

V

EMPLOYEE REPRESENTATION PLANS

EMPLOYEE representation plans have a place in the history of collective bargaining, much more central than has been recognized. Their contribution was partly obscured by their abuse at the hands of employers who attempted to exploit them. They became a symbol of opposition to the free unionization of workers. They were distorted into forms of pseudo-unions, employer dominated, subject to all of the emotional criticisms and administrative decisions directed against "company unions."

In 1939, William Green wrote that "these employee representation plans . . . were all . . . designed to confuse, mislead and defraud the workers of their legal rights." Impartial observers generally disagreed with him. But in the turmoil and confusion of the Great Depression, the CIO revolt, and the New Deal, it is not surprising that true employee representation plans were lost in the collapse of the sad imitations, which adopted the name without the purpose and spirit. A careful study, such as this chapter invites, will show that the loss of true representation plans was regrettable, but was inevitable in the circumstances.

Enough years have passed to permit employee representation plans to be viewed in perspective. It is high time that this view be had, because we are at the stage of our evolution where we need, and need urgently, the lessons which can come from it.

Seen in perspective, employee representation plans reveal the beginnings of the modern collective bargaining which became the objective of labor spokesmen and politicians in the 1930's. They demonstrate a practice of true collective bar-

gaining far more advanced than existed in the usual union-employer relationships before the inception of employee representation. In fact, it was a practice of collective bargaining more advanced than that which the average union attempted until employee representation plans had gone out of the picture. It was a practice which contributed more to the collective bargaining concept of today than was contributed by the whole history of the craft union movement.

In an address delivered before the American Management Association in 1927, Dr. Wm. M. Leiserson, then Professor of Economics at Antioch College, said:

I think, if you take it as a whole, the unskilled and semiskilled working people of this country, in the last six years, have obtained more of the things trade unions want out of employee representation plans than they have out of the organized labor movement. Not that they could not have gotten them out of labor organizations if the labor organizations were efficient in handling the problems of the craftless workers in the mass-production industries. But the reason the employee representation movement has grown is because the trade unions have not succeeded in doing their jobs among the specialized workers in the large-scale industries. There is even evidence that these workers sometimes deliberately prefer company unions to the regular trade unions.

Collective bargaining as we know it today, as we have been taught to see it since it became a specially sponsored institution under federal law, is the representation of rank-and-file employees by selected spokesmen, in arranging terms of employment with their common employer or employers. This is quite a different concept from that of the union relationships which existed in the heyday of the old-line craft unions. The evolution of the craft union concept into the mass-union concept of today is discussed more fully in chapter iv. At this point, emphasis is placed on the fact that the same management skill which had created mass production and mass employment made an early effort to create machinery for mass understanding.

Our future development of employer-employee relations gives particular importance to the long-range view of employee representation plans. This importance is immediate and urgent for those who are sincerely interested in exploring the areas "beyond collective bargaining." Some of the bench marks from which the lines can be projected will appear in this long-range review. We shall find that real employee representation plans not only foreshadowed the collective bargaining of our day, but clearly included many of the factors and features which even today are beyond collective bargaining.

Since we are looking backward at employee representation plans, it is permissible to discuss first of all the fundamental weakness which made them unsuitable and inadequate as a final and general instrument in our economy. This weakness was so fundamental that the structure would have collapsed, or changed radically, without the Great Depression, without the NIRA or the Wagner Act. It was so fundamental that the real value of employee representation had been largely destroyed by adulteration and exploitation at the very time when such plans were at the peak of popularity.

This weakness was the fact that the grant of power to employees to speak through employee representation came to them from above. It was a concession that had not been won or achieved by employees. Even when attained, it could not be successfully defended or retained against the employer whose convictions or policies had changed. No employer found any method to confer irrevocable rights upon his employees through the machinery of employee representation. At least, no employer adopted such a method. No employees possessed an ultimate force of bargaining power under such plans, beyond that which the employer had voluntarily granted to them, and which he could withdraw.

This weakness was sure to be cured at some stage by a development which would give employees the right and power

to speak for themselves, without reliance upon the enlightened generosity of an enlightened employer. Perhaps this achievement of power could have come by evolution in an orderly economic development. But it came by revolution, in a disorderly economic readjustment of depression, panic, and resort to the magic of government regulation.

This much needs to be recognized regarding the basic weakness of employee representation plans. Having seen the weakness, we still should be realistic in weighing the contribution which these plans made. We need to see how much they gave to our structure of collective bargaining today and how much they promise in the area beyond collective bargaining.

