, to discuss anything that they would like to, whether it be wages, break periods or the problems confronted in selling the product. The more that workers know about the enterprise and the better that they are able to participate effectively in decision making, the more likely it is that both democratic values and competitiveness are enhanced. And, if the law is simplified, lay people—ordinary workers and small business persons—will be able to adapt to their own circumstances and avoid reliance upon wasteful litigation and the high priced counsel that go with it.

He went on to say:

> Employers ought to be able to promote the creation of and to subsidize employee groups. In the real world that is what is happening anyway. With workers unrepresented by unions in 85 percent of the workforce, how else can such systems flourish?

To be fair, as I said before, Chairman Gould does not support the TEAM Act that is before us. But clearly his statement in Omaha in June indicates that he does believe the very problem we are trying to address in the TEAM Act should be addressed. I believe, however, that the problem is addressed in the TEAM Act in such a way that it could be supported by a broad range of those on both sides of the aisle. Those who speak in opposition clearly are those who fear it will do something that, indeed, it could not do. By the language in this legislation, their fears could not be realized—it in no way infringes on the collective bargaining process or the letter of the law in the National Labor Relations Act.

Mr. President, I suggest the absence of a quorum with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I urge the Senate to reject the TEAM Act. Its supporters pretend it is needed to increase the competitiveness of American industry, and they pretend it will promote the kind of cooperative workplaces that will have an advantage in the world economy. But those arguments are a sham.

This legislation has nothing to do with cooperation and everything to do with undermining workers' rights. It overturns one of the fundamental protections of American law, that employers cannot set up company-dominated unions as a trick to prevent workers from joining real unions.

No one opposes honest cooperation between labor and management in the workplace. But Congress should not try to tip the balance by siding with union-busting employers.

Do not be fooled by the smokescreen set up by the employer coalition that wants this legislation. This bill is designed for one purpose only: To nullify the critical provisions of current law that make it illegal for any employer to dominate or interfere with a labor organization.

Under the TEAM Act, management can create a labor organization, dominate it, interfere with it, or terminate it as management sees fit as long as management does not try to engage in

collective bargaining or create legally enforceable rights.

What does this mean? It means that employers will be permitted to substitute a representative they control for a genuine representative of the employees. The TEAM Act would make it legal for management to foist a labor organization on employees that employees did not ask for or did not vote for. It would be legal for management to impose a company-dominated union made up of employees handpicked solely by the employer. They would meet when the employer sees fit, consider only the issues the employer wants considered, and then speak for all the employees when they do so.

The Senate should have no part of puppet unions like that. Making that kind of one-sided, phony labor organization legal has nothing to do with promoting labor-management cooperation or competitiveness. It has nothing to do with empowering employees. It is cynically designed to increase the power of employers and give managers more and more control over the lives of their employees. If management can dominate employees' organizations, they can control the demands that employees make for better pay and better working conditions.

That is precisely what happened in the court case that proponents of the TEAM Act rely on. In the Electromation case, an Indiana manufacturer responded to employee unrest about wages and benefits by setting up employee action committees that the company dominated and controlled. In the words of the U.S. Circuit Court of Appeals for the Seventh Circuit, the 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 function of the committees. It decided the number of committees and the topics to be addressed by each. 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. I repeat that. 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 committee and which did not.

That is precisely the kind of domineering management behavior that the TEAM Act would legalize. Electromation demonstrates what this bill would do. Senators who think it is right for employers to impose a sham organization on their employees, who think it is right for the employer to control which grievances employees can air and how and when they can be aired should vote for the TEAM Act. But do not pretend you are voting for cooperation in the workplace. If you reverse the Electromation case, you are voting for domination of employees, not cooperation with employees.

The National Labor Relations Board, made up exclusively of members appointed by Republican Presidents, made clear the Electromation company only wanted to control the discontent of its employees after the company unilaterally changed wages and working conditions. The case has nothing to do with cooperation, quality or efficiency.

In the words of the NLRB, 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.

In short, the company was engaged in a fraud on the employees, and the TEAM Act would legalize that fraud.

Some have suggested there is no harm in the kind of phony labor organization the NLRB struck down, because sooner or later the employees will discover the fraud and reject the employer-controlled committee. They argue nothing in the TEAM Act prevents employees from voting for a real union that would truly represent their interests.

But many of the employees in the Electromation case did see through the fraudulent action committees created by the company's management. They wanted to be represented by a union. They petitioned for a union election, but they were defeated. The NLRB filed a complaint against the company for the unfair labor practice of dominating a labor organization. The company suspended the action committees, and the union won a rerun of the election.

Once the Government stepped in and protected the employees' rights, the employees exercised those rights. Without the current law, the phony committees would never have been suspended, and the union would never have won.

That is what the TEAM Act is all about: Substituting sham, company-dominated unions for genuine employee representatives. If the TEAM Act passes and employers are given the green light to create sham organizations, it will be harder for unions to organize. That is the real goal of the TEAM Act, and the Senate should have no part of it.

Let us have genuine cooperation, not fake cooperation, in the workplace. It is wrong for employers to impose organizations on their employees that they have not asked for or voted for.

No one, that the employees have not chosen, should be given the authority to represent them. American workers today have the right that Congress gave them 61 years ago to choose their own representatives—that is what this issue is really all about—whenever they discuss the issues of wages, hours and working conditions with their employer. The TEAM Act would take that right away, and it deserves to be defeated by the Senate and vetoed.

Mr. President, I point out, once again, for the benefit of the members of the committee, our own committee report that was filed by the majority, with a minority report as well, on page 8 of that report, what the current situation is with regard to cooperation.

All of us want cooperation. All of us want the increase in efficiency, increase in competitiveness. That is taking place today. It is taking place with regard to health and safety, which had been referred to earlier in the debate. In the State of Washington and the State of Oregon, these worker committees have gotten together to consider health and safety issues. They have been appointed by the employer and representatives of the workers. They have worked very effectively.

We have seen significant reductions of Workmen's Compensation costs in the States of Washington and Oregon because of these joint committees of cooperation. They are taking place today, and they are working.

We have seen even, according to the business organizations in that State, the savings for businesses in the State of Washington of over $1 billion in the last 5 years because of this kind of cooperation. That is taking place today.

We had tried to advance a similar concept 2 years ago, and we were opposed in the Human Resources Committee by our Republican friends. We were trying to share and encourage that kind of cooperation that was taking place in the States and saving workers billions of dollars that were effectively being denied them with increased wages because they end up on Workmen's Compensation, as well as denying employers a greater return on their investment. Our Republican friends responded: ''No, we aren't going to have any part of that but as a substitute under the word of 'TEAM.' We have this other proposal.''

The committee majority report indicates ''Employee Involvement Works.''

During the past 20 years—

This is the majority. This is those favoring the alleged TEAM Act.

During the past 20 years, employee involvement has emerged as the most dramatic development in human resources management. One reason is that worker involvement has become a key method of improving American competitiveness.

Evidence of the success—and corresponding proliferation—of employee involvement can be found in a 1994 survey of employers performed at the request of the Commission on the Future of Worker-Management Relations. The survey found that 75 percent of responding employers—large and small—had incorporated some means of employee involvement in their operations.

That is going on now. That is taking place today. Meaningful cooperation is taking place today.

Among the larger employers—those with 5,000 or more employees—the percentage was even higher, at 96 percent. It is estimated that as many as 30,000 employers currently

employ some form of employee involvement or participation.

It is working. This is a problem that effectively does not exist, with the exception of those particular employers who want to use this as a means and a device to undermine legitimate worker interests in terms of their working conditions and in terms of their future salaries and their economic interests.

The success of employee involvement can also be found in the views of American workers. A survey conducted by the Princeton Research Associates found overwhelming support for employee involvement programs among workers, with 79 percent of those who participated in such programs reporting having ''personally benefitted'' from the process. Indeed, 76 percent of all workers surveyed believed that their companies would be more competitive if more decisions about production and operations were made by employees rather than managers.

It is happening today. It is going on as we are here this afternoon.

Clearly, employee involvement is more than just another passing fad in human resources development. Over the last 20 years, it has evolved—along with a global economy—into a basic component of the modern workplace and a key to successful labor-management relations. As such, American industry must be allowed to use employee involvement in order to utilize more effectively its most valuable resource—the American worker.

Everything on there we agree with. That is not what this is about. That is taking place. Even the majority is pointing out that 30,000 employers currently are doing this. So it is suggested by some, well, they cannot do it enough or they are concerned about this particular issue and this particular problem.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. KENNEDY. I ask, Mr. President, what is the time agreement?

The PRESIDING OFFICER. There is an hour on the bill, equally divided. The Senator could use some time off the bill.

Mr. KENNEDY. Yes. I will yield myself 15 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. KENNEDY. Mr. President, now just to refer to the fact that cooperation between the employers and the employees is necessary. The majority has recognized that in the largest plants, it is about 96 percent being utilized and in the smaller plants over 75 percent.

So now let us look at what has happened since 1992, since this Electromation case that evidently is causing all of this uncertainty out there with regard to this kind of cooperation—there are 30,000 companies where this is taking place. ''The NLRB Orders to Disestablish Work Committees,'' from 1992 through 1995, 4 years. And 30,000 employers doing it.

Are there any disestablishment orders in the State of Washington? No, not even one. Any in the State of Oregon? No. Zero. In the State of Nevada, zero. These are cases allegedly that are being brought, can be brought by employees, employers. disestablishments in California, two. Utah, zero. Arizona, zero. Alaska, zero. One in Colorado. None in Wyoming. And the list goes on. None in North Dakota. None in South Dakota.

What is the problem, Mr. President? We are saying we are all for cooperation. If we do not have a problem, I think it is reasonable to ask, what is really the purpose behind this legislative effort? And I suggest that the real purpose of it is not just to develop the cooperation, which is taking place today, but is effectively to undermine the legitimate economic interests of the workers in those particular States.

Mr. President, we can look at how much of a problem this is. I hope our colleagues will look through this. This is a handful of cases between 1992 and 1995 that this bill is supposed to correct.

Mr. President, if we look over here we can see that this is even more graphic as to what the true problem is; 8(a)(2) charges—these are the charges that we are considering here to address the TEAM Act—227.

