

[Roll No. 72]

## YEAS—293

Alexander	Griffin (AR)	Miller, George
Altmire	Grijalva	Moore
Amodi	Grimm	Murphy (CT)
Andrews	Guinta	Murphy (PA)
Austria	Guthrie	Myrick
Baca	Hahn	Nadler
Baldwin	Hanabusa	Napolitano
Barletta	Hanna	Neal
Barrow	Harper	Nunes
Bartlett	Hartzler	Nunnelee
Bass (CA)	Hastings (WA)	Olver
Bass (NH)	Hayworth	Owens
Becerra	Heck	Palazzo
Benishek	Heinrich	Pallone
Berg	Hensarling	Pascrell
Berkley	Herger	Pastor (AZ)
Berman	Herrera Beutler	Paulsen
Biggert	Higgins	Pelosi
Billbray	Himes	Pence
Bilirakis	Hinchey	Perlmutter
Bishop (GA)	Hinojosa	Peters
Bishop (NY)	Hirono	Pitts
Blumenauer	Hochul	Platts
Bonamici	Holden	Polis
Boren	Holt	Price (GA)
Boswell	Honda	Price (NC)
Brady (PA)	Huelskamp	Quigley
Brady (TX)	Huizenga (MI)	Rahall
Braley (IA)	Hultgren	Reed
Buchanan	Hunter	Rehberg
Bucshon	Hurt	Reichert
Butterfield	Inslee	Renacci
Calvert	Israel	Ribble
Camp	Issa	Richardson
Canseco	Jackson (IL)	Richmond
Cantor	Jackson Lee	Rigell
Capito	(TX)	Rivera
Capps	Jenkins	Rogers (KY)
Carnahan	Johnson (OH)	Rogers (MI)
Carney	Johnson, Sam	Rooney
Carson (IN)	Jones	Ros-Lehtinen
Castor (FL)	Kaptur	Roskam
Chandler	Keating	Ross (AR)
Chu	Kelly	Rothman (NJ)
Cicilline	Kildee	Roybal-Allard
Clarke (MI)	King (NY)	Runyan
Clyburn	Kinzinger (IL)	Ruppersberger
Coble	Kissell	Rush
Coffman (CO)	Kline	Sánchez, Linda
Cohen	Kucinich	T.
Cole	Lance	Sanchez, Loretta
Conaway	Langevin	Scalise
Conyers	Larsen (WA)	Schakowsky
Costa	Larson (CT)	Schiff
Courtney	Latham	Schilling
Cravaack	LaTourrette	Schock
Crawford	Latta	Schwartz
Crenshaw	Levin	Schweikert
Critz	Lewis (CA)	Scott (SC)
Crowley	Lewis (GA)	Scott, David
Cuellar	Lipinski	Serrano
Culberson	LoBiondo	Sewell
Davis (CA)	Loeback	Sherman
Davis (KY)	Lofgren, Zoe	Shimkus
DeGette	Long	Shuster
DeLauro	Lowe	Sires
Denham	Lucas	Slaughter
Dent	Luetkemeyer	Smith (NE)
Deutch	Lujan	Smith (NJ)
Diaz-Balart	Lungren, Daniel	Smith (TX)
Dicks	E.	Southerland
Dingell	Mack	Speier
Doggett	Maloney	Stark
Dold	Manzullo	Stearns
Donnelly (IN)	Marchant	Stivers
Doyle	Marino	Stutzman
Dreier	Markey	Sutton
Duffy	Matheson	Thompson (MS)
Ellmers	Matsui	Thompson (PA)
Emerson	McCarthy (CA)	Tiberi
Engel	McCarthy (NY)	Tierney
Eshoo	McCaul	Tipton
Fattah	McCollum	Tonko
Fincher	McGovern	Towns
Fitzpatrick	McHenry	Tsongas
Fleischmann	McIntyre	Turner (NY)
Flores	McKeon	Turner (OH)
Frank (MA)	McMorris	Upton
Frelinghuysen	Rodgers	Velázquez
Garamendi	McNerney	Walden
Gerlach	Meehan	Walsh (IL)
Gibbs	Meeks	Walz (MN)
Gibson	Michaud	Wasserman
Gonzalez	Miller (MI)	Schultz
Green, Al	Miller (NC)	Waters
Green, Gene	Miller, Gary	Watt

