

September 25, 1974 CONGRESSIONAL RECORD—Extensions of Remarks

purposes of the National Labor Relations Act.

"Congress recognized that neither employers, employees, nor labor organizations have 'any right in [their] relations with each other to engage in acts or practices which jeopardize the public health, safety, or interest.' Whether Banyard's discharge was violative of section 8(a) (1) of the Act was the proper issue for the Board's consideration, and this in turn necessarily embraced the admitted violations of Ohio law and their repugnance to public policy and the purposes of the Act."

The court points out that in *Local Union 715 v. NLRB*, it held that the Board should only defer to arbitration awards where three prerequisites established in the *Spielberg* opinion are met: (1) fair and regular arbitral proceedings, (2) parties agree to be bound by the arbitral award, and (3) a decision which is "not clearly repugnant to the purposes and policies of the National Labor Relations Act." To these prerequisites, the court adds that the *Spielberg* doctrine only applies if the arbitral tribunal (4) clearly decided the issue on which it is later urged that the Board should give deference, and (5) the arbitral tribunal decided an issue within its competence, and (6) the arbitral tribunal's award appears repugnant to the statute.

In the *Ferguson* case, the driver contended that his refusal to drive was a protest against "abnormally dangerous" working conditions protected under Section 502 of the Act and a protest on behalf of other employees against the unsafe condition of the truck and to secure its repair. He argued that such protest is protected under Section 7 of the Act, which gives employees "the right to engage in concerted activities for the purpose of mutual aid or protection."

The Board argued that its deferral under *Spielberg* was proper because the statutory question—whether in all the circumstances *Ferguson* was justified in refusing to operate the tractor because of unsafe operating conditions—"was squarely faced by the Joint [Grievance] Committee since Article 16 of the contract prohibited discharging *Ferguson* unless his refusal to drive based on safety factors is unjustified."

The court takes this issue with the Board on this point, saying:

"...the Board's characterization of the contract and statutory issues as identical does not make them so, and our decisions make it clear that deferral on statutory issues is proper only where there is congruence with contractual issues." In explaining further why it remands the two cases to the Board, the court states:

"Our reluctance in the case sub judge to sanction the Board's deferral to the Joint Committee award stems from our uncertainty over whether the standard applied by the Joint Committee to the contractual issue before it is the correct standard to be applied to the statutory issue before the Board. Our concern is that the Joint Committee applied a 'safe-in-fact' standard and thereby found that *Ferguson* was not contractually justified in refusing to drive the tractor. Under the more liberal Gateway Coal standard the Board might have concluded that *Ferguson's* belief that the tractor was unsafe was amply supported by 'ascertainable objective evidence.'"

The approval of the Board's deferral under *Spielberg* of statutory issues to arbitral resolution along with contractual issues is conditioned upon the resolution by the arbitral tribunal of congruent statutory and contractual issues. In that situation 'the arbitration award becomes the sole remedy for both contractual and statutory violations.' If in the present case the Joint Committee applied to the issue before it a standard correct under the contract but not under judicial interpretation of section 502, then

it cannot be said that the statutory issue was decided by the Joint Committee. In that event the Board's abstention goes beyond deferral and approaches abdication."

As in the *Banyard* case, the court says the award of the grievance in the *Ferguson* case was "exceedingly brief." After merely summarizing the company's and the union's positions, the award states in its entirety: "Claim of union denied."

Addressed the effect of the abbreviated award, the court says:

"The trial examiner, whose findings were adopted by the Board in this case, stated that the 'Committee in reaching its conclusion to deny the grievance had to conclude that *Ferguson's* refusal to drive the vehicle was unjustified.' Yet the failure of the Committee to amplify its decision forced the trial examiner to speculate by what standard the refusal was 'unjustified.' Neither the examiner, the Board, nor we are entitled to engage in such speculation."

The court concludes:

"Accordingly, these petitions are remanded with instructions that deferral not being appropriate, the Board should proceed to a consideration of the unfair labor practice issues in a manner not inconsistent with this opinion."

The two suits were brought by the Professional Drivers Council (PDC). According to PDC Executive Director Arthur Fox, "the Teamsters union unilaterally fails to enforce the National Master Freight Contract's prohibition against requiring drivers to perform dangerous work. As a result, the nation's over-the-road truck drivers are left at the mercy of their employers who frequently pressure them with the choice of risking their lives or losing their jobs."

