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Hot Topic
"Future Worker-Management"

Statement of
Samuel Estreicher, Professor of Law, New York University
Before the
Commission on the Future of Worker-Management Relations
January 19, 1994

Mr. Chairman and Members of the Commission, I am a member of the law faculty at New York University where I have been teaching labor and employment law since 1978. I am working on a book on U.S. labor law reform, and welcome the opportunity to address the Commission -- which is engaged in important work with implications for the future of the quality of our workforce, our competitive position in the world economy, and the quality of our society.

I have previously submitted recent writings outlining my thoughts on labor law reform. Such reform, I believe, should be part of an integrated package addressing three objectives. The first is a substantial relaxation of the prohibition in §8(a)(2) of the NLRA of company-initiated and -supported employee committees in the nonunion sector. The second is a bolstering of the legal protections for employees wishing to be represented by independent unions. The third would be a change in existing rules that create incentives for adversarial relations and stymie cooperative labor-management solutions in the union sector.

Knowing my academic propensity to veer from the subject, Paul Weiler, your able Chief Counsel and a distinguished labor law scholar, has cautioned me that today's session is devoted to § 8(a)(2)-related issues. Hence, I will strive to limit my remarks to those issues.

Overview of Electromation

Section 8(a)(2) has reentered the public debate in good part because of the Labor Board's recent rulings in Electromation, Inc.,¹ and E.I. duPont de Nemours & Company,² In Electromation, the agency found a company guilty of no other impropriety than forming employee "action committees" for joint dealings with management over absenteeism, pay progression and no-smoking policies.

Despite some open questions, there is cause for concern (widely though not universally shared by the management community) that Electromation will place in jeopardy current strategies for the organization of work that emphasize reduced layers of supervision and employee involvement in product design and service delivery improvements. Moreover, the Labor Board ruling raises for public policy the question whether the underlying model of the NLRA -- that, in the name of preserving employee free choice, employees should be restricted to the choice between independent unions and unilateral employer decisionmaking -- fits well current social conditions.

¹309 N.L.R.B. No. 163 (Dec. 16, 1992).

²311 N.L.R.B. No. 88 (May 28, 1993).

Electromation does leave room for certain forms of employee involvement programs, such as "brainstorming sessions" and other "communication devices" where groups of employees voice suggestions or complaints, and management only listens, avoiding any "give and take" that might be construed as "dealing with" a "labor organization" under § 8(a)(2).³ Apparently, practices that involve complete delegations of managerial authority to work teams or grievance boards,⁴ will also survive scrutiny. And, perhaps, committees that are free to meet without supervisory involvement, set their own agendas and press disagreements with management will be deemed untainted by impermissible "support" or "domination."

However, what management may not do is engage in what the Labor Board terms, "a bilateral process involving employees and management in order to reach bilateral solutions on the basis of employee-initiated proposals."⁵ Committees involving any representational element at all, or any "bilateral process" that can be viewed as distinct from of a natural work grouping or the workforce as a whole, are likely to elicit regulatory action.⁶

³See DuPont, slip op. 2.

⁴Electromation, slip op. 12-13, citing General Foods Corp., 231 NLRB 1232 (1977); Mercy-Memorial Hospital, 231 NLRB 1108 (1977); and John Ascuaga's Nugget, 230 NLRB 275 (1977).

⁵Electromation, slip op. 17.

⁶For example, as the Commission is aware, a complaint to the Labor Department caused Polaroid to disband a system of committees in place since 1946 -- and lauded in David Ewing, Justice on the Job: Resolving Grievances in the Nonunion

A number of arguments have been offered for limiting Electromation's reach. These are not likely to withstand analysis or offer much comfort to companies interested in employee involvement programs. One limiting reading of the Board's ruling is that § 8(a)(2) requires proof that the employer-initiated and -supported system functions in a representational capacity -- a question that the agency expressly left open. However, the Board found a representational element in Electromation's "Action Committees" on the rather meager showing that the committee members were supposed "to get their ideas from other employees regarding the subjects of their committees for the purpose of reaching solutions that would satisfy the employees as a whole."⁷ As then NLRB General Counsel Jerry M. Hunter observed, in a memorandum to regional directors, "should the Board ultimately conclude the statute requires employee committees to act in a representational capacity, such a factual test may not be difficult to meet," and hence

Workplace 299-308 (1989) -- for airing shop-floor grievances and adjusting layoffs and other personnel practices, with third-party arbitration as the final step. See Polaroid Dissolves Employee Committee in Response to Labor Department Ruling, (BNA) Daily Lab. Rep. (No. 121), June 23, 1992, p. A-3. A new employee - shareholder advisory structure set up by Polaroid has resulted in the issuance of an NLRB complaint, Polaroid Corp, 1-CA-29966 & 1-CA-30063 (May 28, 1993). See NLRB Charges Polaroid with Forming New Employer-Dominated Labor Committee, (BNA) Daily Lab. Rep. (No. 105), June 3, 1993, p. A-1.

⁷Electromation, slip op. 17.

representational capacity "may not be an issue in many cases...."⁸

Apparently, even if employees on committees are not expressly urged to, and do not in fact, poll and report back to their colleagues on the plant floor, the representational element will be found satisfied if the committee members are elected by the employees rather than simply appointed by management.⁹

There is also a suggestion in Member Oviatt's concurrence in Electromation that programs confined to narrowly-conceived "productivity" and "quality" issues do not come within the subjects of "dealing" reached by § 2(5) ("grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work"). The distinction between "productivity" and § 2(5) subjects is likely to prove ephemeral in many instances, because employee contributions to productivity and quality are likely to involve suggestions for altering wages, hours, and other terms and conditions of employment. As the then Chief Counsel to Member Raudabaugh (and a former NLRB Associate General Counsel)

⁸Mem. of NLRB General Counsel GC 93-4, Guideline Memorandum Concerning Electromation, Inc., 309 NLRB No. 163 (April 15, 1993), reprinted in (BNA) Daily Lab. Rep. (No. 78), April 26, 1993, pp. G-1, G-6.

⁹See Webcor Packing, Inc., 7-CA-31809 et al. (ALJ Gross, Oct. 28, 1993), slip op. 10 (even though "employee members of the Plant Council voiced their own thoughts about how to deal with whatever issue was on the table, without concerning themselves about whether those thoughts necessarily mirrored the points of view of the plant's employees generally," they were representatives "[v]irtually by definition" because they had been "selected by election in which the voters are the plant's employees.").

has noted: "[t]he very foundation of employee participation programs is the notion that employees should be consulted because they have knowledge and experience concerning the workplace."¹⁰

As interpreted by the Labor Board -- an interpretation that is largely faithful to the congressional intent in 1935 -- § 8(a)(2) is thus likely to present significant obstacles for certain types of employee involvement programs in nonunion firms. Paradoxically, it is precisely those features that we otherwise might most want to encourage in the nonunion sector -- management "give and take", some sort of selection procedure to ensure representativeness, wide-ranging discussion extending into matters of pay and working conditions -- that are most likely to land the companies in regulatory "hot water." (The testimony of Polaroid CEO MacAllister Booth before this body earlier this month offers a cautionary tale for U.S. managers.)

