

declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 30 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1925

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. TAUSCHER) at 7 o'clock and 25 minutes p.m.

PERMISSION TO FILE SUPPLEMENTAL REPORTS ON H.R. 2641, ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2008; H.R. 2643, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008; AND PROVIDING FOR FURTHER CONSIDERATION OF H.R. 2638, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2008

Mr. OBEY. Madam Speaker, I ask unanimous consent that:

(1) the Committee on Appropriations be permitted to file supplemental reports to accompany H.R. 2641 and H.R. 2643, respectively; and

(2) during further consideration of H.R. 2638 in the Committee of the Whole pursuant to House Resolution 473, the pending amendment offered by Mrs. DRAKE shall be debatable for 10 further minutes, equally divided and controlled by the proponent and an opponent, and notwithstanding clause 11 of rule XVIII, no further amendment to the bill may be offered except:

pro forma amendments offered at any point in the reading by the chairman and ranking member of the Committee on Appropriations or their designees for the purpose of debate;

An amendment by Ms. GINNY BROWN-WAITE of Florida regarding funding for border fencing and technology;

An amendment by Mr. MCHENRY regarding funding for Citizenship and Immigration Services;

An amendment by Mr. FERGUSON regarding funding for Buffer Zone Protection, which shall be debatable for 5 minutes;

An amendment by Mr. BURGESS regarding funding for Secure Flight, which shall be debatable for 5 minutes;

An amendment by Ms. CORRINE BROWN of Florida regarding funding for the Office of Inspector General;

An amendment by Ms. CORRINE BROWN of Florida regarding funding for FEMA management and administration;

An amendment by Mr. KING of Iowa regarding funding for Drug Smuggler Lookout Posts;

An amendment by Mr. PEARCE regarding funding for Customs and Border Protection;

An amendment by Mr. SHAYS regarding funding for sharing information with Interpol;

An amendment by Mr. KUHL of New York regarding a Western Hemisphere Travel Initiative study;

An amendment by Mr. KUHL of New York regarding a northern border study;

An amendment by Mr. CONAWAY regarding funding for invasive species removal;

An amendment by Mr. HUNTER or Mr. ROYCE, Mr. KING of Iowa or Mr. FRANKS of Arizona regarding the Secure Fence Act;

An amendment by Mr. CARTER regarding border fencing requirements;

An amendment by Mr. SOUDER regarding a report on use of air and marine interdiction assets;

An amendment by Mr. MCCAUL of Texas regarding unmanned aerial systems;

An amendment by Mr. KING of Iowa regarding funding for worksite enforcement;

An amendment by Mr. SOUDER regarding funding for Deepwater;

An amendment for Mr. BILBRAY regarding funding for REAL ID;

An amendment by Mr. DENT regarding funding for Secret Service protective missions;

An amendment by Mr. JINDAL regarding funding for FEMA disaster relief for hurricane preparedness;

An amendment by Mr. DAVIS of Kentucky regarding funding for Commercial Equipment Direct Assistance grants;

An amendment by Mr. LANGEVIN regarding funding for cybersecurity research and development;

An amendment by Mr. KING of New York regarding funding for domestic nuclear detection;

An amendment by Ms. CORRINE BROWN of Florida regarding airport employee screening pilot program;

An amendment by Mr. MCCAUL of Texas regarding the MAX-HR project;

An amendment by Mr. THOMPSON of Mississippi to strike section 537(b) relating to small business;

An amendment by Mr. DEAL of Georgia regarding limitation on use of funds to put out to pasture horses and mules;

An amendment by Mr. ELLSWORTH regarding limitation on use of funds for contractors delinquent on Federal debt;

An amendment by Mr. HENSARLING regarding limitation on use of certain FEMA grant funds;

An amendment by Ms. JACKSON-LEE of Texas regarding a report on pipeline and refinery vulnerability;

An amendment by Mr. LATOURETTE regarding the Western Hemisphere Travel Initiative;

An amendment by Mr. ORTIZ regarding limitation on funding for border fencing;

An amendment by Mr. POE regarding limitation on use of funds to implement plans under section 7209 of the Intelligence Reform and Terrorism Prevention Act;

An amendment by Mr. ROGERS of Kentucky regarding a reduction in funding;

An amendment by Mr. ROGERS of Kentucky regarding limitation of total number of airport screeners;

An amendment by Mr. ROGERS of Kentucky regarding the Davis-Bacon Act;

An amendment by Mr. TANCREDO regarding limitation on use of funds to carry out visa waiver program;

An amendment by Mr. TANCREDO regarding limitation on use of funds in contravention of section 642(a) of the Illegal Reform and Responsibility Act;

An amendment by Mr. PRICE of Georgia regarding limitation on use of funds for research on global warming;

An amendment or amendments by Mr. PRICE of North Carolina regarding funding levels;

An amendment by Mr. OBEY prohibiting funding for earmarks; and

An amendment by Mr. FORBES prohibiting use of funds for temporary protective status.

□ 1930

Each such amendment may be offered only by the Member named in this request or a designee, or by the Member who caused it to be printed in the RECORD or a designee, shall be considered as read, shall not be subject to amendment except that the chairman and ranking minority member of the Committee on Appropriations and the Subcommittee on Homeland Security each may offer one pro forma amendment for the purpose of debate; and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent. An amendment shall be considered to fit the description stated in this request if it addresses in whole or in part the object described.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROGERS of Kentucky. Madam Speaker, reserving the right to object, if the gentleman would join in a colloquy, a question has arisen as to whether or not when this bill goes to conference with the other body and there should be items that are included in the conference report that comes back to the House, items that were not included in either the Senate-passed version or the House-passed version, would those items be subject to a point of order when the conference report hits the House floor?

Mr. OBEY. Madam Speaker, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Wisconsin.

Mr. OBEY. Madam Speaker, my understanding, and if the gentleman will shortly yield to the distinguished minority leader and the distinguished majority leader, but my understanding of this provision is that it seeks to assure that there are two kinds of remedies available to items that are in conference. My understanding is that if

the Senate adopts an amendment and the conferees do not like that amendment, then their remedy is to oppose the Senate amendment in conference and refuse to accept it. The question then becomes, well, what is the remedy of each individual Member if something is airdropped that was not in either the House or the Senate bill?

My understanding of the provision is that at that point, any Member has the right to raise a point of order against consideration of the conference report, and if that point of order is upheld by the House, then the conference report is sent back to the conferees for correction or adjustment.

Mr. ROGERS of Kentucky. Madam Speaker, reclaiming my time, I appreciate the gentleman's explanation, and I would be happy to yield to the minority leader.

Mr. BOEHNER. Madam Speaker, I thank my colleague for yielding.