Now 8(a)(3) charges. What are these? These are the firings of various workers for their participation in union activity or trying to join a union. They are being dismissed, illegally, by their employers. Those are 8(a)(3) charges, 13,000. Compared to 8(a)(2), 227.

Look. In 8(a)(2) remedies, 87 remedies out of the 227. Look. Remedies for reinstatement, 7,000; and 8,000 for remedies of back pay. Remedies for reinstatement are when there has been adverse action by the employer, violating the law. That is what these cases are, 7,900 of them in 1994 to reinstate because of illegal activity by the employer versus 87 with regard to 8(a)(2).

It seems to me if we ought to be here this afternoon, we ought to be doing something about these workers that are being illegally abused and treated in their employment by employers. For 8(a)(3), 8,500 were reinstated with remedies for back pay.

Mr. President, nonetheless, we are asked to go on out here because of this uncertainty, allegedly. We do not have any record to indicate that this is a major problem. What we do have is the major indication about what is happening out there in the real working places of this country. We are interested in cooperation. But the way to get it is to have employers respect employees and to have that vice versa, Mr. President. That is done when you have effective collective bargaining.

What has happened? ''Proportion of the NLRB Elections in which a Union Supporter is Illegally''—Illegally—''Discharged.'' If we were around here to consider what we ought to be doing something about, look at the growth, according to the NLRB, in cases where a worker is illegally discharged, from 1975 to 1985, and right up here in the 1990's. The increase of 400 or 500 percent, depending how you want to calculate it, over that period of time, where we are finding individuals—individuals —are pursuing their economic rights for themselves, their wives, their children, illegally discharged under the current law. That is what is going on out here in this country.

Here is another chart that would support the same kind of analysis in terms of the 8(a) charges. In the early years you find out, between 1950 and 1954, for the 8(a)(3) charges, the number of average annual back pay awards going up considerably here, as it indicates that these workers are being illegally fired. The average number of reinstatements continues to escalate because they are being illegally fired. That is happening to individuals.

Finally, Mr. President, this other chart I have back here would indicate what the percent is of the total number of cases that we are talking about. I direct our colleagues right up here, 8(a)(2). Of this whole pie, for the illegal activities of employers against workers, for all of this whole pie, this tiny slice is it, right in this darkened area, 227 cases. Yet we are being asked to legislate on this particular issue.

It is a problem, Mr. President, that does not exist. This is being promoted, supported, for legislative action by those who are the most strongly committed to denying equal justice and fair justice to the workers of this country. That is why it is not coincidental that we will have this debate and a vote tomorrow, and we will have the vote on another proposal that is antiworker on the issue of the right to work.

We will have the proposal for a cloture to end debate on the right to work bill. The bill was put down last Friday. We have been under controlled time on these other matters for the time. But, nonetheless, we will be asked to vote to end debate. I do not know of any filibuster that has been promoted on that measure, but we will be asked to vote to end debate, despite the fact it was never reported out of committee. We had one day of hearings. It was never reported out of the committee. And they laid down a cloture motion on that legislation to deny any kind of discussion, debate.

We are going to have that. We will have these two measures, one on a matter that is really not before the workers and employers of this country. The report itself has demonstrated the expansion of work cooperation, which we agree with and which we support. The total number of cases are pitifully small against a background where there is increasing illegal activity against workers. And their interests are being ignored.

Mr. President, just to speak very briefly for just a few moments on the issues of the right to work. It is so interesting that it is our Republican colleagues who are constantly talking about the right to work issue. We now find that there are some 23 States that are right-to-work States. The remaining majority of States are not right-to-

work States. So States have been making their minds up under the current and existing law. States have been deciding what is in their interest.

How many times have we heard that talked about here on the floor of the U.S. Senate? States ought to be able to make their judgments. We do not want the long arm of the Federal Government interfering with the legitimate interests of the States. Now wait a minute, with the exception of the right to work. There we want a Federal imposition of a national policy that will have the right-to-work statute override State law.

What does that really and effectively do? This is the interesting point. Under the current law there is no requirement that any worker be required to join a union if the decision is made by the members, the workers in there, to go and vote for a union. They are not, under current law, required to join. But if they are going to continue to work there, and there is going to be continued enhancement in terms of their wages, working conditions, in their child-care programs, and their pension as a result of collective bargaining, they can be required under the current law—if both the employer and the union agree—to at least pay for that part of the union activity that is going to enhance their benefits. In other words, no freeloaders, no freeloaders.

If they are going to be a part of the work force in a particular plant or factory, and they choose not to join their union, they have that right not to do so. If the union goes ahead and gets an increase in terms of wages, an increase in their health care benefits, an increase in consideration for child care or other kinds of activities as a result of their activity, then that individual has to make a contribution to the extent that those dues would be used to finance that financial and economic enhancement. OK, that is what the conditions are under the law today.

Now, we will have a situation when we vote tomorrow, we will vote on cloture on a bill that will say, ''Look, to those workers that are out there, if you in your particular company vote to have a union, you do not even have to pay for any of the basic improvements that you get in your working conditions.'' If that union goes on out and has a strike and enhances their economic conditions, increases their wages, improves working conditions, increases health care, gets better coverage for patients, pensioners, and better coverage for children at the end of the day, that other individual who gets the same benefits does not have to pay a thing, does not have to pay a thing.

That is the effect of the passage of a national right-to-work law. That is what this act is all about. Apparently, some Senators do not think that the people in Massachusetts or the State of Washington or the State of Kansas or any other State can understand that concept sufficiently enough to be able to make their own judgment. We, in our almighty wisdom, say that we are going to make that judgment here on the floor of the U.S. Senate, and even cutting off more debate.

Mr. President, how can you interpret that to be anything more than a wholesale assault on the economic rights and the struggling efforts that have been a part of the trade union movement to enhance their working conditions and economic justice in this country? At a time, Mr. President, when the rich are getting richer, when the top 20 percent are the ones that are benefiting the most from this economic expansion, and the other 80 percent of Americans are being left out and being left behind in too many instances, there is just a wholesale assault on those working families. What is it about us that we want to take it out on these working families? I do not understand it.

Looking at the economic history from 1950 to the early 1970's, everyone moved along together. We all went along together. Americans went along together. Now we see this enormous disparity when those that are the weakest, entering the job market, denied the opportunities in education because of changes in our education system and the support systems to permit qualified, talented young Americans to go to schools and colleges and get the training. At a time when they have that need, what are we saying? We are saying, on the one hand, under the TEAM Act, we are going to give more and more authority and power to the employer, to take it out on you, the workers, on the backs of the working men and women, by weakening your economic ability to look out for your interests. Not only are we going to do that, but we will superimpose a national right-to-work program that on the other hand is going to remove any kind of responsibility from those who are working in a workplace where they get economic advantages are going to be participating and paying their fair share. No, you can be a freeloader in America; you can be a freeloader. Others who want to work through the economic system and work through collective bargaining, if they get some benefit, you can stay and get all the benefits free and clear, and we have to make that judgment here.

That has been against a background where we have had this constant resistance to provide any increase in the minimum wage, and only reluctantly and finally today have we been able to have the opportunity to gain an expression on the floor of the U.S. Senate to provide an increase in the minimum wage. It is against a background of continued efforts to undermine the earned-income tax credit which works, again, for the low-income workers who have children.

Now, you just cannot say, Mr. President, that this is all accidental, it is all coincidental. We are also declaring war on Davis-Bacon. The average income for construction workers is $27,000. I was so amazed and interested that as soon as our Republican friends gained control of the U.S. Senate, one of the first things they did was offer a repeal of the Davis-Bacon Act, which requires payment of the prevailing local wage for construction workers in this country so that the Federal Government will not be a promoter or detractor in terms of the wages——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I yield myself 10 minutes.

That the Government would not be a participant in trying to tilt the scale of economic justice in the bidding on construction contracts. They came right here on the floor of the Senate and tried to repeal that particular protection, undermine the conditions for construction workers—who average $26,000 or $27,000 a year, and have the second most dangerous job outside of mine workers in this country—undermine their ability to provide for themselves. And cutting back on the earned-income tax credit for those people that make $25,000 to $27,000 and are trying to provide for their children.

They oppose an increase in the minimum wage. Now they are doing it with regard to a national law on the right to work, and they are also doing it in terms of the TEAM Act. Can we look against that background and say, Oh, we have here a TEAM Act that really is in the interests of those working families, when we have the solid record of what the majority has been attempting to do to working families? You have a tough time convincing me of that, Mr. President. You have a tough time convincing me of that. All we have to do is check and talk with working families and we find out what those answers are.

Mr. President, I hope when the time comes that the TEAM Act would be rejected. I have admired the efforts of Senator DORGAN and others to try and find some common ways they think this matter can be resolved. I understand that they are working on that particular measure. I, myself, am unconvinced that we ought to be doing anything at all in this particular area. It is basically a problem that does not exist, but I certainly want to listen further to my colleagues and friends who have been strong advocates for working families, and will continue to consult with them.

I withhold the balance of our time.

Mr. GORTON. Mr. President, I yield myself such time as I may use upon the Dorgan amendment, and if I utilize all of that time, then I will use time from the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. The distinguished Senator from Massachusetts has talked about the large number of proposals before the Senate in one form or another, two of which will actually come to a vote sometime in the next 24 or 48 hours. I will restrict my remarks to

those two and will attempt to be relatively brief in connection with each.

First and foremost, because we will be voting on TEAM in an ultimately final form and presumably sending it back to the House and I hope to the President of the United States, I wish to make a few remarks on the TEAM Act itself.

The Senator from Massachusetts, it seems to me, has two objections to the TEAM Act which are not entirely consistent with one another. The first is that it is a terrible idea to allow labor-management cooperation outside of a formal union-management negotiating session; that we are still, in America, in the position we were in the 1930's in which most people who work and most people who are employers or supervisors regard themselves in polar opposite camps with antagonistic kinds of interests.

The second argument made by the Senator from Massachusetts seems, paradoxically, quite different and that argument is that there are so many of these teams and so much cooperation going on at the present time without any harassment being aimed at it, that we do not need this legislation.

Mr. President, I think that both arguments are in error, as largely inconsistent as they may be. We live in a very different world than the world faced by our predecessors who passed the National Labor Relations Act of 1935, in a quite different world than the only time in which major changes were made in that act in 1947.