There is, to my knowledge, no comprehensive survey of programs in the nonunion sector, and companies will be understandably reluctant to share information in light of the experience of companies like Polaroid. This would indeed be a worthwhile project for a body like the Commission to undertake. Last October, in response to an inquiry from the minority labor counsel for the Senate Committee on Labor and Human Resources, I looked at four programs that were favorably written up in a 1990

¹⁰Harold J. Datz, Employee Participation Programs and the National Labor Relations Act -- A Guide for the Perplexed, reprinted in (BNA) Daily Lab. Rep. (No. 30), Feb. 17, 1993, pp. E-1, E-2.

Labor Department survey entitled "New Work Systems Network: A Compendium of Selected Work Innovation Cases."¹¹ I found three of the programs to be of questionable legality in light of Electromation. (A copy of this correspondence is enclosed with these remarks.)

What Should be Done?

Electromation brings to the fore the basic theory of the Wagner Act: employees should be put the choice of collective representation by a union or unilateral decisionmaking by their employer. Senator Wagner and his colleagues were of the view that any form of representation by mechanisms other than an independent organization would be likely to manipulate workers and forestall the conditions for independent unionism.¹²

This is not the place for an extended analysis of § 8(a)(2) and its legislative history.¹³ Whatever its original

¹¹See U.S. Dept. of Labor, Bur. of Labor-Management Relations and Cooperative Programs, *The New Work Systems Network: A Compendium of Work Innovation Cases*, BLMR 136 (1990), pp. 50-52, 171-72, 247-48.

¹²See generally Mark Barenberg, *The Political Economy of the Wagner Act: Power, Symbol and Workplace Cooperation*, 106 Harv.L. Rev. 1379 (1993).

¹³Section 8(a)(2) may have been a broader restriction than was necessary to address the specific evils before the 1935 Congress. Much of the experience with company unions during the National Industrial Recovery Act (NIRA) period involved firms that used their in-house employee representation plans as part of an overt anti-union campaign, refusing to bargain with outside unions even in the face of strikes reflecting clear majority support. See, e.g., the Edward G. Budd Mfg. Co. case, described in Irving Bernstein, *Turbulent Years: A History of the American Workers, 1933-1941*, at 179 (1969); Hearings on S.2926 before the Comm. on Education and Labor, U.S. Sen., 73d Cong., 2d Sess. 104-106 (1934) (testimony of William Green), reprinted in 1 NLRB

justification, this provision has not spurred union growth and has had largely negative effects. From the perspective of a predominantly nonunion work force, it affirmatively discourages what the law should encourage: enhanced employee voice and involvement. Moreover, under current social conditions -- a better educated workforce, minimum wage and other protective legislation, and a rights-conscious legal culture -- it is doubtful that permitting employers to institute consultative arrangements or to use employee representatives in grievance procedures would have the effect of preventing employees from making an uncoerced decision over whether they wish to be represented by an independent union. This is subject to the proviso, mentioned below, that employees seeking an independent union are protected from any appreciable risk of retaliatory discharge, unions are given broadened access to the employee electorate in NLRB elections, and the parties face disincentives to pursue the representational dispute after an election through meritless litigation.

In my view, a substantial modification of § 8(a)(2) is called for as part of a broader package of reforms of the labor laws. I propose limiting § 2(5)'s definition of "labor organization" to entities that "bargain with" their employer over terms and conditions of employment. Employers should not be able to establish and dominate representational structures that

Legislative History of the National Labor Relations Act, 1935, at 134-36 (1985).

purport to function as bargaining agents for the employees, so as to deceive employees into believing they are represented by independent unions when, in fact, they are not. Formal agreements would not be required to trigger the statutory prohibition; it would reach any employer-dominated or supported structure that purported, or was reasonably perceived by the employees, to function as a collective bargaining agency.¹⁴ Employees would retain their § 7 rights to engage in concerted activity for self-representation and "other mutual aid and protection," and, most importantly, their § 9 right to petition for independent unions. In addition, employers should not be permitted to install employee committees as a purely strategic device to win over workers in the midst of an NLRB representation election.¹⁵

¹⁴Section 8(a)(2), as amended, would still prohibit an employer's recognition of a minority union as a exclusive bargaining agent and negotiation of an agreement providing for the checkoff of union dues. See *ILGWU v. NLRB (Bernhardt-Altman Texas Corp.)*, 366 U.S. 731 (1961). (I would, however, relax the prohibition of prehire contracts under certain conditions.) In the *Electromation* case, the "Action Committees" were found to have violated Sec. 8(a)(2) without any basis in the record that the employees in that plant believed, reasonably or otherwise, that the committees were acting as their collective bargaining representative. Whether or not such committees promote greater job satisfaction, they should pose no threat to the employees' ability to make an uncoerced decision as to representation by independent unions, if the NLRA is also amended to strengthen the legal protection of employees opting for independent unions. Under my proposal, such committees would not be treated as a "labor organization" triggering Sec. 8(a)(2).

¹⁵Under current law, employers are prohibited from changing terms and conditions of employment for the purpose of affecting the outcome of a pending NLRB election. See *NLRB v. Exchange Parts Co.*, 375 U.S. 405 (1964). There is also merit in extending the prohibition to an earlier point, say, when the employer receives a demand for recognition from a union organizing its work force, or perhaps first learns of the organizing drive.

Where a union is present, however, the employer must respect the employees' choice to be represented by an independent organization. Any different or supplementary representational structure requires the consent of the union. (There might be a somewhat different answer where the company's committees are nonrepresentational in character with agendas narrowly restricted to productivity issues falling outside of mandatory subjects of bargaining.) I thus would have found it unnecessary to consider the § 8(a)(2) issue in the dupont case because there the exclusive bargaining representative had refused to accept the employer's committee system.

I emphasize that a significant relaxation of the § 8(a)(2) prohibition, standing alone, is likely to distort the cost-benefit calculus of workers if they are confronted simply with the choice between a "free" form of representation under the employer's plan and risk of job loss in opting for independent unionism. Workers dissatisfied with their company's committee system or other aspects of their work lives, must be able, with minimum cost, to choose independent unions. Reform, if it is to take place, should be part of an integrated package that includes a substantial bolstering of the legal protections for workers opting for independent organizations to advance their interests.

