

Over the years, I've spent a lot of time in prison, as a reporter—starting with the Attica uprising in 1971 and including a prison guard strike in 1979—and as a visitor. I've interviewed inmates who make me glad there are stout bars and high walls between them and society. And I've known sad-sacks, whose incarceration protects no one and helps no one.

Crime is a long-term problem, but short-term legislators try to solve it with fixes that don't work, but do add unnecessarily to the prison population. Now it's time to undo some of the damage they've done.

Webb isn't running for re-election in 2012. That gives him 14-plus months to get this bill through the Senate. I'm betting he keeps fighting, as he should.

[From The Virginia-Pilot, Oct. 22, 2011]

EDITORIAL: SENATE NEGLIGENCE ON CRIME REFORM

To get an idea of how disconnected from reality, and how utterly dysfunctional, Congress has become, look no further than the fate this week of Sen. Jim Webb's proposal for a blue-ribbon commission to examine the nation's criminal justice system.

The proposal had bipartisan support among legislators and special-interest groups ranging from the American Civil Liberties Union to the Fraternal Order of Police.

It promised to have two co-chairs—one Republican, one Democrat—and a 14-member panel evenly represented by both parties.

It restricted itself to completing its task—a top-to-bottom review of strengths and weaknesses in the federal, state and local criminal justice systems, with an aim to identify ways to become fairer, more efficient and more cost-effective—within just 18 months.

And it was designed to carry out all of its work—convening hearings, calling experts, analyzing data, issuing reports—on a budget of \$5 million.

Last year, the legislation rolled through the House with virtually no opposition. But this week, Webb's proposal was shelved after a few Republicans dropped their support.

Excuses varied, but Texas Sen. Kay Bailey Hutchison managed to articulate her opposition in a way that underscored the kind of myopia that has rendered Congress, and particularly the Senate, a counterproductive force in American government.

She described the legislation, according to Politico, as “not a priority in these tight budget times,” a tenuous claim if there ever were one. Even in tough times, spending what amounts to less than a drop in the bucket (the Department of Justice alone spends more than \$28 billion) as a means to save far more should be viewed as a financially and morally prudent move.

Oklahoma Sen. Tom Coburn offered his own reason: Such a commission would violate states' rights and the Constitution. The claim is nonsense, given that the commission's intent is to offer recommendations, not binding directives.

But those spurious arguments were sufficient to sway enough Republican senators to disown the notion of improving a system that, as Webb has repeatedly noted, puts four times as many mentally ill Americans into prisons as into mental health institutions.

The system accounts for 25 percent of the world's prison population, even though the United States is home to just 5 percent of the people. It has funneled more than \$1 trillion into a war on drugs that has ruined countless lives, resulted in thousands of deaths and sent inmate populations soaring.

Perhaps the most revealing commentary on Webb's proposal—and on the nation's criminal justice system and America's readiness to change it—was delivered this week.

It originated far from the halls of Congress. It came in the form of a poll, conducted by Gallup, that showed that for the first time in modern U.S. history, half of Americans favored the legalization of marijuana, a drug that has created millions of criminals in America and cost untold billions of dollars.

[From National Review Online, Oct. 21, 2011]

AN ABSOLUTE SCANDAL (By Reihan Salam)

The insane refusal of 43 Senate Republicans to back the National Criminal Justice Commission Act. Even Sen. Tom Coburn of Oklahoma, easily one of my favorite legislators, covered himself in non-glory on this one by suggesting that the commission might be unconstitutional, despite the fact that all it established was a bipartisan panel empowered to make nonbinding recommendations.

There were, however, four Senate Republicans who backed the proposal: Sens. Lindsey Graham of South Carolina, Orrin G. Hatch of Utah, Olympia Snowe of Maine and Scott Brown of Massachusetts.

Why do we need a commission? Senator Webb, the sponsor of the proposal, offered a fact sheet recounting the scale of the problem:

The United States has by far the world's highest incarceration rate. With five per cent of the world's population, our country now houses twenty-five percent of the world's reported prisoners. More than 2.3 million Americans are now in prison, and another 5million remain on probation or parole.

Our prison population has skyrocketed over the past two decades as we have incarcerated more people for non-violent crimes and acts driven by mental illness or drug dependence.

The costs to our federal, state, and local governments of keeping repeat offenders in the criminal justice system continue to grow during a time of increasingly tight budgets.

