

**Rep. Dave Obey (D-WI), Ranking Member of the House Appropriations
Committee made the following statement on the floor of the House
on December 22, 2005:**

To circumvent this outrage of the public, Senate Majority Leader Bill Frist attached a shortened version of the bill to the 2006 Department of Defense Appropriations Bill, HR 2863, *literally* at the eleventh hour, giving sweeping, unprecedented immunity for drug companies. Called **"Division E – Public Readiness and Emergency Preparedness Act,"** Frist's addendum added 40 pages to an existing 423-page bill at 11:20 on Saturday night, December 17, 2005, well after the House Appropriation Committee members had reached final agreement on the defense bill, had signed off, and most had gone home.

Appalled, Representative Dave Obey (D-WI), Ranking Member of the House Appropriations Committee, made the following statement on the floor of the House on December 22, 2005:

"When the President requested \$7 billion to begin a much belated crash program to develop a new generation of vaccines and antiviral drugs to combat a potential flu pandemic, the Republican Majority responded by cutting [that request] in half. When I asked Senator Ted Stevens (R-AK) in Conference why we shouldn't fund the rest of the Administration's request . . . he responded that because liability protection language for manufacturers had not been adopted, long-range funding should be withheld.

"The Conference Committee [on the Defense Appropriations Bill] ended its work with an understanding, both verbal and in writing, that there would be no – *I repeat no* – legislative liability protection language inserted in this bill. And because the Majority told us *it did not want any compensation program for victims* to come out of the discretionary portion of the budget, no funding was provided for that either.

"But after the [Committee] finished at 6 p.m., Senator Frist marched over to the House side of the Capitol, about four hours later, and insisted 40 pages of legislation – which I have in my hand – 40 pages of legislation that had never been seen by Conferees be attached to the bill.

"Speaker [Dennis Hastert R-IL] joined Frist's insistence, and without a vote of the Conferees, the legislation was unilaterally and arrogantly inserted into the bill, after the Conference was over. [This was] a blatantly abusive power play by two of the most powerful men in Congress.

"We then discovered that this language provided all sorts of insulation for pharmaceutical companies and that this insulation applied not just to drugs developed to deal with the [avian] flu, but in fact applied to a far broader range of products."

After itemizing the problems associated with the "Division E" language, Representative Obey went on to say:

"Mr. Speaker, the Committee system was created years ago to protect the public interest, so legislation would be carefully reviewed before it was placed before the body for consideration. But that protection was arbitrarily by-passed by the Leadership in both Houses.

"This is the second time that this Congress has supinely done the bidding of the pharmaceutical industry in the dead of night. The first time, a vote was held open for three hours while the Republican Majority twisted arms to create the complex and ridiculously confusing prescription drug bill that our seniors are now so desperately trying to understand – a bill that was *ushered through this institution by over 600 lobbyists*

and that protected [drug] companies by preventing the government from even attempting to negotiate lower drug prices.

“If I thought that denying unanimous consent on this bill would force the Majority to eliminate that language I would object. *But, Mr. Speaker, it has also been made quite clear to me that the Majority will not relent on the language that insulates drug companies.* [Emphasis added.]

“So Mr. Speaker, I want it to be clear that the action to insert this special interest language in the bill is in my view a corruption of the legislative practices of the House. When Congress returns in January, I intend to raise a question about the privileges of the House, highlighted by this action, because it has brought discredit to the House and should disturb every Member who serves here.

“No Member of Congress, no matter how powerful, should be able to unilaterally insist that provisions that were never discussed and never debated in the Conference. [It] should not be slipped into that Conference report without a vote of that same Conference.

“This is what happens when there are no checks and balances, when one party controls the White House, the Senate, and the House and respects no limits on its own use of power. We have been placed in the this position because the House Republican Leadership has sent Members home for the Christmas holidays with the message to the Senate that we would not be here [to review changes made by the Senate.] *That was irresponsible and the country will pay the price.* This institution will pay a price as well, in terms of diminished respect from the people we were elected to represent. Members on both sides know it and it is time to have a modicum of respect for the way we do the people’s business.

“This is a shameful and shabby way to the end the worst session of Congress I’ve experienced in 36 years in Congress. I most reluctantly withdraw my reservation because lodging an objection at this point would simply delay the shameful inevitable.”ⁱ

Of note: When Congress reconvened after the Christmas break, the bills had moved on and Congressman Obey took no steps to follow through with his objections to the PREP Act.

ⁱ “Obey Statement on Defense Appropriations Correction Bill – A Shameful End to a Shameful Congress,” United States House of Representatives, 22 December 2005. (link no longer available)