

the gentleman has now introduced similar legislation in the last few days, and we have this on the floor. The gentleman from Illinois (Mr. HYDE) and I have worked very closely on this.

I, therefore, Mr. Speaker, rise in strong support of this legislation, which sends a clear and unmistakable message to deadbeat parents who attempt to use State borders as a shield against the enforcement of child support orders. That message is, you can run, but you cannot hide from the child support you owe.

I am proud to be a cosponsor of the Deadbeat Parents Punishment Act along with my friend, whom I mentioned earlier, the gentleman from Illinois (Mr. HYDE), Chairman of the Committee on the Judiciary. The Deadbeats Act is a companion to legislation introduced by Senator KOHL of Wisconsin, which unanimously passed the Senate this year.

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This legislation will stiffen penalties for deadbeat parents in egregious interstate cases of child support delinquency. It will also enable Federal authorities to go after those who attempt to escape State-issued child support orders by fleeing across State lines.

Under the Child Support Recovery Act sponsored by the gentleman from Illinois (Mr. HYDE) in 1992, to which I earlier referred, parents who willfully withhold child support payments totaling more than \$5,000 or owe for more than 1 year, are presently subject to a misdemeanor offense punishable by not more than 6 months. Current law also provides that a subsequent offense is a felony punishable by up to 2 years in prison.

H.R. 3811 addresses the difficulty States frequently encounter in attempting to enforce child support orders beyond their borders. This legislation will augment current law by creating a felony offense for parents with an arrearage totaling more than \$10,000 or owing for more than 2 years. This provision, like current law, would apply where the noncustodial parent and child legally reside in different States.

In addition, Mr. Speaker, this legislation will make it a felony for a parent to cross a State border with the intent of evading a child support order where the arrearage totals more than \$5,000 or is more than 1 year past due, regardless of residency.

H.R. 3811 is not simply about ensuring just punishment in intentional severe cases of child support evasion; it serves to complement other Federal child support enforcement measures to help States establish and enforce child support orders.

The ultimate goal, of course, Mr. Speaker, is to put deadbeat parents on notice and to induce compliance. Our cumulative efforts, Mr. Chairman, will increase parental accountability, decrease child poverty and dependence on public assistance, and erase the notion

that nonpayment of State-ordered child support is a viable option.

Congress, of course, cannot force anyone to be a loving, nurturing and involved parent. However, by acting together, we can strengthen the government's ability to make parents fulfill their minimum moral and legal responsibility, which is to provide financial support for the children they bring into this world.

The deliberate neglect of this obligation should warrant serious consequences for the parent, as serious as the consequences are for that child who is in need of those provisions. The Deadbeat Parents Punishment Act of 1997 will ensure that this is the case, even for those who attempt to use State borders as a barrier to enforcement of child support orders.

Mr. Speaker, I urge my colleagues to vote for this legislation today, and I want to thank the 50 bipartisan cosponsors of this legislation, especially, as I said, the gentleman from Illinois (Chairman HYDE), for his leadership on this issue.

Mr. Speaker, in conclusion, let me say, as someone who has practiced law for over a quarter of a century, who, in fact, tried his last case in 1990 prior to our changing the rules which prohibit me from practicing law further, I was always concerned about how child support was perceived to be perhaps less important to deal with than some other matters that came before our courts; that it was sort of put at the end of the docket, and that the practical judgment was that clearly we cannot incarcerate a father, because then he will not be able to pay it all. I say "father," because over 80 percent of those parents who are referred to as deadbeat parents are the fathers who believe that they can participate in bringing a child into the world, but then somehow not participate in supporting that child. Indeed, the consequence of that is many times to expect a result in the rest of us supporting that child. We have talked a lot about responsibility.

We talked about responsibility in the crime bill. We talked about responsibility in the welfare bill, where we expect work. Here we are talking about an expectation of responsibility as a parent.

As I said earlier, we cannot make a parent love a child. They ought to, and we would hope they would. But we can certainly expect that they will support that child and try to bring that child up in a way that will give that child some opportunity.

Mr. Speaker, again I thank the members of the Committee on the Judiciary, and my friend the gentleman from Illinois (Mr. HYDE) for his help with this legislation.

Mr. McCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, children are at the heart of the need for this legislation.

No child should go to bed hungry, miss a medical appointment, not have adequate housing or be deprived of quality education. We have no more precious resource than our children. We have no greater responsibility than the protection, development and security of our children.

The greatest uncollected debt in our country, unfortunately, is child support. Thankfully, the Deadbeat Parents Punishment Act of 1998 strengthens Federal law by establishing felony violations for the most serious cases to pay legal child support obligations.

H.R. 3811 is a bipartisan bill introduced by the gentleman from Illinois (Chairman HYDE) and the gentleman from Maryland (Mr. HOYER), and is one that all my colleagues should support.