By and large across this country, both labor and management realized that management cannot be successful unless it has happy, productive, and committed employees, and that employees recognize they cannot be successful unless their management, unless the company for which they are working, is itself successful. As a consequence, there is a far greater feeling of community of interest today than there was at the time of the passage of this act.

So what is it that the Senator from Massachusetts asks us to believe? He asks us to believe that these interests are always antagonistic with one another, that employers lust after the ability to do in their employees in one way or another, largely by subterfuge. He speaks of a world, Mr. President, that simply does not exist today, and he speaks about a bill that is very, very short and quite plain in its meaning.

I can read for you the 10 lines of the bill that is before us that include the entire substance of the legislation, and it reads, and I quote.

> . . . 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 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.

That is it, Mr. President. That is all there is to it. People can get together voluntarily to solve problems without running afoul of the National Labor Relations Act.

The Senator from Massachusetts has said in his argument you can only have cooperation effectively with effective collective bargaining. But in the private sector, only 12 percent of all of the employees of this country have chosen to engage in formal collective bargaining through a labor-management relationship.

The National Labor Relations Act protects the right of employees to join unions and to bargain collectively. It also protects the right of employees to say, ''We do not want to do it in this way.'' And 88 percent of all of our private sector employees have chosen the latter course of action. Yet, at one level, the Senator from Massachusetts says they should not be allowed to do anything at all. Everything that is done is likely to be a subterfuge for a company-dominated union to get around the National Labor Relations Act itself, and at the other level he says, ''Oh, no, we can do it already.''

The problem is that the ability to continue to do what has grown up spontaneously all across this country is threatened by the actions of the National Labor Relations Board and of the courts of the United States.

All this proposal does is, in effect, to say you can keep on doing what you have been doing. You can deal with a number of matters of general interest like quality, productivity, and efficiency, and, if we pass the Kassebaum amendment, it will add to that health and safety as specific subjects for such cooperation together with other alliances.

That is all it says. The Kassebaum amendment will make it even more clear that this does not undercut those labor-management agreements that exist with respect to 12 percent of private sector employment which is covered by collective bargaining agreements at the present time.

My question is: What are they afraid of? This is happening. It is threatened. This bill will remove that threat. No one has to engage in this kind of activity who does not wish to. Any group of employees who wish to join a union and operate under the National Labor Relations Act retains the right to do exactly that.

This is 1996, Mr. President. We have a far more cooperative attitude today. We need that more cooperative attitude to compete with the rest of the world. We need it for the increasing prosperity of our society, and this bill, with the Kassebaum amendment, will accomplish exactly that goal.

We do not need to repeat the arguments of 1935. They are no longer relevant. It is possible to do a job both for employees and employers outside of the specific strictures of the National Labor Relations Act. That is what the TEAM Act proposes. That is why it ought to be passed.

I must say I do find myself in agreement with the Senator from Massachusetts on one of the other subjects that he brought up, and that has to do with the cloture vote on a national right-to-work law, which will also be voted on here. I intend, as he does, to vote against cloture on that proposition because I am, as he said he was—but I think there is a little bit of disingenuousness in it—very much in favor of the present law which says that each State can make its own choice with respect to whether or not it will have a so-called right-to-work law on its books.

Twenty-three States have made such a choice. Twenty-six States have rejected such a choice. My own State is one of those 26 which has done so twice by referendum by a vote of the people of those States themselves.

I believe that is precisely the correct balance in this highly controversial issue. I do not believe that the people of the State of Washington should govern the decision of the people of Wyoming in that connection, or the people of Wyoming, the choices that are made by the people of the State of Washington.

So I like the present law. I was delighted to hear it defended by the Senator from Massachusetts, except for the fact that during almost his entire career he has wanted to repeal the right of States to make that choice. In other words, he may here today be defending States rights, but, in fact, he wants to deprive the States of those rights and to say to a State that has chosen quite freely to pass a right-to-work law that you do not have the privilege, you do not have the right to do so.

I think this is a matter of federalism. I think this is a matter which the people of each State should be permitted to choose for themselves.

I, therefore, will vote against cloture, but I think as a result of a more profound devotion to federalism that is, in fact, shown on this issue by the Senator from Massachusetts.

The really important issue, however, Mr. President, is, in fact, the TEAM Act. It is, in fact, confirming the right of both employees and employers to do what they are already doing in 30,000 workplaces around the country: to encourage others to do the same thing without undercutting the rights of any person who wishes to be a part of a labor union whatsoever. In order to confirm those rights, we need to pass the bill.

The bill reflects the real condition of our workplace today. The bill promotes effectiveness and the competitiveness in our workplace, and, perhaps equally significantly, it promotes the kind of cooperation that makes work a more pleasurable as well as a more remunerative way in which the great majority of the working age population of

the United States lives so many of its hours at the present time.

It is important that we pass it. I think it is significantly important that we pass the Kassebaum amendment. But it is one of the rewards of this long debate over minimum wage that we are not being subjected to a filibuster on the TEAM Act but, in fact, are going to be permitted to express our views on it tomorrow. I look forward to its passage.

With that, Mr. President, seeing no one else desiring to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that the quorum be divided equally with respect to time of each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I rise to speak in strong support of the TEAM Act. I commend Senator KASSEBAUM, chairman of the Senate Labor and Human Resources Committee, for bringing this bill out of committee and making it a high priority.

I think it is useful to begin with a review of why this legislation is necessary. Because the idea of employer-employee communication and cooperation seems so fundamental, it is astonishing to some people that this measure must be debated at all let alone the fact that it is so controversial.

In 1992, the National Labor Relations Board issued a decision in the Electromation case which held that employer-employee committees to discuss workplace procedures and policies violated the National Labor Relations Act.

As a former union member, I understand full well the NLRA's prohibition on so-called company unions. But, the Board's decision in Electromation, which defines a ''quality circle'' or ''child care center feasibility committee'' or other form of employee-employer committee as a company union, misses the mark entirely.

It simply cannot be claimed at the NLRA was intended to outlaw every type of employee-employer input mechanism. To state otherwise is to advocate that workers can communicate with employers only through unions. Since when does the U.S. Government impose that kind of gag rule on American workers?

I can hardly believe that my colleagues on the other side are going along with this twisted interpretation of labor law.

But, I suppose $35 million from the AFL–CIO could be a powerful incentive to grant organized labor such a special privilege at the expense of the rank and file.

The TEAM Act does not—does not—authorize any employee committee or cooperative organization to engage in collective bargaining.

The TEAM Act does not—does not-affect any employee's right to join a union. It should be noted that the TEAM Act applies to nonunion employers.

So, what are some of the horrible things that employee-employer committees are barred from discussing?

It is illegal under Electromation from discussing free coffee for employees. It is illegal to discuss the possibility of providing a soda machine, microwave, or other furnishings for the employee lounge.

It is illegal to discuss tornado warning procedures or rules about fighting. It is illegal to discuss a ban on radios or the use of video game machines. It is illegal to discuss rules about posters, drug and alcohol testing, dress codes, or a smelly propane buffer. It is illegal to discuss sponsoring a company softball team.

I cannot believe that there is a single Senator who would defend such obstruction to cooperation and employee input in decisionmaking. And, it seems pretty incongruous to me that an American institution that claims to want to give workers a louder voice in their workplaces is leading the opposition.

It seems as if organized labor is afraid of empowering workers. It seems that organized labor does not want workers to have their own voice. It seems that organized labor not only does not condone employers who seek out workers' opinions on workplace issues, but also demands that such openness continue to be punished by law.

Mr. President, there is really very little more to say about this measure. The TEAM Act, which would repair this ridiculous interpretation of the National Labor Relations Act, is a good, commonsense bill.

Once again, I want to extend my appreciation to Senator KASSEBAUM for her leadership on this issue. As one who has walked a mile in her moccasins, I know just how confounding any change in labor policy can be. I mean, good grief, the dollar threshold for the Davis-Bacon Act has not been raised since 1931.

I urge all my colleagues to support this measure. And, I call on President Clinton to sign it into law.

Mr. BROWN. Mr. President, I rise today to offer my support to the TEAM Act. In my own State of Colorado, I have seen how beneficial the TEAM Act can be to both employers and employees. The reason for the success is simple, the TEAM Act makes good sense. The act ensures that all employees have the right to be heard, thereby strengthening the hand of U.S. companies in competitive world markets. The TEAM Act does this without hindering the rights of employees to choose union representation or infringing on workplace safeguards that are already in place.

Any well-intentioned law can have harmful, unintended consequences. The Team Act would rectify the unintended consequences of section 8(a)(2) of the National Labor Relations Act to allow employees and managers to address issues such as scheduling, work assignments, health and safety, training, and work rules, all of which are now illegal topics of discussion in nonunion workplaces.

The archaic provisions of section 8(a)(2) of the 1935 National Labor Relations Act are entirely out of step with modern management techniques that are mutually beneficial to employers and employees. It is shocking to this Senator that employers and employees are not allowed, under the law, to sit down and discuss issues of importance to them. A regulation designed to protect American workers has been twisted to a purpose for which it was never intended. No law should prevent employees and employers from working together for the common good of the employee and the company.

Management-labor cooperation makes a lot of sense. The people actually doing the work often have a better handle on the problems and possible solutions that can help American industry be much more productive. The TEAM Act encourages workplace cooperation by involving the employee in the decisionmaking process of the company. Active participation in discussions about quality, production, and other workplace issues makes companies like Eastman Kodak in Windsor, CO, run more smoothly and produce a better product.

If American companies are going to remain competitive, employers and employees must work together to improve quality productivity, safety, and efficiency. Countries such as Japan and Sweden have already implemented this practice of cooperation in the form of quality circles in which managers sit down with employees to plot strategy, improve quality and productivity, and discuss safety. To remain competitive on the global market American companies and their employees need to be able to come together and discuss their concerns without fear of being penalized for violating the National Labor Relations Act.

Currently there are over 30,000 companies with workplace cooperative programs. It is time to change an outdated law and let employers and workers cooperate. It is my hope that we will pass the TEAM Act.

Mrs. KASSEBAUM. I yield 10 minutes or such time as the Senator from Vermont would need.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I have come to speak on the TEAM Act. I do so because I feel very strongly that there is a misunderstanding as to what we are discussing, the importance of it to this country, and that if we sat back and took a look at where we are and what we are talking about and understood the ramifications, there would be unanimous support for the TEAM Act.

