The administration's approach on this matter is simply business as usual. The administration's strategy is to avoid making a decision. Mr. President, that is no strategy at all. But the approach of Senate bill 1271 is to get the job done, to do what is right for the entire country.

For those who are not familiar with the program, let me describe the status quo. We have struggled in this country with the nuclear waste issue for almost 15 years already, and we have collected $11 billion from the ratepayers. But the Washington establishment has not delivered on its promise to take and safely dispose of our Nation's nuclear waste by 1998, only 2 years from now. Hard-working Americans have paid for this as part of their monthly electric bill, and they are entitled to have the Government meet its obligation to take the used nuclear fuel away. Those people that have paid their electric bills have not gotten results. The program is broken; it has no future unless it is fixed. We can end this stalemate. We can make the right decisions. The job of fixing this program is ours. The time for fixing the problem is now.

During the debate that will unfold in future days, we will have my good friends, the Senators from Nevada, opposing the bill with all the arguments they can muster, and that is understandable. They are merely doing what Nevadans have asked them to do. Nobody wants nuclear waste in their State. But it simply has to go somewhere.

The Senators from Nevada, both friends of mine, have talked to me about this issue, and I understand that they are doing what they feel they must do to satisfy Nevadans. But as U.S. Senators, Mr. President, we must sometimes take a national perspective. We must do what is best for the country as a whole.

To keep this waste out of Nevada, the Senators from Nevada will use terms like ''mobile Chernobyl'' to frighten Americans about the safety of moving this used fuel to the Nevada desert where it belongs. They will not tell you that we have already move commercial and naval nuclear fuel today. The commercial industry has shipped over 2,500 shipments of used nuclear fuel over the last 30 years, Mr. President. They will not tell you that an even larger amount of used fuel is transported worldwide. Since 1968, the French alone have safely moved about the same amount of spent fuel as we have accumulated at our nuclear power plants today. They will not tell you that our Nation's best scientists and our best engineers have designed special casks that are safety-certified by the Nuclear Safety Regulatory Commission to transport the used fuel. They will not tell you about the rigorous testing that has been done by the Sandia National Laboratory and others to ensure that the casks will safely contain used fuel in the most severe accidents imaginable.

There is proof that these safety measures work. Out of the over 2,500 shipments of used fuel that have taken place in the United States over the last 30 years, there have been seven traffic accidents involving spent nuclear fuel shipments. But when the accidents have happened, the casks have never failed to safely contain the used fuel. Mr. President, there has never been an injury caused by a cask, there has never been a fatality, and there has never been damage to the environment.

Can the same be said of gasoline trucks? Of course not.

Still we can expect that our friends from Nevada will try to convince people that transportation will not be safe. But the safety record of nuclear fuel transport, both here and in Europe, speaks for itself.

This issue provides a clear and simple choice. We can choose to have one remote, safe and secure nuclear waste storage facility at the Nevada test site, the area in the Nevada desert used for nuclear weapons testing for some 50 years. Or, through inaction and delay, we can perpetuate the status quo and have 80 such sites spread across the Nation.

Mr. President, it is not morally right to perpetuate the status quo on this matter. To do so would be to shirk our responsibility to protect the environment and the future of our children and our grandchildren. This Nation needs to confront its nuclear waste problem now. The time is now. Nevada is the place. I urge my colleagues to support the passage of Senate bill 1271.

Again, I thank my friend, Senator HARKIN, for allowing me the opportunity to move ahead of him on the Senate schedule.

Mr. President, I see my colleague has stepped out. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ASHCROFT. 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. ASHCROFT. Mr. President, I ask unanimous consent to speak as if in morning business.

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

Mr. ASHCROFT. Mr. President, thank you for recognizing me.

THE TEAM ACT

Mr. ASHCROFT. Mr. President, I rise to make some comments on the TEAM Act, which is one of the matters that we have been discussing in the U.S. Senate. The word ''team,'' of course, is a favorable word in the mentality of Americans because we are accustomed to teams. It is an Olympic year when we want to support our team, and we want to do well in the competition between the nations. So ''team'' has favorable connotations. I think all of us would want to be in favor of an act called the TEAM Act. But it is far more important that we understand the act itself in that we just have the connotations of the word ''team.''

As a matter of fact, the need to be operating as a team in the United States is a mutually agreed upon concept. We need to operate as a team because, indeed, we are in competition and the competition is far greater than the competition of the Olympics. We talk about the competition of the Olympics, ''going for the gold.'' It is an award, and it is an honor.

But to be honest with you, the competition between nations is more than just a competition for an award or for an honor. It is the competition between nations. The need for productivity which will allow America to succeed and to continue to be at the top is a competition for existence. It is the competition for the survival of and for the success of our society in the next century. Are we going to prepare for the next century? Are we going to have a framework for work and productivity which allows us to succeed?

You have nations approaching the competitive arena of the workplace, nations like China. You have the Pacific rim all the way from Korea and Japan down through Singapore and Indonesia, hundreds of millions of individuals whose educational levels have skyrocketed, who are poised with the capacity to challenge us for our ability to meet the needs of the world.

We as Americans want to be able to meet the needs of the world. When we meet the needs, we have the jobs. When we do not meet the needs, someone else has the jobs. When we have made the commitment in terms of our own development and our own capacity, we will be the people who are the beneficiaries. If we restrain ourselves, if we hamstring ourselves, if we decide we do not want to do our very best, we will yield the gold, not just the gold medal of the Olympics but the prize of enterprise to other countries.

We would not think of sending our individuals to the Olympics if we did not allow them to train to be their very best. We would not think of taking 9 out of 10 members of the Olympic team and keeping them from being able to discuss ways to improve their performance with their coaches. It would be unthinkable.

Why would a company, or a country, want to restrain its work force, or want to restrain its competitors from being at their very best? Yet, that is the strange argument that we hear from those who oppose the TEAM Act.