Waxman  
Webster  
Westmoreland  
Wittman

Womack  
Yarmuth  
Yoder  
Young (AK)

Young (FL)  
Young (IN)

## NAYS—132

Ackerman  
Adams  
Aderholt  
Akin  
Amash  
Bachmann  
Bachus  
Barton (TX)  
Bishop (UT)  
Black  
Blackburn  
Bonner  
Boustany  
Brooks  
Broun (GA)  
Buerkle  
Burgess  
Burton (IN)  
Capuano  
Cardoza  
Carter  
Cassidy  
Chabot  
Chaffetz  
Clarke (NY)  
Clay  
Cleaver  
Connolly (VA)  
Cooper  
Costello  
Cummings  
Davis (IL)  
DeFazio  
DesJarlais  
Duncan (SC)  
Duncan (TN)  
Edwards  
Ellison  
Farenthold  
Farr  
Filner  
Flake  
Fleming  
Forbes

Fortenberry  
Fox  
Franks (AZ)  
Fudge  
Gallegly  
Gardner  
Garrett  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Griffith (VA)  
Gutierrez  
Hall  
Harris  
Hastings (FL)  
Hoyer  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Jordan  
Kind  
King (IA)  
Kingston  
Labrador  
Lamborn  
Landry  
Lankford  
Lee (CA)  
Lummis  
Lynch  
McClintock  
McCotter  
McDermott  
McKinley  
Mica  
Miller (FL)  
Moran  
Mulvaney  
Neugebauer  
Noem

Nugent  
Olson  
Pearce  
Peterson  
Petri  
Pingree (ME)  
Poe (TX)  
Pompeo  
Posey  
Quayle  
Reyes  
Roby  
Roe (TN)  
Rogers (AL)  
Rohrabacher  
Rokita  
Ross (FL)  
Royce  
Ryan (OH)  
Ryan (WI)  
Sarbanes  
Schmidt  
Schrader  
Scott (VA)  
Scott, Austin  
Sensenbrenner  
Sessions  
Simpson  
Smith (WA)  
Sullivan  
Terry  
Thompson (CA)  
Thornberry  
Van Hollen  
Visclosky  
Walberg  
Welch  
West  
Whitfield  
Wilson (FL)  
Wilson (SC)  
Wolf  
Woodall  
Woolsey

## NOT VOTING—8

Bono Mack  
Brown (FL)  
Campbell

Gossar  
Paul  
Payne

Rangel  
Shuler

## □ 1140

Messrs. LABRADOR, GRAVES of Missouri, Ms. WILSON of Florida, Messrs. GOODLATTE, OLSON, and HALL changed their vote from “yea” to “nay.”

Messrs. CROWLEY, ALTMIRE and Ms. WASSERMAN SCHULTZ changed their vote from “nay” to “yea.”

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. BROWN of Florida. Mr. Speaker, on rollcall No. 72, had I been present, I would have voted “yea.”

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1380

Mr. BARLETTA. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 1380.

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

There was no objection.

## □ 1140

## RELATING TO THE MATTER OF REPRESENTATIVE MAXINE WATERS

The SPEAKER pro tempore laid before the House the following communication from the chair of the Committee on Ethics:

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ETHICS,  
February 17, 2012.

Hon. JOHN BOEHNER,  
*Speaker of the House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to House Rule XI, clause 3(b)(5) and Committee Rule 9(e), and with the unanimous approval of the Committee on Ethics (Committee), I am writing to request the appointment of six substitute Members, necessitated by voluntary recusals, to serve for any Committee proceeding related to the Matter of Representative Maxine Waters (the matter) currently before this Committee.

## TIMING OF RECUSAL

Prior to the end of the 111th Congress, the bipartisan leadership of the Committee/each recognized the need to hire outside counsel to complete this matter. On July 20, 2011, the Committee announced that it voted unanimously to hire Attorney Billy Martin as outside counsel to review, advise and assist the Committee in completing the matter.

