

that we have a Medicaid bill—I do not care how it is wrapped up. If it is wrapped up in reconciliation, as you know, we cannot filibuster that under the rules. But if they jettison the disabled, I hope and trust that President Clinton will veto that the second it lands on his desk and say to this country that we are not going to make the most vulnerable in our society, those who have disabilities, pay for the \$245 billion tax cut for the most privileged in our society.

I yield the floor.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times]

GINGRICH PLACES LOW PRIORITY ON MEDICARE CROOKS

DEFENDS CUTTING ANTI-FRAUD DEFENSES

(By Nancy E. Roman)

House Speaker Newt Gingrich yesterday defended GOP moves to reduce penalties and enforcement efforts against Medicare fraud by saying it's more important to lock up murderers and rapists than dishonest doctors.

The Georgia Republican cited "murderers out after three years" and "rapists who don't even get tried" in response to a question at a seniors gathering to promote the GOP Medicare overhaul. "For the moment, I'd rather lock up the murderers, the rapists and the drug dealers," he said. "Once we start getting some vacant jail space, I'd be glad to look at it."

The GOP bill in the House would weaken laws against kickbacks and self-referrals in the Medicare program. The Congressional Budget Office has estimated the seven-year cost of relaxing those laws to be \$1.1 billion.

Gerald M. Stern, special counsel for health care fraud at the Justice Department, said one provision would overturn a common interpretation of Medicare anti-kickback case law and increase the burden of proof in criminal prosecutions.

Rep. Pete Stark, the California Democrat who drafted the anti-kickback and self-referral statutes, called Mr. Gingrich's comments "arrogant and gratuitous."

"To put O.J. Simpson, the Menendez brothers and Claus von Bulow in the same category as physicians who get kickbacks and who steal from the government is not the issue," Mr. Stark said. "Republicans are in the position of having weakened protections that we put in [Medicare law] at the urging of the Reagan and Bush administration."

Mr. Stark said Republicans weakened the provisions to shore up support from the American Medical Association, a wealthy lobby representing 300,000 doctors.

Rep. Tom Coburn, Oklahoma Republican and obstetrician who helped draft the new anti-kickback provisions, said the changes simply would put medical professionals on equal footing with other professionals subject to such laws.

Courts have interpreted the Medicare anti-kickback law to prohibit a payment if "one purpose" of it is to induce referrals of services paid for by Medicare.

The GOP bill would change that to "the significant purpose," which Mr. Stern and others said is much harder to prove in court. Under this standard, he said, the government would not have won two big cases this year that led to fines of hundreds of millions of dollars.

Kern Smith, an assistant commerce secretary under Presidents Johnson and Kennedy, posed the question about lighter fraud rules to Mr. Gingrich at a forum sponsored by the Coalition to Save Medicare, a group backing the GOP reforms.

The 73-year-old Democrat said he's gone "around the country selling your plan" but found seniors vexed by the new fraud rules. He said they were hard to defend.

"I've been around Washington for a long time, and you are giving the Democrats something to clobber you with," Mr. Smith said.

Mr. Gingrich said Republicans are willing to negotiate on fraud and abuse provisions, leaving open the possibility of the bill being changed on the House floor.

"We can be talked out of it if there is enough public pressure," he said.

A senior House aide yesterday said the legal standard in the anti-kickback law was changed to make it consistent with other such laws "without a lot of thought, and it is something that could be changed."

Republicans spent much of the summer discussing Medicare changes with seniors, and many found that fraud topped constituents' complaints. Many seniors erroneously thought eliminating fraud and abuse could solve Medicare's money woes.

Republicans have created other ways to reduce fraud, such as: allowing seniors to keep a portion of money recovered from fraud cases they report; establishing a voluntary disclosure program for corporate managers who uncover wrongdoing in their companies; and increasing the maximum civil penalties for health care fraud.

The CBO estimates that these changes would save \$2 billion over seven years.

Democrats support some of these changes but argue that relaxing kickback and self-referral laws would undermine the success achieved in reducing Medicare fraud.

After Democrats upbraided Republicans for going soft on fraud, the House Ways and Means Committee added \$100 million to the budget of the Inspector General's Office to prosecute fraud and abuse. The CBO estimates that the additional money would produce \$700 million more in Medicare fraud fines.

Rep. Sam M. Gibbons of Florida, ranking Democrat on the Ways and Means Committee, said it will be difficult to block the softer fraud rules without public outcry.

"The Republicans are all marching in lock step," Mr. Gibbons said. "In my lifetime I've never seen anybody march in lock step like this."