Professor Gottesman would extend the constraint to situations where there had been an organizing drive in the past two years. See Michael H. Gottesman, In Despair, Starting Over: Imagining a Labor Law for Unorganized Workers, ___ Chi.-Kent L.Rev. ___ [46] (1993).

Other Proposals

We should resist, however, suggestions that any employer plan or committee system seeking a safe harbor from § 8(a)(2) must provide for an elaborate set of safeguards -- including a secret-ballot election, independent resources for employee representatives, separate representation of supervisory and non-supervisory personnel, protection from discharge of employee representatives, and the like -- that would approximate the state of affairs that would obtain if an independent union had been voted in.¹⁶ Such requirements would essentially be self-defeating, for employers are not seeking to put in place independent -- or depending on your point of view, adversarial -- structures of their own making. These strictures would affirmatively discourage experimentation in nonunion firms, particularly in companies with a low-productivity, low-morale work force. Moreover, it is important to maintain conceptual and practical distance between company-initiated and -supported

¹⁶This appears to be the thrust of Professor Summers' recent proposal. See Clyde W. Summers, A Structured Exception to Section 8(A)(2), ___ Chi.-Kent L.Rev. ___ [19-21] (1993). If required to choose, I much prefer Professor Hyde's approach -- requiring only a secret-ballot election, notice that the employees are free to oppose the employee representation plan, and periodic reauthorization elections. See Alan Hyde, Employee Caucus: A Key Institution in the Emerging System of Employment Law, ___ Chi.-Kent L.Rev. ___ [50-51] (1993). But for those employers who seek employee participation programs as a means of reinvigorating a low-productivity, low-morale work force, an election requirement gives employees an effective veto over what may be needed changes in the workplace culture. It is also likely substantially to raise the costs for union organizers by endowing the company-initiated and -supported committee system with the trappings of independent representation.

committee systems and independent employee organizations:

Employees should clearly understand that the employer's committee system is a vehicle for participation in workplace decisions in aid of management's objectives, not an alternative form of union representation.

Others have suggested legislation mandating works councils on the German model. Professor Weiler has offered a particularly nuanced proposal. He would urge legislation requiring every firm above a certain size to establish an Employee Participation Committee (EPC), elected through a proportional scheme to reflect the different constituencies in the firm. The EPC's function would be address "the broad spectrum of resource policies of the firm," with some initial responsibility for the administration of public laws; the range of subject matter would be "even broader than what is now required by the NLRA for employers engaged in full-fledged bargaining with a national union."¹⁷ The law would require extensive information-sharing concerning the firm's personnel policies but also its "broader financial, investment, and profit situation"; and would oblige management to meet and confer with the EPC over the its plans for the firm.¹⁸ Although the EPC's consent would not be required as a prerequisite to management action, the EPC could exercise its § 7 rights under

¹⁷Paul Weiler, *Governing the Workplace: The Future of Labor and Employment Law* 285 (1990).

¹⁸*Id.* at 288-89.

the NLRA to strike or form independent unions.¹⁹

If we put aside nagging questions about whether works councils in Germany actually contribute to, rather than detract from, firm productivity and profits,²⁰ and whether there is a political constituency for such a sweeping change,²¹ mandatory works councils of the German variety, in the abstract, offer an attractive framework for ensuring collective employee voice without the some of the costs associated with the U.S. system of multi-enterprise unionism and decentralized collective bargaining. But Professor Weiler's approach differs significantly from the German version in preserving a right to strike and the option of converting the EPC into an independent union. In Germany, works councils are prohibited by law from striking and envisioned as a body independent of unions with a set of functions and responsibilities separate from the realm of centralized collective bargaining.²²

¹⁹Id. at 290.

²⁰One recent empirical study questions the widely-held view that German works councils contribute to firm performance. See John T. Addison, Kornelius Kraft & Joachim Wagner, German Works Councils and Firm Performance, in *Employee Representation: Alternatives and Future Directions* 305-338 (Bruce E. Kaufman & Morris M. Kleiner eds. 1993).

²¹See Michael H. Gottesman, *Wither Goest Labor Law: Law and Economics in the Workplace*, 100 *Yale L.J.* 2767, 2807 (1991).

²²Although unions and works councils are formally distinct institutions, the Works Constitution Act of 1972 broadened the union role by granting union officials access to plants and permitting works councillors to engage in union activities within plants. See Andrei S. Karkovits, *The Politics of the West German Trade Unions: Strategies of Class and Interest Representation in*

It seems doubtful that the proposed EPCs will function here as integrative organizations. Predictions as their likely impact vary.²³ The French experience suggests that works councils do not work well where unions are weak, and multi-enterprise collective bargaining has been unsuccessful.²⁴ In the United States, I suspect, they are likely to be seed-beds for traditional unionism, if they take hold at all.

The problem proponents of mandatory works councils have is that our existing system is committed to legal protection of the right to form independent unions who organize and bargain at the level of the firm. Works councils and trade unions are both firm-based organizations. Unless the range of subjects lodged with works councils is severely curtailed, they will either threaten extinction for conventional unions (at least where such

Growth and Crisis 49 (1986). German unions have made substantial inroads, with 76.3% of works councilors members of DGB-affiliated unions. See Otto Jacobi, Berndt Keller & Walter Muller-Jentsch, *Codetermining the Future?*, in *Industrial Relations in the New Europe*, at 243-44 & Table 7.9 (Anthony Ferber & Richard Hyman eds. 1992). On the successful adaptation of unions to works councils, see Kathleen A. Thelen, *Union of Parts: Labor Politics in Postwar Germany* (1991); Lowell Turner, *Democracy At Work: Changing World Markets and the Future of Labor Unions* (1991).

²³Compare Alan Hyde, *Endangered Species*, 91 *Colum.L.Rev.* 456, 466 (1991) (such organizations will be potent rivals for union power), with Gottesman, *Wither Goest Labor Law*, *supra*, at 2807 (absent provision of interest arbitration, they are like to be ineffectual, producing "mere frustration").

²⁴On the French experience, see F. Eyraud & R. Tchobanian, *The Auroux Reforms and Company Level Industrial Relations in France*, 23 *Brit.J.Indus.Rel.* 241 (1985); Mary Ann Glendon, *French Labor Law Reform 1982-1983: The Struggle for Collective Bargaining*, 32 *Am.J.Comp.L.* 449 (1984).

unions do not perform a hiring hall function, as in construction), or they will become unions in all but name.