I come to you with somewhat of a different perspective than some of my colleagues. I earlier today supported the minimum wage. I am not one who has anything but respect for the various positions of labor versus management. Sometimes I am with one; sometimes I am with the other. On this one, I am strongly in favor of doing what must be done to improve this Nation's productivity, and that is what we are talking about here—this Nation's productivity—for if there is no productivity, there is no profit. If there is no profit, then there is nothing for the workers and the management to split up for the owners and the stockholders.

So I come here as an original cosponsor of the TEAM Act because I believe that cooperation between employers and employees is the wave of the future. Unfortunately, it has been the wave of the future for our competitors for some 40 years. We are behind. Why? The historical confrontation and conflict models of industrial relations will not serve us in this 21st century, the models that were created in the 1930's when we had industries taking advantage of workers, when it was necessary for the workers to join together to fight for higher wages and to fight for their share of productivity. We now have a realization that the processes we utilized in the 1930's are no longer relevant. That was learned by our competitors many years ago.

I was a senior at Yale University back in the late 1950's, and at that time we took a look at what needed to be done to improve productivity and to improve how our Nation could meet the demands of the future. Many suggestions were made. I remember writing my senior thesis, and I understood what needed to be done, in my own mind, in order to improve the productivity of this Nation.

At that time we were discussing innovative matters, such as workers and management getting together, learning how to split the profits through profit sharing, stock options, and all of these matters. It was a fascinating time for academia. As we studied and put together imaginative ideas on how to improve productivity in the Nation, there was just one problem. Nobody was listening, neither the management nor the workers, for they were all still in the 1930's mode, wondering what could be done as they fought each other to see who could get the advantage over the other.

Who was listening? The Germans, the Japanese—the Asians, the Europeans. What happened? If you look back now, you see such an unbelievable contrast of what the goals were in manufacturing, and what the results were. Ours was, ''fight, fight, fight.'' And what happened? As we went through the years, the relationships between management and workers did not improve. In fact they got testier, they got worse. And in some cases, like the automobile industry, workers were in a situation where they got tremendous advantages for themselves, but all of a sudden they were fighting the Japanese and Germans, and those automobiles came in with much better quality. And what happened? We almost lost the automobile industry.

Why? Because the Europeans and the Asians had understood, as we did not at that time, that if the workers and management could sit down with each other, could take a look at what their problems were that they had to face, how they could improve quality, how they could work in order to improve productivity, could improve the profit, then they could all sit down and have a better chance to make sure they were each taken care of.

So, if you look back at what happened in this Nation, the relationship between laborers and management has not improved. In fact, it has even gotten worse in many cases: ''fight, fight, fight.'' What happened? If you take a look at the unions, our unions have gotten weaker. The union movement now is frustrated because it cannot organize the companies. On the other hand, in Germany and in Japan the opposite took place. They learned how to get together, concepts which are a little frightening to those who were worrying about communism in the 1950's. ''My God, you cannot let workers and management get together.''

But they learned to improve their productivity and the way they did things. When things were returned you went, not to the managers, you went to the production line and said, ''How come all these parts came out this way?'' And the workers sat down and said, ''If we improve this, we will have better quality and sell more.'' And then what happens? You then argue over how you split the increase in productivity.

If you examine the unions in Europe, what happened to them is, using these concepts, they got stronger and stronger. And in Asia they got stronger and stronger. In fact, in Germany there are workers on the boards of directors. In Japan they had worked out work security agreements long before our workers did in this country. The main desire there is to keep people employed, even sometimes at the expense of stockholders; even, sometimes, at the expense of corporate profits.

So there the unions, by working together with management toward a common goal, strengthened the union movement in those countries. In this country what happened? We were still fighting against each other and were not worried about productivity.

So what has happened now? This kind of, fight, fight, fight, has resulted in weird decisions under the NLRB, saying you cannot even sit down and do the most menial things without going through the whole process of unionization. We have some 30,000 businesses now that can be intimidated into doing something because, if they sit down and try to work it out to improve productivity, they may have an action brought against them to stop them from working together, stop them from doing what is necessary to improve their business. They could get fined, they could receive an injunction to prevent what ought to be done so they can have more productivity, more profit to split among the stockholders and workers together.

So why in the world would we now say it is a bad idea to do what our competitors across the world have been doing, putting us out of business, and we say we cannot sit down and work together without going through the whole unionization process? It may not be too late for us. But it is such a simplistic thought, that it is a good idea for us all to sit down and figure out how we can change the production line to improve the product, so we can sell more and then talk about an increase in wages, instead of saying no, you cannot do that because that may mean we are working too closely together.

If we work too closely together, my gosh, that is not good.

Why not?

Well, I don't know, but it was not good in the 1930's so it is probably not good now.

We are not in the 1930's. Relationships between employees and employers have changed dramatically in those areas where we figured out the best way to work is to work together. We have shining examples in this country, Motorola and others, who have learned how to compete, and to a certain extent the automobile industry, that has learned how to compete. All it means is to learn to work together.

The TEAM Act means we can work together and improve everybody's lives. We can improve the safety, we can improve the productivity, and we can improve the profit. Why in the world would you be against that? Why? Because we are still in a mindset of the 1930's, which is long gone if you want to be a competitive business in this Nation.

So I urge my colleagues to forget a lot of the rhetoric they have heard and just think about the basics of business. That is, if we work together, management and labor can sit down and figure out how to improve things, how to improve safety so we lower costs, how to improve the quality of the things we produce so they are more salable—how we can make sure we all have a better profit, a better business, a safer business, so we can be healthier and happier. So why in the world can anybody be against the TEAM Act? I just do not know how.

I am hopeful my colleagues will understand that this is incredibly important for the future of this Nation. For we are being driven out, in many cases, by our competitors, who understand that teamwork is the answer to their future. I say we had better learn that lesson. And the way we are going to start learning it is pass the TEAM Act so those businesses that do understand what needs to be done can do it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I want to express my appreciation to the Senator from Vermont, who has been a stalwart supporter of this legislation, for putting it in a historical perspective that helps us understand why it is important for us today, and relevant, to consider the innovations that would help us establish an environment in the workplace that will lend it great creativity.

Another stalwart supporter who has done much to enhance this legislation and work with the business community is the Senator from Missouri. I yield him as much time as he desires from the Kassebaum amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

Mr. ASHCROFT. I thank the Senator from Kansas for her excellent work in helping us develop the capacity as Americans to be competitive and to be productive, and to maintain our standard of excellence around the world.

There is no other nation that has the capacity, especially in areas of complexity, that the United States does, whether it is in pharmaceuticals or just in technological industry—whether it be computers, software, or hardware, the United States is No. 1.

It comes as a result of the recognition of the importance of the human resource in the equation. You simply cannot be competitive without tapping every part of the resource that you have. When we think of this summer and the excitement that will surround the Olympic Games in Atlanta, it is unthinkable that we would send teams to Atlanta and forbid the coaches to talk to the players. What nonsense that would be, not to allow a player to come off the field or off the court and say to the coach: ''This is what they are doing. This is how we can make an adjustment to improve our performance, to make it possible for us to be winners instead of losers.''

It is a fundamental recognition of the fact that the people on the court will have a different perspective than the people off the court. The people on the field will have an awareness of how things are going that is special, different, unique, and of value.

The same is true in industry. No matter how hard a compassionate manager tries to observe the process from outside, no matter how well the engineer from the design room tries to structure the environment for productivity, the fellow who is actually on the floor is going to have an ability to say, ''This doesn't work here. It may look good in theory, but it doesn't work in practice.''

We need to tap the resources of the broad spectrum of individuals on the American team for productivity in order to make sure that we continue to be winners, that we continue to forge a position for the United States which puts us at the top of complex industries, the most valuable services and goods in the world, and gives us the opportunity to maintain a standard of living that makes America a great magnet.

Last I checked, people were still flocking to these shores. They were not leaving here to go elsewhere. They were still coming here because of the great opportunities that exist, because of the way in which this culture recognizes the contribution that can be made by citizens generally.

I think that is what the TEAM Act is all about. It is about understanding and recognizing the tremendous resource that workers are, that they can be to their own future by guaranteeing productivity and thereby ensuring job security, that they can be to the competitive position of this country by outproducing and outworking and outthinking and outsmarting and outcooperating workers anyplace else in the world.

Most Americans would believe, and it is because we are commonsense people, that it is OK for employees and employers to talk. If you would have listened to the debate in this Chamber, you would have heard from those on the other side of the aisle, ''Why, it's all right, it's all OK, it's perfectly legal right now. We don't need this.''

When they say it is perfectly legal now, we do not need this, it confounds me that they have amendments to this. Why would they want to have a substitute proposal for something that is perfectly OK? The truth of the matter is, it is not perfectly OK.

Let me read from a list of things that have been ruled inappropriate for nonunion employers to talk to their nonunion employees on. Let us just let the American people have an understanding of what the law is here and whether it needs to be changed.

If you discuss the extension of the employees' lunch breaks by 15 minutes, that is illegal, from the case of Sertafilm and Atlas Microfilming;

The length of the workday, to discuss how long each workday is going to be, that is illegal, from Weston & Brooker Co.;

A decrease in rest breaks from 15 minutes to 10 minutes, that is illegal to talk about with workers;

What paid holidays you have. The Singer Manufacturing case held that was illegal to talk about;

The extension of store hours during the wheat harvest season. The Dillon's company case said you cannot talk with workers about that to get their input.

Who are we trying to kid? Workers know what kind of break they need. Workers know what kind of workday they would like to work. I know of one plant in my home State that decided they wanted to work 4 days of 10 hours a day instead of 5 days of 8 hours a day and have 3-day weekends every week. Why would Government stand between workers and manufacturers, between managers and employees or their associates to say you cannot discuss those things, and yet that is what the law is for eight out of nine American workers, because eight out of nine American workers are nonunion workers.

You see, this is something that is totally and perfectly all right for union workers to talk with employers about. It is just not legal according to the National Labor Relations Board for nonunion.

I could talk to you about other things. Safety labeling of electrical breakers is wrong for the managers to talk to the employees about. I hope they go ahead and talk about it anyhow. They ought to.