Let us just stop for a moment to consider what the TEAM Act authorizes. The TEAM Act authorizes employers to confer with and discuss with employees ways in which to do a number of things: One, to improve productivity. If they think there is a more efficient way to do it, if there is a better way to do it, if there is a better way to

build the project, if a mousetrap can be improved, the employee is most likely to know about it. After all, if you work on these things 8 hours a day, 5 days a week, and 50 weeks a year, you are probably likely to have some ideas and very good ideas.

Professor Demming in the 1930's, I think, originally wrote about that. We did not take that to heart until the Japanese demonstrated it with their high-quality products and their competition in automobiles and electronics, which finally got our attention. We decided to say that we want to be able to tap the energy that exists when workers and managers talk together to figure out better ways to do things just like when coaches and players talk together to discuss ways of improving performance.

So in the United States there are about 30,000 companies now that have institutionalized this practice of saying to workers, We want to get together with you; we want to hear from you about ways that we can improve our performance so that we can have the jobs of the next century. We want you to be partners with us so that we can get the job done efficiently and effectively so that, in the competition of the next century, America continues to be the survivor; that America provides the much-needed goods and services around this world that leaves America at the top of the heap.

Good plan. It is working. You have seen it work. You have seen it work in automotives and a variety of other settings. In industry, we have begun to witness a recovery. In automotives, our quality assurance has gone higher and higher until we compete now very effectively with the nondomestic producers in large measure because of what the workers can bring to the equation, their contribution to quality, their contribution to efficiency, their contribution to increased safety, and their contribution in part because of their realization that when they are full-fledged partners and they are real contributors to the process, they feel a lot better about themselves. I like to think that I am respected for what I can be and ought to be.

The ability to have these teams is a way of respecting and understanding the great value that American workers bring to the equation. It is the working population of America that distinguishes this country from countries around the globe. Everything was working pretty well in that direction until, just in this decade, the National Labor Relations Board ruled that it is illegal for managers to confer with employees about safety and about a variety of other things.

These rulings are so stunning that I think I have to tell you the names of the cases and all to let you know what the National Labor Relations Board has forbidden.

In the case of Sertafilm and Atlas Micro Filming, the NLRB ruled that it was illegal to discuss extension of employees' lunch breaks by 15 minutes. Employers could not talk about that with employees.

In the case of Weston versus Brooker & Co., the length of the workday could not be discussed—wrong for employers to discuss this with a view toward accommodating the needs and demands of workers. Now, you and I know, with the number of people working in our families and our need to accommodate our responsibilities as parents as well as our responsibilities as workers, we need to be able to discuss things like working arrangements with our employers. That is against the law according to the Weston versus Brooker NLRB case, which was decided just a few years ago. A decrease in rest breaks from 15 minutes to 10 minutes, the U.S. Postal Service could not do that, according to the NLRB. Paid holidays were off limits, according to the Singer Manufacturing case. Extension of store hours during the wheat harvest season, Dillon Stores, 1995, that is off limits. Employers could not confer with their employees about things like this.

We need to be able to tap the genius, the innovation, the problem-solving capacity of American workers. We have a law against it. Jimmy Richards Co., which is a 1974 case, discussing paid vacations was illegal.

Here are some more. Flexible work schedules. That is interesting to me. The NLRB has said that it is illegal for the employer to ask employees what they would like to have and to consider, get into a dialog with the employees about what they would like to have in terms of flexible work schedules. We need for people to have flexible work schedules.

As a matter of fact, I have introduced a bill to give to the working population in the private sector the same kind of break that the Federal Government has had for flexible work schedules since 1978. I regret to tell you that the administration opposes it. I am sorry about that because the President himself keeps talking about flexible work schedules.

As a matter of fact, USA Today for Monday of this week talks about President Clinton, and he is going to hold a convocation about corporate citizenship with dozens of CEO's. According to the newspaper:

> President Clinton has outlined five challenges that he says contribute to corporate responsibility. He singles out companies for praise saying that they should establish family-friendly policies.

We want to have the TEAM Act, which will allow employers to talk to their employees about flexible work schedules. You would think, if you read the newspaper, that surely since the President is calling upon the corporate community to establish family-friendly policies—and he is right in calling on them to do so—he would support the ability of corporations to talk with their employees about flexible work schedules. But, no, it is against the law to do so. We want to change the law so that we can operate as a team, so we can talk to each other about the objectives and the working conditions and the safety conditions and the like. The President and his administration threaten to veto the concept.

I began this inquiry for myself about almost a year ago today. Frankly, this is May 8, the birthday of a notable Missourian. Harry Truman was born on May 8. He sat at one of these desks in the Senate. But on May 10 of last year, I wrote to the Secretary of Labor, Robert Reich, and I asked him about the TEAM Act. I quoted to him his demands upon the American corporation that we would cooperate for flexible work schedules and that we would confer with each other and that we would act as teams. I asked him to support the TEAM Act because I am a cosponsor of the TEAM Act, but, more than that, I asked him to support the TEAM Act because it will help us prepare for the next century. We want the jobs to be here for our children. We do not want the jobs to be overseas for their children. We want to preserve the advantages that our forefathers gave us when they worked hard and sacrificed. The productivity, the competitiveness, the capacity of American workers should not be frittered away because we do not allow the team to confer with the coaches.

We are 363 days away from the time I sent this letter, and I have yet to receive a response. I suspect it is very difficult to respond to this letter because their position is that they want to veto the TEAM Act. They oppose the TEAM Act. People on the other side of the aisle have opposed the TEAM Act consistently, and yet all their speeches are talking about teamwork.

I was just very pleased with the President's references to teamwork in his State of the Union Message. He called upon the citizens of this great country to work together. He called upon the Congress to call for teamwork, saying that we can only do things together; we cannot do them separately. But the TEAM Act still seems to be beyond the teamwork he is calling for.

Where is it legal in the United States for people, employers to confer with employees? Where can that happen? Well, it can happen when there is a union present. But it is illegal to do it if there is not a union there. Really, the fact is that only 11 percent of America's workers outside of Government are in unions. So for 9 out of 10 workers in America we are tying their hands. We are saying you cannot have the benefits of these kinds of discussion groups. You cannot have the improved potentials that come. You cannot have the productivity. You cannot have the chance for success that you could otherwise have.