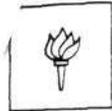
Seeking a way out of this conundrum, Professors Richard Freeman and Joel Rogers advocate withholding "tax breaks" from employers who fail to establish, and allow 40 percent of the workers in a unit to insist upon, EPCs in their shops that would have rights to information and consultation over certain labor policies and would help enforce government policies in such as areas as occupational safety and health, job training and job closings -- while steering clear of "wage bargaining" and presumably consideration of other matters commonly addressed in collective bargaining.²⁵ If this proposal envisions narrow-purpose works councils set up largely to police conformity with external law, it strikes me as a bad idea.²⁶ If we think it appropriate to mandate, or use tax policy virtually to compel, collaborative representation, such works councils should be allowed to address constructively the entire range of issues -- productivity improvements, wages, hours and benefits, as well as occupational safety and plant closings -- affecting the welfare of the employees and the competitive position of the firm.

²⁵See Freeman & Rogers, Who Speaks for Us? Employee Representation in a Nonunion Market, in Employee Representation: Alternatives and Future Directions, supra, at 63-64; A New Deal for Labor, N.Y. Times, March 10, 1993, p. A14, col.1. See also Gottesman, Wither Goest Labor Law, supra, at 44-45.

²⁶My objection here is to "watchdog" committees serving as in-house instruments of state policy, as opposed to committees established with a problem-solving mission -- e.g., to administer government grants or to develop jointly agreed-upon standards for training programs.

Mandatory works councils, I would urge, should be relegated to a future reform agenda after we have strengthened the independent union option, developed experience with company-initiated and -supported committee systems in the nonunion sector, and mitigated current rules and institutional arrangements that stymie a cooperative, gain-sharing model of labor-management relations in the union sector.

In closing, I thank you for this opportunity to offer my views, which I hope will be of some assistance to the work of your group.



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*Hot topic
"Future Worker Movement"*

October 29, 1993

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Labor Counsel
Committee on Labor and Human Resources
United States Senate
Republican Staff
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Washington, D.C. 20510

Via and Federal Express and facsimile

Re: Workers Technology Skill Development Act (S. 1020)

Dear Mr. Sola:

In your memorandum of October 13, 1993, you asked for my analysis of the "Workers Technology Skill Development Act," S. 1020, in light of the NLRB's recent rulings in Electromation, Inc., 309 N.L.R.B. No. 163 (Dec. 16, 1992), and E.I. duPont de Nemours & Company, 311 N.L.R.B. No. 88 (May 28, 1993). In particular, I have been asked to give an informal opinion on the legality under Section 8(a)(2) of the Labor-Management Relations Act of 1947, as amended, of a number of employee involvement programs in the non-union sector that are described in an attachment to your memorandum (a copy of which I have appended to this letter).

As you know, S. 1020 does not define the operative terms "new and advanced workplace technologies, workplace practices and forms of work organization" with sufficient particularity to permit any conclusion as whether the bill might authorize grants to develop technologies, practices or forms of work organization that might be in tension with Section 8(a)(2). Unless S. 1020 were amended to make clear an intention to alter Section 8(a)(2), this legislation is likely to be implemented in a manner consistent with existing labor law. In any event, the bill strikes me as desirable legislation and I hope it is enacted into law.

I understand that due to this difficulty of direct assessment of S.1020, you have asked for my opinion of the legality of certain non-union employee involvement initiatives described in the attachment.

Stephen Andrew Sola, Esq.
October 29, 1993
Page 2 of 7

Before beginning my analysis, I should make clear that I favor a significant relaxation of the strictures of Section 8(a)(2) as part of a larger package of labor law reforms that would include, inter alia, a bolstering of the legal protections for employees seeking representation by independent labor organizations. (My position on these points is set in two articles copies of which were sent to you and Ms. Sarah Fox under separate cover.) I also do not address here the impact of the dupont ruling because the analysis for a union-represented firm is very different from the considerations that govern in non-union enterprises.

Overview of Electromation

In December 1992, the Labor Board issued its long-awaited ruling in Electromation, in which the agency found a company guilty of no other impropriety than forming employee "action committees" for joint dealings with management over absenteeism, pay progression and no-smoking policies. A portion of the U.S. management community fears that Electromation will place in jeopardy current strategies for the organization of work that emphasize reduced layers of supervision and employee involvement in product design and service delivery improvements.

Although it is too early to tell how far-reaching Electromation's impact will be, there is some cause for concern. It appears that practices that involve complete delegations of managerial authority to work teams or grievance boards,¹ or avoid any element of, what the Labor Board terms, "a bilateral process involving employees and management in order to reach bilateral solutions on the basis of employee-initiated proposals,"² will survive scrutiny. However, practices involving any representational element at all, or any "bilateral process" that can be viewed as distinct from of a natural work grouping or the workforce as a whole, are likely to elicit regulatory action.³

¹Electromation, slip op. 12-13, citing General Foods Corp., 231 NLRB 1232 (1977); Mercy-Memorial Hospital, 231 NLRB 1108 (1977); and John Ascuaga's Nugget, 230 NLRB 275 (1977).

²Electromation, slip op. 17.

³Thus, for example, a complaint to the Labor Department caused Polaroid to disband a system of committees in place since 1946 -- and lauded in David Ewing, Justice on the Job: Resolving Grievances in the Nonunion Workplace 299-308 (1989) -- for airing shop-floor grievances and adjusting layoffs and other personnel practices, with third-party arbitration as the final step. See Polaroid Dissolves Employee Committee in Response to Labor Department Ruling, (BNA) Daily Lab. Rep. (No. 121), June 23,

Stephen Andrew Sola, Esq.
October 29, 1993
Page 3 of 7

A number of arguments have been offered for limiting Electromation's reach, but they are not likely to withstand analysis. One limiting reading of the Board's ruling is that Section 8(a)(2) requires proof that the employee involvement program functions in a representational capacity -- a question that the agency expressly left open. However, the Board found a representational element in Electromation's "Action Committees" on rather meager facts:

"It is also clear that Respondent contemplated that employee-members of the Action Committees would act on behalf of other employees. Thus, after talking 'back and forth' with their fellow employees, members were to get ideas from other employees regarding the subjects of their committees for the purpose of reaching solutions that would satisfy the employees as a whole. This would occur only if the proposals presented by the employee-members were in line with the desires of other employees. In these circumstances, we find that employee-members of the Action Committees acted in a representational capacity and that the Action Committees were an 'employee representation committee or plan' as set forth in Section 2(5)." Electromation, slip op. 17.

