

1 MR. CASTEEN: Thank you. One of the issues raised by  
2 the sponsoring organizations as we were putting together this  
3 workshop was the sense that all of us have that this is not an  
4 occasion for Congress bashing at all. But instead, it is an  
5 effort to understand a variety of different perspectives.

6 Daniel R. Pearson is, as I mentioned before, a  
7 Democratic staff member in the House Science Committee. And he  
8 has come to provide some of his own insight into the process on  
9 the congressional side.

10 There will also be complimentary material in the second  
11 panel after the break.

12 MR. PEARSON: I think I am the ghost on this panel. I  
13 am not going to talk about work I am doing, or work I am planning  
14 on doing tomorrow, but work I did seven or eight years ago. And  
15 I think I rise more in bemusement than anger to share my  
16 experiences.

17 I worked for George Brown, who was then Chairman of the  
18 House Science Committee, and I was managing his pork team. Some  
19 of you may recall that Mr. Brown decided that academic earmarking  
20 was out of control in FY '92 or FY '93 -- I think it went up to  
21 about \$750 million -- and he decided he would try and do  
22 something about it, both for idealistic reasons, and for  
23 pragmatic reasons.

24 Frankly, as an authorizing chair, he saw the increasing  
25 use of appropriations bills to legislate and make institution-  
26 specific awards as a threat to the very reason for his committee  
27 to exist. I think that we had a pretty good team and some of  
28 those people are still in town. I am going to mention them  
29 because no one remembers they did this work, but they deserve to  
30 be remembered.

31 Mike Quear who is still with the committee, and Edith  
32 Holloman, who is now an investigator with John Dingle. Beth  
33 Robinson, who is actually over at OMB, and Pat Moore, who is with  
34 GAO.

35 Let me tell you a little bit very quickly about what  
36 George tried to accomplish, and what I think he did accomplish,  
37 giving some lessons from what a fight over earmarking brings with  
38 it. And then I will tell you what I would do if I was running

1 this fight from OMB.

2 Mr. Brown started out in a typical Brownian fashion in  
3 a kind of cerebral way. He decided he would go to CRS and get  
4 them to do a big data study of what has been going on with  
5 earmarks. And he sent out surveys to 50 schools that had  
6 received the earmarks asking fairly innocuous questions. And he  
7 took this information and he went over to the floor in September  
8 '92 to try and knock out 10 earmarks in the Energy and Water  
9 appropriation bill that were designed to have the Department of  
10 Energy build hospital facilities.

11 And instead of having DOE make these institution-  
12 specific awards and simply striking the money, his amendment  
13 said, "Well, you will set up a competition program and at least  
14 we will get something decent out of this."

15 He won. He got to the floor. His amendment passed by a  
16 two to one margin. And he was very proud and he sort of trundled  
17 back and got a lot of good press for it.

18 Three weeks later, last day of the session, in an  
19 election year, the Defense Appropriations Conference report comes  
20 back. He goes to the floor. He goes through the thousand page  
21 bill, only one copy which exists down at the clerk's desk. He  
22 finds the 10 earmarks back in that bill, and a rule that  
23 protected the earmarks from an amendment to strike them. And he  
24 went ballistic, by George's standards.

25 I would like to read one of the things he said. At  
26 that time this was all done impromptu. There was no organization  
27 to defeat the rule. And if any of you know the House, it is  
28 almost impossible to defeat a rule even if you know weeks in  
29 advance what the issue is going to be, much less on the last day  
30 in October of an election year.

31 He said, "Let me say to my colleagues this last minute  
32 effort to revive 10 projects overwhelmingly rejected by the House  
33 represents precisely the thing that the American people are  
34 rebelling against. A small click of powerful members sitting in  
35 a back room, sneaking through things which had no consideration,  
36 and getting them through without anybody knowing what they are.

37 I had to stand up here and look through a thousand page  
38 bill until I found that one paragraph which reversed what we did

1 just three weeks ago.

2 Mr. Speaker, I consider this to be the most egregious  
3 insult to the privileges of the House that I have ever seen in 28  
4 years here."

5 And you know that George was not typically subject to  
6 such fits of anger, if you knew George Brown. At one point in  
7 the debate, he physically moved Tim Valentine aside to grab the  
8 mic and tell Bob Traxler that -- well, what he said is not  
9 actually recorded verbatim in the Congressional Record.