A key phase of Mr. Martin's assistance is to review allegations that this Committee violated due process rights or rules attaching to Representative Waters. In addition, Mr. Martin was asked to address whether recusal of any Members of the Committee should be considered and when would be the most appropriate time for his recommendations regarding recusal.

Mr. Martin has informed the Committee that he has reviewed tens of thousands of pages of documents, and has interviewed current and former Committee Members as well as current and former Committee staff. Each current and former Committee Member and current employee, who was requested for interview, fully cooperated with Mr. Martin.

However, Mr. Martin has advised that one necessary witness has refused to appear voluntarily and, when subpoenaed to testify, communicated to the Committee that the witness would refuse to answer questions on the basis of the witness's Fifth Amendment privilege.

The witness's refusal to answer questions prevents the completion of the due process review. While Mr. Martin had advised that the most appropriate time to present his recommendations regarding recusal would be upon the completion of his due process review, he has now counseled the Committee to advance that timing and consider the recusal recommendations prior to considering the witness's refusal to testify.

As the Committee must now determine its next steps in this matter, Mr. Martin has recommended that the leadership of the current Committee/and four Members who

served on the Committee in the 111th Congress consider recusal from further proceedings in this matter. After careful consideration, these six Committee Members have requested their voluntary recusal.

#### REASONS FOR RECUSAL

Mr. Speaker, the record should note that these recusal requests are not based on any indication of any wrongdoing or inappropriate partisanship by the Members. In fact, Mr. Martin has advised the Committee that, to date:

1. He has not discovered any evidence to indicate actual bias or partiality by any current Member or staff of the Committee;

2. He has not discovered any evidence that should cause a mandatory recusal of any current Member or staff of the Committee; and

3. There is no conflict which would require the disqualification or recusal of any current Member or staff of the Committee.

Instead, these recusal requests come from Members of the Committee who voluntarily cooperated with Mr. Martin's review, voluntarily appeared for interviews with Mr. Martin, and voluntarily produced a voluminous number of documents in their possession. The Members requested recusal because:

1. They believe that, out of an abundance of caution and to avoid even an appearance of unfairness, their voluntary recusal will eliminate the possibility of questions being raised as to the partiality or bias of Committee Members considering this matter;

2. They want to assure the public, the House, and Representative Waters that this investigation is continuing in a fair and unbiased manner; and

3. They want to move this matter forward in a manner that supports the greatest public confidence in the ultimate conclusions of the Committee.

Both the Committee and Mr. Martin recognize that recusal is an extremely rare occurrence and should not be sought without careful consideration by the Members. While the Members believe that they each can render an impartial and unbiased decision in any proceeding related to this matter, the Committee takes this extraordinary measure—in this unique circumstance—to further the best interests of the House and to permit this matter to be brought to a conclusion.

#### VOLUNTARY RECUSAL OF SIX MEMBERS

Therefore, Members of the Committee who have requested recusal are: Representative Jo Bonner, Representative Linda T. Sanchez, Representative Michael T. McCaul, Representative K. Michael Conaway, Representative Charles W. Dent, and Representative Gregg Harper. The Committee has unanimously accepted and approved these requests.

Furthermore, outside counsel has discovered no evidence indicating bias or partiality on the part of former Members or requiring the exclusion of any former Members of the Committee from serving as substitute Members. However, out of an abundance of caution and for the same reasons as the current Members volunteering their recusal, Mr. Martin has recommended that no Member who served on the Committee in the 111th Congress should serve as a substitute Member in this matter. In addition, for the same reasons, no current Committee staff who had previously worked on the matter will be involved in further proceedings in the matter.

The Committee has taken these steps, pursuant to House Rule XI, clause 3(b)(5) and Committee Rule 9(e). Accordingly, I request that six substitute Members of the Committee be appointed. These substitute Members will serve the Committee only for the purpose of bringing the Matter of Representative Waters to a fair and just conclusion. The service of the substitute Members will

end with the conclusion of the Matter of Representative Waters. I shall remain Chairman of the Committee, Representative Sanchez shall remain the Ranking Member, and all other recused Members will continue to serve on the Committee for all other purposes.

Sincerely,

JO BONNER,  
Chairman.