As NLRB General Counsel Jerry M. Hunter has observed, in a memorandum to regional directors, "should the Board ultimately conclude the statute requires employee committees to act in a representational capacity, such a factual test may not be difficult to meet," and hence representational capacity "may not be an issue in many cases...." Mem. of NLRB General Counsel GC 93-4, Guideline Memorandum Concerning Electromation, Inc., 309 NLRB No. 163 (April 15, 1993), reprinted in (BNA) Daily Lab. Rep. (No. 78), April 26, 1993, pp. G-1, G-6.

There is also a suggestion in Member Oviatt's concurrence that programs confined to narrowly-conceived "productivity" and "quality" issues do not come within the subjects of "dealing" reached by Sec. 2(5) ("grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work"). This suggestion, too, is of doubtful practical utility because employee contributions to productivity and quality issues are likely to involve suggestions for altering wages, hours, and other terms and conditions of employment. As the Chief Counsel Stephen Andrew Sola, Esq.

1992, p. A-3. A new employee advisory structure set up by Polaroid has resulted in the issuance of an NLRB complaint, Polaroid Corp, 1-CA-29966 & 1-CA-30063 (May 28, 1993). See NLRB Charges Polaroid with Forming New Employer-Dominated Labor Committee, (BNA) Daily Lab. Rep. (No. 105), June 3, 1993, p. A-1.

Stephen Andrew Sola, Esq.
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Page 4 of 7

to Member Raudabaugh (and a former NLRB Associate General Counsel) has noted: "[t]he very foundation of employee participation programs is the notion that employees should be consulted because they have knowledge and experience concerning the workplace." Harold J. Datz, *Employee Participation Programs and the National Labor Relations Act -- A Guide for the Perplexed*, reprinted in (BNA) Daily Lab. Rep. (No. 30), Feb. 17, 1993, pp. E-1, E-2.

In sum, Section 8(a)(2), as interpreted by the Labor Board, is likely to present significant obstacles for certain types of employee involvement programs in non-union firms.

Review of Programs Described in Attachment to Memorandum of October 13, 1993

a. Involvement Teams

You describe a manufacturer of facsimile machines that uses "Involvement Teams" consisting of 8-12 employees who work in the same department. These teams meet for one hour each week on company time, with the objective of identifying and solving problems related to their work. Each team has a team leader who is selected and trained by the company and serves for a one-year term on a rotating basis. The company also provides a facilitator who attends each meeting, publicizes accomplishments of the team and makes an effort to hold a dinner or social hour to express gratitude for the team's efforts.

Although a definitive opinion would depend on a more precise statement of facts, it would seem that this program comes within prior NLRB rulings expressly left undisturbed by Electromation. In particular, this program appears to involve a delegation of managerial authority to a natural work grouping, as in General Foods, Inc., 231 N.L.R.B. 1232 (1977). As NLRB General Counsel Hunter notes, however, there is some uncertainty whether the General Foods rationale requires that the teams collectively include all of the employees in the unit, although other decisions, like Sears, Roebuck & Co., 274 N.L.R.B. 230, 242-44 (1985), do not appear to require the involvement of a "committee of the whole". See Mem. of NLRB General Counsel GC 93-4, supra, at G-4. There is also some question whether these committees run afoul of Section 8(a)(2) if they address (to a more than de minimis extent) employee complaints about working conditions and thereby elicit management resolutions. Such evidence could lead to a finding that the committee was functioning as an agency for the employees, rather than "solely in the performance of managerial functions which have been delegated by the employer to the employee group." Id. at G-5.

b. Committee on Personnel Issues

Your second case study involves a food processing company that has established a "Committee on Personnel Issues," comprised of employee and management representatives from different levels in the firm who meet monthly to resolve "employee complaints regarding policy/personnel issues". Representatives are elected by the employees they would represent. Employees attend the meetings at sectional and departmental levels. Anyone who is an elected representative can run for the position of chair.

Subject again to a more precise statement of facts, this program would seem problematic under Section 8(a)(2). Analytically, the program appears to be indistinguishable from the facts in Electromation. The statutory elements of (1) employee participation and purpose of the committee, (2) "dealing with", and (3) terms and conditions of employment -- all seem present. The facts of this case study do not fall within the category of prior NLRB decisions permitting employers to delegate adjudicative functions to employee committee because of the absence of authority "to render a final decision on the grievance." John Ascuaga's Nugget, 230 N.L.R.B. 275, 276 (1977). Indeed, this case study resembles the committee structure once maintained by Polaroid, and now under legal challenge. See note 3, supra. The facts also suggest that impermissible management "support" or "domination" will be found.

c. Quality Council

The third case study describes a manufacturer of automobile mufflers that maintains a "Quality Council" at each of its facilities comprised entirely of hourly employees. Management determines how many employees can participate in each council. Participants representing a broad cross section of the work force are selected by the management-appointed council chair. Council leaders are trained by management, and the stated objective of the program is "to involve employees at the lowest level in solving everyday problems involving procedural matters, organizational effectiveness and work environment.

Here, too, subject to the above caveat, I believe this Quality Council structure will be found violative of Section 8(a)(2). The facts do not suggest that management is simply engaged in a delegation of managerial or adjudicative functions within the meaning of the General Foods-line of authority. Unlike the situation in Sears, Roebuck, for instance, the members of the council are selected by an employee (the council chair), and there is no provision for rotation of all unit employees for

Stephen Andrew Sola, Esq.
October 29, 1993
Page 6 of 7

a tour of duty in the council. I doubt this council structure will be deemed solely a "communications device" within the meaning of cases like Sears, Roebuck. Absent proof that the council is free to set its own agenda and press disagreements with management, the statutory element of management "support or "domination" is also likely to be found.

d. Project Teams

The final case study describes an insurance company that has 11 "project teams" in its 4000-person Operations Division. These teams range in size from 6 to 12 members plus one management "facilitator" per team. One member of the team, usually the supervisor, serves as team leader; the facilitator and team leader are generally selected by management. The description states that the number of teams is limited to one "per area," by which I assume is meant one "per facility". Following an orientation session, the members of the team are selected by lottery from a list of those expressing interest in participating. Project teams "operate with a high degree of autonomy as they identify, examine and determine solutions to work related problems," which include quality, productivity and working conditions. Proposed solutions are presented to an ad hoc steering committee of two senior managers, a department manager, two vice presidents, section managers and department facilitators. To enhance awareness of the program, the company provides minutes of team meetings to all employees, and a bimonthly newsletter.

