

PROVIDING FOR CONSIDERATION OF H.R. 6166, MILITARY
COMMISSIONS ACT OF 2006

SEPTEMBER 26, 2006.—Referrd to the House and ordered to be printed

Mr. COLE of Oklahoma, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1042]

The Committee on Rules, having had under consideration House Resolution 1042, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of H.R. 6166, the Military Commissions Act of 2006, under a closed rule. The rule provides two hours of debate in the House, with 80 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill. The rule provides that the amendment printed in this report shall be considered as adopted. Finally, the rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The Committee is not aware of any points of order against consideration of the bill. The waiver of all points of order against consideration of the bill is prophylactic in nature.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 245

Date: September 26, 2006.

Measure: H.R. 6166, Military Commissions Act of 2006.

Motion by: Mr. McGovern.

Summary of motion: To report an open rule.

Results: Defeated 4 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 246

Date: September 26, 2006.

Measure: H.R. 6166, Military Commissions Act of 2006.

Motion by: Mrs. Slaughter.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. DeFazio, which sunsets the authorization for military commissions under the Act on December 31, 2011. Would allow cases in which charges have been filed before that date to proceed to their conclusion.

Results: Defeated 4 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 247

Date: September 26, 2006.

Measure: H.R. 6166, Military Commissions Act of 2006.

Motion by: Mrs. Slaughter.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Skelton, which provides for expedited review of a civil action that challenges any provision of proposed Military Commissions Act or amendment to this Act on the grounds that the provision or amendment violates the Constitution or laws of the United States. Pursuant to Section 2284 of Title 28 of the U.S. Code, a 3-judge panel in the DC District Court would hear the action and the U.S. Supreme Court would review a judgment or order of the panel.

Results: Defeated 4 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 248

Date: September 26, 2006.

Measure: H.R. 6166, Military Commissions Act of 2006.

Motion by: Mr. McGovern.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Markey, which generally prohibits the transfer of persons under the custody of the United States to any country known to practice torture or other forms of cruel or degrading treatment. Bars such persons from being transferred on the basis of written or verbal assurances from

such countries to the United States that the person or persons being transferred will not be subjected to torture or other forms of cruel or degrading treatment.

Results: Defeated 4 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 249

Date: September 26, 2006.

Measure: H.R. 6166, Military Commissions Act of 2006.

Motion by: Mr. Hastings of Florida.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mrs. Harman, which requires adherence to the U.S. Army Field Manual (AFM) in treatment and interrogation of detainees. Allows the President to use alternative procedures and techniques that depart from the AFM only after (1) making a determination such procedures and techniques are necessary and lawful, and (2) submitting a detailed written notification to the House and Senate Intelligence Committees. Also requires the President to submit the notification to Congress prior to using the alternative techniques, but allows the President, in an emergency, to submit notification up to 24 hours after initial use. Requires semi-annual report on the techniques used, and the value of intelligence derived therefrom.

Results: Defeated 4 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 250

Date: September 26, 2006.

Measure: H.R. 6166, Military Commissions Act of 2006.

Motion by: Mrs. Matsui.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Meehan, which strikes section 3, subsection 950j, paragraph b, and also section 7. Both provisions regulate the right of the judicial branch to review habeas petitions for detainees and people with yet to be determined status.

Results: Defeated 4 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

SUMMARY OF AMENDMENT CONSIDERED AS ADOPTED

Hunter (CA)—No. 17: More accurately reflects the standard contained in the Detainee Treatment Act of 2005 (DTA) by specifically referencing section 1003 (which defines cruel, inhuman, or degrading treatment). Incorporates the subsection (d) of section 1003 of the DTA which references the Fifth, Eighth, and Fourteenth amendments to the Constitution. Makes it clear that the defendant

is permitted to examine and respond to evidence admitted against him. Inserts the term “detailed military counsel” and strikes the term “military counsel detailed,” which more accurately reflects the common usage of the term. Corrects a typographical error in the cite to Article 36. Makes it clear in the actual War Crimes Act that the definitions contained in that act are only defining “grave breaches” under Common article 3 and not the full scope of the United States obligations under that article, i.e. non-grave breaches.

TEXT OF AMENDMENT CONSIDERED AS ADOPTED

Page 18, line 21, strike “violate” and all that follows through the end of line 24 and insert “amount to cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005.”.

Page 20, line 13, insert “examine and” after “and to”.

Page 27, line 19, strike “military counsel detailed” and insert “detailed military counsel”.

Page 81, line 3, strike “36(b)” and insert “36”.

Page 91, line 22, strike the closing quotation marks and second period.

Page 91, after line 22 insert the following new paragraph:

“(5) DEFINITION OF GRAVE BREACHES.—The definitions in this subsection are intended only to define the grave breaches of common Article 3 and not the full scope of United States obligations under that Article.”.