In Fox's view, the court's decision "upholds the right of all workers to refuse to work in circumstances which might reasonably be considered abnormally dangerous." He adds that the Department of Transportation recently said that 41 percent of the common carrier vehicles inspected during roadside spot-checks in 1972 were found to be "mechanically unfit and potentially hazardous."

## THE FOOD OF THE FUTURE

HON. JOHN E. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1974

Mr. SEIBERLING. Mr. Speaker, this week has been proclaimed a Week of Concern about the world food crisis by the World Hunger Action Coalition. As the author of the Food Research and Development Act of 1974, I have been inserting a series of articles in the RECORD in recognition of the Week of Concern to bring public awareness to the many new food techniques which, if developed, could wipe hunger off the face of the Earth.

Today I am inserting an article from the Los Angeles Times on research being done with an amazing microscopic plant which yields over 15,000 times as much protein per acre as wheat, produces a new crop every 4 days and has a higher protein value than milk, beef, or soybeans. All this tiny plant needs in order to grow is sunlight, a small amount of water and carbon dioxide, and a special mineral fertilizer.

With no end to the spreading shortage of food in sight, the development of eco-

nomical, abundant, and nutritious new foods like this is essential to avert worldwide famine. The article from the Los Angeles Times giving further details follows:

### SCIENTISTS CULTIVATE, STUDY "FOOD OF THE FUTURE"

(By David F. Belnap)

"The limits of growth on this planet will be reached sometime within the next one hundred years." (From a report for the Club of Rome's Project on the Predicament of Mankind.)

LIMA, PERU.—On the sunny Pacific slopes north of this capital, Peruvian and West German scientists are busy with a project that will help feed a hungry world when the day comes that conventional agriculture can no longer do the job, even for the affluent.

As the world's population booms and available new agricultural land shrinks in proportion, futurologists predict that day may come in as few as 70 years.

"The 'green revolution,' encouraging as it is, nevertheless shows that traditional agriculture won't solve the food problem of the future," according to Rainer Gross, West German nutritionist working on the Peru project.

The undertaking here is far from traditional. Essentially, it converts sunlight, a minimum of water, and a tiny fresh-water plant into a "flour" that nourishes human beings with vitamins, minerals, fatty acids and, above all, protein, the basic element of all healthy human nutrition.

The plant is a microalga with the scientific name of *Scenedesmus*. Sown in shallow plastic basins of water, it is cultivated with abundant sunshine, measured doses of carbon dioxide and a special mineral fertilizer. It produces a crop every four days.

A centrifuge harvests the crop, recycling the water back into the growing basins. Dried, the microscopic plant becomes a powdery, leaf-colored "flour" with the faint scent and flavor of fresh salad greens.

Except in appearance and consistency, however, it's not really a flour at all. It neither thickens nor binds when combined with other foods, whose colors and flavors it easily assumes; and it boosts the nutritive value.

"The traditional food with the highest protein value is the egg, followed by milk, beef and soya," Gross said. "Scenedesmus ranks between eggs and milk. By adding it to milk, we can give the latter a higher protein value than eggs."

West Germany has conducted research on cultivation of *Scenedesmus* for human nutrition for more than two decades with excellent results. Among the most dramatic of these proved to be its high yield of protein compared to traditional foodstuffs.

Studies at a Dortmund experimental station show that one acre devoted to producing *Scenedesmus* "flour" can yield 21,900% more protein in a year than the same area assigned to milk production, 15,900% more protein than an acre planted with wheat and 4,400% more protein than an acre of soybeans.

"Production of new foodstuffs must take into account other considerations, notably ecology," Gross told a reporter recently. "With *Scenedesmus*, little water is needed to produce a ton of protein, and contamination is almost nonexistent."

The Peruvian project, a cooperative effort of the governments of Peru and West Germany, began two years ago. Scientists of both countries studied the possible nutritional worth of the "flour" in this nation where 60% of all children are born undernourished and where protein deficiency averages 15% in the population as a whole.

They built a pilot plant to produce the "flour" for experimental purposes, and researchers investigated the economic feasibility

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ity of the product and the public's reaction to it.