Again, subject to a more precise statement of facts, this "project team" structure appears to be factually indistinguishable from the "Action Committees" in Electromation. The only distinction I see is the possible argument that the project teams are not functioning in a "representational capacity". Given the NLRB General Counsel's memorandum to the regional directors, however, it is likely the requisite representational capacity will be found, since presumably the project team will be reporting on the complaints and suggestions of the broader work force not directly involved in the team structure. Moreover, it is probable that the Labor Board will not read the statute to require representational capacity as an element. See Harold J. Datz, Employee Participation Programs and the National Labor Relations Act -- A Guide for the Perplexed, supra, at E-2 ("any organization, whether representational or not, can be a labor organization").

I hope the above analysis proves helpful to the Committee in its consideration of S. 1020. If you have any questions, please do not hesitate to call.

With regards.

Sincerely,

Sam Estricker

MEMORANDUM

TO: Professor Samuel Estreicher
New York University School of Law

FROM: Labor Committee Minority Staff

DATE: October 13, 1993

SUBJ: High Productivity Workplace Organizations

We previously have sent to you a copy of the "Workers Technology Skill Development Act," S. 1020, which attempts to facilitate worker involvement in the development and implementation of advanced workplace technologies and advanced workplace practices. We appreciate your willingness to review the legislation.

The bill provides grants and technical assistance to identify and promote "advanced workplace practices," which include worker participation in cross functional teams, participative assessment of strategies to enhance work organization job design, and continuous improvement based on partnership between workers and management. (See S. 1020, p. 6).

As you know, there has been a great deal of concern about the legality of employee involvement programs since the NLRB's Electromation and DuPont decisions. Many corporations have informed us that those decisions have had a chilling effect on labor management cooperative programs.

As an expert in our federal labor policies, we would appreciate your analysis of S. 1020 in light of Electromation and DuPont. Specifically, we have provided you with a series of examples of high productivity workplace organizations. The Department of Labor recently cited these examples as "innovative" labor-management cooperative programs.

If you are willing, we ask that you evaluate whether these cooperative programs would violate our federal labor laws. You may assume, for the purposes of your analysis, that these cooperative program examples take place in a non-union setting, and that among the subjects of discussion, the labor-management committees discuss issues involving new technology in the workplace.

Thank you in advance for your input.

Based upon your understanding of section 8(a)(2) as interpreted by the National Labor Relations Board in the Electromation and DuPont cases, how would you assess the legality of the following employee involvement structures:

a) A company which manufactures facsimile machines has a total employment of 3500. The company's employee involvement program entails the use of Involvement Teams, which are concerned primarily with organizational effectiveness and work environment matters. The Involvement Teams consist of 8-12 employees who work in the same department. The teams meet for one hour each week on company time, with the object of identifying and solving problems related to their work. Participation is voluntary. Overall, there are 36 teams. Each team has a team leader who is responsible for leading meetings and keeping the team focused on solving problems. A facilitator also attends each meeting, and in addition to providing guidance, resources, etc., acts as a buffer between the team and management. Depending on the type of problem being handled by the team, the proposed solution can be authorized by a foreman or may have to be approved by a president or vice president of a division; the teams themselves do not have authority to implement a proposed solution.

When a new team is formed, a standing steering committee of management personnel selects and trains a team member in leadership skills, running meetings, etc., to be the team leader for the first year. Over the next year, other team members are given the same training and encouraged to assume a team leadership role on a rotating basis for approximately a one-year term. Information pertaining to team activities, accomplishments, etc., is shared through newsletters and a monthly paper. The paper tries to highlight one team in each issue. The company also makes an effort to have a dinner or social hour periodically for all team members in order to recognize and express appreciation for their efforts.

Over the first two years, all five recommendations by the teams were approved by senior management, resulting in estimated savings of \$2 million.

b) A food processing company has a unique system for dealing with personnel and policy-related issues. A Committee of Personnel Issues, composed of employee and management representatives from different levels in the organization, meets on a monthly basis to iron out any problems. Representatives are elected by the employees they would represent. Employees attend the meetings at the sectional and departmental levels. Anyone who is an elected representative can run for the chairman position. This system facilitates the exchange of information about the state of the company, its operation, policy, etc., and is a forum in which employee complaints regarding policy/personnel issues can be resolved.

c) A manufacturer of automobile mufflers has a total of 600 employees in two production facilities. Each facility has a Quality Council made up entirely of hourly employees. Since it involves time away from the job, management determines how many people can participate in each council. Participants represent a broad cross section of the work force and are selected by the council chairman, who is appointed by management. One of the councils has five members, the other ten. Quality Council leaders receive training on how to hold meetings and are responsible for the operation of their groups. The objective of the program is to involve employees at the lowest level in solving everyday problems involving procedural matters, organizational effectiveness and work environment.

d) An insurance company has 11 project teams operating in its Operations Division, which employs 4,000 people. Teams range in size from 6 to 12 members plus one facilitator per team. The purpose and goal of the project teams is to enable employees to identify and solve problems affecting quality and productivity at work. One member of each team, usually the supervisor of the area in which the team is formed, serves as a team leader. The facilitator and team leader are generally determined by management, while employee participation is voluntary. Although the number of employees interested in participating may be 100 or more, the company has limited the number of teams to one per area. Following an orientation session, the members of a team are randomly selected by lottery from a list of those expressing an interest in participating. Project teams generally operate for some finite period of time (approximately one year) and then disband, providing an opportunity for others to participate. Teams meet for an hour each week on company time.

The project teams operate with a high degree of autonomy as they identify, examine and determine solutions to work related problems. Quality, productivity and working conditions are some of the issues discussed. Proposed solutions are presented to an ad hoc steering committee comprised of two senior managers, a department manager, two vice presidents, the section managers and department facilitators. The ad hoc steering committee meets as needed to hear proposals.

In order to enhance awareness of the project teams, all employees are provided with minutes of team meetings, the project team's program coordinator writes a newsletter every two months about team projects and proposals, and the company makes an effort to publicize the program whenever it can.

The New Work Systems Network

A Compendium of Selected Work Innovation Cases



U.S. Department of Labor
Elizabeth Dole, Secretary

Bureau of Labor-Management Relations
and Cooperative Programs
John R. Stepp, Deputy Under Secretary

BLMR 136
1990

Introduction

As the concept of labor-management cooperation expands, so too does the commitment to innovative work systems among our nation's businesses, unions, and public-sector organizations. Enterprises meeting today's workplace challenges with cooperative programs—from problem-solving quality circles to labor-management committees and autonomous work teams—have improved their products, services, and working environment.

The New Work Systems Network: A Compendium of Work Innovation Cases identifies more than 400 innovative site-level programs. Its purpose is to assist labor relations professionals in locating new work systems in their industry, their union, or their geographic area and to encourage an exchange of information that will help both the novice and the experienced practitioner to develop or modify their own programs.