10 He came back from that floor experience and decided  
11 that he couldn't be quite so gentlemanly if he was going to make  
12 any progress, because clearly if you are going to strike 10 new  
13 merits and find them pop up again, a kind of "whack-them-again"  
14 game, he is going to get nowhere. And so when he decided to  
15 become less gentlemanly, I think that is when I came in, which  
16 would sadden my mother to hear, but it is true.

17 I had been working for Mr. Boehlert as his science  
18 committee staffer to stop the Super Conducting Super Collider and  
19 we just beat Mr. Bevil (spelling?) on a vote to kill the project.

20 And so they figured, well, you know, he has some  
21 success with the appropriators. We will let Pearson and these  
22 other really smart people do something and then see if they can  
23 get anywhere.

24 We adopted a more aggressive strategy. We decided that  
25 earmarks were like mushrooms; that they flourished in the dark.  
26 And so our strategy would be to shine some light on the whole  
27 process; the lobbying, the concentration of awards to schools  
28 that just happened to be in members' districts, members who are  
29 cardinals in the appropriations committee. We would haul schools  
30 in. We would ask for documents, and we would sort of rip the lid  
31 off the process. Well, rip is far too strong a word, but we  
32 would lift it a little bit.

33 There were three legs to the approach. One leg was a  
34 kind of real-time analysis -- the kind of think that Kei is doing  
35 -- of what was contained in the bills as they moved through the  
36 House, the Senate, and the conference reports, so that George  
37 could go over to the floor and enter into the record a summary of  
38 what was contained in those bills.

1           The second leg was a pretty aggressive oversight  
2 campaign with document requests, with meetings with presidents,  
3 with meetings with lobbyists. The most surreal meeting I sat in  
4 on was a meeting between George Brown, Gerald Cassidy, and Marty  
5 Russo. And Marty Russo is a great guy. He is a machine-style  
6 politician from Chicago. He looks like he has just come from the  
7 Poland Day parade. And George is quoting Aristotle to him, and  
8 Gerald Cassidy is saying how he is just a simple boy who came to  
9 town to help feed the hungry. Wow. This is very strange.

10           And now he skis in Gstadd and has an island somewhere  
11 now. But this is what this town can do to you, I think.

12           In any case, the third leg was an aggressive press  
13 campaign. We took what we learned in our real-time analysis and  
14 we fed it to the press. We took what we learned from staff  
15 visits, and from document requests, and from meetings with  
16 university officials, and we fed it to the press. We were pretty  
17 shameless about it, and we had a great press secretary, Rick  
18 Borschelt, who did that. And George Brown got more good press  
19 for his pork fight than anything else he did as chairman.

20           It was purely serendipitous because he cared nothing  
21 about seeing his name in print or his picture on the news, but he  
22 got good press.

23           The other thing, though, that came from this  
24 -- and this was the point of the strategy -- was that we were  
25 attempting to embarrass schools who consistently indulged in  
26 earmarking. We were trying to figure out what is the value of  
27 this moral hazard, moral peril? What are you willing to give up  
28 if you really want this money? How much embarrassment can you  
29 stand? How shameless are you? And that is to put it very  
30 crassly, but that was the motivation.

31           We had some success. And let me tell you what our  
32 definition of earmarks was, because as we did this real-time  
33 analysis, much as Kei is doing, we had to make really quick  
34 decisions of what to count and what not to count. We didn't have  
35 the luxury of waiting and checking with agencies, and I  
36 appreciate the effort of the Chronicle. Frankly when I use  
37 numbers, I always use the Chronicle numbers because they are much  
38 better numbers than we had.

1           Our definition was that if it was an institution  
2 specific award for a project that had neither been requested by  
3 the administration, nor authorized by Congress, and whether it  
4 was contained in report language or in a bill, that was an  
5 earmark. And we added that little caveat on authorization by  
6 Congress because we recognized that under the Constitution,  
7 Congress does have the power of the purse, and also the right to  
8 organize itself by its own rules. And our rules said that if you  
9 authorize a project and then appropriate for it, it is a proper  
10 project.