I think, if it is appropriate and good to have this kind of discussion in union facilities, and it is—I mean our automotive people have made great strides

in improving productivity and improving quality and improving safety and improving on-time deliveries; they have done it all, where it is allowed—I do not see why we do not allow this in other areas as well.

So I believe we ought to allow this to extend to the rest of the community. Nine out of ten workers should not be forbidden. There are those who say the TEAM Act will permit an employer to have sham unions. Not so. No rule about sham unions is changed at all. I mean, if a person wants to petition to have a union election, the same rights inure, the same rights to vote in favor of a union inure to workers whether the TEAM Act is in place or not. The TEAM Act would merely authorize the coach to talk with the players, to decide things that would improve productivity.

There is an interesting case in my State. The company is named the EFCO company. They employed about 100 people or so when I became Governor 10 years ago—12 years, I guess. Time flies. They decided they wanted to be expert. They wanted to be the best in their field. They knew they could not do that just from a management perspective, so they had to call upon the team of employees. They invited them in. One of the first things they wanted to address was on-time deliveries. They had not been making on-time deliveries very well, 70-some percent in on-time deliveries. And they wanted to boost that. They moved from 70-some percent in on-time deliveries to well over 90 percent in on-time deliveries by tapping the ingenuity, creativity, understanding, and perspective of people on the job floor.

What did that do to the job? Did that hurt the working people of Missouri? Not really. Because that company went from 100-plus to 1,000-plus people in manufacturing, and their architectural glass now graces skyscrapers not only across America but around the world. It came as a result of the increased capacity of workers when they conferred with each other in the context of talking with the coach, with management. If we want to go for the gold, I think we have to be able to do that.

The folks on the other side of the aisle said there are 30,000 employers who are doing it now, it must be legal. It is hard to say it is legal when the NLRB is out filing charges and saying it is illegal and chilling this operation. Frankly, in my judgment, I think it is important to note if people on the other side of the aisle say it must be legal, and there are 30,000 companies that are doing it now, what is the big hubbub? Why filibuster the potential? Why oppose it? Why say it is a draconian measure, that it is going to ruin the country? You cannot have it both ways. If there are 30,000 people that have them and you do not think it is a problem, why say that this is the end of our ability to be competitive?

I believe people want to be able to confer with the coach. People want to be able to confer with each other. People want to be able to improve the working conditions. I was just stunned in reading more of these things that were off limits for discussion. It was off limits to talk about bonuses to be given to people as compensation for their good work, off limits to talk about merit wage increases, off limits to talk about free coffee, off limits to talk about safety issues. I was stunned.

Mr. HARKIN. Will the Senator yield for a question?

Mr. ASHCROFT. Sure.

Mr. HARKIN. I was trying to pay attention to the Senator. Will the Senator repeat again how many people there are working in the United States that have these kind of arrangements? I thought I heard 30,000. Will the Senator please clarify that for me so I have an understanding of that figure? Was it 30,000 different businesses? Or 30,000 people? I am sorry, I just did not hear it and I apologize.

Mr. ASHCROFT. There are 30,000 employers, I believe, that have sought to use this kind of collaboration.

Mr. HARKIN. Was that 30,000 that use this?

Mr. ASHCROFT. That have sought to do this, yes, and some are not any longer doing it. Obviously, when the NLRB began to prosecute this as a violation of the law, there are those who have chilled their operation. There are some under an order to quit. They have been ordered to stop conferring about things.

One of the things they were ordered to stop conferring about was safety. It stunned me, the Dillon case said it was inappropriate to discuss safety labeling of electrical breakers. I would certainly hope if I were employed in a plant you could confer with management about the appropriate labeling of electrical breakers.

But tornado warning procedures—I know there is going to be discussion about tornado procedures. I mean, if the tornado starts to hit the plant, there will be discussion, regardless of whether the NLRB says it is legal or not. But I would hope it is not illegal to do so in advance. The absurdity of saying it is illegal for employers to discuss with employees evacuation procedures in the event of a tornado points out the fact that this law, which was passed in the mid-1930's, is so out-of-step with America of the year 2000.

It is our job to prepare for the future. We ought to be saying we want more discussion between employees and employers and I am pleased that the President is saying that. He is calling this conference to say he wants more discussion. But to say you only want more discussion in the context of unionized plants, which represent 11 percent of the working people of this country, and you will not allow it in terms of the other 89 percent or 88 percent, that boggles the mind. That challenges any credible or reasonable approach to the thing.

If, indeed, we want to be competitive and if, indeed, we want people to have job satisfaction and we want them to have job security, we will build the strongest job base possible and we will not say to all those people who are not members of unions: You are not intelligent enough, strong enough or worth enough to be able to confer with your employers, and you will not have the ability to tell whether you are in a union or not.

I have had the wonderful privilege of going home to work. It is one of the things I do as a U.S. Senator. I go home, work on production lines. I have worked next to people filling feed sacks. I have worked next to people building windows and window components for new construction. I worked in a wide variety of things. I do not care what job I have done, whether it has been assembly or manufacturing or if has even been in the service industry—one time I helped prepare tax returns—everyone that I have ever talked to was plenty intelligent enough to know how to make improvements and could make suggestions. And they all knew whether or not they were in a union and would know the difference between a sham union and a real union. And they would all know how to call the NLRB if there was an unfair labor practice and make that kind of complaint.

For the resistance to mount to the authorization for American workers to talk with their employers about safety conditions, about improving productivity, about innovation, about improving marketability, even about sales practices and, sure, about safety—things like leaving the building in the event of a tornado? Here is a case which said for the employer to talk with the employees about rules relating to employees that got in fights was illegal. I would think it would be important, to confer with our workers on things like that.

The purpose of committees—they are designed to improve the security and productivity of American jobs and we should enact the TEAM Act. Let me just give a few words from the language of an administrative law judge who ruled on one of these cases. I quote the administrative law judge's opinion from the EFCO opinion. I am quoting now.

The committees ''were established by the company, in furtherance of Chris Fuldner's [that's the CEO's] vision for a more productive, more profitable and more satisfying place for employees to work, [by improving] employment policies, employee benefits, employee safety; and employee suggestions.''