The SPEAKER pro tempore. Pursuant to clause 3(b)(5) of rule XI, the Chair announces the Speaker's designation of the following Members to act in any proceeding of the Committee on Ethics relating to the Matter of Representative MAXINE WATERS:

Mr. GOODLATTE  
Mr. LATOURETTE  
Mr. SIMPSON  
Mrs. CAPITO  
Mr. GRIFFIN of Arkansas  
Mr. SARBANES

#### DIRECTING THE CLERK TO PROVIDE AUDIO BACKUP FILE OF DEPOSITION OF WILLIAM R. CLEMENS

Mr. DREIER. Mr. Speaker, I send to the desk a resolution (H. Res. 558) directing the Clerk of the House of Representatives to provide a copy of the on-the-record portions of the audio backup file of the deposition of William R. Clemens that was conducted by the Committee on Oversight and Government Reform on February 5, 2008, to the prosecuting attorneys in the case of *United States of America v. Clemens*, No. 1:10-cr-00223-RBW (D.D.C.), and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the resolution.

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

There was no objection.

The text of the resolution is as follows:

#### H. RES. 558

Whereas on February 5, 2008, William R. Clemens voluntarily appeared in Washington, DC and was deposed by the Committee on Oversight and Government Reform of the House of Representatives in connection with that Committee's investigation into the use of steroids and other performance-enhancing substances in professional sports, and in Major League Baseball in particular;

Whereas the written transcript of Mr. Clemens' deposition, prepared by the Official Reporters of the House, with an Errata Sheet prepared by Mr. Clemens' counsel included as an Appendix, is the official House record of that proceeding;

Whereas this deposition and Mr. Clemens' public appearance before the Committee on Oversight and Government Reform on February 13, 2008, raised significant questions about Mr. Clemens' truthfulness, as a result of which the then Chair and ranking minority member jointly requested, on or about February 27, 2008, that the Department of Justice investigate whether Mr. Clemens committed perjury or knowingly made false statements in the course of the deposition or his February 13, 2008 public appearance;

Whereas the Department of Justice did in fact investigate whether Mr. Clemens com-

mitted perjury or knowingly made false statements in the course of his February 5, 2008 deposition and/or his February 13, 2008 public appearance before the Committee;

Whereas as a result of the Department of Justice's investigation, Mr. Clemens subsequently was indicted by a grand jury on one count of obstruction of Congress in violation of sections 1505 and 1515(b) of title 18, United States Code, 3 counts of making false statements in violation of sections 1001(a)(2) and (c)(2) of title 18, United States Code, and 2 counts of perjury in violation of section 1621(1) of title 18, United States Code;

Whereas the Department of Justice has requested via letter that the House voluntarily provide to it a copy of the on-the-record portions of an audio backup file of Mr. Clemens' deposition;

Whereas by the privileges and rights of the House of Representatives, an audio backup file of Mr. Clemens' deposition may not be taken from the possession or control of the Clerk of the House of Representatives by mandate of process of the article III courts of the United States, and may not be provided pursuant to requests by the court or the parties to *United States of America v. Clemens* except at the direction of the House; and

Whereas it is the judgment of the House of Representatives that, in the particular circumstances of this case, providing a copy of the on-the-record portions of an audio backup file of Mr. Clemens' deposition to the prosecuting attorneys in the case of *United States v. Clemens* would promote the ends of justice in a manner consistent with the privileges and rights of the House: Now, therefore, be it

*Resolved*, That the House of Representatives directs the Clerk of the House to provide for use at trial a copy of the on-the-record portions of the audio backup file of the deposition of William R. Clemens that was conducted by the Committee on Oversight and Government Reform on February 5, 2008, to the prosecuting attorneys in the case of *United States of America v. Clemens*, No. 1:10-cr-00223-RBW (D.D.C.).

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1150

#### ADJOURNMENT TO TUESDAY, FEBRUARY 21, 2012

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday, February 21, 2012; when the House adjourns on that day, it adjourn to meet at 10 a.m. on Friday, February 24, 2012; and, when the House adjourns on that day, it adjourn to meet at 2 p.m. on Monday, February 27, 2012.

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

There was no objection.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3086

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3086.

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