Historically, there are many companies and industries which can claim to have been pioneers in creating employee representation plans. We need not know who was first, or even list those plans which were in effect before any selected time. A study of employee representation plans in existence at the end of the 1920-30 decade is included in a 1931 publication of the National Industrial Conference Board, entitled *Industrial Relations Policies and Programs*. Without tracing the history of such plans, that study treats the functions and scope of the plans then in effect, in a wholesome and objective manner. A study at that time is especially significant because of the widespread use of employee representation plans then in effect. Complete statistics are not available, but it is apparent that more workers were covered by employee representation plans than by all the contracts of AFL unions in the United States. (The CIO had not yet been formed.)

The program which is generally accepted as marking the origin of employee representation is particularly significant. This importance rests not only upon the story of that particular plan, but more upon the fact that most of those employers who later developed such plans, and most students of industrial relations in later years, looked upon this plan

as the pattern. Many of the most successful employee representation plans grew from direct personal contact with this program, on the part of executives of the companies who inaugurated similar mechanisms.

Regardless of its title to first place chronologically, the early program outlined by Clarence J. Hicks, and developed in companies where the Rockefeller interests were dominant or important, can be safely accepted as the prototype of the true employee representation plans. The whole history of this program marks it as a sincere effort to achieve an understanding relationship between management and workers. It was one of the first fruits of a critical study, said to have been initiated by John D. Rockefeller II, as the aftermath of a tragic demonstration of misunderstanding and bitterness. Almost every student of the history of industrial relations is familiar with the story, and men who have been in the field for fifteen years or longer are likely to have known personally at least two of the three men who made the study and sponsored the recommendations. The story told by Clarence J. Hicks¹ should be studied by any person who needs to understand the evolution of industrial relations over the past thirty years.

The story of this employee representation plan has internal evidence of sincerity. As far as the motives of any employer, in any voluntary action, can be accepted as frankly directed toward the mutual welfare of himself and his workers, the motives behind this plan can be so accepted. In its time, it was a radical advance toward freedom of expression for employees. Its actual operation, and the subsequent attitude of the companies concerned toward the unions which eventually represented many of their employees, give it a reasonable acquittal on the charge that it was designed primarily to forestall unions.

¹ *My Life in Industrial Relations*. New York: Harper & Brothers, 1941.

In the scope of subject matter dealt with in the discussions with the employee representatives under this plan, we find matters which have never yet been discussed between a labor union and an employer, in the process of collective bargaining. Any employer might permit and even invite discussion of such subjects by employee representatives who had no protected bargaining rights, and in a situation where the employer had complete and final control of decisions. It is reasonable to admit this, but there are no recorded instances of employers having done so in any formal way, before the employee representation plans were established. The willingness to discuss such subjects indicates a willingness to be influenced by the discussion. Those who deal most closely with problems of employee relations will realize that an employer who permits or invites such discussion, and then makes arbitrary decisions contrary to the expressed views of employee representatives, is inviting trouble. His relations with employees would be measurably better without such discussion and later contrary decisions, rather than with them.

Regardless of the power of the employer to make the final decisions, the invitation to employee representatives and works councils to discuss certain matters marked a great advance in humanizing the relationships in large employing units. It actually restored in part the basis of understanding which had previously existed in the small employing units. It gave an opportunity for the workers, through their representatives, to obtain information about the enterprise, information from which they had been separated by the early growth of the mass-production industries. It gave them, correspondingly, the opportunity to express their wishes and opinions.

The study of the National Industrial Conference Board, previously mentioned in this chapter, lists the following among other fields covered by employee representation bodies under various plans:

Wages and Hours	General Working Conditions
Safety and Fire Protection	Reports of Employee Opinion
Health and Sanitation	Recreation
Grievances and Adjustments	Education
Suggestions and Work Improvements	Social Affairs and Activities
Housing	Operation of the Personnel Department
Requests for Explanations of Management Policies and Actions	General Industrial Relations Programs

In his discussion of the Employee Representation Plan developed in the Standard Oil Company (New Jersey), Mr. Hicks tells how a definite labor policy was established and maintained, as a result of the joint conferences under the Plan. In addition to most of the subjects listed above, this jointly developed policy printed in 1922 dealt with:

Prevention of Discrimination	Promotions on Ability and Seniority
Disability Benefits	Vacations for Wage Earners
Sickness Benefits	Retirement Annuities
Special Training Opportunities	Death Benefits

When management had invited the expression of employee attitudes on some or many of these subjects, it obviously invited dissatisfaction and friction, if it was unwilling to take the logical following steps. If management could accede to all or nearly all the requests and recommendations of the employee representatives, there was no immediate cause for concern. If it must exercise its obvious power to disregard such recommendations, or to deny the requests, it was under the practical compulsion to explain its decisions in a logical and convincing manner, or it must expect a high degree of dissatisfaction and discontent.