Tornado warning procedures: Wrong, cannot talk about that.

Purchase of new lifting equipment for stock crew: Wrong.

Rules about fighting: Wrong.

Safety goggles for fryer and bailer operators: Wrong.

Wait a second. We do not want to rule out of the equation of American business the contribution that employees can make to the safety and productivity, to the efficiency, to the level of service. If the store workers want to mention to the managers that we should stay open later during the wheat harvest in the Great Plains of America, which turns out to be the bread basket for the world, it seems to me that we should not make that against the law.

The sharpness of the edges of the safety knives: That is illegal to talk about.

Pensions, profit-sharing plans, overtime pay: Cannot talk about that.

Oh, it is said that, ''Well, if you talk about those things, the people will think you have a union when you don't. It will be a sham union.'' Frankly, I do not underestimate the American worker that severely.

Over the Fourth of July, over the break of the last 10 days, I went and worked in about five or six places in Missouri, actually on the job side by side with people. I never met a single worker who did not know whether he or she was in a union. They know. Who are we trying to kid? Workers know whether union dues are being deducted. They know whether they are in a separate organization. It is not hard. This is not above the capacity of the American worker. What strikes me is that the American worker is bright.

I was involved in some jobs which I thought, looking from the sideline, might be easy or simple, and I found out that to do them well, there were subtleties about how you did them,

there were challenges, and the American workers develop those capacities and those subtle efficiencies and they know how to put them in the system. They should be able to talk to managers about them.

The idea somehow that if we allow managers to talk to employees, employees will be tricked into thinking they have a union when they do not have a union is ludicrous. It underestimates the intelligence of the American work force. American workers know, they know for sure, they know surely whether or not they are in a union.

A second objection from the other side is, ''Well, maybe if we allow people to talk, they will be just talking to certain employees who only have limited views, and they will not reflect the views of employees generally.'' There is a safeguard. If there is an unfair system established where workers and employers are communicating with each other and it is working against the interests of the workers, it is easy. Workers have every right to unionize. They can form a labor union. They can petition for a labor union. They can ask that unions come in if they think it is unfair.

There is a structural guarantee of competition. If nonunion systems are not working well for employees, if these things are likely to be so distorted or so unfair, nothing in this law, nothing in this proposal in any way derogates, undermines, erodes or otherwise lessens the right of a worker to petition for an election to organize or unionize a plant.

If the teams are unfair representatives or if they are shams or if they are in some way defrauding or abusing the workers, it is clear there is a remedy, and there is every incentive for employers and companies not to engage in that kind of activity, because this law does nothing, does absolutely nothing to change the right of workers to ask that they be represented, if they choose to, by a union.

There are about 30,000 employers that would like to have such plans. Why is it they would like to have such plans? Because they have seen that when we work together we succeed. Strange to me, that is basically a quote from President Clinton's State of the Union Address. He said, and I agree, and I quote, ''When companies and workers work as a team, they do better, and so does America.''

The real truth of that matter is understood in the hearts and minds of everyone who has ever worked on a team, knowing that when you work together, you do better than when you work at odds with each other. Yet we see this administration and its representatives in the Department of Labor opposing this opportunity, and they should not.

When I was Governor of the State of Missouri I had the opportunity to work with companies. Like I do today, I would go and work on the assembly line. I would go and work with people to learn about their jobs to see what was happening.

One of the companies that was hauled into the justice system of the Labor Department for cooperating with its employees was a company called EFCO Corp. It was a small company in Missouri, had about 60 jobs. Now it has over 1,000 jobs. Much of its capacity was to increase its on-time deliveries, which went from the low seventies up into the high nineties, and which allowed workers to start working 4 days a week instead of 5 days a week, get their 40 hours in in 4 days and have long weekends, spend more time with their kids, accommodate the demands of their families. It all came from these programs.

What was most distressing was that when EFCO wanted to be involved, it was said to have dominated its discussion groups or teams because they provided employees with pencils and pens and allowed them to have access to the financial records of the company. That was what the NLRB said was a violation.

You would say this company is bending over backward. It opens up the books to the workers and says: How can we do better for you and how can we, as a team, do better, how can we as a company have the kind of performance and productivity that will recommend us to the world? And indeed they are now a world-class company. But because they provided the pens and pencils and they allowed the workers to have access to the company's financial records, the NLRB filed charges against the company. This is not the kind of thing that recommends America for leadership. It is the kind of thing that takes correction.

The ability of union workers to collaborate with employers is well ensconced. It is fought for by the unions and protected by the employers, recognized as a great benefit. But why should we limit that great benefit to 11 or 12 percent of our society, to the one out of nine workers in America that are in unions? Why not extend this benefit to all the workers in America saying that it is entirely appropriate for nonunion workers, as well as union workers, to be involved in collaborating and cooperating, in providing their good judgment of how best to improve the situation for workers and to improve the productivity and profitability of the business?

A great deal has been made by those who apparently resent this potential, saying how terrible it would be if the employer chose which workers to talk to. Frankly, most employers want to get a good sampling. But it seems to me that what they want to do is impose a rule that says there will be no talking at all for fear that someone might chose the wrong person with whom to talk. It totally ignores the fact that if there are really misrepresentations involved in the situation, there is always the opportunity for those in the plant to ask that there be a union certified. And that election would proceed under the new law that has been proposed here just as readily as it does under the old.

No. I do not think we would send our teams to Atlanta forbidding the players to talk to the coaches. We have too much sense to do that. No, I do not think that union companies are going to stop having team discussions between employees and the company owners and managers. They have too much sense to do that. And, no, I do not think that this Government should stand between the owners of corporations and their managers and the employees who work hard and want to succeed and want to be productive and keep them from talking to each other, because I believe the American people have too much sense to do that.

I urge my colleagues to extend this benefit which now inures to the benefit of one out of nine workers in America to the rest of the working population. Let us give everyone an opportunity to contribute to a winning effort, to succeed. That will maintain America's position as the most productive and most profitable and most rewarding place, not just for companies, but for citizens, not just for institutions, but for individuals. It is in fact a reason that America continues to draw people from around the globe. It is the fact that we have recognized the worth and value of individuals. And for us to deny their value in a commercial setting would be a substantial error which we must not make. Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Missouri for a very sincere and eloquent statement on a subject that he knows a great deal about. Senator ASHCROFT as both a Governor of Missouri and a Senator from Missouri has spent a great deal of time, as he mentioned, working in different companies around the State. He knows this issue well. He feels very passionately and is dedicated to it. I value greatly his help with this legislation.

AMENDMENT NO. 4438

(Purpose: To provide for a substitute amendment)

Mrs. KASSEBAUM. Mr. President, I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 4438.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first world insert the following:

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 decision-making, 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.

Mrs. KASSEBAUM. Mr. President, the amendment that I am offering conforms the TEAM Act to the bill that was passed by the House of Representatives last fall. It just basically has three provisions that clarify the TEAM Act.

First, the amendment includes health and safety among those issues that may be discussed by teams. The original TEAM Act states that teams may discuss matters of mutual interest, including quality, productivity and efficiency issues. We always intended for teams to be able to discuss health and safety. Nevertheless, we wanted to make explicit that health and safety could be a topic of discussion. The amendment makes this clarification.

Second, the amendment specifically limits the TEAM Act's safe harbor to nonunion settings. Despite a construction clause in section 4 of the bill that should have assured organized labor that firms could not use teams to bypass a union, organized labor somehow apparently still believes that teams will undermine unions. That is not the case. Nevertheless, we make it abundantly clear that we do not intend teams to undermine unions and we state in plain English that the TEAM Act's safe harbor only applies to nonunion settings.

Finally, the amendment states that teams have equitable participation by workers and managers. The purpose of this provision is to clarify that workers may raise issues for discussion just as managers may raise issues as well. This is not meant to be a rigid formula for participation in the teams. It is simply meant to promote open dialog in teams. Many unionized workplaces suffer from an ''us-versus-them'' attitude, and we do not want teams to suffer the same problem.

This has been my concern with the amendment that was offered earlier by the Senator from North Dakota. There is a specificity and a rigidity written into the amendment that does not allow for the flexibility that I think Senator ASHCROFT spoke to with much clarity and eloquence.

Those are the main provisions of the substitute amendment that I am introducing.

For a point of clarification, Mr. President, I ask how much time is left on the Kassebaum amendment.

The PRESIDING OFFICER. There are 14 minutes and 10 seconds remaining.

Mrs. KASSEBAUM. On my side?

The PRESIDING OFFICER. Yes. And 30 minutes on the other side.

Mrs. KASSEBAUM. I appreciate that. I think that the Senator from Vermont wishes to speak again. I yield to him now however much time he wants out of that remaining time that is left. I yield to Senator JEFFORDS.

The PRESIDING OFFICER. The Senator from Vermont has 14 minutes remaining.

Mr. JEFFORDS. Mr. President, I am a cosponsor of the TEAM Act because I believe that cooperation between the employers and employees is critical to our future. The historical confrontation and conflict model of industrial relations will not serve us in the 21st century. Over 30,000 American companies use employer-employee involvement programs.

The TEAM Act addresses the concern that the National Labor Relations Board will discourage future efforts at labor-management cooperation. Specifically, in the Electromation decision, the NLRB held that employer-employee action committees that involved workers meeting with management to discuss attendance problems, no-smoking rules, and compensation issues constituted unlawful company dominated unions. Senator ASHCROFT went through a whole list of items which obviously should not have raised the concern of the NLRB.

Congress enacted section 8(a)(2) of the National Labor Relations Act forbidding employer domination of labor organizations, to eliminate the sham unions of the early 1930's. That was an appropriate and necessary act. The TEAM Act is a direct recognition that the world of work has changed since the 1930's, as I stated earlier. In that era, many in American business believed that success could be achieved without involving workers' minds along with their bodies. Today, recognition is widespread among business executives that employee involvement from the shop floor to the executive suite is the best way to succeed.

The employee involvement efforts protected by the TEAM Act are not intended to replace existing or potential unions—not intended. In fact, the language of the bill specifically prohibits this result. That is why it is hard for me to concede that the opposition has any merit.

The legislation allows employers and employee to meet together to address issues of mutual concern, including issues relating to quality, productivity, and efficiency. However, those efforts are limited by language that prohibits the committees or other joint programs from engaging in collective bargaining or holding themselves out as being empowered to negotiate or to modify collective bargaining agreements. It is very clear, that sets the line, you cannot do what the unions are worried about.