The purpose of this remedy, a point of order on consideration of the conference report, is to deal with earmarks that may have not been considered by the House or the Senate, what we have come to term airdropped earmarks. There are cases where over the length of the consideration of an appropriation bill in the House and the Senate, circumstances may change and there may be a reason to put an earmark, if you will, in an appropriation. And to preserve the right for all Members to consider these earmarks, having the point of order on the consideration of the appropriation bill, we believed, was an appropriate way for any Member to bring to light one of these earmarks. There is 10 minutes of debate on each side, and then the House can decide whether to proceed with the consideration of the conference report or not.

Mr. ROGERS of Kentucky. Madam Speaker, I yield to the gentleman from Maryland (Mr. HOYER), the distinguished majority leader.

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding.

I would echo the comments of both Mr. BOEHNER and Mr. OBEY. We were pleased to support and will be offering very shortly that protection. So I say to the gentleman from Kentucky, we expect to do that in the next few days, and his conference report, when it comes back, will be subject to this point of order.

Mr. ROGERS of Kentucky. Let me clarify that point briefly. The proposed rule change will not take place until some time later.

Mr. HOYER. It will be done very soon.

Mr. ROGERS of Kentucky. In the meantime, we are taking up this bill.

Mr. HOYER. Yes. If the gentleman will yield further, I have indicated to the minority leader that no conference report will be considered on the floor until we adopt that amendment, but I expect to adopt that amendment, frankly, before your bill gets to the Senate.

Mr. ROGERS of Kentucky. So that the point of order would lie, as the minority leader has said, to this bill.

Mr. HOYER. Yes, it will.

Mr. ROGERS of Kentucky. I thank the gentleman.

Mr. BURTON of Indiana. Madam Speaker, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Madam Speaker, I think for the edification of my colleagues who may not be on the floor right now, they would like to make absolutely sure how this procedure is going to work.

As I understand it, when the conference report comes back, we have the right to raise an objection or point of order against the whole bill. But what about individual projects that are put in the bill? Will we be able to raise a point of order against each one of those projects that are put in the bill, that are airdropped into it in the conference committee?

One of the reasons we have been debating this so strongly over the last couple of days is because we want to make sure that the Members have a right to vote on these projects. There is a considerable amount of money in the bill which is not designated for any individual project right now. So if it is the whole conference report that we have to raise a point of order against, that is not getting to each individual airdropped earmark that is put in the bill.

Mr. BOEHNER. Madam Speaker, if the gentleman would yield further, we went through a great debate last year over this issue. As we all know, we have work to do, and to allow debate on a conference report on every individual issue, you get into a ping-pong effect of the House objecting to one issue, a Senate issue, we could send it over there, they would send it back, we would never get the bill finished.

The idea behind the point of order on the conference report is to bring this issue to light, and if you bring an issue to light that is of such substance, the House may in fact vote to sustain the gentleman's point of order and there is no consideration of the conference report.

But we have never been able to find a way to get to each particular item in a conference report, as the gentleman has suggested.

Mr. BURTON of Indiana. Madam Speaker, if the gentleman would yield further, I think this is very, very important. There are many of us, for years, that have come down and fought against individual pork-barrel projects, and it was my understanding over the last few days that we were going to try to make sure we knew what was in this bill, and if there were earmarks in there we didn't want, we would have an opportunity to vote on each individual earmark.

Now you are going to have a bill that is going to go over to the Senate without any earmarks in it, I would like to

know also how much money is in here for earmarks, but it is going to go to the Senate and it is going to come back with airdropped earmarks in it, and we will not be able to vote on each one of those, as we would right now if we were going to debate each individual earmark that is put in the bill.

I understand what the minority leader is saying, but this is of concern I think to a lot of us, because if we get the whole enchilada and we can't go to the individual earmarks that are put in the bill because they are airdropped in, we don't really have a chance to cut out any of the pork.

Mr. BOEHNER. If the gentleman from Kentucky will yield further, the agreement that we have come to with our colleagues on the other side of the aisle is that for 10 of the 12 appropriations bills, the earmarks will in fact be listed.

Traditionally, the Homeland Security appropriation bill has had very, very few earmarks in it. It won't be like you have to go through a whole laundry list to determine what is in it. Secondly, the bill that we expect to be before us tomorrow, the Military Quality-of-Life Veterans bill, it also has earmarks, but almost all of them have been scrubbed by the Department of Defense, and I think there has been an understanding that, given the time constraints, that these two bills would in fact move without earmarks but that the next 10 bills would have earmarks included in them.

Mr. BURTON of Indiana. If the gentleman would yield further, let me just say that I don't know how much money is in here, is in this bill for earmarks that may be airdropped in. Nobody has told me how much money is in here.

Mr. ROGERS of Kentucky. Madam Speaker, reclaiming my time, I can tell you there is zero in this bill.

Mr. BURTON of Indiana. If the gentleman will continue to yield, in the conference committee they will airdrop earmarks in and we will not be able to vote for those individual earmarks; is that correct? We are going to have to vote on the whole conference report, up or down, or raise a point of order against it, which is the same thing.

Mr. BOEHNER. If the gentleman would yield, if you raise a point of order on the consideration of the conference report and the House agrees with your point of order, the consideration of the conference report is stopped and what in real terms happens is the conference report goes back to conference where the issue that was brought to light is dealt with.

There are a lot of ways to deal with, let's say in your case, what you would call an objectionable earmark by bringing that point of order and having the House's support. Basically it goes back and you begin to deal with it.

Mr. ROGERS of Kentucky. To also clarify that, that is precisely and exactly what we voted on last year; is that correct?

Mr. BOEHNER. This is precisely the rule that was adopted by the House last September.

Mr. BURTON of Indiana. Well, if the gentleman would yield further, you are our leader and I certainly won't try to object, because you think this is the right thing to do. But it does bother me, I have to tell everybody and I hope the people watching in their offices, it bothers me that we are not going to have a chance to vote on any airdropped earmarks that will be put in this bill in conference.

I know what you are saying. I understand. But I think it is a tough issue for you right now. But I don't like it.

Mr. ROGERS of Kentucky. Madam Speaker, I thank the minority leader and majority leader and the chairman for their clarification.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. SHADEGG. Madam Speaker, reserving the right to object, I would like to clarify the unanimous consent request that is before us and get a further understanding of any other agreements that may have been reached. And I would appreciate if I could clarify these points with the distinguished majority leader and the chairman of the Appropriations Committee.

First, as I understand it, the agreement is that with respect to the 10 bills that will come up following this bill and Military Construction, that is the bills that we would begin on, I presume, Monday, there is an agreement that all of those bills will come to the floor with all of the earmarks which are proposed to be placed into those bills added to those bills before they come to the floor.

That is an extremely important point. That was the issue we have debated for the last few days. We believe that sunshine is the best way for us to ascertain what is in those earmarks. Admittedly, we may have no objection to any of those earmarks, but that is only possible if we know that the earmarks which are to be added to those bills are added to the bills before they come to the floor.