This guide, while not inclusive, represents a cross section of organizations practicing cooperative labor-management relations. They are part of an expanding computerized database of work systems and programs known as the Cooperative Information Clearinghouse. For further information about the Clearinghouse, please call: (202) 523-6481 between 9 a.m. and 5 p.m. (EST) or write to:

Cooperative Information Clearinghouse
U.S. Department of Labor
Bureau of Labor-Management Relations and Cooperative Programs
200 Constitution Ave., NW, Rm. N5416
Washington, DC 20210

A program which does so much to improve productivity is often regarded as a competitive advantage and guarded as a trade secret. But in the case of innovative work systems, officials are not only willing, but many times eager, to share their experiences with others. We are grateful for this cooperative attitude. It has made this publication, the Cooperative Information Clearinghouse, and the Bureau's networking efforts possible.

The New Work Systems Network was prepared by Mary Ann Olsavsky, with the assistance of Robert Andres, Steven Donahue, Marjorie Segel Haas, Larry Newton, John Perry, and Kimberly Lewis.



John R. Stepp, Deputy Under Secretary
Bureau of Labor-Management Relations and Cooperative Programs

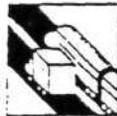
Using This Book

The New Work System Network: A Compendium of Work Innovation Cases is a listing of selected companies that have implemented innovative work programs. Each company is listed alphabetically within the state in which it is located. Since this compendium is designed to be a networking tool, each company has agreed to be contacted for further details pertaining to its programs.

Graphic Symbols

Industry Symbols

Each company has been identified by its major industry, based upon the U.S. Department of Commerce's Standard Industrial Classification (SIC) code. The symbols used in this book represent the following segments of the economy:



Transportation. Trucking, Railroads, Air Transport, Water Transport, Mass Transit.



Energy. Utilities, Mining (i.e., coal).



Service. Telephone Companies, Hotel/Motel, Food Services.



Public Sector. Schools, Federal, State, and Local Government.



Manufacturing. Any company which produces a tangible product, for example, automobiles, chemicals, and textiles.

Program Symbols

The symbols identify what types of programs are used within the company. The symbols are:



Committees. Labor-Management Committees, steering committees, subordinate labor-management steering committees, and permanent committees.



Group Involvement. Ad Hoc subcommittees or task forces, employee involvement groups or quality circles, and autonomous or semi-autonomous work groups. Excludes committees.



Sociotechnical Design. Work systems which integrate technology, human resources, and work design.



Innovative-Pay System. Pay-for-Knowledge, Gainsharing, Profit Sharing, and Employee Stock Ownership Plans.

thin the

Decision making authority and control over the program is vested within management. The union has no access to financial information, except for what management chooses to supply. Committees do have the authority to implement suggestions of up to \$100 without management approval. All employees participate in the program.

Scope:

- Procedural Matters
- Organizational Effectiveness

Issues are geared toward increasing productivity and quality improvement.

Accomplishments:

Productivity has improved greatly as a result of employee suggestions. However, over the past 3 years there has been a dramatic decrease in the number of suggestions, but an increase in overall quality.

Remarks:

Efficiency experts were brought in to look at work processes. A formula devised to measure bonuses requires the following components: value shipments x value stock + cost/labor. Bonuses are paid every 2-3 months. When bonuses are paid, it only comes after the formula has been discussed or to quell workers' inquiries or dissatisfactions. Also, training is given every 3-4 years for informational reasons.

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Pitney Bowes, Inc.

Profile:

| | | |
|---------------------------|---|--|
| Program Name: | Involvement Teams CPR | <i>Began: 1986</i> <i>Began: 1986</i> |
| Industry: | Mailing machines | |
| Organization Size: | 3,500 total employment | |
| Features: | Employee Involvement Groups/Quality Circles, Other (see following) | |



Organization/Structure: Involvement Teams consist of 8 to 12 employees who work in the same department. The teams meet for 1 hour each week of company time, with the objective of identifying and solving problems related to their work. Participation is voluntary. As of March 1988 there were 36 teams in the organization. Each team has a team leader who is responsible for leading meetings and keeping the team focused on solving problems. A facilitator also attends each meeting, and in addition to providing guidance, resources, etc., acts as a buffer between the team and management. Depending on the type of problem being handled by the team, the proposed solution can be authorized by a foreman or may have to be approved by a vice president or president of a division; the teams themselves do not have authority to implement a proposed solution.

Scope:

- Procedural Matters
- Organizational Effectiveness
- Work Environment

Accomplishments: It is estimated that team suggestions have resulted in saving the company \$2 million in the first 2 years of operation. Morale among participants has also improved. All five presentations/recommendations made by teams to senior management have been accepted.

Remarks: The rights to training material have been acquired from the consultant by the company, which now provides in-house training. When a new team is formed, a standing steering committee of management personnel selects and trains a team member in leadership skills, running meetings, etc., to be the team leader for the first year. Over the next year, other team members are given the same training and encouraged to assume a team leadership role on a rotating basis for approximately a 1-year term.

Information pertaining to team activities, accomplishments, etc., is shared through newsletters and a monthly paper. The paper tries to highlight one team in each issue. The company also makes an effort to have a dinner or social hour periodically for all team members in order to recognize and express appreciation for their efforts.

The company has also set up a unique system for dealing with personnel and policy related issues. A Council of Personnel Relations (CPR), composed of employee and management representatives from different levels in the organization, meets on a one-to-one monthly basis to iron out any problems. The employee representatives and their management counterparts are listed below:

Co-Chairman (President of CPR) meets with President of Division. Main Council Representative meets with Director or V.P. of Division. Department Representative meets with Supervisor of Department. Sectional Representative meets with Foreman.

Representatives are elected by the employees they would represent. Employees attend the meetings at the sectional and departmental levels. The Main Council representative is elected from the pool of department representatives. Anyone who is an elected representative can run for the co-

chairman position. This system facilitates the exchange of information about the state of the company, its operation, policy, etc., and is a forum in which employee complaints regarding policy/personnel issues can be resolved.

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Reflexite Corporation

Profile:

Program Name: ESOP *Began:* 1986
Owner Bonus Plan *Began:* 1986

Industry: Reflective material

Organization Size: 130 total employment

Features: Ad Hoc Committees or Task Force,
Employee Stock Ownership Plan, Other (see below)

Organization/Structure: Under the employee stock ownership plan, 10% of the stock is owned by employees. There are no employee representatives on the board of directors. An employee is eligible to receive stock if employed by the company on the allocation date, which is March 31 of each year. The amount of stock allocated to an employee is dependent on (1) base salary vs. total payroll (80 percent), and (2) years of service vs. total years of service (20 percent). Full vesting occurs after 6 years of service. After 2 years an employee is 20 percent vested, and 40 percent vested after 4 years. Employees leaving the company can sell their vested portion of stock back to the company at the current market value, or retain ownership. The company reserves the right of first refusal on any stock held by employees who have left the company.