Health ministry technicians served 8,000 meals featuring Scenedesmus-fortified dishes. Peru's Institute of Nutrition prepared a cookbook. The recipes use the green "flour" in everything from minestrone soup to chocolate pudding.

So far, research shows Scenedesmus can be cultivated economically on a commercial scale here and that there will be acceptance by the public.

Gross reported "very good results" with Scenedesmus in correcting deficiencies of badly nourished Peruvian children and emphasized that the "flour" has important implications for the overfed as well as the underfed.

"Because of its high protein, vitamin and mineral worth and its low caloric content, Scenedesmus can form the basis of a healthy reducing diet," Gross declared.

As conceived here at present, the "flour" would be marketed as a "fortifying addition to food, to raise its nutritive value, but not as a separate product by itself," according to Gross. "Different food-stuffs, enriched with Scenedesmus, could be produced for different socio-economic classes."

The possibilities are almost unlimited, Gross said. They range from "baby foods for infants to cookies for preschool children to green noodles for pasta lovers to protein drinks for weight watchers."

involvement by the U.S. in the coup against Chilean President Allende, he said there was an effort by the CIA to prop up opposition news media and political parties during the Allende regime, and he deemed this in the best interests of the Chilean people and the U.S.

That view has also been supported by Secretary of State Henry Kissinger who told the Senate Foreign Relations Committee covert activities were intended to prevent establishment of a one-party government by a minority president.

It is difficult to see why Mr. Ford hasn't disassociated himself from this policy, unless the reason is that he doesn't want to undercut Secretary Kissinger, who headed an interagency panel which decided on the policy against the Allende government.

In testimony before a House subcommittee, CIA Director William Colby has reportedly said that his agency authorized \$500,000 to aid the political opposition to President Allende; \$300,000 to bribe Chilean legislators to vote against him, and millions of dollars later for destabilization of the government.

This apparently included secret financing of labor unions and trade groups in Chile in support of striking anti-Allende workers.

Such revelations are in conflict with earlier testimony of Mr. Richard Helms, former CIA director, and three retired Nixon administration officials during the publicized hearings on the role of the International Telephone and Telegraph Company in the domestic affairs of Chile.

Testimony at the time was that the U.S. was not involved in any way; that it bought no votes, pressured no one or promoted any trouble.

The discrepancies between that testimony and the disclosures have renewed the interest of the Congress in the testimony as well as in the way the CIA operates. And well it should.

Obviously the so-called CIA "oversight" committees of Congress either went along with what was happening in Chile or didn't know about the CIA activities. Either way, they were the watchdogs that didn't bark, and that seems to be giving the Congress pause.

At his news conference last week, Mr. Ford justified the interference in Chile and, for that matter, elsewhere, on grounds that Communist regimes also do this and spend a lot more money on similar activities.

Well, Communist regimes do a great many things that this country in no way wants to imitate. It is no justification at all to say that whatever the Communists do, the U.S. should feel free to do.

It has long been a public-stated principle of this nation that other countries ought to have the right to choose freely the kind of government it wants. This nation fought a long and expensive war in Vietnam while arguing this.

The U.S. may not have liked Mr. Allende, and he may have been a minority president, but he was elected to office under constitutional processes and in fact could claim his office and election with more basis of fact than President Thieu of South Vietnam.

The fall-out of the Chilean intervention is the fact it will increase the fears of many other nations in the world that Washington interferes routinely in the domestic affairs of any country whose leadership it doesn't like.

The CIA is frequently blamed around the world when things go wrong, however blameless it may be. But the tendency to see the CIA under every rock in every land is now going to take a quantum jump.

President Ford and congressional leaders have been discussing the role of the CIA. And hopefully the end result will be a new set of principles for its operations and a much tighter rein on its covert activities.

THE PANAMA CANAL

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1974

Mr. FORSYTHE. Mr. Speaker, in recent weeks, a great deal of controversy has been generated by Secretary of State Kissinger's proposal to renegotiate the 1903 Panama Canal Treaty. As a member of the Panama Canal Subcommittee of the Merchant Marine and Fisheries Committee, this issue has been a matter of deep interest to me. For this reason, I would like to share with my colleagues a recent speech by Mr. Morton C. Steinberg, which thoroughly examines the questions raised by the proposed Treaty renegotiation.

Mr. Steinberg, who served as the Navy representative on the Panama Canal Treaty Commission, has carefully examined the history of the canal and has prepared an incisive analysis of its future.