11           And I think Sarah's definition, the OMB approach is  
12 attempting to get at some of the same considerations from a  
13 different angle. And I am pretty comfortable with the definition  
14 that has been laid out there. But that's what we worked with.  
15 George would be the last person to say that the House has no  
16 right at all to make specific awards. But he thought that a  
17 proper process should be followed if you were going to do it.  
18 And frankly, if we had ever been asked to authorize specific  
19 institutional awards, we would have done it as a general  
20 competitive program. We had already sort of carved that out as  
21 our reaction.

22           And the next steps were going to get bloodier. In the  
23 next Congress we were going to subpoena leading lobbyists'  
24 records, and we were going to target specific schools that were  
25 very frequent earmark recipients, and we had begun to build a  
26 coalition with other authorizing chairs who also saw the  
27 appropriators behavior as a threat to their position so that we  
28 could get some rules changed.

29           But we lost the House, and so we will never know  
30 whether that would have succeeded or not. We did determine that  
31 virtue is worth \$150 million. That's how much we could reduce  
32 the earmarks by over two years. It was \$760 million in FY '93.  
33 When we stopped our campaign, it was \$600 million a year in FY  
34 '95.

35           Whether the next steps would have lowered it still  
36 more, I don't know.

37           Lessons; appropriators take all this really personally.  
38 James Savage can tell you the work he did for CRS, which later

1 fed into his book, that is the only report, the report he did, is  
2 the only report that CRS has ever withdrawn. And it was done  
3 under pressure from appropriators.

4 George was told on many occasions by intermediaries  
5 with some of the cardinals who were particularly offended by his  
6 behavior that his chairmanship was at risk.

7 DOD officials received a document request from us for  
8 information on particular earmarks. They were told by the  
9 chairman of the House Defense appropriations subcommittee that  
10 they were not to comply with that document request. That  
11 struggle resulted in a meeting between that chairman and Chairman  
12 Brown, moderated by Speaker Foley, before we got our documents.

13 In fact, I sat in a suit waiting for a subpoena meeting  
14 to begin -- I was testify as to the need of the subpoena -- when  
15 George got the call from Tom Foley asking him not to do it.

16 I heard from Pentagon officials who had been working  
17 with this on some of the stinkier earmarks that they had been  
18 told by staff from the appropriate subcommittee, the appropriate  
19 appropriations subcommittee, that if anyone was found cooperating  
20 with us, they would find their next desk assignment in Alaska.  
21 And they stopped giving us information.

22 So they take it personally and they can play rough.  
23 They went after staff, in this case me. I had a very pleasant  
24 conversation with a lobbyist from the University of Alabama at  
25 Birmingham -- and I don't know if the gentleman is here today or  
26 not -- and for some reason I decided to invite one of my staff to  
27 sit in with me and listen to my end of the conversation. I don't  
28 know why. I had never done that before.

29 Within 24 hours, one of the members of our committee  
30 had heard from Tom Bevil that I was badmouthing this member, and  
31 I won't even tell you what was said. And George was able to  
32 reassure them that I hadn't, and I was able to say, "I have got a  
33 witness. This person's name didn't even come up in the  
34 conversation."

35 On another occasion Mark Hatfield sent a letter to  
36 George -- and they were old friends from the anti-war movement --  
37 saying, "Did you know you have a staffer who is so impertinent as  
38 to use the word subpoena with a very honorable president of the

1 Oregon Health Sciences University. I think if you knew that, you  
2 would terminate him immediately. So I am letting you know, he  
3 used the word." It was the strangest letter. But basically he  
4 wanted me gone.

5 And some of you in the room may remember that Mr.  
6 Murtha actually thought that the university community was too  
7 sympathetic to George's campaign. And in FY '95, the House  
8 version of the defense bill cut the science account, by \$900  
9 million. And the rush to try and figure out some way to mollify  
10 him in the academic community was stunning. I think he  
11 ultimately was given a Friend of Science award. Well, I wasn't  
12 going to mention the organization.

13 So this leads to my next observation. Your allies are  
14 going to be scarce if you decide to take this fight on because  
15 appropriators, some of them anyway, are very good at using the  
16 levers of power that are in their hands. And I respect them for  
17 that. I don't think I have any critique, actually, of some of  
18 the reactions. I am not sure I would not have done the same  
19 thing if I sat where they sit.

