

Statement of Representative Dave Obey

Before the

House Committee on Rules

March 30, 2006

I am here today to urge the Committee as it deals with the issue of reform to not play Trivial Pursuit.

For instance, I know the press and some Members are concerned about whether the gift limit should be \$50 or \$0, but with all due respect, we do not have a \$50 problem. Our problems are much bigger.

I don't stay awake at night worrying about whether former Members should spend one year or two "consulting" before they can directly lobby their colleagues and I don't lose much sleep over what rules should govern when a lobbyist can buy a Member a drink in a bar. I do worry about the credibility of the House if a Member can shepherd a major prescription drug bill and then turn around and negotiate a million dollar job with that same industry.

I don't worry about reputable foundations and religious organizations financing Members' travel costs to retreats on important issues. I do worry about the integrity of the process if powerful Members routinely use corporate jets to travel around the country or if lobbyists establish cozy "insider" relationships with Members by going on golfing trips to Scotland and then use their insider status to gain procedural advantage for their pet issues.

I urge the Rules Committee to focus on the big stuff. It is a big thing when the Senate Majority Leader can demand that 40 pages of legislation insulating the pharmaceutical industry from lawsuits be inserted into a conference report, 40 pages of legislation that the conferees never debated or voted on. It is a big thing when a change in the law defining organic food is unilaterally and anonymously placed in an appropriations conference report, a multimillion dollar gift to somebody inserted without a single moment's debate and without a vote of the conferees.

I think earmarking has gone too far because it has come to so dominate the legislative consideration of appropriation bills, with too many members focusing on their earmarks rather than on program content, performance, and

funding levels. But I am far more worried about the use of earmarks to blackmail Members into voting for legislation that, on the merits, they would prefer to vote against.

The real problem with the appropriations process is not the occasional inappropriate earmark that slips through, as embarrassing as that might be. The real problem is that the rules of the House of Representatives -- rules based on procedures recommended by Thomas Jefferson that have developed and matured through precedents established over the past 200 years -- have been bent and broken in order to enable powerful people in this institution to ram through legislation in an arbitrary and often anonymous fashion.

I am also concerned about the more massive explosion of earmarks in authorizing bills. The 2005 highway bill provided a record \$24 billion for more than 5,000 earmarks according to Taxpayers for Common Sense, seven times more than the \$3.4 billion spent on all earmarks in last year's Treasury-Transportation appropriation bill, including all transportation projects -- not just highway earmarks -- and all HUD/EDI earmarks.

And I am far more concerned about the massive advantage that can be provided to special pleaders who successfully arrange for limited tax benefits and transition rules in tax bills. The 2005 Foreign Sales Corporation tax bill was intended to deal with a \$5 billion subsidy that was not compliant with World Trade Organization rules. According to estimates by the Joint Tax Committee, the final product added another \$6.497 billion for 24 special tax benefits for certain ceiling fan importers, NASCAR track owners, bow and arrow manufacturers, US horse and dog racing establishments, fishing tackle box manufacturers, Hollywood studios that produce movies in the Delta region of 8 named states, and several specific shopping mall developers, to name a few. Where is the reform that will require the listing of the sponsorship and beneficiaries of those "trinkets"? I would make the simple observation that the public is far better protected by a provision that requires bills to lay over at least 24 hours so that Members can review legislation that contain any such earmarks or trinkets.

I worry about the survival of the legislative process itself when the Rules Committee substitutes a text created behind closed doors by the majority leadership without at least allowing the House to vote on recommendations developed in free and open debate by the committee of jurisdiction. I worry

about a Congress that cavalierly uses reconciliation, once the most fiscally responsible gadget in our toolbox, to increase rather than decrease the deficit as originally intended. I worry about the unseemly spectacle of votes kept open into the wee hours of the morning, until enough arms can be twisted to deliver the outcome that a majority of only one side of the aisle predetermined. Jim Wright did it once, was rightfully condemned for it, and later apologized. But the practice has now become almost routine on high-stakes legislation.

Any package that focuses on the trivial while refusing to address these matters will be little more than a diversion, an attempt to draw the public's attention to anthills while neglecting and ignoring the foothills and mountains of the potentially corrupting legislative landscape. That is why I am asking the Rules Committee to review the recommendations that can be found in the 14-point reform package we four, Representatives Frank, Price, Allen and I, introduced.

And that is why I believe, if we are going to address any particular aspect of campaign finance reform, such as 527 organizations which I despise, that we should get to the core of the matter which is what Representatives Frank, DeLauro, Filner, Israel, McGovern, Ryan, Waxman and I have tried to do in the admittedly sweeping and radical public financing bill we recently introduced.