Mr. President, the essence of the matter is the definition of a labor organization under the NLRA is so broad that whenever employers and employees get together to discuss such issues, that act arguably creates a labor organization. In that situation, the existing language of section 8(a)(2) comes into play and the question becomes whether the employer has done anything to dominate or support that labor organization. It takes very little for an employer to be found to have violated section 8(a)(2).

In prior debates, my Democratic colleagues have disputed whether such

domination and support can be as little as providing meeting rooms or pencils and papers for the discussions. However, it is clear that at present no employer can be 100 percent certain that its dealings with a team comply with the law. The standard is simply too unclear. Thus, we have this bill before the Senate.

In our earlier debate on this issue, I heard Senator KENNEDY state that upwards of 80 percent of American companies are engaging in some form of teamwork or other cooperative workplace programs. His conclusion was that all this activity is taking place now without a change in the law, so there is no need to change the law. However, what that argument misses, Mr. President, is the fact that much of this activity is a technical violation of existing law.

While these programs may be doing wonders for the productivity of the companies where they are employed, any of them are no more than a phone call away from running afoul of the NLRA. What this does is places the unions in a position of intimidation, to try and force organization where they may not be able otherwise to get it.

It is no defense to an unfair labor practice charge that the program is working, that working conditions and productivity have improved, or that the company's bottom line has risen. None of that matters. If it is a technical violation of the antiquated rule, the NLRB will shut down the work team, fine the company, and force it to sign papers swearing never to do it again. The TEAM Act would prevent the continuation of these absurd results. That is all we are asking for here.

I recently was visited by a workplace team from my own State of Vermont. I am certain many of my colleagues in the Senate have had similar visits. There are successful teams operating throughout the country. That is the way it should be. We should keep it that way. The workers who visited me were from the IBM computer-chipmaking facilities in Burlington, VT. The more traditional top-down management style still prevails in most shifts and in most departments in that plant. However, on the night shift at this plant, the workers decided about 3 years ago to try a cooperative work team. They chose the name WENOTI for their group. That name is a combination of the words ''we, not I,'' to symbolize their focus on what is good for all, not just what is good for one.

When the team representatives came to my office a few months ago, they were as proud a group of employees as I have ever seen. The WENOTI team consistently leads the plant in all productivity and quality control measures. Moreover, they told me that their job satisfaction has risen directly to the relationship of their ability to contribute meaningfully to the successful completion of their jobs. They were participating, and they were seeing results.

IBM is a profitmaking organization, and it is not promoting employee involvement solely out of altruism, but, rather, IBM has come to the realization that employee involvement is vital to the company's bottom line. Doing so has the added dividend of giving employees a greater stake and a greater satisfaction in their job. Time and again, you hear employees praise companies that do not ask them to check their brains at the door.

So if affected employers and employees support this legislative effort, what is the problem? It comes as no great surprise that organized labor takes a dim view of it. Oddly enough, to do so, it also must take a dim view of the American worker.

Organized labor's arguments are based on the assumption that workers are not smart enough to know the difference between a sham union and a genuine effort to involve them in a cooperative effort to improve a product, improve the productivity, improve the profit, and hopefully, and most likely what will occur, enhance the ability of workers to see increased pay and benefits in their job.

In fact, Mr. President, the evil that section 8(a)(2) of the NLRA was designed to prevent was employees being fooled into thinking a union was in the plant to represent their interests when, in reality, it had been set up by the employer to act in the company's best interests. Employers may have been able to get away with that behavior in the 1930's when this provision was written, but I think today's workers are smarter and better informed than ever before. I think that is exactly why the employers are trying to harness their brains as well as their backs, and in the modern-day work force, the need for brains is greater every day.

Section 8(a)(2) needs to be amended to reflect the reality of today's work force. That is all that this bill is trying to do.

The real problem for unions is, under current law, they have a monopoly on employee involvement. Like the AT&T or the Vermont Republican Party of old, nobody likes to lose their monopoly. But consumers or voters or workers profit from choices in competition, not from a static response to a changing environment.

This is clearly the trend of the future. We should not allow an outmoded interpretation of law written for an early era get in the way of this Congress. I urge my colleagues to support the TEAM Act. I urge them to protect the future of this Nation by allowing us to be cooperative and to be productive in the world's economy so we can continue our domination in the world economy.

Mrs. KASSEBAUM. Mr. President, I appreciate very much the efforts of Senator JEFFORDS over a long period of time. He has been valuable in committee as well as making a case on the floor. I thank him.

The Senator from Virginia [Mr. WARNER] desires to speak. Until he is here, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

AMENDMENT NO. 4437, AS MODIFIED

Mr. KENNEDY. Mr. President, on behalf of Senator DORGAN, I send this modification of this amendment to the desk.

The amendment (No. 4437), as modified, is as follows:

Strike all after the word ''SHORT'' on page 2, line 1, and insert the following:

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 decision-making, 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) the prohibition of the National Labor Relations Act against employer domination or interference with the formation or administration of a labor organization has produced uncertainty and apprehension among employers regarding the continued development of employee involvement structures.

(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. LABOR PRACTICES.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end thereof the following new subsection:

''(h)(1) The following provisions shall apply with respect to any employees who are not represented by an exclusive representative pursuant to section 9(a) of 8(f):

''(A) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to meet with the employees as a group, or to meet with each of the employees individually, to share information, to brainstorm, or receive suggestions or opinions from individual employees, with respect to matters of mutual interest, including matters relating to working conditions.

''(B) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to assign employees to work units and to hold regular meetings of the employees assigned to a work unit to discuss matters relating to the work responsibilities of the unit. The meetings, may, on occasion, include discussions with respect to the conditions of work of the employees assigned to the unit.

''(C) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to establish a committee composed of employees of the employer to make recommendations or determinations on ways 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 to discuss matters relating to the committee. The meetings may, on occasion, include discussions with respect to any directly related issues concerning conditions of work of the employees.

''(2) The provisions of paragraph (1) shall not apply if—

''(A) a labor organization is the representative of the employees as provided in section 9(a);

''(B) the employer creates or alters the work unit or committee during any organizational activity among the employer's employees or discourages employees from exercising the rights of the employees under section 7;

''(C) the employer interferes with, restrains, or coerces any employee because of the employee's participation in or refusal to participate in discussions with respect to conditions of work, which otherwise would be permitted by subparagraphs (A) through (C) of paragraph (1); or

''(D) an employer establishes or maintains a group, unit, or committee authorized by subparagraph (A), (B), or (C) of paragraph (1) that discusses conditions of work of employees who are represented under section 9 without first engaging in the collective bargaining required by this Act.

''(3) An employee who participates in a group, unit, or committee described in subparagraph (A), (B), or (C) of paragraph (1) shall not be considered to be a supervisor or manager because of the participation of the employee in the group, unit, or committee.''.

Mr. KENNEDY. Mr. President, I wanted to just speak briefly on the measure that is before us. I see other Senators who want to address the Senate this evening. So I will only take a few moments.

But during the course of the discussion about what is legitimate and what is not legitimate, under existing laws there are a number of items that were raised, most of which were raised in a previous debate and discussion on the TEAM Act. We asked the General Counsel of the National Labor Relations Board to make a comment on them.

I ask unanimous consent that his complete letter to me be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. GOVERNMENT,
NATIONAL LABOR RELATIONS BOARD,
Washington, DC, May 14, 1996.

Hon. EDWARD M. KENNEDY,
Senator, U.S. Senate, Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: This is in response to your request of May 11, 1966 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), enfd., 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. *Keeler Brass Co.*, 317 NLRB 1110 (1995); *Electromation,* 309 NLRB at 998 n. 31; *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 that case, or that any discussion about that subject would necessarily constitute dealing, or be impermissible.

6. Nothing in the NLRA prevents employers from seeking suggestions and ideas from employees. Therefore, it does not prevent an employer from seeking such input from employees about how to settle a fight among employees.

7. Nothing in the Act prohibits an employer from talking to employees, who are not represented by a union, about extending lunch breaks. As already discussed, talking to employees does not constitute dealing.

The NLRB's decision in *Atlas Microfilming Division of Sertafilm, Inc.* 267 NLRB (1983), enfd. 753 F.2d 313 (3d Cir. 1985), is not to the contrary. That case did not involve a violation of Section 8(a)(2) of the NLRA, nor did the NLRB find that an employer could not discuss extending the lunch hour with unrepresented employees. There, the NLRB found that the employer violated Section 8(a)(5) and (1) of the NLRA by unilaterally extending the lunch break an additional 15 minutes, at a time when the employer had an obligation to bargain with a union that was the exclusive representative of the employer's employees.

8. It is not illegal for an employer to have a dialog with his employees about flexible work schedules. Where employees are simply providing information or ideas, rather than making proposals as part of a pattern or practice of making proposals, there is not dealing between the employees and the employer. Further, where employees seek to make proposals in the context of an organization over which they have control, there is no unlawful employer domination of organization.

The NLRB's decision in *Weston & Broker Co.* 154 NLRB 747,763 (1965), enfd. 373 F.2d 741 (14th Cir. 1967), did not make it against the

law for employees to discuss working arrangements with their employers. The employer in that case did not attempt to discuss work arrangements with employees. Rather, in that case, the employer unilaterally changed employees' hours of employment, without providing notice to the union representing the employees, or bargaining with the union, and it was those actions that the NLRB found to be a violation of the employer's obligation to bargain under Section 8(a)(5) of the NLRA.

9. It is not illegal for an employer to seek input from employees concerning improving productivity. An employer is prohibited only from dominating, interfering with, or supporting a labor organization. A labor organization is one that exists in whole or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, as set out in Section 2(5) of the NLRA. When discussions about productivity do not implicate the subjects listed in the statutory definition of labor organization, Section 8(a)(2) of the NLRA is inapplicable. See *Vons Grocery Company* 320 NLRB No. 5 (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.

Mr. KENNEDY. Mr. President, Senators have pointed to the recent administrative law judge decision relating to the Polaroid Corp. as an example of what is wrong with the National Labor Relations Act. I disagree with those Senators. Polaroid illustrates what is right with the NLRA and wrong with the TEAM Act.