20 Joe Wyatt was a university chancellor who came forward,  
21 and was very articulate on why earmarking made no sense. He was  
22 a nice counter-weight to John Silber who argues forcefully that  
23 earmarking is a fair and just act.

24 But for every Joe Wyatt, there were probably 800  
25 university chancellors and presidents who wouldn't be caught dead  
26 saying a nice thing about George's effort, at least not in  
27 public.

28 There are plenty of people who will tell you in private  
29 that they are behind you 100 percent and they are literally  
30 behind you. They will not step up and say anything. And even  
31 now I am told that earmarks are supposed to be a problem, and I  
32 haven't worked on this in years. I pay no attention to this.  
33 None of my bosses care. I read the Chronicle. I am sort of  
34 vaguely aware of what's going on.

35 I understand, though, that just a year ago, AAU gave  
36 Mr. Murtha and Mr. Lewis Friends of Defense Science awards. And  
37 the president who gave the speech honoring them was from  
38 Pennsylvania State, which is one of the big earmark recipients,

1 over \$100 million over the last decade.

2           So you tell me you worried about this and you are  
3 serious about it, but I don't know. I am not sure that you  
4 really are.

5           If Mitch Daniels and OMB are serious about taking this  
6 on, I will tell you what you do. You issue guidance to agencies,  
7 preferably in an executive order saying, "From this day forth,  
8 you shall make no report that is contained in the report  
9 language. It's not law, it's not amendable, it's not debatable  
10 on the floor. When the president issues a Statement of  
11 Administration Policy that is not based on what is in report  
12 language, it is based on the language of the bill, the actions of  
13 the agency should reflect that." If you're really serious, do  
14 it.

15           Now the next day all OMB staff will be fired, and their  
16 desks sold off, but it would be a brave and bold move. Or as the  
17 British say, a courageous move. Which means, "Yeah, it's right,  
18 but it's political suicide."

19           A less dangerous approach would be to issue guidance to  
20 agencies, to get a little tougher in managing earmarks. If you  
21 get a research earmark fine. Make the recipient go through the  
22 hoops of coming up with a proposal that actually does something  
23 for the agency. And until they get it in that condition that you  
24 can live with it, don't fund it. If it takes 10 years, don't  
25 fund it.

26           Take the initial proposal and submit it to what ever  
27 merit or peer review process you have in-house, and inform the  
28 appropriator who supported it just how well it performed when  
29 measured against other competitive awards.

30           If it is a facility -- and time and again we hear that  
31 there is not enough facility money in the federal government and  
32 I am sure that overhead costs don't cover those needs. I think  
33 there is a real need there. We have an authorized program at  
34 NSF, or at least it used to be authorized, it was for \$250  
35 million.

36           Not anymore? Well, Sarah would know. In '93, it was  
37 \$250 million and the appropriators found \$37.5 million.

38           Meanwhile they were coming up with hundreds of millions

1 for earmarked facilities. You can request a facilities program  
2 and we will be happy to do it. But on facilities, come up with  
3 milestones, come up with clear cost-sharing agreements, and a  
4 contingency that says if you exceed 15 percent of the cost, we  
5 terminate you. And then hold them to it. Don't fill in their  
6 needs later. Just hold them to it.

7           There are other things I would do. Find your allies on  
8 the Hill and feed them the information. John McCain loves this  
9 stuff. I know there are political differences. I am told there  
10 are political tensions, perhaps, between some in the White House  
11 and Mr. McCain. You can compound your differences on this issue.

12       And he would love having inside information on the worst  
13 earmarks.

14           You can raise the cost to frequent earmark recipients.

15       Ask DCAA, the Defense Contract Audit Agency, to go out and  
16 validate the auditing systems of schools that rely on earmarks.  
17 It seems like harassment, but frankly they are getting tens of  
18 millions of dollars, you ought to know if they know how they are  
19 spending it. You can also ask them to go back and look at the  
20 books on big grants and contracts and scrub them. You can ask  
21 IGs to do that.

22           In fact the IG over at DOE just issued a report a  
23 couple of days before my committee moved to energy authorization  
24 on financial assistance for biomass ethanol projects, in which  
25 the IG chastises DOE for funding, and the way they managed  
26 earmarks to biomass. Have IGs do this.