I would also like to put this issue in an even broader context. A number of years ago, former Congressman Otis Pike of New York made this observation:

You can talk about ethics forever and pass more rules and reveal yourselves until all of your and your spouse's finances, food, drink, sex, religion, clothing, vacations and the hours and minutes and places of your arising and retiring are public records. But you will never be held in high regard or deemed ethical while you say you can't balance a budget unless a constitutional amendment makes you; while you accept gloriously optimistic economic projections rather than deal with real ones; while you write a Gramm-Rudman bill and then spend days finding ways to get around it; while you let one man make \$550 million a year while thousands sleep in the streets.

It would be good to remember that.

AMENDING THE RULES OF THE HOUSE TO PROTECT THE INTEGRITY OF THE INSTITUTION

LIMITING INFLUENCE BY LOBBYISTS

1. A. No member or staff of the House of Representatives may accept travel or lodging or reimbursement for such expenses if he or she has not obtained from the sponsor, and filed with the Clerk of the House, the following declarations:
 - i that no lobbyists have been invited to travel, lodge or attend meetings with the Member or staff,
 - ii that the sponsor does not conduct lobbying activities as defined in section 501 of the Internal Revenue Code,
 - iii that the sponsor neither employs a registered lobbyist nor contracts for such services nor is it affiliated with such an entity, and
 - iv that the trip was not financed by a corporation unless through contributions deductible under the Internal Revenue Code and the source of all such contributions are disclosed in the declaration.
- B. Requires Members to reimburse the full cost of non-commercial flights, not the cost of a first class commercial ticket, and to disclose information about the owner or lessee, who else was on the flight, and why a commercial flight was not used.
2. Any former Member of the House, Cabinet Secretary, or Governor who wishes to exercise the right to be present on the Floor of the House when the House is in session must sign a declaration stating that (1) the House is not debating or voting on an issue on which the person has a financial interest, (2) the person is not a registered lobbyist and (3) the former member will not advocate in any way in behalf of or in opposition to any matter before the House while present on the floor.

FISCAL RESPONSIBILITY

3. A reconciliation measure shall not be in order if it would increase the size of the budget deficit compared to the CBO baseline for the coming or subsequent fiscal years. This rule may be waived only with the consent of the majority and minority leaders and if the House agrees to consider the rule by a 2/3 vote of the House.
4. Close the loophole in current rules under which Budget Act points of order do not apply to unreported legislation. Under present rules, amendments to an unreported measure are subject to Budget Act restrictions but the underlying bill is not.

CURBING ABUSES OF POWER

5. No recorded vote in the House of Representatives or the committee of the Whole House can last longer than 20 minutes without the consent of either both Floor managers or of both Leaders.
6. Amend the House Ethics Code to make it an offense for a Member to condition funding for earmarks or limited tax benefits requested by another Member on how the requesting Member votes on legislation.
7. Amend the House Ethics Code to make it an offense for any Member to advocate an earmark unless that Member discloses to the relevant committee the intended recipient and whether he or she either has a financial interest in the entity or exercises any control over it, such as appointing members of the organization's board. The committee must make public such information for each earmark included in a measure. The Joint Tax Committee shall make public a statement identifying any limited tax benefits, those who would benefit, and any substantially similar introduced measures and their sponsors.
8. If a rule makes in order text that is different from what the committee of jurisdiction has reported, the rule must provide the chairman or ranking minority member, if requested, a preferential amendment – neither divisible nor amendable unless adopted and all necessary points of order waived - to restore the bill (in whole or in part) to its original form.

9. A rule may waive points of order against a measure but only if the rule also waives the same points of order for an amendment if requested by the minority leader or designee.

ENDING 2-DAY WORK WEEKS

10. Before the House can adjourn at the end of a session, the House must have conducted 20 or more weeks with at least one recorded vote or quorum call on at least four of the five calendar work days.

KNOWING WHAT THE HOUSE IS VOTING ON

11. Except for measures on the suspension calendar, the House cannot consider legislation unless printed copies of such legislation have been available to all members of the House for a period of 24 hours or, in the case of measures containing earmarks or limited tax benefits, for a period of 3 days. This rule can be waived only if two-thirds of the House votes to consider such a waiver.

FULL AND OPEN DEBATE IN CONFERENCE

12. It shall not be in order for the House to agree to go to conference on a general appropriation bill unless the Senate numbers its amendments.
13. It shall not be in order to consider a conference report unless there has been a formal open meeting of the conference at which all provisions are open to discussion and the resolution of the differences between the two bodies is approved by a recorded vote of a majority of House appointed conferees. The requirement that the discussion and votes stipulated in this rule must be held in open session may be waived for purposes of national security, but such votes and discussions are required in the executive session of the conference. The rule cannot be waived by majority vote but can be waived by unanimous consent.
14. It shall not be in order to consider any conference report that is materially different from what was agreed to by a majority of House conferees in an open session of the conference and was not part of the final package on which a favorable vote was cast by a majority of House Conferees. This rule cannot be waived by majority vote but can be waived by unanimous consent.