It may be a superficial conclusion that those corporations which adopted employee representation plans placed upon

themselves this obligation to explain and defend their decisions which were contrary to the wishes of their employees. It is a true conclusion if we limit it to decisions which were contrary to the *expressed* wishes, because the employee representation plan usually gave the first opportunity for expression of employee wishes. Perhaps a better conclusion, in the long perspective which is now open to us, would be that such a management recognized an obligation which had always existed but had been generally ignored.

In so far as it can be said that the study of human relations in industry has reached the level of a science, one of the firmly established doctrines relates to this obligation. It is almost an axiom that good relations between an employer and his employees demand that those employees have an understanding of the policies and decisions of management which relate to the daily life of employees in their work. Much of the technique of industrial relations and personnel management is aimed directly at accomplishing this understanding in industry. The obligation is a real one, because the employer who ignores it is subjected to the consequent misunderstanding of his motives and his problems. If the discussions in all collective bargaining negotiations were transcribed and analyzed, we should find an amazing amount of time consumed by the efforts of employee representatives to talk about management decisions and actions which employees resent, or do not understand; and of course a corresponding time was consumed in speeches by employer representatives to prove that the questions at issue were outside the scope of collective bargaining.

The corporate employers who pioneered in employee representation plans voluntarily surrendered some of the supposed prerogatives of management, in an act of statesmanship which was a generation ahead of most of their contemporaries. Viewing their representation plans critically and realistically, we may assume that they were conscious of an

obligation to explain and justify to their employees those decisions made by management which affected jobs and working conditions. That is, they realized that a lack of understanding of the reason for management decisions led to a consequent distrust of the purposes of the decisions. They realized that the exercise of the management prerogative to decide, without a willingness to explain and justify the decisions, would be, and in fact already had been, penalized by the distrust, resistance, and open antagonism of the workers.

With the advent of collective bargaining, through unions which had powers of their own, a new situation and an important decision faced any management which had been working under a bona fide employee representation plan. The old plan had permitted discussions aimed at mutual understanding—understanding by management of the workers' desires, understanding by the workers of management policies and decisions. Even the most sincere and liberal management could not be expected to move into the same relationship with a union having outside leadership, a union which had power to enforce its demands, with or without an understanding of the problem and position of management. Whether the powers of the union derived from its own economic strength or from the statutory grants and protections, it approached every problem with an attitude and technique different from that of the employee representation group.

The logical reaction of even the most enlightened employers was to limit, as rigidly as possible, the area of subject matter in which they must bargain collectively. Some important topics had been gladly included in the discussions whose end point was understanding. The same topics were defensively excluded from the discussions whose end point was an agreement based on bargaining power. On some subjects management had welcomed the opinions and recommendations of employee representatives. These were frequently subjects upon which management would naturally resist the

obligation of sharing the power of final decision with a union which represented its employees. Collective bargaining in the last analysis is a process of sharing the responsibility for final decision on certain matters between management and representatives of organized workers. Employee representation plans were instruments for sharing knowledge, exchanging opinions, learning and recognizing employee desires, interpreting management policies and explaining management decisions, without technically removing any part of the power of decision from the hands of management.

The field in which the obligation to bargain collectively can be enforced includes the specific subjects of wages and hours, and the ill-defined subject of "working conditions." For fifteen years management has been attempting to exclude from the meaning of "working conditions" many subjects which were willingly included by management in the agenda of employee representation meetings. Successive interpretations of statutes have brought many of these subjects into the established meaning of "working conditions." This is frequently unfortunate, where the sharing of the final power of decision has reduced the power of anyone to make management decisions promptly and flexibly. It is unfortunate where it has brought into the processes of conflict many matters which should have been dealt with continuously on the basis of study and understanding. But this broadening of the meaning of "working conditions" is likely to continue until management generally finds some form of relationship which will parallel the educational function of the bona fide employee relations plan of twenty years ago.

There are problems of employee welfare, employee education, employer profits, market conditions, product improvement, continuity of the enterprise, and many others, which loudly call for frank discussion and mutual understanding. This frank discussion and mutual understanding can be better accomplished outside the arena of collective bargaining

than in it. The practicability of achieving this understanding was on the way to being demonstrated by the real employee representation plans, before the days of compulsory collective bargaining. Its achievement under present conditions calls for the recognition by employers that there is a large area of mutual interest between employers and employees which is still beyond the range of collective bargaining. Unless a method or mechanism is found to achieve this understanding through co-operative activities outside the collective bargaining process, these areas where understanding and co-operation are most important will eventually be absorbed into the collective bargaining process, where power can always be the last resort.

The employee representation plans which were generally outlawed with the advent of compulsory collective bargaining had values in this approach to understanding and co-operation. These values need to be restored through methods and processes which go far beyond collective bargaining.