In Polaroid the employer created something it called the Employee Owners Influence Council to replace the Polaroid's Employees' Committee which the employer unilaterally disbanded. Polaroid got rid of the committee when advised that the committee was a labor organization whose officers, under the Landrum-Griffin Act, must be elected. Polaroid's CEO unilaterally disbanded the Employees' Committee because he believed that a companywide election would be disruptive, divisive, and contrary to the collaborative heritage that we value at Polaroid.

When he disbanded the Employees Committee, the CEO expressed concern that this could leave a vacuum in the company and could lead to a union organizing drive. Polaroid therefore set about to create an alternative structure that would be compatible with our corporate values. The administrative law judge found that in creating this structure, Polaroid was motivated in part by its opposition to any union, or union not dominated by the company and by its concern that in the absence of a company dominated structure, the resulting void might leave an opening for such unwanted union.

Polariod selected the members of the Employee Owners Influence Council, controlled the agenda and established all the ground rules for its proceedings. Polaroid made clear to the employees, as the ALJ found, that if they wished to have any voice in shaping company policy and practices they had best do so through the mechanism of EOIC.

Polariod sought to circumvent §8(a)(2) in creating the EOIC by transparent artifices. The members of the EOIC were told that they reflected, but did not represent the views of other employees—although they could report on what I have heard. The members of the EOIC likewise were told not to make recommendations, although they could respond to company proposals. And the members of the EOIC did not arrive at majority decisions, although polls were taken of the EOIC members. The ALJ had no trouble seeing through these word games and found that the EOIC was, in fact, an employee representation committee.

In sum, the Council at issue in Polaroid was unlawful because it violated the core purpose of §8(a)(2): it deprived employees of the opportunity to determine for themselves how they wish to be represented and to choose their own representatives and substituted, instead, an employer controlled system of employee representation. S. 295 would, indeed, allow such employer domination. That is why S. 295 should be defeated.

Mr. President, I would like to just very quickly mention for the Members some of the items that were brought up during this afternoon and that had been brought up previously, and his response to them.

The NLRB has made it clear that employers 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.

The issue about employers talking to their employees about matters of mutual interest, and 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 programs in their work, or from seeking suggestions and ideas from 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 purposes of sharing information with the employer but makes no proposal to the employer is not ordinarily engaged in dealing.

Nothing in the NLRA prohibits employees from talking to their employer about tornado warning procedures. Talking to employees does not constitute dealing with employees and their employer.

That issue was raised this afternoon as well.

Nothing in the NLRA prevents employers from seeking suggestions and ideas from employees. Therefore it does not prevent an employer from seeking such input from employees in how to settle a fight among employees.

That was suggested to be illegal.

Nothing in the Act prohibits an employer from talking to employees who are not represented by a union about extending lunch breaks. As already discussed, talking to employees does not constitute dealing.

I believe that that activity was suggested as violating the law.

It is not illegal for an employer to have a dialog with his employees about flexible work schedules. Where employees are simply providing information or ideas, rather than making proposals as part of a pattern or practice of making proposals, there is no dealing between the employees and the employer. Further, where employees seek to make proposals in the context of an organization over which they have control, there is no unlawful employer domination of that organization.

The NLRB's decision in Weston & Brooker did not make it against the law for employees to discuss working arrangements with their employers. The employer in that case did not attempt to discuss work arrangements with employees. Rather, in that case, the employer unilaterally changed employees' hours of employment without providing notice to the union representing the employees, or bargaining with the union, and it was those actions that the NLRB found to be a violation of the employer's obligation to bargain under section 8(a)(5) of the NLRA.

There has been references to that earlier in the afternoon. It is important to put it in perspective, and I believe this comment does.

It is not illegal for an employer to seek input from employees concerning improving productivity. An employer is prohibited only from dominating, interfering with, or supporting a labor organization. A labor organization is one that exists in whole or in part for the purposes of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, as set out in section 2(5) of the NLRA. Where discussions about productivity do not implicate the subjects listed in the statutory definition of labor organization, section 8(a)(2) is inapplicable.

Mr. President, I include the whole letter. It is a very good statement. What we have tried to do is to take a number of the questions that were raised during earlier debate by a number of our colleagues and asked for an explanation and for an understanding by the chief counsel as to the conditions of the law. I think if people take the time to review the letter and put it against what has been suggested they would have a clearer idea.

Finally, I come back, Mr. President, to say, as I mentioned from our previous charts earlier today, we have, No.

1, seen where this kind of cooperation is taking place in 30,000 businesses across the country. The number of cases that have been brought each year is virtually a handful. This is not a problem. What we are doing with, I believe, with the consideration of the TEAM Act is that rather than get involved in cooperative kinds of endeavors, it is only going to provide increasing kinds of tension.

When the employers know their rights and the employees know their rights and they are able to work that out, then we have an increasing understanding and increasing productivity. When you have exploitation of one side by the other, you have tension and lack of cooperation. We find that today there is that increasing cooperation and we support that and believe that that ought to be the case. But we are strongly opposed to the idea that under the label of cooperation or some idea of ''team,'' we are going to substitute carefully selected employees by the employers to be the effective negotiators for employees in the areas of conditions and wages. That is stated not to be the purpose of it. If it is not the purpose of it, I do not believe this legislation is really needed, and for those reasons and reasons outlined earlier in the day I hope the legislation would not be approved.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I would respectfully disagree with the ranking member of the Labor and Human Resources Committee; there is a problem. And while there may be only 1 case out of 1,000 perhaps that is a problem, it has, as I have said earlier, a chilling effect. And the example I gave this afternoon was of the Polaroid decision which was in June and was I think an enormous problem and an example of the effect and influence on everyone.

Point of inquiry. How much time is remaining for my amendment, or on my side?

The PRESIDING OFFICER. There are 3 minutes 2 seconds.

Mrs. KASSEBAUM. I yield to the senior Senator from Virginia that amount of time plus any leader time he would desire.

Mr. WARNER. Mr. President, plus what other time?

Mrs. KASSEBAUM. Any amount of leader time——

Mr. WARNER. I thank the Senator.

Mrs. KASSEBAUM. The Senator from Virginia desires.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I am here as, I believe, one of the strongest supporters of this proposed legislation. I am privileged to serve on the Small Business Committee. Chairman BOND and others had hearings at which I participated.

Mr. President, before the distinguished Senator from Massachusetts leaves the floor, I wonder if I might ask him a question on my time.

Mr. President, in the course of the hearing before the Committee on Labor, chaired by the distinguished Senator from Kansas and the distinguished Senator from Massachusetts as the ranking member, I put forth the suggestion that I find this proposed legislation a first cousin to the suggestion box which is found in industrial plants and offices all across America. I have great difficulty in trying to determine, if you can drop a written suggestion in the box, why can't one or two employees verbally suggest to their employers—whether it is, say, a day care center or needed improvements in the restaurant—why can they not do that and then help the employer implement it? It seems to me so elementary.

Mr. KENNEDY. Mr. President, I respond, they cannot only do it but they do much more in the 30,000 businesses across the country that the majority report mentions. If you take the State of Washington and the State of Oregon, the two clearest States, they have been able to save in State workman's compensation hundreds of millions of dollars, over billions of dollars have been realized as a direct result of this kind of cooperation. We are all for that. As we pointed out, this is a problem that does not exist.

Here is a map showing the virtual nonexistence of these cases before the NLRB. No one in the State of Virginia has brought a successful case under this section in the last 4 years. And if the Senator is here tonight to say that there is great confusion or a great problem or trouble among the employers, I would like to know about it because no one has brought a case to the NLRB under this particular section.

Mr. WARNER. Mr. President, I would say in the course of the hearing in the Small Business Committee, we had employers come up who went ahead and violated the law knowingly and take the risk of being sued, and one of them was a Virginia firm.

Mr. KENNEDY. The only point is that this is 1992 through 1995 and we do not have those cases recorded. I have gone over in careful detail the total number of cases over the period of the last 10 years that have been brought. I will bring those charts back. I know the Senator wants to address the Senate.

We are for cooperation. You have the examples of 30,000 different employers where that is taking place now. We have, I believe it is 227 cases that have been brought in 4 or 5 years as compared to the 13,000 illegal firings of workers in Virginia and around the Nation and the remedies that have been out there to provide back pay and reinstatement. This is numbers going in the thousands.

It seems to me, if we are going to talk about doing something to improve the climate, we ought to be trying to look out for workers' rights. In 1994, there were 227 charges of 8(a)(2) violations of all kinds—not just those that are the subject of S. 295. In 1994—as you know, Electromation was 2 years before, in 1992—there were 87 cases. You look at those where they have remedies for reinstatements by employers, 7,900; remedies for back pay because of illegal activity, 8,500, that is a problem.

Mr. WARNER. Mr. President, I disagree with my colleague. I find this law is always a chilling effect, a very severe chilling effect, on the ability of the workers of today to implement their suggestions with management.

If I might pose a second question to my good friend and colleague, this law was put on the books in 1935. And how well we recall the profile of the work force in those days, having less benefit of education, having grown up, father and son, in an atmosphere where the workers were told what to do by the managers who were not looking for any suggestions.

That labor force, I say to my good friend, has changed dramatically since 1935. Today, it is a well-educated work force. It is a work force that wants to participate and have a voice in their organization, firm, manufacturing company, or whatever the case may be, becoming more competitive; competitive domestically, competitive internationally. The concept in this legislation is spreading through Asia. My good friend is aware of that.

I would be interested in his views in comparing the work force of 1935 to the work force of 1995, 1996, 1997; and whether or not that alone, that profile, that change in the individual, does not dictate that the Congress should awaken to change this archaic law?

Mr. KENNEDY. I would answer it this way, Mr. President. The greatest danger to the workers in 1935 was company-dominated unions—company-dominated unions. Anyone who understands the industrial history of this country understands that they were the principal vehicles which were used to deny workers their legitimate rights.

All I am saying here is let us not repeat that unfortunate history. This has nothing to do with the education or the ability of the employees. It is: Let us not repeat history, to go back to company-dominated unions. And that is the danger of this proposal.