That is what these things were created for, ''To make a more productive, more profitable, and more satisfying place for employees to work, [by improving] employment policies, employee benefits, employee safety; and employee suggestions.''

The opinion went on to say, ''In Fuldner's view, management should encourage employees to feel good about themselves and their jobs, and management should try to keep employees

happy with their benefits, and to appreciate these benefits.''

That was the goal. The administrative law judge confessed that these were all the positive benefits. But then said that the law requires that these be stricken as inappropriate because the company not only talked about these benefits but actually took them to heart, provided things like places for the groups to meet, and pencils and papers upon which they could write.

We started out talking about the Olympics. We would not want to send our team to the Olympics without a chance to win. We do not want American employees to compete in the world marketplace without the ability to win. You would not think of sending 9 out of 10 athletes to the Olympics without allowing them to talk with their coaches and each other about ways to improve their performance, and yet, we have a rule in American industry that to confer with workers, 9 out of 10 of them—there are 11-something percent that are in unions; they are allowed to make these discussions—for the ones not in unions, it is against the law.

I do not think we can afford to look to the future and say to 88 or 89 percent of our work force, ''You can't take advantage of your creativity, your innovation, your wisdom, and share it with your employer and improve productivity and performance in order to be on a winning team.''

Because we cannot afford to go into the competitive marketplace with our hands tied behind our back, we should enact the TEAM Act, which provides specific authority, not for anything great, not for anything outlandish, but basically for something the President says he wants: cooperation, teamwork—he asked for it in his State of the Union Message—between employees and employers.

I believe, if we provide the American people, through the right legal framework, the opportunity to cooperate and work as teams, we will come home with the gold. We have shown it over and over again; even when we slip behind, if you let the American people put their shoulder to the wheel and their nose to the grindstone, we cannot be beaten. But if you hamstring us for special interests rather than turn us loose to win the game, we will have a hard time competing.

We must enact the TEAM Act in behalf of the workers of today and the children of tomorrow for the jobs we hold, not only for us, but we hold them in trust for those who will follow us.

Thank you, Mr. President.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). Under the previous unanimous consent agreement, the Senator from Iowa is recognized.

Mr. HARKIN. I thank the President.

Mr. President, I was listening to the statements by my friend from Missouri, with whom I serve on the committee of jurisdiction dealing with this so-called TEAM Act, and I will use that phrase, ''so-called TEAM Act.''

Listening to my friend from Missouri and looking at the title of this bill, the TEAM Act, which stands for, if I am not mistaken, ''teamwork for employees and management,'' I cannot help but be reminded of that wonderful phrase from ''Alice in Wonderland, Through the Looking Glass,'' where Humpty-Dumpty is talking to Alice. Let me paraphrase: ''When I use a word it means just what I mean it to mean.''

And Alice says, ''Well that's not fair. It doesn't work that way.''

And Humpty-Dumpty says: ''The real question is, who's going to be the boss?''

That is really what this is all about. Who is going to be the boss? Are we, in fact, going to have a structure that allows for real cooperation?

I will say to my friend from Missouri that real cooperation, productive cooperation, can only occur when the parties who are seeking to cooperate do so on a level playing field. To have one side or the other impose a structure, to impose rules, to impose what the framework is is not going to lead to productive cooperation. What my friend from Missouri is advocating would be like—and under the TEAM Act, I do not say my friend from Missouri—but under the TEAM Act, so-called TEAM Act, it would be like if Senator DOLE were to pick the representatives of the Democratic Party to represent the Democratic Party on the floor of the Senate.

Mr. ASHCROFT. Will the Senator yield for a question?

Mr. HARKIN. I will in just a second. I just want to finish my thought on that. So, again, we would not want that to happen. Maybe Senator DOLE would like that to happen now that he is majority leader, or perhaps if the tables were turned and the Democrats were in charge, maybe the Democratic leader would like to pick who represents the Republicans.

I think the Senator sees what I am getting at. But it can only be done if you have that level playing field. I think we have that level field. There is nothing in section 8(a)(2) now that prohibits management and labor from getting together to discuss these items and to have working relationships. I see them all the time. It just comes about when management says, ''We want to cooperate and here's the terms of our cooperation. As long as you agree, we can cooperate.''

That is what we are trying to avoid. That is really what this so-called TEAM Act does.

I yield to my friend.

Mr. ASHCROFT. You have said you do not think progress can be made as long as the management has the prerogatives that we ask for in the TEAM Act. We are really asking for the prerogatives to confer. If there is nothing in the law against it, why is this so terrifying?

In the one case where they have tried to shut this down in Missouri, which is the most notable case in my State, it went from 100 employees to 1,000 employees. The workers have stormed my office and said, ''We want this. The National Labor Relations Board is keeping us from doing this.''

It seems to me you are saying it will not work in theory. But there are a thousand workers in Monett, MO, saying, ''It sure works in practice, because we have 10 times the jobs we used to have, and we like it.''

I met with 300 or 400 workers this morning who were here to lobby the Congress saying, ''Let us keep doing what we are doing.''

I understand you might say theoretically it cannot work. You said there cannot be any progress under the things we are asking for, and the things we are asking for, when it was allowed to operate that way—I saw one plant in my State that went from 100 workers to 1,000 workers. I call that progress.

Mr. HARKIN. I will say to my friend from Missouri, I can give examples in my own State and around the Nation of businesses, companies, where the owners and the managers deal forthrightly and with every sense of equality with the workers. Some of those plants are not organized, they are not organized labor. So they say, ''We don't need organized labor. Look, we get along fine, the workers like it, we have great benefits, we have a good system set up for any kind of dispute resolutions.'' That is true. There are a lot of those around. But the fact is there are a lot more that maybe are not, and that is why we have labor law, that is why we have the National Labor Relations Act. That is why we have section 8(a)(2), to provide a framework whereby workers can select their own representatives and where they are on an equal footing with management.