27           Raise the cost to schools pursuing and accepting  
28 earmarks with the tools of management you have at hand. It is  
29 easy to do. It is not pain free, but it is easy to do. And  
30 where you find waste, fraud and abuse -- and you will -- seek  
31 recoupment. And a few of those stories in the Chronicle -- and  
32 the Chronicle would love to publish them -- would do wonders in  
33 terms of changing the environment.

34           And finally, ask program managers to keep track of  
35 examples of the worst abuses and feed those to the Hill or to the  
36 press as you see fit.

37           Schools, which schools and organizations -- and I am  
38 speaking here ostensibly to many representatives from AAU and

1 NASULGC -- I don't actually expect you do very much. And I guess  
2 at a minimum I guess I could suggest you could stop lauding the  
3 work of earmarkers, but I don't really even expect you do that.

4 I would say that there are some schools, prestigious  
5 schools, that don't take earmarks. I would build a core of  
6 presidents, chancellors, to begin to educate members on the Hill,  
7 authorizers and appropriators who are not cardinals, on the costs  
8 of earmarking.

9 One of the things that OMB could be doing -- and you  
10 can use GPRA (the Government Performance Results Act) metrics to  
11 do it -- is ask agencies, what did you have to give up to fund  
12 the earmarks? Theoretically, we can identify some of that stuff  
13 now.

14 And once you can begin to pinpoint places where you cut  
15 stuff, competitive programs that you had to give up or slow down,  
16 then you can begin to tie that to schools that tended to get  
17 money from those programs. And you can begin to show members  
18 that there is a cost, there is pain, every time you let the  
19 cardinals distribute so much money in earmarks. And that changes  
20 the political environment on the Hill.

21 And I would also use that same core to begin a pledge  
22 movement, which is useless, but you have got to at least appear  
23 like you are doing something. I wouldn't sign Mr. Daniel's  
24 pledge, but I would start my own effort.

25 Just say, "Look, we are not going to take earmarks, and  
26 either you are signing on it, or you are not." We certainly know  
27 where you stand depending on what you do.

28 Mr. Brown used to be asked what level of earmarking  
29 would he tolerate. What is the amount at which you would give up  
30 your campaign, because it was a dangerous and bloody thing to do.

31 And he would always play it coy. He would never say, "Well, you  
32 know, \$15 million would be okay."

33 He knew there was always going to be some earmarking.  
34 There are some you cannot shame into changing their behavior.  
35 There are some who will make opportunity a virtue.

36 But I guess I would turn the question around at this  
37 point in time and ask the question, what is the ceiling of  
38 earmarks people believe are harmless? Is it 5 percent, which

1 seems to be Sarah's number? Is it 10 percent, 25 percent, 50  
2 percent? How high are you willing to tolerate before you say,  
3 "No, we should stop." And then what tools do you think you ought  
4 to use to try and roll it back?

5           The moral inhibitions towards earmarking are clearly  
6 deteriorating year after year, if the Chronicle numbers are  
7 anything to judge by. And I don't see any check in the House,  
8 any check in the Senate, any check yet in place in the  
9 administration to stop the growth of those awards. All of the  
10 political pressure is towards continued growth.

11           So if someone can tell me what the top end is, and tell  
12 me how you would react when we blow through it, as we surely  
13 will, I would feel better about this whole thing.

14           Mr. Brown understood that dynamic, and that was part of  
15 the reason he was coy about what the bottom end is, because there  
16 is no real bottom end. Wherever you start, it is going to grow a  
17 little more. But also because he knew that the top end was  
18 unimaginable.

19           We predicted that in FY 2000, it would be \$1.6 billion.  
20 We ended up being not too far off the mark.

21           I am going to end with a quote from Plato, which, for  
22 anyone who knows George would know that was perfectly  
23 appropriate. It is from Socrates' defense when he was on trial  
24 for his life in Athens. And the quote is, "Where a man has once  
25 taken a stand, either because it seems best or in obedience to  
26 his orders, there I believe he is bound to remain and face the  
27 danger."

28           And I guess my question is, who here is ready to stand  
29 where George Brown stood? I am not sure anyone is, because the  
30 price is very high.

31           Thanks.

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