The final point I make is this. I know the Senator is familiar with the majority report of the committee. This is the majority report. This is the majority report that supports the TEAM Act. Citing the Commission on the Future of Worker-Management Relations, their survey found 75 percent of responding employers, large and small, had incorporated means of employee involvement in their operation. Among the larger employers, those with 5,000 employees or more, the percentage was even higher—96 percent. ''It is estimated that as many as 30,000 employers currently employ some form of employee involvement or participation.''

Wonderful. Amen. You have it going already and you have no complaints

about it. Meanwhile, you still have the growing numbers of workers being thrown out and being reinstated because of violations of the law, because of illegal activity from many employers, and also remedies for back pay.

The point I am making is we have those, even in the majority report, taking place. We are all for it. The area that is proscribed is exactly the area which the Senator has referred to, and that is the ability of company employers making decisions about which employees are going to negotiate and represent employees to negotiate with the employer about wage and working conditions. That is proscribed. That is what we are concerned about.

I know Senator KASSEBAUM has spoken eloquently, and it is not her desire to substitute the company-designated employees for that purpose. But I daresay we are going right down the road on it. If we are able to make progress in the other areas, I think we ought to continue to make progress, rather than come up with a solution for a problem that I do not think really exists. But I thank my colleague.

Mr. WARNER. I thank the distinguished Senator from Massachusetts. I feel the workers today are far too intelligent, far too mobile, to allow that. They will move on to another situation unless they feel their intelligence is being utilized just as fully as their brawn and other attributes.

I feel the TEAM Act is a common sense measure designed to eliminate a Government-imposed restraint on America's competitiveness. This country, our companies, and our workers must increasingly compete in a world economy. Every shortcoming of a company, whether it is bloated management, undereducated employees, or excessive debt, can doom that company today. This reality faces high-tech firms with Asian competition and traditional industries struggling against the developing nations. It is a one-world economy, and I commend the managers of this bill for bringing forth this legislation to free the bonds and loosen the shackles and restraints on the American worker today to get out and compete with workers all over the world. How different that was in 1935 when, incidentally, this country regrettably was in a period of isolation and our markets were within our own States or across State borders.

Then the Wagner Act. That act presently throws into doubt all kinds of employee involvement programs. It was enacted in 1935 when employees were expected to do exactly what they were told. ''You are here to be told what to do, not listened to; to be seen, not to be heard from.''

''Theirs not to reason why, Theirs but to do or die'' to quote Alfred, Lord Tennyson. That was over 60 years ago, when almost every business required a lot more physical labor than creative thinking. That was when the struggles between labor and management were seen as zero-sum battles, where laborers fought for every last crumb that their industrial bosses may have given them. Those days are behind us, fortunately.

Now we are in 1996 and everybody knows that business must have the most effective, productive, and satisfied employees to compete in the world economy. Which plant is going to be more successful, the one where management calls all the shots and simply barks orders at the employees? No. It is the company where employees' ideas and suggestions are encouraged, listened to, respected, and utilized. It does not take an expert on business productivity to know that employee involvement is the key to our survival in this one world market.

I was fortunate to chair a hearing in the Committee on Small Business on the TEAM Act. The hearing was held in April of this year. We heard testimony from experts but we also heard testimony from the laborers themselves. I remember one man proudly wore his blue collar outfit.

One expert witness, Edward Potter, of the Employment Policy Foundation, testified about detailed studies concerning increases in productivity made by American companies over the past few decades. Three-quarters of these increases—I will repeat that—three-quarters of the increases in the productivity were attributable to employee involvement in their respective workplaces. The team concept was far more responsible for productivity improvements than, indeed, education, capital investment, or work experience. Without employee involvement we have little improvement in productivity. And without increases in productivity, we are doomed in this one-world market.

I believe in the smarts and talents of the American worker. Companies and employees in my Commonwealth of Virginia have shown remarkable ingenuity in using team concepts to take on world competition. The AMP Corp., a worldwide corporation which manufactures electrical connectors, has a plant in Roanoke, VA, which provides several examples of this creativity necessary to meet the challenge of foreign competition.

One team of workers went with their managers to another AMP facility and learned a new stamping process. Implementing this process in Roanoke increased output so much that 20 new jobs were created.

Another team of workers was assigned the task of comparing AMP's production processes to foreign competitors, a job previously done solely by management. The employee team was better able to see how inventory levels, technology changes, and production cycles affected productivity. As a result, quality and delivery is better, prices are lower, and the employees have increased job security.

Last, the community education team reaches out to local schools. Through this team, AMP has been able to recruit new workers from the Roanoke area with the necessary technology training rather than recruiting out of the area.

Many Virginia companies have had similar success stories. The team concept is one that works and it is astonishing that outdated laws cast doubt on the legality of programs that benefit both the company and its employees.

I would like to address for a minute the amendments which will be offered by the other side of the aisle. These amendments would require that all teams be formed only after formal elections by the employees affected by the decisions of the team. This is micromanagement of the workplace at its worst: the present situation where the legality of teams is unclear is a better one than what these amendments would create.

Imagine the logistical nightmares of having to hold a formal election every time more than one employee wants to discuss something with a supervisor. Take a 20-person printing company where Fred and Jane are two of 18 nonmanagement workers. Their work stations are next to a piece of equipment emitting fumes where ventilation around that area is poor. As a result, Fred and Jane would like to have the machine moved to an empty area with an air duct. Under these amendments, the 18 workers would have to hold a formal election before Fred and Jane could suggest to the owner that the equipment be moved. This election no doubt would have to comply with NLRB regulations about the notice of the election, timing, secrecy provisions, and the like. Is this really necessary? Can't we trust the 18 workers to be watchdogs of their own needs? Can't we trust Fred and Jane to make reasonable suggestions to the owner? Or do we have to micromanage every decision made in the workplace? I think the answer is clear.

I believe enactment of the TEAM Act without harmful amendments would be a boon to American industry and American workers. Only by allowing them to compete freely in the world economy can we expect our companies to be successful and their employees well-paid and satisfied. I urge my colleagues to join me in sending the TEAM Act to the President.

I thank the distinguished chairman of the committee, the Senator from Kansas, the manager of this legislation, for allowing me to participate in this debate. I once again extend my strongest congratulations for your leadership in seeing this legislation move forward and, indeed, to our fellow colleague, the Senator from Missouri, Senator BOND, the chairman of the Small Business Committee.

I yield the floor.

Mrs. KASSEBAUM. I thank the Senator from Virginia who knows well the importance of this legislation to the effectiveness and the well-being of employees.

As a member of the small business community, I think he has addressed

very effectively just how much it would be an asset to employees, as well as employers, to have some certainty about their ability to communicate and work together in the workplace.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

MORNING BUSINESS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 8, 1996, the Federal debt stood at $5,154,104,445,604.38.

On a per capita basis, every man, woman, and child in America owes $19,430.90 as his or her share of that debt.

CABLE INDUSTRY OFFERS SCHOOLS FREE INTERNET ACCESS

Mr. PRESSLER. Mr. President, today, I had the pleasure of participating in the launch of Cable's High-Speed Education Connection, the cable industry's latest contribution to the American educational system and America's children. At the heart of this initiative is a commitment by the cable industry to offer every elementary and secondary school in the country that is passed by cable, basic high-speed Internet access via cable modems—free of charge.

For years, the computer industry has offered greatly discounted pricing on hardware and software to schools, universities, teachers, and students. This same industry is arguably both the most successful and the least regulated in the United States.

As chairman of the Senate Committee on Commerce, Science, and Transportation, one of my primary goals in authoring the Telecommunications Act of 1996 was to apply this competitive formula to the telecommunications industry. I am convinced it is a formula for success. This formula creates a world in which different telecommunications companies can compete with each other in the delivery of new services to American consumers.

I was especially interested in breaking up the local exchange monopolies and encouraging new entrants to provide alternative telephone services and television programming. I congratulate the cable industry for rapidly taking the lead in demonstrating how this newly competitive environment accelerates the provision to students and teachers of access to the latest and best educational technologies.

What will be the result? Elementary and secondary schools will be wired for cable. They also will be equipped with modems maximizing the delivery of high-speed digital services. These developments very positively impact the future of learning—including the development of distance learning—which particularly helps rural States like South Dakota. In fact, I understand that among the first cable markets targeted for these new services will be Rapid City, SD. These wired schools will expose young generations to some of the best of cable technology. They will create sophisticated users of the next generation of cable information services. They will help create masters of the information age.

So, what we witness here is not the result of Government's decision as to which technology should be mandated for low cost delivery to schools. We witness instead the initial stages of a competition for the loyalty and attention of future adult generations in their decisions about which services best accommodate their needs.

Mr. President, I am pleased that the cable industry is taking the initiative today to provide American schools—free of charge—with high-speed access to the Internet using cable modems. Cable's High-Speed Education Connection builds on the foundation established by Cable in the Classroom, an ongoing multimillion dollar educational project that provides more than 74,000 schools nationwide with free access to cable systems and more than 6,000 hours of commercial-free educational programming each year. The cable industry is to be commended for being a leader in providing educational benefits and network access to the communities it serves.

I encourage other companies and industries to follow the example the cable industry announced today and applaud what likely is only the first step by the cable industry to improve the quality and availability of education technology.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT, OCEAN SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION FOR FISCAL YEARS 1994 AND 1995—MESSAGE FROM THE PRESIDENT—PM 157

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

I am pleased to submit the Biennial Report of the Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) for fiscal years 1994 and 1995. This report is submitted as required by section 316 of the Coastal Zone Management Act (CZMA) of 1972, as amended, (16 U.S.C. 1451, et seq.).

The report discusses progress made at the national level in administering the Coastal Zone Management and Estuarine Research Reserve Programs during these years, and spotlights the accomplishments of NOAA's State coastal management and estuarine research reserve program partners under the CZMA.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 9, 1996*.

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR FISCAL YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 158

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1995 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1995.

Since 1967, when the Congress created the Corporation, CPB has overseen the growth and development of quality services for millions of Americans.

This year's report highlights ways the Corporation has helped millions of American families and children gain new learning opportunities through technology. At a time when technology is advancing at a pace that is as daunting as it is exhilarating, it is crucial for all of us to work together to understand and take advantage of these changes.

By continuing to broadcast programs that explore the challenging issues of our time, by working with local communities and schools to introduce more and more children to computers and the Internet, in short, by honoring its commitment to enriching the American spirit, the Corporation is preparing all of us for the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 9, 1996*.