Mr. PAUL. Mr. Speaker, today the Congress will collectively move our nation two steps closer to a national police state by further expanding a federal crime and paving the way for a deluge of federal drug prohibition legislation. Of course, it is much easier to ride the current wave of federalizing every human misdeed in the name of saving the world from some evil than to uphold a Constitutional oath which prescribes a procedural structure by which the nation is protected from what is perhaps the worst evil, totalitarianism. Who, after all, and especially in an election year, wants to be amongst those members of Congress who are portrayed as soft on drugs or deadbeat parents irrespective of the procedural transgressions and individual or civil liberties one tramples in their zealous approach.

Our federal government is, constitutionally, a government of limited powers. Article one, Section eight, enumerates the legislative areas for which the U.S. Congress is allowed to act or enact legislation. For every other issue, the federal government lacks any authority or consent of the governed and only the state governments their designees, or the people in their private market actions enjoy such rights to governance. The tenth amendment is brutally clear in stating "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Our Nation's history makes clear that the U.S. Constitution is a document intended to limit the power of central government. No serious reading of historical events surrounding the creation of the Constitution could reasonably portray it differently. Of course, there will be those who will hang their constitutional "hats" on the interstate commerce general welfare clauses, both of which have been popular "headgear" since the FDR's headfirst plunge into New Deal Socialism.

The interstate commerce clause, however, was included to prevent states from engaging in protectionism and mercantilist policies as against other states. Those economists who influenced the framers did an adequate job of educating them as to the necessarily negative consequences for consumers of embracing such a policy. The clause was never intended to give the federal government carte blanche to intervene in private economic affairs anytime some special interest could concoct a "rational basis" for the enacting such legislation.

Likewise, while the general welfare provides an additional condition upon each of the enumerated powers of the U.S. Congress detailed

in Article I, Section eight, it does not, in itself, provide any latitude for Congress to legislatively take from A and give to B or ignore every other government-limiting provision of Constitution (of which there are many), each of which are intended to limit the central government's encroachment on liberty.

Nevertheless, rather than abide by our constitutional limits, Congress today will likely pass H. Res. 423 and H.R. 3811 under suspension of the rules meaning, of course, they are "non-controversial." House Resolution 423 pledges the House to "pass legislation that provides the weapons and tools necessary to protect our children and our communities from the dangers of drug addiction and violence". Setting aside for the moment the practicality of federal prohibition laws, an experiment which failed miserably in the so-called "Progressive era", the threshold question must be: "under what authority do we act?" There is, after all, a reason why a Constitutional amendment was required to empower the federal government to share jurisdiction with the States in fighting a war on a different drug (alcohol)—without it, the federal government had no constitutional authority. One must also ask, "if the general welfare and commerce clause were all the justification needed, why bother with the tedious and time-consuming process of amending the Constitution?" Whether any governmental entity should be in the "business" of protecting competent individuals against themselves and their own perceived stupidity is certainly debatable—Whether the federal government is empowered to do so is not. Being stupid or brilliant to one's sole disadvantage or advantage, respectively, is exactly what liberty is all about.

Today's second legislative step towards a national police state can be found in H.R. 3811, the Deadbeat Parents Punishment Act of 1998. This bill enhances a federal criminal felony law for those who fail to meet child support obligations as imposed by the individual states. Additionally, the bills shifts some of the burden of proof from the federal government to the accused. The United States Constitution prohibits the federal government from depriving a person of life, liberty, or property without due process of law. Pursuant to this constitutional provision, a criminal defendant is presumed to be innocent of the crime charged and, pursuant to what is often called "the Winship doctrine," the prosecution is allocated the burden of persuading the fact-finder of every fact necessary to constitute the crime . . . charged." The prosecution must carry this burden because of the immense interests at stake in a criminal prosecution, namely that a conviction often results in the loss of liberty or life (in this case, a sentence of up to two years). This departure from the long held notion of "innocent until proven guilty" alone warrants opposition to this bill.

Perhaps, more dangerous is the loss of another Constitutional protection which comes with the passage of more and more federal criminal legislation. Constitutionally, there are only three federal crimes. These are treason against the United States, piracy on the high seas, and counterfeiting (and, as mentioned above, for a short period of history, the manufacture, sale, or transport of alcohol was concurrently a federal and state crime). "Concurrent" jurisdiction crimes, such as alcohol prohibition in the past and federalization of felonious child support delinquency today, erode

the right of citizens to be free of double jeopardy. The fifth amendment to the U.S. Constitution specifies that no "person be subject for the same offense to be twice put in jeopardy of life or limb . . ." In other words, no person shall be tried twice for the same offense. However, in *United States v. Lanza*, the high court in 1922 sustained a ruling that being tried by both the federal government and a state government for the same offense did not offend the doctrine of double jeopardy. One danger of unconstitutionally expanding the federal criminal justice code is that it seriously increases the danger that one will be subject to being tried twice for the same offense. Despite the various pleas for federal correction of societal wrongs, a national police force is neither prudent nor constitutional.