So, I would like to know if in fact that is the agreement that has been reached.

I would be happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Madam Speaker, if the gentleman will yield, it had been the intention of the minority leader, the majority leader, and myself to try to get the House moving on this bill tonight so that we aren't here until 4 in the morning. Then, while this bill is proceeding, we intend to sit down and to lay out an additional colloquy which will walk Members through all of the other items that reflect any additional understandings that will be attendant to the appropriations process.

□ 1945

Let me simply say to the gentleman, for the convenience of the House so we

don't keep them here until 4 in the morning, we would like a little time so that we work out a clear understanding that we are all saying the same thing, that we will shortly be back to the House for an additional briefing on those matters, if that still meets with the approval of the two leaders.

Mr. SHADEGG. Reclaiming my time, then I guess it is my understanding, at least so far as the chairman of the Appropriations Committee is concerned, there is no agreement that all future earmarks will be added to the bills at this point in time?

Mr. OBEY. That's not correct. There is an understanding that has been reached. It is a little more complicated than the gentleman has expressed. But the intent is that all of the bills will, by the time the bills move to the Senate, have an opportunity for earmarks to be attached to the bills.

Let me just walk you through what my understanding is with respect to all of the subcommittees.

Mr. HOYER. Before you do that, will the gentleman yield?

Mr. SHADEGG. I would be happy to yield to the majority leader.

Mr. HOYER. The gentleman is going to, I think, outline our understanding of the agreement. But the answer to your question is yes. Every earmark starting with Monday forward, obviously we know that these two bills are moving tonight, our agreement is that every earmark going forward will be included in the bills.

The only complication is both sides have recognized that on the Energy and Water bill, it is going to take a very substantial time, so that the earmarks that would otherwise be included in the Energy and Water bill will be included in a subsequent bill, to then be attached prior to the Energy and Water bill going to the Senate. But that will be open for full debate and amendment to remove those earmarks.

So the answer to your question is yes.

Mr. SHADEGG. Reclaiming my time, as I understand it, then, with regard to nine of the 10 remaining bills which have been mentioned by the minority leader, all of those bills would, in fact, have all earmarks listed in them before they come to the floor. Is that correct?

Mr. OBEY. That is correct, as I understand the agreement.

As the majority leader has pointed out, the only exception to that is that the Energy and Water bill needs to proceed, but it takes a longer period of time to prepare the earmarks. So we will complete action on the Energy and Water bill except for the question of which earmarks would be attached to that. We will then have a separate report which is reported to the House, and the House will then have the opportunity to consider those earmarks. And after that consideration is completed, then, only then, will that bill be sent to the Senate. So when it goes to the Senate, it will be one document.

Mr. HOYER. If the gentleman will yield again to me, it is my under-

standing, as I said earlier, and Mr. OBEY, I believe, the Energy and Water earmarks will be attached to a subsequent appropriations bill so that, in fact, it will have its own earmarks and the Energy and Water earmarks, all of which will be subject to review, notice, transparency and action on the floor.

Mr. SHADEGG. Reclaiming my time, then, as I understand it, for the nine bills other than Energy and Water, the earmarks will be included on those bills before they come to the floor for debate. For the Energy and Water bill, because of the additional time that is required, the earmarks would be listed, then subsequently attached to a bill that comes to the floor and could be debated and challenged on the floor before that bill is presented to the Senate; is that correct?

Mr. HOYER. If the gentleman will yield, and I want the gentleman from Wisconsin to correct me, but my understanding is they may not be listed because the problem is that the time to vet those, and both sides agree, is a longer time. But we want to move the Energy and Water bill. It will not move out of this House. All of the earmarks that would be attached to that bill will be attached to another bill, will be listed, will have the author and the assertions and they will be subject to a vote on the House floor as any other.

So prospectively all 10 bills moving forward will have it. It is just that the Energy and Water will be not done together; they will be done separately.

Mr. SHADEGG. Reclaiming my time, but those earmarks would be subject to challenge and debate here on the floor.

Mr. HOYER. Yes.

Mr. SHADEGG. At least a point in time before the bill is transmitted to the Senate; is that correct?

Mr. HOYER. That's correct.

Mr. OBEY. Yes.

Mr. SHADEGG. Let me ask a second question.

As I understand it, there is some discussion, and perhaps I should yield to the minority leader on this point, with regard to an attempt to reach a unanimous-consent agreement on each bill as that proceeds forward. Is that correct?

Mr. HOYER. Yes.

The minority leader might want to answer that as well.

Mr. SHADEGG. I would be happy to yield to the minority leader.

Mr. BOEHNER. I appreciate the gentleman yielding. And, yes, we on both sides of the aisle over the last number of years, the appropriators have worked through a unanimous-consent request to provide for the consideration of a lot of these bills, under an open rule. We still have an open rule. But the agreement has been, over the past several years, that we work through that process with the Members to make sure that Members have all the time they need to debate their amendment. But, again, it's a unanimous-consent agreement, which means unanimous.

Mr. HOYER. If the gentleman will yield, I don't want to undermine our full explanation of this event, but when the minority leader says, "all the time they need," neither the minority or the majority have ever thought that other Members needed as much time as the Members think they need. So with that caveat, you can consider it in that context.

Mr. SHADEGG. Reclaiming my time, with the exception of that remark, is the understanding as explained by the minority leader the understanding of the majority leader?

Mr. HOYER. It is.

Mr. SHADEGG. I would be happy to yield to the chairman of the Appropriations Committee.

Is that also your understanding?

Mr. OBEY. Yes. The understanding is that, as we have in the past, the intention is to reach unanimous-consent agreements under which each of the bills will be considered. And it is our hope that that time will be reasonably reflective of what it has been in the past.

It is also the intention that the bill managers will be expected to be reasonably flexible in establishing those time limits as some modest additional flexibility is required.

Mr. SHADEGG. Reclaiming my time, as I understand it, this is an attempt to make sure that we don't waste time on dilatory tactics; that, rather, we proceed through these in an orderly fashion, but if someone has a substantive objection, that should be accommodated; is that correct?

Mr. OBEY. That's our understanding. As a practical matter, last year, if you take all of the appropriation bills, the House expended approximately 108 hours of debate. We think that somehow within time reasonably close to that and with reasonable flexibility between bills, we ought to have sufficient expression of views by the Members to make intelligent choices and move the people's business forward.

Mr. SHADEGG. Reclaiming my time, I appreciate the patience of all the gentlemen in this conversation. I would like to just confirm two more facts and then be happy to the yield to the ranking member on this particular bill who would like to ask a question.

The minority leader just indicated that all of these bills under the contemplated agreement would come to the floor under an open rule. Is that the understanding of the majority leader and of the chairman of the Appropriations Committee?