Existing practices too often incarcerate people who do not belong in prison, taking resources away from locking up high-risk, violent offenders who are a threat to our communities.

2.3 million + 5 million = 7.3 million. Roughly 24 percent of the 310 million U.S. residents are under the age of 18, leaving us with roughly 235.6 million adults. So that means that 3.1 percent of adults are behind bars, on probation, or on parole right now. There are, of course, millions of ex-offenders.

This population is disproportionately male and disproportionately black, which means that the impact of mass incarceration is particularly significant for African American children. Basically, doing a bid limits your ability to acquire the kind of skills you need to climb the jobs ladder, in part because employers are (understandably) reluctant to hire ex-offenders.

If we're even incarcerating five percent of these individuals needlessly, we're causing a massive amount of damage. Why? Apart from the collateral damage on families and children, we might actually make the crime problem worse. The more we incarcerate people, the less severe the stigma associated with being incarcerated. And reducing the stigma actually reduces the effectiveness of incarceration as a deterrent.

Having grown up in central Brooklyn during the crack epidemic, I have some familiarity with fear of crime. Reducing crime should be an urgent priority, in my view. Even the so-called “great American crime decline” has left us with rates of violent crime radically higher than what we saw in the early 20th century, as William Stuntz observed in his last book:

New York is America's safest large city, the city that saw crime fall the most and the fastest during the 1990s and the early part of this decade. Yet New York's murder rate is 80 percent higher now than it was at the beginning of the twentieth century—notwithstanding an imprisonment rate four times higher now than then. That crime gap is misleadingly small; thanks to advances in emergency medicine, a large fraction of those early twentieth-century homicide victims would survive their wounds today. Taking account of medical advances, New York is probably not twice as violent as a century ago, but several times more violent. At best, the crime drop must be counted a pyrrhic victory.

If locking people up in increasingly large numbers were really the most cost-effective way to keep our cities safe, I'd be all for it. Overwhelming evidence suggests that this is not in fact the case. The people who profit most from today's approach to mass incarceration are not potential crime victims. Rather, they are the workers—most of them unionized public sector workers—who staff our prisons.

So yes: why would we want to study more cost-effective alternatives to reducing crime when we can pour billions of dollars in taxpayer money into the hands of an industry that channels that money back into lobbying and political advertising on behalf of longer prison sentences, all to keep the gravy train going?

Mr. WEBB. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. I ask unanimous consent that the order for the quorum call be rescinded.

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

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS

Mr. SANDERS. Mr. President, I want to congratulate the members of the Senate who, by a very large vote today, passed the minibus legislation which, among many other important things, will provide \$1.9 billion for the Department of Transportation's emergency relief fund. What that will do is help the Department deal with the backlog of disaster situations around the country that they previously were not able to deal with; and, from the perspective of the State of Vermont, it will help us deal with the devastation we experienced in terms of our roads and our bridges and our infrastructure as a result of Hurricane Irene.

In many communities around the State, we saw washouts, we saw bridges destroyed or damaged, and roads disappear. While Vermont is certainly prepared to do everything it can to come up with funds to help, there is no question but that the Federal Government needs to be there, as it has always been in the past when disaster strikes a community in America.

The name of our country is the United—U-N-I-T-E-D—States of America. What that means is if a disaster

hits Minnesota or California, the people of Vermont are there to help. That is what we do as a nation. And when disaster hits Vermont or New Jersey, people in other parts of the country are there.

We made good progress today. I want to congratulate Senator LEAHY and the other members of the Appropriations Committee for coming up with this funding. Now the ball goes to our colleagues in the House, and now is the time for the House to stand tall, to support what we have done here in the Senate, and make sure that communities all over this country get the emergency funding they need in transportation in order to rebuild their communities.

BANK OF AMERICA

Mr. SANDERS. I want to say a word on another interesting issue which took place today. You may have noticed that Bank of America has decided to withdraw its \$5 fee for debit transfers. Let me tell you, the Bank of America, like the other banks that were going to go forward in imposing these fees, did not withdraw them because they were nice guys. They withdrew them because the American people said "enough is enough" in terms of the greed of Wall Street.

Let us never forget that it was the Bank of America and the other huge financial institutions on Wall Street that caused the recession we are in, resulting in millions of people losing their jobs, their homes, their life savings. Let us never forget that when Wall Street was on the verge of collapse, it was the American people and the Fed who bailed them out. And now that Wall Street and the large banks are making very handsome profits, paying their CEOs some of the largest compensation packages they have ever received, their thank you to the American people was to charge them a \$5 a month debit fee.

