

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### PERSONAL EXPLANATION

Mrs. NORTHUP. Mr. Speaker, on Roll Call Vote no. 25, I was unavoidably detained. Had I been present, I would have voted aye.

Mr. MCCOLLUM. Mr. Speaker, pursuant to House Resolution 368, I call up from the Speaker's table the Senate bill (S. 493) to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of S. 493 is as follows:

#### S. 493

*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 "Wireless Telephone Protection Act".

#### SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COUNTERFEIT ACCESS DEVICES.

(a) UNLAWFUL ACTS.—Section 1029(a) of title 18, United States Code, is amended—

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by striking paragraph (8) and inserting the following:

"(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

"(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software, knowing it has been configured for altering or modifying a telecommunications instrument so that such instrument may be used to obtain unauthorized access to telecommunications services; or".

(b) PENALTIES.—

(1) GENERALLY.—Section 1029(c) of title 18, United States Code, is amended to read as follows:

"(c) PENALTIES.—(1) IN GENERAL.—The punishment for an offense under subsection (a) is—

"(A) in the case of an offense that does not occur after a conviction for another offense under this section, which conviction has become final—

"(i) if the offense is under paragraph (3), (6), (7), or (10) of subsection (a), a fine under this title or imprisonment for not more than 10 years, or both; and

"(ii) if the offense is under paragraph (1), (2), (4), (5), (8), or (9), of subsection (a), a fine under this title or imprisonment for not more than 15 years, or both;

"(B) in the case of an offense that occurs after a conviction for another offense under this section, which conviction has become final, a fine under this title or imprisonment for not more than 20 years, or both; and

"(C) in any case, in addition to any other punishment imposed or any other forfeiture required by law, forfeiture to the United States of any personal property used or intended to be used to commit, facilitate, or promote the commission of the offense.

"(2) APPLICABLE PROCEDURE.—The criminal forfeiture of personal property subject to forfeiture under paragraph (1)(C), any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (c) and

(e) through (p) of section 413 of the Controlled Substances Act (21 U.S.C. 853)."

(2) ATTEMPTS.—Section 1029(b)(1) of title 18, United States Code, is amended by striking "punished as provided in subsection (c) of this section" and inserting "subject to the same penalties as those prescribed for the offense attempted".

(c) DEFINITION OF SCANNING RECEIVER.—Section 1029(e) of title 18, United States Code, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7)—

(A) by striking "The" and inserting "the"; and

(B) by striking the period at the end and inserting a semicolon; and

(3) in paragraph (8), by striking the period at the end and inserting "or to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument; and".

(d) APPLICABILITY OF NEW SECTION 1029(a)(9).—

(1) IN GENERAL.—Section 1029 of title 18, United States Code, is amended by adding at the end the following:

"(g) It is not a violation of subsection (a)(9) for an officer, employee, or agent of, or a person under contract with, a facilities-based carrier, for the purpose of protecting the property or legal rights of that carrier, to use, produce, have custody or control of, or possess hardware or software configured as described in that subsection (a)(9): *Provided*, That if such hardware or software is used to obtain access to telecommunications service provided by another facilities-based carrier, such access is authorized."

(2) DEFINITION OF FACILITIES-BASED CARRIER.—Section 1029(e) of title 18, United States Code, as amended by subsection (c) of this section, is amended by adding at the end the following:

"(9) the term 'facilities-based carrier' means an entity that owns communications transmission facilities, is responsible for the operation and maintenance of those facilities, and holds an operating license issued by the Federal Communications Commission under the authority of title III of the Communications Act of 1934."

(e) AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR WIRELESS TELEPHONE CLONING.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, if appropriate, to provide an appropriate penalty for offenses involving the cloning of wireless telephones (including offenses involving an attempt or conspiracy to clone a wireless telephone).

(2) FACTORS FOR CONSIDERATION.—In carrying out this subsection, the Commission shall consider, with respect to the offenses described in paragraph (1)—

(A) the range of conduct covered by the offenses;

(B) the existing sentences for the offenses;

(C) the extent to which the value of the loss caused by the offenses (as defined in the Federal sentencing guidelines) is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(D) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offenses;

(E) the extent to which the Federal sentencing guideline sentences for the offenses

have been constrained by statutory maximum penalties;

(F) the extent to which Federal sentencing guidelines for the offenses adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code;

(G) the relationship of Federal sentencing guidelines for the offenses to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(H) any other factors that the Commission considers to be appropriate.

MOTION OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Speaker, pursuant to the rule, I offer a motion.

The Clerk read as follows:

Mr. MCCOLLUM of Florida moves to strike out all after the enacting clause of the Senate bill, S. 493, and insert in lieu thereof the text of the bill, H.R. 2460, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend title 18, United States Code, with respect to scanning receivers and similar devices."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2460) was laid on the table.

#### 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 legislation just considered.

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

There was no objection.

#### CORRECTION OF THE CONGRESSIONAL RECORD OF WEDNESDAY, FEBRUARY 25, 1998

#### ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 369) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 369

Resolved, That the following named Members be, and that they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Small Business: Ms. VELÁZQUEZ to rank directly above Mr. SISKY.