I suppose the Senator disagrees with my philosophy on this. My philosophy is that capital and labor ought to be represented equally. I do not think capital ought to be above labor, nor do I think labor ought to be above capital, but I think the two ought to work together. I believe it is not in the best interest of our capitalistic system to place capital above labor, because that will destroy our productivity and destroy our labor force in this country.

I also think the opposite is not good either, trying to elevate labor over capital. So we have to try to keep a balance. That is what the National Labor Relations Act is about; that is what section 8(a)(2) is about.

I am sure the Senator can find examples of businesses where they treat the workers fine; gosh, why do you need a labor union for all this? Yes, I can show you examples of that in my own State, too.

The Senator talks about the EFCO case in Monett, MO, but there is another side to that story. I listened to the Senator from Missouri talking

about this example of a circuit breaker switch or tornado warning. I believe the Senator is a good lawyer, and it is like if you only read the prosecution side of a case, you say the person is guilty. If that is all you read is the prosecution side, you say the person is guilty. If you read the defense side, you say, ''Hey, that person's innocent.'' To find out the truth of the facts, you have to read both sides. I do not know what the whole story is about the circuit breaker or the tornado warnings. I do not know all the facts. But I would like to know the whole story.

It is like EFCO. There is another side to that story. In fact, I will start to go through some of that now. But the fact is, that EFCO really started reacting only when the employees started to organize. There was the threat of that.

The Senator says, hundreds of employees came to him and said, ''We like this, and we want to continue it.'' Yes, I can understand that, if they are afraid of losing their jobs because they did not have that kind of bargaining unit, but I thought I might just go through the sequence of events that led up to the administrative law judge's ruling on the EFCO.

I think that my friend from Missouri and others have mischaracterized this case and what the decision represents. My friend from Missouri and others use the EFCO decision as really an example of why we need this bill. Quite frankly, I think it is an example of why we really do not need this bill.

Let me go through some of the factors here. If the Senator from Missouri wants to try to correct me on this, he should feel free to do so. I am trying to get to the bottom of this and the facts. In April 1992—first of all, the administrative law judge's decision in EFCO ruled that four inplant committees were unlawfully dominated and assisted by EFCO, by the management. None of those committees demonstrated ''shared management decisionmaking or co-determination of cooperation by the work force,'' but they all resembled classic forms of management-directed sham bargaining vehicles, or ''employer representation plans, that were deliberately outlawed by the Wagner Act of section 8(a)(2).''

So what happened in this case? In April 1992, EFCO's president suddenly directed its plant facilitator to revive a defunct safety committee. The plant facilitator announced the formation of the committee on April 21, 1992, defining its role as setting and enforcing safety policies. He, the plant facilitator, selected the members of the committee from volunteers, and they shared the first meeting on June 4, 1992.

He was succeeded as the director of the committee by EFCO's safety director, who continued to set the agendas for the meetings. The committee never had or exercised any authority to enforce or discipline violations of safety policies—never.

In September 1992, EFCO's president announced the employee benefit committee to the employees on September 8, 1992, defining its function as soliciting ideas regarding employee benefits from the employees and making recommendations to the management committee, which was EFCO's core management group—and in which, I might add, no rank-and-file employees participated. This was all management directed.

EFCO's chief financial officer selected the 10 committee members again from volunteers, but those volunteers previously screened by the human resources manager, again, were part of management. Among the appointees was a supervisor and the president's confidential secretary. Imagine that. They were part of the team they selected to represent the employees.

At the initial meeting on October 1, 1992, EFCO's president designated the first issues to be considered and directed that other issues be solicited from the employees. The human resources manager, the CFO, and, later, the comptroller attended the committee meetings. The committee's chairman met with the management committee to discuss and clarify the committee's recommendations. The management committee determined whether or not to adopt the committee's recommendations.

Let me repeat that. The management's committee determined whether or not to adopt the committee's recommendation.

Mr. ASHCROFT. Would the Senator yield?

Mr. HARKIN. I would be glad to.

Mr. ASHCROFT. Is the Senator's position that the management should not make the final decision about procedures, that it is inappropriate to confer with workers unless you turn over the final decision to them? I mean, it seems to me that——

Mr. HARKIN. No, management always makes the ultimate decision. However, it is this Senator's position that when we are talking about teamwork, in these kinds of structures, there ought to be a level playing field so that the employees can pick their own representatives where there is not the heavy hand and the ever present authority of management there guiding, directing, and selecting, and then have that discussion proceed, have the committees, management, labor committees jointly reach their agreements, and then, yes, management can sign off on it. That was not the structure in this case.

Mr. ASHCROFT. So it is the Senator's position that management could only adopt a policy which had been previously forwarded to them by the workers? I mean, as I understand it, you allow workers, their contribution to be made, but you do not have to surrender the management of the corporation to do it. I do not think most workers want you to surrender, but they want input.

Mr. HARKIN. I would say to my friend, they want input that is genuine input from the employees, from employee organizations that are not structured by management—as I just pointed out, this was structured by management. The representatives were selected from volunteers by management, not the employees. Management selected them. I just pointed out that management selected the confidential secretary of the president.

Mr. ASHCROFT. Do you think the confidential secretary of the president should not have the right to participate in making contributions like other workers?

Mr. HARKIN. If they work on the management side. But let the workers decide who they want to represent them, not management. That is my point.

Mr. ASHCROFT. I believe there are differences. That is more of a side versus side rather than a team here. It is this Senator's understanding that we ought to operate as a team, not one side versus another. We ought to try to work together.

Mr. HARKIN. But you see, in order for a team to work, there must be open discourse, there must be a consideration, and there must be not just the semblance of, but the genuine foundation of cooperation and equal participation.

See, I think what my friend from Missouri still believes is that management ought to be able to tell workers what to do all the time just because they own the plant. They ought to be able to tell a worker exactly what to do, when to do it and everything else, and if the worker does not like it, out the door. I do not happen to believe that, you see. I am sorry we have a philosophical difference. I happen to believe that workers, that labor should take equal positions with capital. They both ought to be respected.

Mr. ASHCROFT. How do you break the deadlock in the case of a deadlock under your system, if they are equal positions and one says yes and one says no? Are you saying that if the workers say, ''I don't want to do that,'' and the employer says, ''We need to have that done,'' is it a deadlock for you, or who breaks the deadlock?