Mr. OBEY. That's above my pay grade. That's up to the Rules Committee and the leadership. Let the leadership respond.

Mr. SHADEGG. Reclaiming my time, that is not a part of the agreement? I thought I just understood the minority leader to state that that was a part of the agreement.

Mr. HOYER. Will the gentleman yield?

Mr. SHADEGG. Certainly.

Mr. HOYER. No, it was part of the agreement. And we expect to move forward on open rules. But I want to make it clear and don't want to undermine the agreement but I want to make it clear, if we are subjected to what we believe were dilatory tactics, then that would not be consistent with the agreement and, therefore, our provision would be that, in lawyer's terms, the agreement had been breached. But it is part of the agreement.

Mr. SHADEGG. Certainly.

Mr. OBEY. If the gentleman would yield, let me make clear, I requested an open rule for the bills that have been approved by the Rules Committee so far, and I intend to keep doing so unless we think that those open rules are so abused and so far a departure from what we have expressed as our general intentions that some other course is required.

Mr. SHADEGG. Reclaiming my time, I have just one further fact I would like confirmed, actually from both the majority and minority side, and, that is, nothing in this agreement precludes the right of any Member to object to a unanimous-consent agreement on each bill as they proceed.

Is that the understanding of the minority leader?

Mr. BOEHNER. Unanimous means unanimous.

But I think both sides have agreed that we will work with our Members to ensure that they have the right to offer their amendments, that we try to come to some agreements on time so that the process can move along. But that does not mean that we are interested at all in infringing on any Member's right to offer their amendment.

But I do believe that Members on both sides of the aisle want to see this process move along, and that's why it is under consideration for each of these bills that there would be some unanimous-consent agreement that we would come to.

Mr. SHADEGG. Reclaiming my time, I certainly understand the intent of the agreement and the intent of those of us who have been engaged in this discussion for the last 2 days. I simply want to get clearly on the record that any agreement which is intended to move the body forward and move through these bills and to do it as we have done it in the past with an open rule and then hopefully at some point a unanimous-consent agreement, that that remains subject to the objection of an individual Member to say, I object to the unanimous consent.

Mr. OBEY. If the gentleman would yield.

Mr. SHADEGG. I would be happy to yield to whichever of you would prefer.

Mr. OBEY. It is our intention with respect to open rules to make virtually the same request of the Rules Committee with respect to each bill that was made by your party when you were in the majority. And it is our hope that you will respond as we did in the minority by agreeing to reasonable time

limits on each of those bills in return for that.

Mr. SHADEGG. Certainly. And I think we will. Except, as you say, you're not sure if you understand what would be dilatory tactics. We're not sure if we understand and can't know now what we might consider to be a substantive amendment which you would view wasn't.

And so I just want to confirm that the right of an individual Member on the minority side to object to the unanimous-consent agreement remains intact and hasn't been waived by any portion of this agreement.

And I presume that's the understanding of the majority leader.

Mr. HOYER. That is the understanding of the majority. The leader, your leader and I, have spent substantial time together over the last 48 hours discussing this agreement and discussing it with Mr. OBEY and Mr. LEWIS. Clearly we are proceeding in not as a definitive way as we might otherwise have proceeded, and we are proceeding with reliance on the good faith of each to proceed in a manner that we believe accommodates what has been done last year and what we hope will be done this year and, that is, consider these bills with the inclusion of the earmarks in the bills in a manner that facilitates their being passed through this House.

Mr. SHADEGG. I thank the gentleman for his comments. I thank all the gentlemen.

I would be happy to yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. I will be very brief. I thank the gentleman for yielding. On the Energy and Water bill, I'm a little confused.

Mr. OBEY. Would the gentleman yield?

Mr. ROGERS of Kentucky. I will be happy to yield.

Mr. OBEY. It has been suggested to me that we can clear this up by my simply reading the statement that we had intended to read to the House at a later point. If the gentleman would indulge me so I could do that, I think it will answer virtually all of the questions that people have.

This is that statement.

Mr. SHADEGG. I think it's my right to yield, and I would be happy to yield to the gentleman.

Mr. OBEY. The House is now proceeding under a unanimous-consent agreement which in addition to the hours already covered will limit total time for consideration of this bill to 24½ hours. This is a limit of an additional 6½ hours which we will have to endure tonight.

The UC agreement also allows the filing of supplemental reports to enable earmarks to be added to the Interior and Energy and Water appropriation bills without returning the bills to committee. It is expected that this will slow down consideration of the Interior bill by about a week.

We will complete action on the Energy and Water bill on the floor next

week, but will not send it to the Senate until the House has an opportunity to act upon the projects that will be attached to that bill. That bill will probably not be sent to the Senate until July.

This agreement is part of a larger agreement that contains the following additional understandings:

There will be a unanimous-consent agreement for Military Construction that limits consideration of amendments and time on that bill.

With respect to the Homeland and Military Construction bills, both bills will be allowed to proceed without earmarks, which, if they are provided, will be added in conference. The intention is that when those bills come back from conference, a point of order against consideration will be in order against any projects that were not in the House or Senate bill, and if those points of order are upheld by the House, the report will go back to the conference for adjustment.

The Financial Services, Foreign Operations and Legislative Branch bills, three bills that have already been reported out of committee, will briefly be sent back to committee so that earmarks can be added. The minority party has agreed to expedited procedures to consider these bills once the earmarks have been attached. That will slow consideration of the bills by up to 2 weeks.

□ 2000

CJS will not be considered until the proposed earmarks are ready for attachment, hopefully before the July 4 recess.

The Labor-HHS, Transportation, HUD and Agriculture bills will be considered after the July 4 recess, that is a change, in order to give committee staff more time to include earmarks for those bills.

The minority has agreed that they will help facilitate reasonably speedy consideration of the remaining bills. The expectation is that the House will adopt UC agreements to place reasonable limitations on the time for consideration for each of the appropriations bills which are expected to be roughly and generally similar to the overall time agreements that were adopted for consideration of appropriation bills in the past.

The bill managers will be expected to be reasonably flexible in establishing those time limits if modest flexibility is required. This is the understanding of the Appropriations Committee and the House Democratic and Republican leadership.

The House should be pleased with this agreement because it recognizes the reality that there is not enough time to responsibly include earmarks in the earliest appropriations bills to be considered by the House. While providing that recognition, it assures a reasonable process that will provide an opportunity to question earmarks.

Mr. ROGERS of Kentucky. Madam Speaker, will the gentleman yield?

Mr. SHADEGG. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Let me thank the chairman for that clarification.

Mr. SHADEGG. Reclaiming my time, I appreciate the gentleman's clarification. I do have one question. As I listened to the gentleman explain the agreement and read it, I believe the gentleman said that it is the intention that there will be a point of order in place with regard to this bill and the MILCON bill. It is my understanding there is actually an agreement on that point.