The speech follows:

PANAMA, THE VULNERABLE SOFT-UNDER BELLY TO UNITED STATES AND WESTERN HEMISPHERIC SECURITY

(By Morton C. Steinberg)

The United States has had Lend-Lease, Marshall Plan, Berlin Airlift, Foreign Aid, Korea, Tonkin Resolution, Viet Nam, Nato, Seato, Cento, Anzuk and Detente. Let us now turn our long overdue attention to the Western Hemisphere, and commence at the "Crossroads of the World"—the center of this hemisphere—the Republic of Panama.

Ten years after the United States Senate ratified the 1903 Treaty with the Republic of Panama, the Panama Canal was opened. Notwithstanding political quarrels within congress during the building of the canal, President Theodore Roosevelt stated, "I now propose to put it in charge of men who will stay on the job until I get tired of keeping them or until I say they may abandon it. I shall turn it over to our army."

It is worth noting that in spite of colossal expenditures in the construction of the Canal, there were never charges of graft which has been evidenced in numerous other American public-work programs supervised by civilians. The building of the canal by army engineers proved that the organization of the army and the education of its officers is as important in peace as in war.

To know the Ichmus of Panama, it is necessary to become acquainted with two distinct places: (1) The Republic of Panama, and (2) the Panama Canal Zone. The zone is a strip of territory leased to the United States by the Republic of Panama for the purposes of the construction, maintenance, operation, and defense of the Panama Canal. It stretches for five miles on either side of the Canal, and bisects the Republic into two roughly-equal sections. The canal zone is under the jurisdiction, not the sovereignty, of the United States. The Republic of Panama is a completely independent nation.

Early this year Secretary of State Henry A. Kissinger, in initiating and signing the eight fundamental principles to guide negotiations in an effort to conclude an entirely new and equitable inter-oceanic treaty which would eliminate the causes of conflict between the United States and the Republic of Panama, stated that "it is the first step toward a new era in inter-American affairs."

May I briefly explain my past participation and my continued interest in the mat-

CIA INVOLVEMENT IN INTERNAL AFFAIRS OF OTHER NATIONS QUESTIONED

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1974

Mr. EVINS of Tennessee. Mr. Speaker, the Tennessean in Nashville in a recent editorial questions the involvement of the Central Intelligence Agency in the internal affairs of other nations.

The editorial specifically refers to testimony of CIA Director William Colby before a House subcommittee to the effect that the CIA was actively involved in the agitation in Chile against President Allende prior to his overthrow and death.

This testimony included the statement that the CIA authorized \$500,000 to aid the political opposition to President Allende, \$300,000 to bribe Chilean legislators to vote against the late President, and millions of dollars for destabilization of the Government.

Hopefully these policies of covert activities related to the internal affairs of other nations will be reversed and a new set of principles adopted for the operation of the CIA with much tighter reins on covert action.

Because of the interest of my colleagues and the American people in this matter, I place the editorial in the Record herewith.

The editorial follows:

UNITED STATES NEEDS TO REASSESS COVERT ACTIVITIES ABROAD

Disclosures that the Central Intelligence Agency authorized millions of dollars for covert activities in Chile are bad enough, but President Ford's public defense of this Nixon administration policy is astounding. While President Ford denied there was any

**SECRET**

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Tuesday - 24 September 1974

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1. [Redacted] Called Rebecca Switzer, Legislative Assistant to Senator James Abourezk, to tell her that a letter to the Senator on his proposed amendment to the Foreign Assistance bill prohibiting certain contacts with foreign police and internal security forces was being handcarried to their office this morning. See Memo for Record.

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[REDACTED]

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[REDACTED]

16. [REDACTED] In the company of [REDACTED] met with Art Kuhl and then Norvill Jones, Senate Foreign Relations Committee staff, to deliver the Director's 24 September letter to Chairman Fulbright expressing views opposing the proposed Abourezk amendment on covert action and a copy of the Director's letter of 23 September to Senator Abourezk concerning the impact of amendment No. 1511 to S. 3394 (Foreign Assistance Act.) On the question of whether we should deal with Senator Sparkman, who will be floor manager for the bill, directly on these matters, Kuhl deferred to Jones and Jones said he would make sure the Director's letters come to the Senator's attention. Jones said it was possible that the legislation might be delayed until after the November elections. (Guy McConnell, Senate Appropriations Committee staff, indicated the appropriations for foreign assistance may well continue to be handled throughout the year under "continuing resolutions.")