Mr. HARKIN. In all of the organizations that I have seen which are organized under 8(a)(2), where you have employer representatives and you have management and where they met in that spirit of mutual respect, I can tell you I have not seen one case, nor do I know of one, where there has been that kind of a gridlock and deadlock.

I think there is an assumption by the Senator from Missouri that labor is always—or at least sometimes—always going to act in a way that is going to be detrimental to the management. Workers do not want to do that. They want the company to function correctly. What they want is their rights protected. They want their rights protected.

No one wants to return to slavery in this country where someone just tells a

human being, ''Look, you do as I say, or else, out the door.'' We have advanced beyond that. We do not want to go back to the old days where labor had no rights whatsoever.

Mr. ASHCROFT. I believe we have rights, and I think they ought to be protected, but I believe that when the employer says something needs to be done, it has to be that way. I would say this, and I thank the Senator, and I will not further interrupt your speech, but I would just ask——

Mr. HARKIN. We ought to have more discussions like this.

Mr. ASHCROFT. My whole point is, it is not my way or the highway. My whole point is, we need to allow managers to welcome and to capitalize on and to implement and to benefit from the special expertise, creativity, and input from people in the production pool. Then it is a very valuable thing. It is not that it is antagonistic. I do not think management can survive without it.

I do believe you are right, that there are very few times when it is against the interests of management to hear from labor. I think in the overwhelming number of cases really what I have sought to do is to provide a framework in which that is something that is legal and is appropriate and management is free to solicit the view of labor and to go and ask for it.

I thank the Senator for the time.

Mr. HARKIN. I thank the Senator. I think we ought to have more like this. I would be glad to discuss it even further because I think we start to get to the real differences here and the views of what we are trying to do here in this bill.

Again, I guess the Senator and I just have a gentlemen's disagreement on the role of labor and management in our society.

Again, I have seen so many times in our country where management is open, respectful, where they really encourage employees to get together, to organize and to bargain with them in good faith. That is the most productive unit you have in America.

It is the cases where an employer comes in and says, ''Look, I know what is best. I will set up the structure. You can give me your advice if you want, but if I do not like it I will throw it out the door,'' and there is not the sense that workers really have a legitimate role to play in the decisions that affect their very jobs, that affect the future of that plant. When that happens, then I think productivity falls.

Again, I point out to my friend from Missouri, we have had section 882 all these years. We have labor-management councils. They operate in my State. Building trades are working, I know in my Quad Cities area, the Davenport area and in Des Moines, where building trades are working with contractors. We call these labor-management councils. They work wonders. It is done in a sense where you have a level playing field. I think what my friend from Missouri basically is saying, ''Look, management in the end ought to control everything.''

I am saying that in a team if you have this real teamwork, the employees have to know that they are equal partners in making the productivity force in America move forward. That is why, I repeat, I get back to the EFCO situation here, we hear about EFCO, but when you go through the whole history of EFCO you find this is a classic case of why section 882 is necessary.

I ended on September 1992 when the management committee determined whether or not to adopt the committee's recommendations. Now we go to December 1992, on December 28, EFCO's president created the employee suggestion screening committee. He did it by memorandum to the six employees he appointed to the committee. That is not bad. Listen to that: EFCO's president created the employee suggestion screening committee. He did it by memorandum to the six employees he appointed to the committee.

How much freedom and how much do you think that these six employees, handpicked by the president, is going to take a position contrary to the president's position? Not only that, the president defined the committee's purpose as reviewing and referring to management with recommendations, employee suggestions. EFCO issued a general announcement of the committee's formation and solicited suggestions from all employees on January 14, 1993. EFCO's senior vice president and its CFO were assigned to attend the meetings. Again, you have a meeting, you have the senior vice president, the chief financial officer sitting there, listening to everybody. Again, that heavy hand over everyone. The CFO set forth the agenda at the first committee meeting. Not a spirit of, ''OK, representatives of labor, what would you like our agenda to be?'' No, management saying, ''Here is the agenda, here is what we are going to discuss.''

The elected chairman of this committee—mind you, this is a committee of six employees handpicked by the president—the elected chairman of the committee was promoted to a management position in the summer and yet continued to chair the meetings. The committee had no authority to decide which suggestions would be adopted. None. They could pass them on, but they had no authority to decide. Again, back to my friend from Missouri, he said, yes; we should give management suggestions. We should let employees suggest things. If management does not want to do them, to heck with them.

Well, I tend to think if you will have this type of arrangement you should have employees and management together in a teamwork, and if they are equal, and if they have equal status, then if they make suggestions that ought to be adopted by that committee, representing both management and labor—I do not know what the exact effects are if they do not reach a agreement. I assume if they do not reach agreement it would not be adopted. If there is gridlock you do not adopt. If they agree, it ought to be adopted, not reviewed further, and adopted by management.

Finally, January 1993, January 14, 1993, EFCO announced that it was establishing an employer policy review committee, whose purpose was to gather comments and ideas from the employees regarding company policies, and to make policy recommendations to the management committee. The human resources manager—this is part of management—selected the committee members. Again, the management selected the committee members. The management appointed the cochairman. The manager also attended committee meetings. One of the members of the employee's group was a supervisor, and a cochairman was shortly promoted to a supervisory position.

EFCO's president attended the first meeting on February 9, 1993. Here is what he did. He laid out the ground rule. He dictated the first policy to be considered. He issued a deadline for the presentation of a recommendation to the management committee. It does not sound quite like equal representation of management and employees. It is sort of like the management saying, ''OK, again, here is the policy to be considered, here are the ground rules, here is the deadline for you to submit suggestions to the management committee,'' and again, those suggestions might be accepted or they might not be accepted.

The appointed cochairman met with the management committee to discuss recommended policies and the management committee determined which recommendations would be adopted. Again, EFCO set up the elaborate sham structure, management laid out the ground rules, management picked many of the people to be on it, they dictated the policies and they said, OK, if you come up with a suggestion or recommendation, it goes to the management committee, and that management committee decides what will be adopted.