I yield to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. The rule change that has been discussed earlier on the point of order on the consideration of an appropriation conference report with regard to airdropped earmarks is expected to be offered to the House under unanimous consent agreement on Monday evening.

Mr. SHADEGG. I thank the gentleman.

We are all operating on good faith here. I simply want to establish that there will be a point of order in place before these two bills return from conference.

Mr. HOYER. Yes. That is what I represented to Mr. ROGERS, and I repeat it to you. Yes.

Mr. SHADEGG. I thank the gentlemen for their patience.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. MCHENRY. Madam Speaker, reserving the right to object, I want to fully understand the agreement put forward.

I ask the majority leader and the Appropriations Committee chairman, as I understand it, laid out through this colloquy and this series of questions, there are three separate issues at hand.

First, the House rules under that unanimous consent agreement Monday night, the House rules will revert to the point of order that Republicans put in place in the last Congress, the Congress put in place, that Members can lodge a point of order against earmarks; is that the case?

Mr. BOEHNER. If the gentleman would yield?

Mr. MCHENRY. With all due respect to the minority leader, I was trying to get a commitment from the majority leader since they are in fact in the majority, but I would be happy to yield to my Republican leader.

Mr. BOEHNER. I appreciate the gentleman yielding because we have come to an agreement amongst us. The rule we are talking about putting in place is identical to what we had last year on the consideration of a conference report that has earmarks in it that had not been considered by the House or the Senate. And that rule change will be proffered, we believe, on Monday evening by the majority leader.

Mr. MCHENRY. Does the majority leader concur with that?

I am happy to yield.

Mr. HOYER. I thank my friend for yielding.

I want to tell my young friend from North Carolina, that is the representation I have now made three times. I have made it to your leader. I suggest you ask your leader whether he trusts me to do that.

Mr. MCHENRY. Reclaiming my time, I certainly want to understand this agreement, and since it is a unanimous consent put before the House, we need to have unanimous consent to proceed with that. I want to understand the three elements of this rule and since the majority leader does schedule the floor, Madam Speaker, I want to make sure I understand the agreement since you actually control the floor.

Mr. BOEHNER. Would the gentleman yield?

Mr. MCHENRY. I would be happy to yield.

Mr. BOEHNER. The gentleman from Maryland, the majority leader, has given me his word. The gentleman and I have a long relationship. I have not one doubt that Monday evening this unanimous consent agreement will be entered into.

Mr. MCHENRY. Reclaiming my time, as I understand it, there are three elements to this agreement. I want to actually have on the record what this agreement is, not simply a discussion behind closed doors, because as we heard earlier today, Madam Speaker, as some of us heard earlier today, there was an agreement reached last night and then there was a change of heart from the majority and leadership on the majority side. And I want to ensure we have a proper understanding of what that was, instead of what we read in the papers and the rumors we hear.

Mr. OBEY. If the gentleman would yield?

Mr. MCHENRY. I would be happy to yield.

Mr. OBEY. Let me correct the gentleman in one respect. There was no change of heart on the part of the majority leadership on anything to my knowledge.

Secondly, if we are talking about trust, the fact is that I have been asked in this agreement to trust the word of the minority leader that when we describe what the conduct will be during future appropriation bills, that that conduct will be reasonably close to what is described on this paper. There is no guarantee in this paper to me that that conduct will be appropriate conduct.

In this case, however, I am simply taking the word of the majority leader and the minority leader. If it is good enough for me, I hope it is good enough for you. And when the day comes that we cannot trust the word of the majority leader or the minority leader in this House, then this House is really in sad shape.

Mr. MCHENRY. Reclaiming my time, I wanted to lay before the House what

the three elements, as I understood it, are. And I have full faith. I know the gentleman is an honorable man. I am not questioning the integrity of any of my colleagues in this process. I certainly have the utmost respect for the majority leader and the Appropriations Committee chair. But I actually want to understand the agreement and the trust you have, and I want to make sure that the House understands what the agreement is.

Mr. OBEY. If the gentleman would yield, I was not part of the agreement on the point of order. I am simply trusting the majority leader and the minority leader, and I would suspect that virtually every Member of this House has that same trust towards both of them.

Mr. MCHENRY. Reclaiming my time, actually the final question would be: Is it the intent and the commitment from the majority that future appropriations bills, save by tradition the legislative branch appropriations bill, would come to this floor under an open rule?

Mr. OBEY. I think that question has already been answered in the affirmative, so long as the conduct of the House justifies open rules.

Mr. MCHENRY. I yield to the gentleman from Maryland.

Mr. HOYER. I thank my friend for yielding.

I said "yes." I have said it three or four times. I will say it again. But I want an understanding made clear, and I will reiterate it. We have an agreement. We have an agreement between people who are trying to move America's business forward. That agreement assumes conduct on both sides. There are going to be open rules. But if the conduct that is expected on both sides is not met, I expect both sides will feel the agreement has been breached.

Mr. MCHENRY. Reclaiming my time, Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Ms. FOXX. Madam Speaker, reserving the right to object, I have a very simple question.

I think I am a very logical person. I don't understand why we are going to be voting on the water bill and then coming back and voting on the earmarks attached to another bill. That does not seem logical to me.

Mr. OBEY. No. If the gentlewoman would yield, it is not going to be attached to another bill. The bill is already out of committee. It needs to proceed. It takes a great deal of time. There are a lot of things in that bill besides earmarks, thank God. We are trying to move the business ahead as fast as we can.

What this agreement states is that we will finish all of the nonproject-oriented issues in that bill. We will complete consideration of the bill except we will then rise, and when the report is finished that will be attached to the

energy and water bill, it will be reported to the full House. When it is reported to the full House, we will then have before the House for consideration the projects that are included in that report and that will be during consideration of the energy and water bill itself. So it will not be a separate bill, it is the energy and water bill.

We are just allowing the projects to catch up to the bill. And then before the bill goes to the Senate, you will have a full opportunity to deal with the report and the energy and water bill simultaneously.

Ms. FOXX. Thank you.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. PRICE of Georgia. Madam Speaker, reserving the right to object.

I know that we have been discussing this for a long time, and I appreciate the tolerance of all involved and I am sorry that, using a word that was used before, that you have to endure this, but I have three very specific questions.

The chair of the Appropriations Committee in his initial comments said about the agreement that has been worked out, that it has not been signed or not been agreed to because there was an issue that had yet to be worked out. Did I understand the gentleman correctly?

Mr. OBEY. I honestly don't know what the gentleman is talking about. All I was saying is we were trying to get Members home before 2 in the morning by allowing this bill to proceed. We wanted to simply perfect the statement which I just read to make certain that everyone agreed, and we thought when we had more time to review that and check for any changes, we would come right back to the House. Instead, Members wanted to discuss it now. So forget everything I just said with respect to that other statement.