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25X1 [REDACTED]

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25X1 17. [REDACTED] Met with Clark McFadden, General Counsel, Senate Armed Services Committee, and then with Guy McConnell, Senate Appropriations Committee staff, concerning the Director's letters to Senators Abourezk and Fulbright on Abourezk's amendments to S. 3394 (Foreign Assistance Act) explaining our contacts up to now and the precedents for the thrust of the Director's letter to Abourezk in the conference report in the Foreign Assistance Act of 1973. I left copies of the material with them and with McFadden a suggested statement for possible use on the floor. I urged McFadden to bring these matters to Ed Braswell's (Committee Chief Counsel) attention since I was aware that he was looking into the amendments for Senator Stennis.

25X1 18. [REDACTED] Spoke with George Gilbert, OMB, concerning the Director's letters to Senators Abourezk and Fulbright on the Abourezk amendments to S. 3394 (Foreign Assistance Act).

25X1 19. [REDACTED] Called Michael Dolan, who had been suggested by George Gilbert, OMB, as the appropriate contact at Justice Department, on the Director's letter to Senator Abourezk on his amendments to S. 3394 (Foreign Assistance Act). Dolan said he had no problems and he will check with the FBI, the Law Enforcement Administration, and DEA and will let us know if they have any problems. I also alerted Dolan to Abourezk's new amendment concerning covert action and read him the language.

25X1 20. [REDACTED] Placed a call to Bud McFarlane, NSC, to advise him of the Director's letter to Senator Fulbright on Senator Abourezk's anti-covert action amendment and left a message for him to call back. 25X1

[REDACTED]

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25. [Redacted] Handcarried to Senator James Abourezk's (D., S.D.) office the Director's reply to the Senator's letter of 27 August relating to his proposed amendment on police training. Also delivered copies of the letter to Guy McConnell, professional staff member, Senate Appropriations Committee and Ed Braswell, chief counsel and staff director, Senate Armed Services Committee.

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GEORGE L. CARY  
Legislative Counsel

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cc:  
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Ex. Sec.

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[Redacted]  
Mr. Thuermer  
Mr. Warner  
Mr. Lehman

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EA/DDO DDS&T  
DDI DDA  
Comptroller

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Item 5 - [Redacted]



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OLC 74-2167  
24 September 1974

MEMORANDUM FOR THE RECORD

SUBJECT: Abourezk Amendment

1. Called Rebecca Switzer, Legislative Assistant to Senator James Abourezk, to tell her that a letter to the Senator, on his proposed amendment to the Foreign Assistance bill prohibiting certain contacts with foreign police and internal security forces, was being handcarried to their office this morning. I read her the paragraph covering the issue of reinsertion of the phrase "under any other law" and she pressed the position which the Senator took yesterday. I told her we had thought the matter over and discussed it with the Director and felt we could not agree to the reinsertion of that language and, furthermore, felt we would have difficulty in getting OMB clearance on such a position. I told her I thought the letter satisfied the Senator's primary concern which was to be assured that the Agency would not take up those programs which AID could be prohibited from continuing. I think she understood our position on the matter and said she would discuss it further with the Senator.

2. I also brought up the question of the other amendment which the Senator has circulated to some of his colleagues which would preclude Government agencies from engaging in activities abroad which were illegal in the United States or in the foreign country concerned except for activities in furtherance of intelligence gathering. I told her we would have to lock horns with the Senator on this proposal and explained that the Director and I were sure the Administration would feel the U.S. should not be denied the option of some alternative between "diplomatic relations and calling out the Marines." Miss Switzer said she was not sure the Senator was going to call up this amendment and we more or less agreed to disagree. We are providing copies of the Director's letter to Abourezk and to Senator Fulbright on these amendments to our Senate Subcommittees, Norvill Jones of Senate Foreign Relations Committee staff, and to OMB and AID. I also briefed Ed Braswell, Chief of Staff of the Senate Armed Services Committee and Guy McConnell, Senate Appropriations Committee staff on my conversation with Miss Switzer.

GEORGE L. CARY  
Legislative Counsel

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