But do you know what happened? The American people said thanks but no thanks. It wasn't the Senate that turned this around. It wasn't the House that turned this around. It was the American people. I applaud the people on the Occupying Wall Street campaign who focused attention on the greed of Wall Street, and the millions of other Americans who have said enough is enough.

The point here, which is a very profound point—which is ultimately what politics is all about—is that if the American people at the grassroots level begin to stand up and fight back, profound and positive changes can take place in this country. If the American people stand up and say: No, we are not going to cut Social Security, we are not going to cut Medicare, we are not going to cut Medicaid, or education, but we are going to move toward a balanced budget by asking the wealthiest people in this country, whose effective tax rate is the lowest in decades, to

start paying their fair share of taxes, we can do that. We don't have to cut Social Security and Medicare and Medicaid.

If the American people say maybe we have got to end these outrageous tax loopholes that allow oil companies—which are making huge profits right now—in some years to pay nothing in Federal income taxes, we can end those loopholes as well.

If the American people say, well, maybe before we cut programs for the elderly, the sick, the children, and the poor, maybe we want to make sure those companies and individuals who stash their money in tax havens such as the Cayman Islands, where we lose \$100 billion a year because of the tax havens—when we rally the American people and they stand up and say enough is enough, we can change that too.

So today I congratulate the American people. You did it. You took on the largest financial institution in the United States of America and you beat it. And that should be step one. We should go on from there. The American grassroots has to continue to speak out in the fight for social justice in this country.

I yield the floor, and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as Senator from Minnesota, I ask that the quorum call be vitiated.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 4:30.

Thereupon, the Senate, at 3:35 p.m., recessed until 4:30 p.m. and reassembled when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

EXTENSION OF MORNING BUSINESS

Mr. DURBIN. Madam President, I ask that morning business be extended for the next hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. I ask consent to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEBIT AND CREDIT CARD FEES

Mr. DURBIN. Madam President, Bank of America made an announcement. They announced they were eliminating their proposed \$5 monthly fee for the use of a debit card. We have

kept track and I believe every bank across America has said we are abandoning this approach, and it is a good thing. It is an indication to me that consumers across America have a much larger voice in this process today than they did even a few weeks ago.

Consumers and customers of major banks paid close attention when many of these banks, such as Bank of America, said they were going to charge these customers \$5 a month to have access to their own money in their checking account. I was asked at the time: What should we do? I said: Customers of these banks should vote with their feet. Start looking for another bank. Find a bank or a credit union that treats them in the manner they want to be treated—fairly and respectfully.

The message got out, and that message ended up creating a substantial move of customers from some banking institutions to others. Some reports suggest the activity on credit union Web sites is now up 800 percent. The people at community banks all across America have signs in front of their banks saying, for instance, the one in Georgia: We agree debit cards should be free.

What we have at work is two very fundamental principles of our economy, the free market economy—transparency so people know what they are being charged, and competition so they have a choice. I think those are the two pillars of a successful free market economy. Now the banking industry, in many respects, is being introduced to it. I think this is a healthy thing.

Prior to October 28, several large banks had announced they would begin charging monthly debit fees on many of their customers' accounts, Bank of America, \$5; Wells Fargo, \$3; Chase, \$4; SunTrust of Atlanta, \$5; Regions Financial of Birmingham, AL, \$4. Numerous other large banks had made it clear they would not charge the monthly fees, including: U.S. Bancorp, Citigroup, PNC, KeyCorp, USAA, and more.

In response to consumer reaction to their fee announcements, on Friday October 28 Wells Fargo and Chase announced they were abandoning their plans to charge these fees.

On Monday, October 31, SunTrust and Regions Financial announced they would also abandon their fee plans.

Today, Bank of America announced it too would abandon its monthly fee plans.

Warren Buffett—a man I have come to know and respect—is an investor in some of these large banks, and he was asked over lunch recently to react to the Bank of America \$5 monthly fee. He lifted his glass of Coca-Cola and said it was like New Coke. It told the story that sometimes large companies lose touch with their consumers and their customers and make bad decisions.

The question is, What will come of this next? I think we ought to ask ourselves: What have we learned from this experience over the last several weeks