Mr. PRICE of Georgia. I appreciate that.

My second question is: The earmarks for these two bills, Homeland Security and Military Construction/Quality of Life, when might we expect to see those or deal with those before the House?

Mr. OBEY. There are no earmarks in this bill. I personally have no interest in adding them. If it happens in the process because of the will of the committee or the body, then they will be in the bill when it comes back to the House and then the gentleman's point of order will be in order.

Mr. PRICE of Georgia. I thank the gentleman.

The final question I have is in the past it has appeared that the agreement between the majority party and the minority party regarding the unanimous consent and time limits on appropriations bills has tended to be during the process of the debate, and if the

debate was moving along expeditiously, there was no need for a unanimous consent agreement.

My question is: Is it the intent to operate traditionally as has been done, or is the intent to adopt a unanimous consent agreement prior to the bill being taken up?

Mr. OBEY. If you will take a look at the time that was taken for every bill last year, that time that we have been talking about included the entire time for consideration of the bill. So for example, when we say it took 17 hours and 12 minutes for the Commerce-Justice bill last year, that means it took 17 hours and 12 minutes to do the entire bill from start to finish. Only a part of that time was represented by the time allocated to amendments.

All we are saying is that it is our hope that we can keep each of these bills to roughly the same amount of total time. If you need some flexibility between the bills, the statement makes clear and the understanding is that we will try to show that flexibility so long as it is not abused.

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Mr. PRICE of Georgia. The majority leader may be able to assist.

Mr. HOYER. Would the gentleman yield?

Mr. PRICE of Georgia. I yield.

Mr. HOYER. As the gentleman knows, the question was asked, has the unanimous consent been modified. It has not. So that whatever agreement, at whatever time it's reached, will have to have the unanimous consent of the body, each and every Member. That part will be the protection against any arbitrary or capricious action. We are pursuing that. As the minority leader said, there's been no change in that.

Mr. PRICE of Georgia. And I thank the leader, and I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. PENCE. Madam Speaker, reserving the right to object, I want to commend the minority leader and the majority leader and the chairman of the committee for an arduous task of coming together across what is an increasingly very wide gulf between the two sides of this aisle and appreciate the difficulty of doing that?

If I may, Madam Speaker, ask the majority leader a question just for clarification purposes and colloquy.

Mr. Leader, on the point of order protection, I was directly involved with a handful of our own when we worked through our side changing the rules in the spring of 2005 for that point of order protection. It is, in effect, a stop-gap at the point of consideration of the conference report. An essential element of that is that the point of order is debatable, and I wanted to get your assurance that as we move toward adopting that rule change that that point of order would be debatable. I believe it was for at least 10 minutes per

side. Without the opportunity to debate, there was no capacity for Members or the public to know what projects are objectionable, and that might prevent going forward in consideration.

And I would welcome and yield time for your response.

Mr. HOYER. I thank the gentleman, first, for his comments. Secondly, I thank the gentleman for his question. I happen to believe, I want the gentleman to know, that the rule you were involved with that the minority leader and I have discussed is a good rule. It's a good rule because if something is dropped in conference that nobody knows about it, whatever it may be, I'm not going to mention any specific projects, but we've talked about some during the course of the last 2 days, we will in the rule provide for 10 minutes on each side. So, essentially, what we're doing is expanding under those circumstances by a third the time available for debate on a conference report.

So it is a pretty substantial extension of time. I think to the extent, again, the gentleman was involved, it's an appropriate extension of time so that we do ensure what all want to ensure and that projects that do not justify inclusion in bills and this House or the Senate rejects them or wants to reconsider them, that we have that opportunity. So the debate will be included in the rules recommendation.

Mr. PENCE. I thank the distinguished majority leader for that very direct and clear reply. The minority leader nodded his assent. There's very little value in point of order protection if Members do not have the ability to point to those aspects of the legislation that are objectionable.

But I will also, and I'm prepared to yield time to the distinguished chairman of the Appropriations Committee for a question, I would also say that point of order protection obviously calls for a vote on whether to proceed with consideration for the entire conference report. It would not, and Members should be alerted, it would not be a specific vote on a specific objectionable project; and, therefore, the likelihood that a point of order would be successful, given the fact that appropriations bills generally have many fathers and mothers in this institution, is fairly remote.

So I would say to the distinguished chairman of the Appropriations Committee that it certainly is not a substitute for the opportunity in the regular process here on the floor to challenge specific elements of bills, whether they be earmarks or other policy-related additions and programs. And so it's to that point and to this longer-term understanding that I wanted to ask the chairman of the Appropriations Committee for some further clarification. And, again, I want to reiterate my respect for the chairman, for the leader and my special respect and gratitude for the minority leader for their efforts in this regard.

But with regard to your expectation, I think you just used the phrase that the amount of time that would be subject to a negotiation for a unanimous consent on each bill going forward would be a good-faith negotiation, and it would be based on, in your words roughly, the same amount of time that had been attributable to those specific appropriations bills in the past.

I think the chairman made reference to 108 hours earlier in the last session of the last year of the Congress. I would note that we did not consider, to my recollection, a Labor-HHS bill during that period of time. I just wanted to give the chairman a respectful opportunity to express what your expectation of that may be because for many of us the opportunity to come to the floor and challenge individual provisions of bills and also make amendments for additions to bills is critical, and I would yield.

Mr. OBEY. Let me simply say that when we compiled these numbers, since there was no Labor-H bill considered last year, we simply looked at the amount of time that it took the previous year to consider the Labor-H bill, and that was 12 hours and 43 minutes. So I think that in 12 hours and 43 minutes, if Members have an objection to an earmark or any other provision, they are going to manage to find a way to bring it to the attention of the House. And if they can't figure out how, I would just ask that you talk to the gentlewoman from Texas (Ms. JACKSON-LEE) and she will show you how to do it. She's got a lot of experience.

Mr. PENCE. Reclaiming my time, I would yield to the minority leader for a response on this, if he would like.

Mr. BOEHNER. As soon as I catch my breath, I will be happy to give you one.

The agreement we have reached with our colleagues on the other side of the aisle is intended to preserve every Member's right to make additions, to make changes, to offer amendments to the bill. I think, how can I best describe this, that over the course of at least the last two or three years that I'm aware of, we've brought these bills to the floor under an open rule, and there have been bipartisan agreements, the unanimous-consent agreements, on how we're going to proceed. And the agreement that we have is basically to uphold what we've done in the past few Congresses.

And so as the gentleman pointed out, what we've agreed to is generally, the time limits, times that were used in the past, but it's general. We don't know what these bills look like, some of them yet. We're not sure what they may contain, and so I felt constrained in coming to an agreement on a specific time limit because we haven't seen the bills, but I think there are enough of us in this Chamber who've worked together, who trust each other to be able to come to a unanimous-consent agreement that gets unanimous consent because that's how it works.