Again, I guess we get back to my friend from Missouri. His philosophy is if you are management, your word is God and you don't need employee input. I am sorry, I disagree with that. I disagree with that because I think that labor and management ought to both be equally represented in these kinds of situations.

In short, EFCO unilaterally decided upon and formulated the program of employee committees. It created committees and determined their size, functions and procedures. It appointed their members and included supervisors among their membership. It set the scope of each committee's concerns, goals, and limitations. It established the committee's agendas. It directed the committees to solicit opinions, ideas, and suggestions from other

employees. The committees met on company property, during working hours. High management officials attended these meetings. Committee members were paid for the time spent on committee work and EFCO provided any necessary materials or supplies.

Cumulatively, when you look at this, the committee dealt with EFCO as company-created and company-directed representatives on every conceivable area of employees' wages, hours and working conditions. The very existence of those committees was and is dependent upon EFCO's unfettered discretion. Moreover, EFCO endowed the committees with absolutely no actual power. The company reserved to itself the exclusive authority to decide which recommended suggestions, policies, safety rules, or employee benefits would be adopted. The committees were not even authorized to administrator or enforce those of the recommended policies or rules actually implemented by management.

Again, I think when you look at the whole case, when you do not just read the prosecution side, when you read both the prosecution side and you read the defense side as in any case, perhaps we get to the truth. The truth is that EFCO wanted to set up a structure whereby, yes, employees could give suggestions, only under the steady gaze and the heavy hand of management, where those representatives would be picked by management, where the structures and guidelines would be established by management, and where in the end, where any suggestion, any advice, would then go to a management committee to be finally acted upon, adopted or reject. Again, a clear example of why we need section 882.

Well, I guess it really boils down to, if you believe that workers are intelligent, if you believe that workers have the best interests of their country at heart, if you believe that workers have the best interests of their employer and their factories and their plants and places of work at heart, if you believe that, then you ought to permit workers to sit at the table with management. That is what section 8(a)(2) does; it permits workers to sit at the table.

This so-called TEAM Act says, ''Well, you have been at the table all these years under section 8(a)(2).'' You know, we have had a pretty good run of it since the Depression. We are the most productive nation on Earth today, as we have been for the last 50 years. Oh, we always hear about these other countries, but the fact is, American productivity, last year, was higher than any other country in the world—output per hours worked. Oh, yes, for the last 50 years we have been the most productive nation on Earth. We built the freest, strongest nation the world has ever seen. We have built great universities and colleges. We have the best medical research anywhere in the world. We have the freest society. We have the greatest opportunity for the greatest number of people. And guess what? We did it under the Wagner Act. We did it with section 8(a)(2), and we did it with labor sitting at the table.

Now we hear voices—my friend from Missouri among them—who say labor no longer needs to be at the table. Management is at the table; labor is sitting on a lower chair. They are down a little bit lower. They are sort of sitting on the floor. If the management would deign to give them some crumbs off the table, that is fine. If management does not, well, that is fine, also, because if the workers do not like it, they can get off the floor and walk out the door. Well, that is what has been happening, and that is what is behind this so-called TEAM Act. I do not ascribe any bad motives to anyone. My friend from Missouri is an honorable gentlemen. But I just believe that this policy is totally misdirected. I think it flies in the face of what we in America have done over the last 50 years and what we are still accomplishing in becoming the most productive nation on Earth.

Mr. President, there is a line from one of my favorite plays that goes something like this:

> Life is like cricket. We play by the rules, but the secret, which few people know, that keeps men of class far apart from the fools, is to make up the rules as you go.

Well, I suppose if you want to keep management up and labor down, you make up new rules as you go along. That is what this is. We are making up new rules—rules that would take away a legitimate right of labor to be heard and to sit at the table. No, I am sorry, Mr. President, this is not a team act. This is not a team act at all. This breaks down the team. This is a class act, making one class of management and owners at a higher level than the laborers.

So, Mr. President, this is not just a little piece of legislation. I think the majority leader referred to it as a ''minor'' piece of legislation, and no one should bother about it. It is not a minor piece of legislation. It is a dagger right at the heart of what has made this country so productive over the last 50 years. It is a dagger right at the heart of our workers in this country, and we should not let it pass this floor.

We ought to reaffirm, once again, our commitment to a level playing field and, as John L. Lewis once said, make sure labor has a seat at the table, not on the floor, where labor would partake of the same meal as management and not just get the crumbs from the table.

This bill would undo all that we have done in our society to give our working people a decent voice, to give them the recognition, which is due any human being, that their labor is worth something, that they themselves are human beings, and that labor is not just another unit of production to be written off and thrown out the back door; but that our working people are more than just numbers on a piece of paper, or machines on a shop floor, and that they deserve, and ought to have, by right and by law, all of the protections that the Wagner Act and section 8(a)(2) provides them.

This Senate and this Congress would do a disservice to our country were we to let this TEAM Act pass.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I am greatly disappointed that my Democratic colleagues are continuing to block repeal of the Clinton gas tax. When President Clinton and the Democratic Congress, without a single Republican vote, passed the biggest tax increase in our Nation's history in 1993, they said that their $268 billion tax increase was a tax increase on the wealthy. Well, now they have a chance to repeal a tax that hits the lower and middle income people the hardest, and they are refusing to do so.

Make no mistake, the gas tax, which was part of that massive tax increase, is a tax burden that is borne by virtually every American. Every mother who drives her children to school, every commuter, every family who drives to church, every senior who rides the bus to go shopping, every family planning a summer vacation gets hit by this tax.

Let us be clear. Democrats are denying tax relief to each of these Americans. Incredibly, some of my Democratic colleagues have called for even higher gas taxes. Maybe they were not listening when President Clinton said last fall that he thought he raised taxes too much. Despite this admission by President Clinton, our colleagues on the other side of the aisle are threatening to shut down the Senate because they do not want to let this tax cut for working Americans come up for a vote.