Committee on Banking and Financial Services: That the powers and duties conferred upon the ranking minority members by House rules shall be exercised by the next senior member until otherwise ordered by the House.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### ELECTION OF MEMBER TO THE COMMITTEE ON SMALL BUSINESS

Mr. BONIOR. Mr. Speaker, I offer a resolution (H. Res. 370), and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

##### H. RES. 370

Resolved, That the following named Members be, and that they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Small Business: Ms. VELAZQUEZ to rank directly above Mr. LAFALCE.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### ELECTION OF MEMBER TO THE COMMITTEE ON THE JUDICIARY

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 371), and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the following Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on the Judiciary: Mr. GRAHAM of South Carolina.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT FRIDAY, FEBRUARY 27, 1998 TO FILE REPORT ON H.R. 3130, CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

Mr. SHAW. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight tomorrow, Friday, February 27, 1998 to file a report on H.R. 3130.

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

There was no objection.

#### LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

##### TRIBUTE TO MARTI THOMAS

Mr. BONIOR. Mr. Speaker, I will inquire shortly of the distinguished gen-

tleman from Texas (Mr. ARMEY) regarding the schedule.

Before I yield to my friend, the gentleman from Texas, I would just like to take this opportunity to let the Members know, those who are not already in knowledge, of the leaving of one of our real fabulous, super persons who have worked this floor for 9 years, Marti Thomas of the staff of the gentleman from Missouri (Mr. GEPHARDT), who has been a real inspiration to a lot of people around here.

She is leaving. She is not going very far, just down to the Treasury Department. We will see her from time to time. I just want her to know that on behalf of all the Members of the House, and I think the gentleman from Texas (Mr. ARMEY) might elaborate on this, who also was honored here last night at a party, we want her to know how much we will miss her, how much we appreciate all the hard work she gave to this institution, and we look forward to seeing her from time to time as she comes back with her new responsibilities.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, if I may just speak for a moment, perhaps I may make a comment about Marti and how much we, too, have enjoyed working with her. She has always been pleasant, even when she was being stubborn. But we have always enjoyed it, and we, too, will miss her.

I would think we may want to hear from the gentleman from Missouri (Mr. GEPHARDT) on this subject before we talk about the schedule.

If I might just say, Marti, from my point of view, I will miss you. I wish you Godspeed wherever you go, and I believe you owe me a lot, so I will be getting in touch with you later on that.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the distinguished gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman from Texas for his comments. I have known a lot of staff people here, and we rarely thank and recognize our staff for the great work they do. One of the reasons this place works is that we have wonderful human beings who come here to work for us, and work behind the scenes without any celebration or without any sufficient recognition, to make this place work.

I know of no one that we have ever had on staff who has such unanimous acclaim as Marti Thomas. Everybody likes her, everybody loves her, everybody respects her, and everybody wishes her well in her new assignment with the Treasury Department.

Finally, I believe that she has such acclaim because she basically treats other people the way she would like to be treated.

That is her credo, and that is the way she conducts herself. So, Marti, we are

going to miss you very, very much, and we know you are going to be a great success. And the only solace I have in this as her direct employer is that she has promised to come back here soon.

Mr. BONIOR. I yield to my friend, the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased to announce that we have finished legislative business for the week. The House will reconvene for pro forma session on Monday, March 2 at 2:00 p.m. Of course there will be no legislative business and no votes on that date.

On Tuesday, March 3, the House will meet at 12:30 p.m. for morning hour and 2:00 p.m. for legislative business.

We will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices. Members should note that we do not expect any recorded votes on suspensions before 5:00 p.m. on Tuesday, February 3.

On Wednesday and Thursday, the House will meet at 10:00 a.m. to consider the following bills, all of which will be subject to rules: H.R. 856, the United States-Puerto Rico Political Status Act; H.R. 3130, the Child Support Performance and Incentive Act for 1998; and H.R. 2369, the Wireless Privacy Enhancement Act of 1997.

Mr. Speaker, we hope to conclude legislative business for the week by 6:00 p.m. on Thursday, March 5. There will be no votes on Friday, March 6.

I want to thank the gentleman for yielding me this time.

Mr. BONIOR. I thank my colleague from Texas for his remarks and the information that he has given us. Can I ask the gentleman from Texas when we can expect the Puerto Rico bill to be coming to the floor?

Mr. ARMEY. I thank the gentleman for asking. We anticipate having that bill on the floor on Wednesday.

Mr. BONIOR. Wednesday. I thank my friend.

And, finally, the concern we had here is when we will be able to see the list of bills on suspension.

Mr. ARMEY. I thank the gentleman for that inquiry. We have had some late requests. We are trying to get the list together, and we should have them in your offices later today.

Mr. BONIOR. I thank my colleague and wish him a good weekend.

#### ADJOURNMENT TO MONDAY, MARCH 2, 1998

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

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

There was no objection.