Mr. PENCE. Reclaiming my time, and before I withdraw my objection, let me say I appreciate that clarification from the minority leader and from the chairman of the Appropriations Committee. I assume good faith by both the distinguished gentlemen, and I will say I certainly reserve the right to object to future unanimous-consent agreements, but I look forward to supporting the unanimous-consent agreement today.

And I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. HENSARLING. Madam Speaker, reserving the right to object, first I wanted to thank the distinguished majority leader, thank the chairman of the Appropriations Committee, thank the Republican leader for all of their efforts to bring us to the point where we are at the moment.

I think we've certainly heard much about the process and procedures that will take place under this anticipated agreement, but I think it's very important to note for the entirety of the body, and particularly for those of us who have spent a lot of time on the floor since this debate ensued, that with this agreement what we will see going forward after these first two bills is that we will see earmarks in the bills. We will see transparency. We will see the ability of Members to be able to strike at those earmarks. That is what I believe I have heard this evening. That is what much of this debate has been about, for these many hours. I, for one, believe that to be a good thing.

I believe I heard that there is hopefully an expectation of open rules. I understand the majority leader's caveat. I understand there is an anticipation of UCs, as historic norms dictate. I understand there is an anticipation that substantive amendments will be accommodated. I understand that substantive amendments may be in the eye of the beholder and men and women of good faith must work together, and I understand there is an anticipation that if bills are of historic norms, that debate time may be of historic norms as well.

But I did want to signal that, if I have the proper understanding, that I wanted to thank the majority leader, the chairman of the Appropriations Committee, and the Republican leader for their efforts to bring the ability of Members to be able to see these earmarks and challenge these earmarks. I assume that, as I have spoken, if any of the gentlemen involved believe that my understanding is incorrect, I would be happy to yield time to them.

Seeing no one believing my understanding is incorrect, again, I want to thank them for bringing us to this point, and I withdraw my objection, Madam Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. FLAKE. Madam Speaker, reserving the right to object, I have a few

concerns. Early this year when authorizations came to the floor, authorization bills and the CR and also last year with appropriation bills and in previous years, it is a common practice to have the report come to the floor very late in the day. In fact, for the Intelligence authorization bill, I believe the report came to the floor a few hours after the deadline for submission for earmarks.

What assurance do we have that reports, the committee reports that contain the earmarks, will actually come to the floor in a timely manner? Because it will be difficult to enter into any unanimous-consent agreement on a bill if we haven't had adequate time to actually review the earmarks. I know there has been talk, there's always talk, about some 48-hour rule or 72-hour rule, but it is routinely broken. And is there any assurance that we can have on this side that we'll do better in that regard? Because the record so far this year is not good with regard to authorization bills.

I know that is not your fault, but I'm concerned that we won't get the committee report in time to adequately review the earmarks in it in order to enter into a useful unanimous-consent agreement.

Mr. OBEY. Let me say, and then be very blunt about this, this agreement requires a lot of trust between people. I've had to rely on a lot of trust on the minority leader tonight, and I expect to have the right to expect the same consideration from others in this House.

We have not had much experience in the last 14 years at either producing or delaying reports. That has been the prerogative of the majority party. We're now the majority; and as you know, we had a lot of catch-up work to do from the last session, and we've been working long hours. It is not our responsibility to run the printing office. Sometimes we don't have control over when documents are printed. Sometimes the process breaks down there; sometimes it doesn't.

All I can assure the gentleman is that we are going to try to comply not only with the letter but the spirit of the rules of the House.

□ 2030

When I was in the minority, I was pushing very hard to see the 3-day practice maintained, even though the rule had been changed to 2 days. We intend to continue to do that.

Mr. FLAKE. In the same vein, we now have rules that require submission of a letter. You have them in the committee now. What assurance do we have that the letters will be released to the public? For every earmark that is in the legislation, will there be a letter with the Member's name next to it, the description of the earmark, the entity that is receiving it; will that be released to the public as soon as the committee report comes out?

Mr. OBEY. The answer to the gentleman's question is "yes."

Mr. FLAKE. With regard to authorization, I sent a staff member to the Armed Services Committee. The staff member could not remove the list, could not make copies, had to sit and actually just make notes of the some 680 earmarks, letter request forms that were there. Is that going to be the practice of the Appropriations Committee? Will copies be available? Can outside groups come in?

Mr. OBEY. Let me be very frank. I haven't had time to consider any of these questions because I have been so tied up simply trying to move bills. All I can tell you is we will comply with whatever the rules of the House are. Frankly, at this point, I am not exactly sure what they are. Whatever they are, I will comply with them.

Mr. FLAKE. I would submit that it's unacceptable. The reason we have this transparency, where we have letters actually requesting the earmark, indicating the entity that it goes to, the specific purpose for the earmark, is so that we make informed judgments here on floor.

If all we can do is have one staff member go in, they have to wait while meetings are held, they can't go in certain rooms, they are told that they can only read from the list and take notes, not make copies. The practice in the past has been, and I am not saying that this is more a problem with the majority than it was with the previous majority, we had trouble then. But if we're going to have an open, transparent process, it would be nice to have, to actually think that you want this information out rather than holding it back as long as you can.

Mr. OBEY. No one is trying to hold back information. What I need is time to know what that information is.

With respect to the certifications you are talking about, they will be available in the committee office to the public, to Members of Congress, and they will meet whatever requirements, whatever other requirements of the rules that there are. All I can tell you is that we haven't given any consideration to earmarks at this point because we haven't had time to.

I think the agreement that we have here tonight finally recognizes the fact that if we're going to proceed with these bills, that we simply haven't had time to produce the initial earmarks.

We are slowing down this process considerably. I want to assure you that we're going to do everything we possibly can to comply with the spirit and the letter of the law. The gentleman knows me. I hope the gentleman regards me as someone who is up to his commitments.

That's all I can honestly say.

Mr. FLAKE. I thank the gentleman. I do hold the gentleman in high regard. It just seems to me that when the committee report is released, there is no reason for the Appropriations Committee at that time to make it difficult for other Members to view request letters.

Mr. OBEY. No one is trying to make anything difficult for any Member to review anything.

I don't know what experience you had under the last regime. We have not had an opportunity to perform on that yet.

Mr. FLAKE. All right. I just wanted it on the record that there would be. We've had it with the authorizing committee already. I just want to make sure it doesn't happen with the Appropriations Committee.

Mr. OBEY. With all due respect, I take no responsibility for anything done by any authorizing committee.

Mr. FLAKE. Good point. Another point, you made the example of the education bill last year that took some 12 hours to get through. My expectation is that there will be a lot of earmarks in that bill and many others. Last year I offered a total of 39 on all appropriation bills.

