

their race, ethnicity, or religious background.

The Leadership Conference on Civil Rights has published the first comprehensive summary of hate crimes in America. Their publication, *Cause for Concern, Hate Crimes in America*, provides a number of examples of hate crimes that have resulted in injury or even death to innocent people solely on account of their racial and other make-up.

For example, on June 11, 1995, arsonists burned down the home of a Latino family in the Antelope Valley, CA, city of Palmdale. They spray painted "white power" and "your family dies" on the walls.

In August of 1992, a 19 year old Vietnamese American pre-med student in Coral Springs, FL, was beaten to death by a mob of white youths who called him "chink" and "Vietcong."

And, in Oklahoma City, following the bombing of the Federal office building, an Iraqi refugee in her mid-twenties miscarried her near-term baby after an April 20 attack on her home. Unknown assailants pounded on the door of her home, broke windows, and screamed anti-Islamic epithets.

Mr. President, there is no room in our country for these kinds of crimes. We must not allow them to continue. We currently have Federal laws against hate crimes. Further, the Leadership Conference on Civil Rights reports that 47 States and the District of Columbia have passed their own hate crime laws. Among other things, these laws ban vandalism against religious institutions such as churches, synagogues, and mosques.

It is my sincere hope that this resolution will inspire more people to stand up against all hate crimes in all their forms.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 78) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

#### S. RES. 78

Whereas the term "hate crime" means an offense in which one or more individuals, commits an offense (such as an assault or battery (simple or aggravated), theft, criminal trespass, damage to property, mob action, disorderly conduct, or telephone harassment) by reason of the race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals;

Whereas there are almost 8,000 hate crimes reported to the Department of Justice each year, and the number of hate crimes reported increases each year;

Whereas hate crimes have no place in a civilized society that is dedicated to freedom and independence, as is the United States;

Whereas the people of the United States must lead and set the example for the world in protecting the rights of all people;

Whereas the people of the United States should take personal responsibility for and action against hatred and hate crimes;

Whereas the Members of Congress, as representatives of the people of the United States, must take personal responsibility for and action against hatred and hate crimes;

Whereas the laws against hate crimes, which have been passed by Congress and signed by the President, must be supported and implemented by the people of the United States and by Federal, State, and local law enforcement officials and other public servants: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates April 30, 1997, as "National Erase the Hate and Eliminate Racism Day"; and

(2) requests that the President issue a proclamation calling upon the people of the United States and throughout the world to recognize the importance of using each day as an opportunity to take a stand against hate crimes and violence in their nations, states, neighborhoods, and communities.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### VOLUNTEER PROTECTION ACT OF 1997—MOTION TO PROCEED

The Senate continued with the consideration of the bill.

Mr. COVERDELL. Mr. President, I yield up to 5 minutes to my good colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in support of this legislation. There is—and the public knows this better than we do—a lot of legislation we debate on the floor of this body that might make sense in Washington, but does not make sense outside of Washington. We spend a lot of time debating legislation that does not make a difference in people's lives. This bill, S. 543, not only expresses American common sense—at least from my part of the country, Midwestern common sense—but it also says no to Washington nonsense.

This bill gives me an opportunity, at the same time, to compliment the Senator from Georgia for the outstanding work that he is doing in this area.

Debate of legislation that solidly promotes voluntarism is an example of Congress spending some of its time to get something done where there is a real reward. It is an example of the taxpayers' money well spent, to pay us to write legislation that will encourage Americans to do what we have a tradition of doing in this country—volunteering.

I am sure Alexis de Tocqueville has been quoted on the floor of the Senate often during the debate of this bill. One observation that the French nobleman made when he came to this country in the 1830's to study our new system of government, was the American tradition of voluntarism that he saw in our churches and in our volunteer societies—or as he termed them "societies of cooperation." He believed that one of the wonderful and unique aspects of our society was that neighbor helps neighbor. Yet, now our society has impediments to this tradition of voluntarism, to this neighbor helping neighbor.

Our good friend from Georgia has a solution that restores the voluntarism that de Tocqueville observed. This very important legislation will remove one impediment to voluntarism in America. This bill will lessen the threat of a lawsuit for volunteers and their organizations. So here we are today discussing some legislation that is common sense. We are wisely spending our time and energy debating legislation that would provide to the taxpayer, in volunteer hours, more return on the taxpayers' dollars than anything we do.