Mr. HARKIN. Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

REPUBLICAN GOVERNORS ASSOCIATION,
Washington, DC, October 6, 1995.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Capitol Building,
Washington, DC.

DEAR SENATOR DOLE: Collectively we desire to express our gratitude for the working relationship with you and Republican governors. We share your commitment to balancing the budget and returning responsibilities to the states. Your leadership on these matters is acknowledged and admired. We are writing to you to convey our deep concern with provisions that were included in the Medicaid portion of the reconciliation bill approved by the Senate Finance Committee on September 30.

Since January of this year, Republican governors have worked in good faith with

Republican leadership on concepts to bring meaningful, urgently needed reforms to the Medicaid program while achieving the Congressional budget targets. As governors representing the unique needs of our individual states, we have not been in total agreement on all aspects of the program. However, throughout this lengthy partnership, we have consistently argued that the fiscal and functional integrity of the program demand freedom from individual and provider entitlements and other mandates on states. The Senate Finance Committee bill ignores this principle.

The bill includes a number of overly prescriptive and onerous provisions that will militate against the states ability to implement reforms. Among these are individual entitlements, which create both a huge potential cost shift to states and unlimited potential for litigation; a set-aside for one class of providers; and mandated federal requirements on spousal asset protection.

Further, we are concerned that the bill reported out by the Senate Finance Committee will be amended on the Senate floor with additional mandates on states. While we support efforts to reduce the deficit and balance the federal budget we will not sit idly by while the costs associated with this program are shifted to the states.

We have kept our commitments to Republican leadership throughout a difficult process of negotiating reforms that states can implement, while protecting the interests of all of our citizens. We are fully prepared to provide health care for our most vulnerable populations, without prescriptions and mandates from the federal government. We are pleased with the flexibility provisions incorporated in the House measure and intend to work for inclusion of such provisions in the final bill.

We are hopeful that we can work with the Senate leadership on this most important issue. We urge you to remove mandates and other prescriptive provisions from the Senate bill.

It is our sincere hope that we can resolve these issues quickly. As those charged with the actual administration of these programs, we cannot support a combination of individual entitlements and mandate provisions that will subject us to unlimited litigation, and still meet the budget targets.

Sincerely,

Michael O. Leavitt, Bill Weld, Fife Symington, John G. Roland, Christine T. Whitman, John Engler, Marc Racicot, Gary E. Johnson, George V. Voinovich, Frank Keating, William J. Janklow, George Allen, Jim Edgar, Fob James, Jr., Pete Wilson, Phil Batt, Terry E. Branstad, Kirk Fordice, Stephen Merrill, Edward T. Schafer, Tommy G. Thompson, David M. Beasley, George Bush, Jim Geringer.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, every day since February 1992, I have reported to the Senate the exact total of the Federal debt, down to the penny, as

of the close of business of the previous day, or on Mondays it would be, of course, for the previous Friday.

As of the close of business yesterday, October 12, the Federal debt stood at \$4,972,685,593,071.75. And this figure is approximately \$27 billion away from \$5 trillion which the Federal Government will surpass later this year or early next year. On a per capita basis, every man, woman and child in America owes \$18,876.40, as is his or her share of that debt.

No wonder babies come into this world crying.

THE NOMINATION OF JIM SASSER TO SERVE AS UNITED STATES AMBASSADOR TO MAINLAND CHINA

Mr. HELMS. Mr. President, on another subject, with varying frequency all Senators occasionally find themselves in the predicament of having to be in two places or more at one time. Generally, the problem can be resolved by dividing time between conflicting responsibilities. This happened to me yesterday, when the distinguished former Senator from Tennessee, Jim Sasser, appeared before the Foreign Relations Committee, having been scheduled a week or so earlier in connection with his nomination by President Clinton to serve as United States Ambassador to mainland China, which calls itself the People's Republic of China. If ever there was a misnomer, that is it.

In any case, the hearing had been set several days ago for 10 a.m. yesterday morning.

On Wednesday evening, the distinguished majority leader and the distinguished minority leader of the Senate scheduled the Cuba Libertad bill to be the pending business of the Senate at 11 a.m. yesterday. This kind of scheduling happens to all Senators with a high degree of frequency, as I say. And all of us understand that it is endemic to Senate procedure.

Yesterday morning I knew it would be a tight fit to handle both responsibilities, but I had many times done it before. But yesterday it did not turn out quite that way.

