

THIS IS WHAT NANCY SHOULD HAVE DONE ON FISA

Josh marvels at the (big surprise) latest galling corruption from a member of the Alaska delegation: Don Young snuck an earmark into a 2005 bill after it had been passed by both houses of Congress, but before Bush signed it.

The 'Coconut Road' earmark wasn't in the bill passed by the House and Senate. I don't mean it wasn't in the original bills before they went to conference (where the separate bills from the House and the Senate are reconciled into a single bill). It wasn't in the final, reconciled piece of legislation passed by both houses of Congress *after* conference.Â

But it is there now.Â

So here's what happened. Apparently Young added the text after Congress had already passed it but before the president signed it. As Laura McGann explains in this post, this must have occurred during the process called "bill enrolling" when revisions of grammar and technical but not substantive changes are permitted to be made.

The president *did* sign the bill. But the portion apparently added by Young, if I understand anything about our system of government, was never passed by Congress. So it means nothing.

He goes on to ask how common it is.

The details aren't entirely clear from Laura McGann's reporting on this. But the scheme may, in fact, be legal (or at least have legal precedent) based on a ruling issued by John

Bates last year. At issue was a fiscal bill from the previous year, which passed in slightly different form in the House and the Senate. It included some politically controversial items (and passed only with typical Republican arm-twisting). So rather than pass the bill for real, BushCo just picked one and signed it into law.