The distinguished minority leader said yesterday that the Democrats would shut down the Senate over this tax cut. By shutting down the Senate, the Democrats are now blocking not only a tax cut for working Americans, but they are blocking the taxpayer bill of rights; they are blocking consideration of a constitutional amendment requiring a balanced budget; they are blocking the opportunity for commonsense health care reform; they are blocking reauthorization of Amtrak.

Mr. President, while I am disappointed by the words and actions of some of my colleagues on the other side of the aisle, I am not surprised. Let me explain.

This is a chart comparing the records on taxes of the 103d Congress, which was controlled by Democrats, to the tax record of this Republican-controlled Congress.

As this chart shows, the Democrats passed the largest tax increase in our Nation's history—$268 billion. This was without a single Republican vote. And, while they said at the time that the tax increase was for deficit reduction, a study released last week shows that 44

cents of every dollar of that tax increase has gone to more big Government spending. That is why Republicans continue to believe that the way to reduce the deficit is not to raise taxes, but instead to cut wasteful Government spending.

This chart also shows that the Clinton tax rate increase was retroactive—reaching back to the Bush administration. The tax record of the 103d Congress included a top tax rate increase to 39.6 percent which devastated small business, and is probably part of the reason why so many Americans feel that their wages have stagnated. When these small businesses, which are the biggest creators of jobs in this country, have to give more money to the Federal Government, they have less money for expansion, pay raises, and job creation.

The Democratic 103d Congress' tax record also included an increase in taxes on Social Security benefits up to 85 percent—an outrageous increase.

The 103d Congress also, of course, raised gas taxes by 30 percent.

So, the tax accomplishments of the 103d Democratic Congress included a hard hit at many Americans and they were not all rich.

But what a difference a Congress makes. This Republican Congress has a much different record on taxes. Instead of raising taxes, we have cut taxes. The 104th Congress has passed legislation that has been signed into law including: allowing working seniors to keep more of their Social Security benefits by increasing the earnings limit; tax relief for the thousands of service people in Bosnia; a reinstatement and subsequent increase of the self-employed health insurance deduction; and a measure to prohibit States from taxing the benefits of former residents who have retired and moved to other States. These tax changes benefit millions of Americans.

And, if President Clinton had signed the Balanced Budget Act of 1995, the tax burden on millions more working Americans would be lighter. Families, in particular, would have benefited from the Republican budget, which gave parents a $500 tax credit for each child. Our budget also reduced the capital gains rate, phased out the unfair marriage penalty, provided a deduction for student loan interest, and expanded tax-deductible individual retirement accounts.

The difference between the two records couldn't be more stark. The last Congress increased taxes by a record amount, while this Congress cut taxes.

Mr. President, it is my hope that this Congress can undo the economic damage that the last Congress has done. Repeal of the Clinton gas tax is a good place to begin.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 1737 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. 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. DASCHLE. Mr. President, we have not made a lot of progress in the last several hours, and I am hopeful that at some point today we can reach an agreement.

The current situation would require a vote on three separate provisions of the same amendment to a bill that is now pending, the Travel Office reimbursement legislation. We have indicated that that is unacceptable to us.

Earlier today, at a press conference, the distinguished majority leader, when asked if he would agree to consideration of three separate bills, answered, ''If we can get an agreement to vote on three separate bills, that's one thing. I've already given that agreement to have three separate bills.''

As I understand it now, that may not be Senator DOLE's exact intent. But I must tell you that if it is, indeed, his position to accept consideration of three separate bills, then, indeed, we would be ready this afternoon to agree; we would allow a vote on the gas tax reduction and relevant amendments; a vote on the minimum wage and amendments that are relevant; and a vote on the TEAM Act with relevant amendments. That seems to me to be exactly what we have been proposing now for several days.

If we can do that, we could reach an agreement by 4:45 this afternoon. So I am very hopeful that we are getting closer together, that we can find a way to resolve this impasse. Three separate bills, as the majority leader suggested earlier today, would do that, would give us that opportunity, and I am hopeful that we can talk in good faith and find a way to determine the sequencing and ultimately come to some conclusion on this legislation.

Three separate bills with relevant amendments, perhaps with a reasonable time limit, is acceptable to us, and we will take it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MEGAN'S LAW

Mr. DOLE. Mr. President, late last evening H.R. 2137 passed the House, I think, unanimously. It is Megan's law, plus some other additions to help protect our Nation's children from sexual predators. The vote was 418 to 0. Known as Megan's law, it strengthens the existing law to require all 50 States to notify communities of the presence of convicted sex offenders who might pose a danger to children.

In 1994 the crime bill was lobbied not to require States to take such steps. Since that time, 49 States have enacted sex offender registration laws, and 30 have adopted community notification provisions, but not all States have taken the necessary steps to require such notification. And this is a tragedy in the making.

It seems to me that we can prevent this from happening and we can take action now. I do not know any reason to hesitate. So I am going to ask consent when I finish that we bring it up and pass the bill.

But every parent in America knows the fear and the doubts he or she suffers worrying about the safety of their children. Parents understand that their children cannot know how truly evil some people are. They know that no matter how hard they try, they cannot be with their children every second of the day. A second is all it takes for tragedy to strike. We have an obligation to ensure that those who committed such crimes will not be able to do so again. This is a limited measure, but an absolutely necessary one.

Again, sort of following along the President's remarks at his press conference, it seems to me this would be an area where there would not be any objection. I know when this bill comes up it will be unanimous. We would like to let the American people know that we can respond immediately. The bill is here.

UNANIMOUS-CONSENT REQUEST—H.R. 2137

Mr. DOLE. Mr. President, I ask unanimous consent that H.R. 2137 be immediately considered.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I associate myself with the distinguished majority leader's remarks in this regard. The bill is a good one. It probably will enjoy broad bipartisan support. We do have amendments that our colleagues on this side of the aisle would like to be able to offer. So given the fact that they need to have that right, I object at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. I hope we are not holding up the bill over the minimum wage dispute.

Mr. FORD. Oh, come on.

Mr. DOLE. That is not an amendment that will be offered to Megan's law. We have had about enough of that.

Mr. DASCHLE. If the majority leader would yield, I will clarify, it is not our