In any event, in my opening statement as chairman of the Senate Foreign Relations Committee I wanted to say some positive things about former Senator Sasser's nomination to be Ambassador to Communist China. So, midway through my brief remarks I commented, and I quote myself:

When Jim was nominated, I was especially pleased to learn that the President had nominated a gentleman who hasn't always been that easy on the Communists in Beijing.

When Mr. Sasser was in the Senate, in fact, he and I often agreed on our respective approaches to China.

Between 1988 and 1994 Senator Sasser voted six times to condition the renewal of most-favored-nation trading status for China until the Chinese made significant progress on human

rights. He helped override President Bush's veto of the legislation prohibiting the President from extending MFN until the Chinese cleaned up their act after the massacre of 1989.

I commend Senator Sasser for standing firm.

In his capacity as Senator from Tennessee, Jim Sasser voted to impose some of the very sanctions against China that many U.S. businessmen now actively seek to relax—for example, the suspension of the operations in China by the Overseas Private Investment Corporation. Senator Sasser supported restrictions on the transfer of nuclear equipment, materials, or technology to China unless specific conditions were met. These were hard, tough issues and Senator Sasser chose the right way every time. I hope he will continue to stick by his principles in making the decisions he will have to make as Ambassador Sasser.

Now that he has been nominated to represent the President and the executive branch, I trust he will understand, encourage, and support the congressional role in the formulation and adaptation of the United States foreign policy toward China, Taiwan, and Tibet.

That was the statement I made yesterday at the hearing.

Now, then, I am getting to the point. Mr. President, I ask unanimous consent that the full text of a letter I have this afternoon faxed to Senator Sasser be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, October 13, 1995.

Hon. JIM SASSER,

Ambassador Nominate to the People's Republic of China, U.S. Department of State, Washington, DC.

DEAR JIM: It was unfortunate that circumstances yesterday required that I depart from your hearing and go to the Senate Floor to manage a piece of legislation that became the Senate's pending business at 11 a.m.

Your comments on two matters after I departed left two significant additional matters that I feel obliged to have you discuss further in a second public hearing on your nomination.

They are: (1) Your comment after I had departed, to the effect that you "corrected the record" (according to media reports) by testifying that you had become "less and less convinced" that it was correct to link trade with China to human rights, and (2) your comments relating to China's threat to disband Hong Kong's Legislative Council.

It need not be a lengthy hearing but I believe it essential that there be one. Accordingly, I am asking Admiral Nance and his staff to work with you and the State Department in scheduling your appearance at the most mutually agreeable date and time.

It is my intent to schedule a business meeting of the Foreign Relations Committee as quickly as possible for a vote on reporting your nomination to the Senate.

Sincerely,

JESSE HELMS.

Mr. HELMS. Let me read the letter.

Dear JIM: It was unfortunate that circumstances yesterday required that I depart

from your hearing and go to the Senate Floor to manage a piece of legislation that became the Senate's pending business at 11 a.m.

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It is my intent to schedule a business meeting of the Foreign Relations Committee as quickly as possible for a vote on reporting your nomination to the Senate.

When I made my statement, my positive statement, regarding the Sasser nomination, and identified the six votes that Senator Sasser as a Senator had cast correctly, he nodded. It never dawned on me that he was going to correct the record after I left the hearing. If he had made any indication of what he was going to do, I would have called the Senate floor and said I will be delayed in getting there, because it is time that the American people, and particularly those of us who say we represent the American people, understand that we become a part of what we condone. For us to condone what is going on in Red China is to be a part of it. And that is the reason I want to hear further from Senator Sasser, about his nomination to be Ambassador to Communist China—which they call the People's Republic of China.

Mr. President, yesterday's comments by Mr. Sasser relating to the administration's position on China's threat to disband and abolish the Hong Kong Legislative Council deserves a bit more comment as well. I do not challenge the opinion expressed by Mr. Sasser on behalf of the administration regarding this action by China. I want to emphasize, however, that China is sweeping away every vestige of democracy in Hong Kong. It is a matter that deserves somewhat more detailed understanding by Americans of precisely what is at stake in Hong Kong.

Therefore, Mr. President, I ask unanimous consent that a front page article of the South China Morning Post faxed to me from Hong Kong be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the South China Morning Post, Oct. 13, 1995]

U.S. NOMINEE SAYS CHINA HAS RIGHT TO DISBAND LEGCO
(By Simon Beck)

The nominee to become U.S. Ambassador to China last night appeared to side with Beijing one the Hong Kong question, saying China was not required to keep the Legislative Council in place after 1997.