The argument which springs from the criticism of a federalized criminal code and a federal police force is that states may be less effective than a centralized federal government in dealing with those who leave one state jurisdiction for another. Fortunately, the Constitution provides for the procedural means for preserving the integrity of state sovereignty over those issues delegated to it via the tenth amendment. The privilege and immunities clause as well as full faith and credit clause allow states to exact judgments from those who violate their state laws. The Constitution even allows the federal government to legislatively preserve the procedural mechanisms which allow states to enforce their substantive laws without the federal government imposing its substantive edicts on the states. Article IV, Section 2, Clause 2 makes provision for the rendition of fugitives from one state to another. While not self-enacting, in 1783 Congress passed an act which did exactly this. There is, of course, a cost imposed upon states in working with one another than relying on a national, unified police force. At the same time, there is a greater cost to centralization of police power.

It is important to be reminded of the benefits of federalism as well as the costs. There are sound reasons to maintain a system of smaller, independent jurisdictions—it is called competition and, yes, governments must, for the sake of the citizenry, be allowed to compete. We have obsessed so much over the notion of "competition" in this country we harangue someone like Bill Gates when, by offering superior products to every other similarly-situated entity, he becomes the dominant provider of certain computer products. Rather than allow someone who serves to provide values as made obvious by their voluntary exchanges in the free market, we lambaste efficiency and economies of scale in the private marketplace. Yet, at the same time, we further centralize government, the ultimate monopoly and one empowered by force rather than voluntary exchange.

When small governments becomes too oppressive, citizens can vote with their feet to a "competing" jurisdiction. If, for example, I do not want to be forced to pay taxes to prevent a cancer patient from using medicinal marijuana to provide relief from pain and nausea, I can move to Arizona. If I want to bet on a football game without the threat of government intervention, I can move to Nevada. If I want my income tax at 4% instead of 10%, I can leave Washington, DC, for the surrounding state suburbs. Is it any wonder that many productive people leave DC and then commute in

on a daily basis? (For this, of course, DC will try to enact a commuter tax which will further alienate those who will then, to the extent possible, relocate their workplace elsewhere). In other words, governments pay a price (lost revenue base) for their oppression.

As government becomes more and more centralized, it becomes much more difficult to vote with one's feet to escape the relatively more oppressive governments. Governmental units must remain small with ample opportunity for citizen mobility both to efficient governments and away from those which tend to be oppressive. Centralization of criminal law makes such mobility less and less practical.

For each of these reasons, among others, I must oppose the further and unconstitutional centralization of power in the national government and, accordingly, H. Res. 423 and H.R. 3811.

Mrs. ROUKEMA. Mr. Speaker, I rise today in support of the Deadbeat Parents Punishment Act of 1998. I thank Mr. HYDE for introducing this measure and for supporting the right of children to receive the support payments to which they are legally and morally entitled.

Mr. Speaker, I have spent many years working on the issue of child support enforcement. As part of that work, I had the honor of serving on the U.S. Commission on Interstate Child Support Enforcement. This commission conducted a comprehensive review of our child support system and issued a series of recommendations for reform. I am pleased to be able to say that many of those recommendations have been made part of federal law.

One of the recommendations of the commission was that willful non-payment of support should be made a criminal offense. We have already done that under federal law. Federal law currently carries a six-month jail term for deadbeats who refuse to pay. Willful failure to pay child support is a misdemeanor.

This bill today toughens the federal law by making willful non-payment of child support a felony. It maintains the six-month jail term for first-offenders and establishes a prison sentence of up to two years for second offenders. It also requires that deadbeats who are convicted and sent to jail still have to pay the support that they owe.

In addition, there is an important legal distinction in making this crime a felony. A felony conviction carries more than just a jail term. A convicted felon loses the right to vote, to be licensed in many professions, to hold public office and many other rights.

This is a good bill and it will be a good law. But we must not stop here.

This bill applies only to non-support cases that cross state lines—when the deadbeat parent and his or her child live in different states, or when the deadbeat moves to another state to avoid payment. It does not apply to deadbeats who live in the same state as their children. We must pass legislation requiring that the states make non-payment of support a criminal offense under state law as well. Only then will all the children who are not receiving support get the legal protection to which they are entitled.

The federal government has wisely adopted federal criminal penalties for those who cross interstate lines to avoid child support. But to reach everyone, states should use criminal penalties for those who choose to ignore their legal, financial and moral obligations.