I was constrained considerably. Many of the amendments that I drew up and brought to the Parliamentarian, I was told that it would be subject to a point of order because the earmark was so vague, that the language was so vague, and that it didn't refer to a specific facility. There were many amendments that I wanted to bring forward and couldn't.

I don't expect that to be the case this time because we have better rules in terms of the letters, the request forms, the entity that has to be there. So what I am saying is I expect there to be more amendments brought.

I think it may be unrealistic to expect us to be constrained by last year's time frame. It may be longer. As long as it is subject to a unanimous consent agreement, and Members like myself or others who want to bring additional, or maybe more than were brought last year, can still bring those forward, then I think that's the only basis that we can move under.

Madam Speaker, I yield to the minority leader.

Mr. BOEHNER. I appreciate my colleague for yielding. Unanimous consent means unanimous consent. It's the commitment on the part of myself and my colleagues on the other side of the aisle to work with our respective Members to make sure that every Member's needs are met in the unanimous consent agreements.

Now, we will be happy to work with the gentleman on his issues as we go through these bills. It's not intended to deny any Member's right to offer an amendment here on the floor.

Mr. OBEY. If the gentleman would yield, one of the reasons I have been trying to explain to the House why it takes so long to carefully screen these earmarks, is because many of the requests that come in are so vague that we don't understand where that money is intended to go to.

So then we have to go to the individual Member, and we have to say, hey, we really can't tell from your request where this is supposed to go. You

need to change your request so we know what you are talking about. Then we have to sort them out so we know that you don't have three people asking for the same thing in different language. That takes a lot of time.

So if the gentleman thinks that sometimes you're confused, so are we. That's why we were asking for more time.

I want to stipulate one thing. I recommended to this House a proposal that I thought would give us the best possibility of avoiding future embarrassment. This agreement indicates the House wants to go in a somewhat different direction.

That means that with respect to almost all of these bills, we will have less time for our staff to review them than would have been the case under the proposal that I was suggesting.

In my judgment, that means that we will run a higher risk of mistakes than we would have otherwise had, because we will not have the entire month of July for the staff to review these requests.

So I am giving up on that expectation for a higher level of staff review so that we can continue to do the people's business and get through these bills in time for program managers to get funding out for these programs in an orderly manner.

So a lot of us have a lot of complaints about this. I didn't invent the earmark process. If I had my way, there wouldn't be any, as the gentleman knows.

But it's my job as chairman not to pursue what I believe. It's my job to try to find a balanced point in the House that I think will achieve consensus in the House, hopefully between two parties. That's what I would try to do, and I will appreciate the recognition of that fact from the gentleman and every other Member of this body.

Mr. FLAKE. Duly recognized. I think that it argues for far fewer earmarks. You made a comment last year that I agreed to.

Mr. OBEY. Even though the Senate is resisting, I am the person who ended the earmarks. I am the person who put a moratorium on earmarks for a year. You know that two-thirds of your caucus and two-thirds of my caucus were mad as hell at me when I did that.

Mr. FLAKE. I know that.

Mr. OBEY. I am now trying, and so is our leadership, to reduce earmarks by at least 50 percent.

As you know, there are a lot of people who are angry about the fact that we are cutting earmarks by that much.

Mr. FLAKE. I understand that. I know we need to move on. Let me just make one point. I think it is extremely important that the letters requesting the earmarks are made public at the quickest possible time. I will object to any unanimous consent request.

Mr. OBEY. With all due respect, the letters requesting earmarks are not going to be made public. Let me explain what will be made public. I will

take responsibility for every earmark that I recommend. But I have no intention of taking responsibility for somebody's pipe dream that we reject.

Mr. FLAKE. Oh, no, I am talking about those that are approved, that are going into the bill.

Mr. OBEY. I have already told you those will be available. I don't know how many times I have to chew my tongue, but I have already told you.

Mr. FLAKE. But what I am saying is outside groups have come as well. They would like access. I share the gentleman's pain in trying to go through and review these. That's why it would be useful at the quickest possible time to let outside groups as well review these.

Mr. OBEY. With all due respect, we will comply with the House Rules. That's the best assurance I can give the gentleman.

Mr. FLAKE. That's what I am after. Madam Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Madam Speaker, I have had a discussion with, not directly with the minority leader, but on the representation of the minority leader, I have discussed with the ranking member, Mr. ROGERS of Kentucky, Mr. PRICE and the chairman of the committee.

It will be our intention to roll all votes until tomorrow morning, so that there is no expectation that there will be any more votes tonight for Members. The debate will be concluded.

Madam Speaker, I yield to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. What time may we expect to come in tomorrow?

Mr. HOYER. Nine o'clock.

Mr. BURTON of Indiana. At what time may we expect some floor votes tomorrow?

Mr. HOYER. Probably about 9:10 or so, just about 9 o'clock.

Mr. BURTON of Indiana. Thank you.

Mr. HOYER. Mr. SHAYS asked me informally when we are getting out. We are working on a unanimous consent agreement between the minority and the majority on the MILCON bill, and that will hopefully facilitate us getting out. I will tell you the minority and majority both believe it ought to be relatively brief, as the MILCON bill has been in the past.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2008

Mr. OBEY. Madam Speaker, I ask unanimous consent that, during further consideration of H.R. 2638 pursuant to House Resolution 473, the Chair

may reduce to 2 minutes the minimum time for electronic voting under clause 6 of rule XVII and clauses 8 and 9 of rule XX.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 473 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 2638.

□ 2044

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 2638) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes, with Mr. ROSS (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 13, 2007, the bill had been read through page 3, line 10, and pending was amendment No. 9 by the gentlewoman from Virginia (Mrs. DRAKE).

Pursuant to the order of the House of today, that amendment shall be debatable for 10 further minutes, equally divided and controlled by the proponent and opponent. No further amendment to the bill may be offered except those specified in the previous order of the House of today, which is at the desk.

The gentlewoman from Virginia (Mrs. DRAKE) and the gentleman from New York (Mr. SERRANO) each will control 5 minutes.

The Chair recognizes the gentlewoman from Virginia.

Mrs. DRAKE. Mr. Chairman, this amendment reduces the Office of the Secretary of Management \$10.4 million, and increases ICE salaries and the expense account by \$9.1 million, restoring the funding that was in the President's budget to fund the 287(g) program.

□ 2045

I chose this account because between 2007 and 2008 budgets, it has increased 60 percent, or a total increase of \$89 million. The 287(g) program provides training, technology, and resources to local law enforcement officers to work with the Federal Government, with ICE, to identify illegal aliens who have broken our laws.

This is a voluntary program available to both our State and local governments. Currently, it is implemented in 13 locations. One of the most prominent of these is Sheriff Pendergraf in North Carolina, who has detained and deported 1,900 illegal criminal aliens in the last year.

America saw the very tragic accident that occurred in Virginia Beach that took the lives of two beautiful young women at the hands of an illegal alien