

recognized human rights, refugees, and foreign relations."

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4036, the bill just passed.

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

There was no objection.

#### TELEMARKETING FRAUD PUNISHMENT AND PREVENTION ACT OF 1996

Mr. MCCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1499) to improve the criminal law relating to fraud against consumers, as amended.

The Clerk read as follows:

H.R. 1499

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing Fraud Punishment and Prevention Act of 1996".

#### SEC. 2. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following:

"(6) The Court, in sentencing a defendant for an offense under section 2326, shall order that the defendant forfeit to the United States any real or personal property—

"(A) used or intended to be used to commit or to promote the commission of such offense, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense; and

"(B) constituting, derived from, or traceable to the gross receipts that the defendant obtained directly or indirectly as a result of the offense."

#### SEC. 3. SENTENCING GUIDELINES CHANGES.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the sentencing guidelines to provide a sentencing enhancement for any offense listed in section 2326 of title 18, United States Code—

(1) by at least 4 levels if the circumstances authorizing an additional term of imprisonment under section 2326(1) are present; and

(2) by at least 8 levels if the circumstances authorizing an additional term of imprisonment under section 2326(2) are present.

#### SEC. 4. INCREASED PUNISHMENT FOR USE OF FOREIGN LOCATION TO EVADE PROSECUTION.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the sentencing guidelines to increase the offense level for any fraud offense by at least 2 levels if the defendant conducted activities to further the fraud from a foreign country.

#### SEC. 5. CLARIFICATION OF ENHANCEMENT OF PENALTIES.

Section 2327(a) of title 18, United States Code, is amended by striking "under this

chapter" and inserting "for which an enhanced penalty is provided under section 2326 of this title".

#### SEC. 6. ADDITION OF CONSPIRACY OFFENSES TO SECTION 2326 ENHANCEMENT.

Section 2326 of title 18, United States Code, is amended by inserting ", or a conspiracy to commit such an offense," after "or 1344".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentlewoman from California [Ms. LOFGREN] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

#### GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, older Americans have rapidly become the preferred targets of fraudulent telemarketers. Some of them are lonely, and appreciate having someone to talk to during the day. Many of them are just trusting, and they simply cannot tell a legitimate telephone sales pitch from an illegitimate one.

These elderly victims are tricked into giving money to phony charities, applying for bogus credit cards or paying for unnecessary repairs for their homes. Worst of all, many of them are further scammed when they receive phone calls from people claiming to be private investigators or attorneys who want to help them get their lost money back. Organizers of these so-called "recovery-room scams" convince the elderly person that almost all of the already spent money can be recovered—this is, provided that a few thousands dollars are mailed up front first. The cost to consumers for these and other reprehensible telemarketing schemes is currently estimated to be about \$40 billion a year.

This past April, the Subcommittee on Crime, which I Chair, held a hearing on telemarketing fraud and victimization of the elderly. Subcommittee members heard from an elderly woman who was swindled by crooked telemarketers, and lost nearly \$75,000—practically her life's savings. Mr. Speaker, this woman was asked at the hearing why she let the phone calls go on for so long. Why didn't she tell her family that she was being targeted? This poor woman responded that she was too ashamed and embarrassed to tell her children. She had lost all the money that she and her late husband had so carefully saved, and she was too humiliated to admit it to anyone. Tragically, that woman's story is not an uncommon one.

Embarrassment is a weapon for these telefrauds, and they freely exploit it. Some even threaten their older victims

that control over their credit cards and bank accounts will be taken away from them by their children if they tell anyone how they have lost their money. Humiliation, and the fear of losing of independence, keeps these elderly victims as easy prey for scam artists.

In response to this heartless activity, Mr. HEINEMAN introduced H.R. 1499. Unfortunately he cannot be here with us today because he is at home in this district recovering from surgery, and I know we all wish him a speedy recovery.

Chief HEINEMAN's bill strikes back at those who would take advantage of trusting or vulnerable members of our society. The bill amends §982(a) of title 18, United States Code, by requiring a defendant convicted of fraud involving a telemarketing scam to forfeit property used in the commission of the offense or any proceeds received as a result of the offense. The bill also directs the U.S. Sentencing Commission to amend the sentencing guidelines to increase sentences for telemarketing fraud offenses as defined in section 2326 of title 18, United States Code. The increase shall be at least 4 levels for general telemarketing fraud, and at least 8 levels if the defendant is found to have targeted persons over the age of 55.

Under current law, telemarketers are supposed to be getting up to 10 years in prison for seeking out and victimizing persons over the age of 55. But the sentencing guidelines have never been amended regarding telemarketing fraud, even though Congress encouraged the Commission to do so in 1994. Crooked telemarketers are spending an average of only 1 year in jail. It is undeniable that criminal telemarketers are getting off easy, and this bill will ensure that their sentences are more than doubled.

The bill also adds conspiracy language to section 2336. This addition allows Federal prosecutors to seek out the masterminds behind the boiler rooms—the places where the telemarketers conduct their illegal activities. This conspiracy language will aid prosecutors by allowing them to go after the organizers of these fraudulent activities. This provision was added at the behest of the Department of Justice.

Finally, this bill makes a small, technical clarification to section 2337(a) of title 18. Currently, section 2337 directs the court to order restitution for any offense under this chapter. The bill makes it clear that section 2336 of the telemarketing fraud chapter of title 18 is merely a penalty enhancement section, and not a new Federal offense. The Department of Justice was concerned about this ambiguity, so this language makes clear that there is no new offense under chapter 113A.

Mr. Speaker, I would like to commend my good friend from North Carolina, Mr. HEINEMAN, for his commitment to this issue, and his efforts to combat this serious problem. He introduced H.R. 1499 more than a year ago,