Reflexite is also exploring the use of greater employee involvement in the company's operation. A new production unit is being installed and an ad hoc committee of four to five hourly employees who will be working on the new unit are meeting regularly with the engineering staff to offer comments and suggestions on the design and implementation of this new unit.

Scope:

■ Procedural Matters

The committee of hourly employees and engineers deals with plant layout and other procedural matters.

Groups can address any problems not covered by the collective bargain agreement, but focus on job methods, equipment, quality and the work environment.

Accomplishments:

They have reduced quality problems in general. Some specific accomplishments include reducing excessive tool breakage on the cylinder head transfer machine by redesigning the machine, designing a system to stop damaged cylinder heads by installing nylon covers over the steel and stop plate, and solving a warranty problem which occurred with valve keepers. They also modified a lifting eye used to lift engine parts off the assembly line by redesigning it to include an additional retaining tab that insured the stability of the lifting eye and prevented it from ratcheting and loosening the lifting eye retaining bolt.

Remarks:

The employee involvement program at this plant is very successful. The teams have solved many production problems, and the workers are involved in improving the production process through their own ideas. This program has led to the pilot project of semiautonomous work groups which they hope to spread through the plant.

The employee assistance program is quite good. Two full time counselors, one from the union and one from management, work on alcohol, drug, and family personal problems. It is completely confidential; they counsel and make referrals. There are tuition assistance programs for high school, college, vocational and technical training in subjects such as auto mechanics, real estate, and career planning in conjunction with the Ford-UAW National Center.

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Gast Manufacturing Corp.

Profile:

| | | |
|---------------------------|--|--|
| Program Name: | Gast Bonus Plan Quality Councils | <i>Began: 1988</i> <i>Began: 1983</i> |
| Industry: | Air compressors, motors, vacuum pumps | |
| Organization Size: | 600 total employment | |
| Features: | Employee Involvement Groups/Quality Circles, Profit Sharing | |



Organization/Structure: There are two Quality Councils representing the two production facilities. The councils are made up entirely of hourly employees. Management determines how many people can participate because of the time spent away from the job. Participants selected by the council chairman, who is appointed by management, represent a broad cross section of the work force. One of the Quality Councils has 10 members; the other council has 5 members.

The objective of the program is to involve employees at the lowest level in solving everyday problems.

Gast has also replaced its old gainsharing plan with the new Gast Bonus Plan, which is annualized and based on operating profit. There are three pay level bonuses, and operating profit ranges must be met in order to earn a bonus. Bonuses are given once per year.

Problem Source Identification (PSI): PSI is a suggestion form that an employee fills out and hands to a supervisor when the employee has an idea to solve a problem or make an improvement. The supervisor will either accept and implement the idea or explain the reason for rejection. If the idea requires higher level investigation, the supervisor will refer the PSI to the PSI Coordinator.

Scope:

- Procedural Matters
- Organizational Effectiveness
- Work Environment

Employees can submit PSI forms dealing with productivity or quality-of-work-life issues. Job related issues such as the quality of product are discussed.

Accomplishments:

The Gast Bonus Plan replaced the previous gainsharing plan. It has only been in effect since January 1988.

Remarks:

The company has three in-house publications that serve to keep the work force informed. One publication is dedicated to informing them of the progress of the company and may include such issues as customer service, new techniques, amount of reduced scrap, and the status of the PSI program.

Quality Council leaders receive training on how to hold meetings and are responsible for the operation of their groups.

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Scope:

- Policy Matters
- Work Environment
- Procedural Matters
- Other

Production, plant maintenance and money issues are discussed by the committees. Current grievances and collective bargaining issues may also be addressed as well.

Accomplishments:

The safety committee has solved 85 percent of their projects. Communication and trust have improved greatly.

Remarks:

Training is done by the facilitator who is associated with the Executive Council of the Buffalo-Erie Labor Council. The facilitator started the program and oversees the meetings. Minutes are posted on the bulletin board. One to two employees are invited into meetings on a voluntary basis. They may observe and/or actively participate during the meetings.

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Marine Midland Bank Operations Division

Profile:

Program Name: Project Teams **Began:** 1986

Industry: Financial services

Organization Size: 4,000 total employment

Features: Employee Involvement Groups/Quality Circles

Organization/Structure: There are 11 project teams currently operating in the Operations Division of Marine Midland Bank. Teams range in size from 6-12 members plus one facilitator per team. The purpose and goal of the project teams is to enable employees to identify and solve problems affecting quality and productivity at work. One member of each team, usually the supervisor of the area in which the team was formed, serves as a team leader. The facilitator and team leader are generally determined by management, while employee participation is voluntary. Although the number of employees interested in

participating may be 100 or more, the company has limited the number of teams to one per area. Following an orientation session, the members of a team are randomly selected by lottery from a list of those expressing an interest in participating. Project teams generally operate for some finite period of time (approximately 1 year) and then disband, providing an opportunity for others to participate. Teams meet for an hour each week or company time.

The project teams operate with a high degree of autonomy as they identify, examine and determine solutions to work related problems. Proposed solutions are presented to an ad hoc steering committee comprised of two senior managers, a department manager, two vice presidents, the section managers, and department facilitators. The ad hoc steering committee meets as needed to hear proposals. Each project team takes about 8 months to complete a project and make a proposal. Three to four regional steering committees monitor the progress of project teams in their geographic area. With the exception of the two senior managers, who do not meet with the regional committees, membership is the same as the ad hoc steering committee. One regional committee covers the Rochester/Syracuse area while two committees handle the Buffalo area. These committees meet every 6-8 weeks and are responsible for maintaining the policies and procedures of the project teams program, as established by the senior level, ad hoc steering committee.

Scope:

- Work Environment
- Organizational Effectiveness

Quality, productivity, and working conditions are some of the issues discussed.

Accomplishments:

The company estimates \$173,000 in quantitative benefits associated with use of the project teams. Absenteeism of those involved in project teams has decreased by 18 percent and the overall quality of work life has improved.

Remarks:

The company initially had a consultant provide a 3-day training session for the facilitators and team leaders in leadership development, group decision making, and problem solving techniques. Now the company provides the same training internally. Facilitators and team leaders then teach techniques (not leadership skills) to other team members. In order to enhance awareness of the project teams, all employees are provided with minutes of team meetings, the project teams program coordinator writes a newsletter every 2 months about team projects and proposals, and the company makes an effort to publicize the program whenever it can.

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