I come here to support the Volunteer Protection Act of 1997 and to compliment Senator COVERDELL. This legislation has two important benefits. First, it promotes voluntarism. It promotes voluntarism at the time of the big volunteer crusade in Philadelphia. Praise the Lord for the people that were involved in that because that was a very worthwhile project and it was bipartisan. The Congress can do something through this legislation that will help that effort as well. So this legislation promotes voluntarism, and it also enacts much needed tort reform.

Volunteers are vital to the health and welfare of our communities, States, and our Nation. We all rely on the kindness of friends and strangers. Volunteers are often these people, whether we see them or not, who bring meals to the homebound; who clean up trash along our highways; who respond to natural disasters. I will point out just a few recent examples.

The United Way of Central Iowa rallied 2,500 volunteers—nearly twice as many as in 1995—to complete 97 projects. Among these volunteers was a troop of Brownies who baked brownies for the children and families at the local Ronald McDonald House.

At the American Red Cross homeless shelter in Rockford, VT, 47 volunteers, including 15 shelter residents, painted and cleaned the shelter, dug a new pathway in its yard, and picked up litter in the neighborhood.

The George Washington High School swim team in Danville, VA, gave an hour of free swimming lessons to 60 nonswimmers in grades 2 through 4.

In Detroit, MI, kids from University CAMP and Detroit Country Day School painted, cleaned, and removed graffiti and boarded up vacant homes.

The Men's Club of Oakland Methodist Church in Maryville, TN, installed carpeting and built a wheelchair ramp for a needy family whose 8-year-old daughter is in a wheelchair.

These are only a few of the volunteers whose efforts have come to my attention. This is just a sampling of what volunteers give to our communities. We have an obligation to these volunteers and to their organizations beyond the casual "thank you." If they are going to make these efforts, we must do everything in our power to enable and encourage them. We owe it to them to make their burden lighter and their jobs easier. We owe it to the organizations to make it as easy as possible for them to recruit volunteers. We must lower the risk incurred by volunteers and their organizations.

This bill lowers the risk. It limits potential liability for volunteers and their organizations. It is only fitting that we pass this legislation for all of the volunteers and their organizations who put forth the sweat and the labor to accomplish so many good deeds. It is simply fair and equitable. That is what this legislation is all about.

I am a senior member of the Senate Judiciary Committee and chairman of the subcommittee with jurisdiction over this issue. I can tell you from my experience in this position that this is badly needed reform. The purpose of our civil court system is to establish liability and to compensate the injured. It does not always accomplish this now. I believe that our court system needs reform, including punitive damage reform. Punitive damages are an unpredictable risk for companies and volunteer organizations. They are sometimes a windfall to those less injured, while the truly injured do not receive the same financial amount. Our court system should not be a lottery but, instead, should award all who are similarly injured with similar compensation. Likewise, those punished should be punished equally for similar transgressions.

This bill does not accomplish all of the needed reforms for the system. However, it is a solid first step. It will give the volunteer community some certainty of the risks that it faces. It does not relieve anyone of liability for conduct that is criminal, grossly negligent or reckless. It continues to hold those who intentionally commit wrongdoing liable for such acts. It is a good, fair bill that will boost the volunteer community and volunteers.

So I strongly urge all my colleagues on both sides of the aisle to think of the volunteers that they know, the people represented by the President and ex-Presidents and by Colin Powell in Philadelphia, the people they have met along the way, as well, and perhaps even volunteers who personally helped them. That is what this bill is all about. It is about volunteers and not about trial lawyers.

As everyone on this floor knows, the highly paid trial lawyers have set out

to stop this bill. Of course, too many in this body, particularly a large majority on the other side of the aisle, are doing the trial lawyers' bidding, as you can see from the opposition to this bill. The trial lawyers want to stop this bill because it will cost them money. It will reduce their legal fees in most cases when they are suing a volunteer or volunteer organization. But this bill is not and should not be about trial lawyers and not about trial lawyers' compensation. This is a bill about what America is about, about volunteering and about volunteers. It is about the people who do things that they do not even want to be thanked for; it is about selfless people who give of their time and give it freely to those in need.

It is to these people that we owe something. That is what the Philadelphia conference was all about. We owe it to the volunteers to make their jobs easier. That is what this bill does. I ask my colleagues to put volunteers ahead of trial lawyers and to support this bill.

I yield the floor.

Mr. COVERDELL. Mr. President, I thank my colleague from Iowa for his long work in this area of legal reform and for his comments here today. They were particularly thoughtful.

How much time remains?

The PRESIDING OFFICER. One minute, twenty seconds.

Mr. COVERDELL. Mr. President, a very brief rebuttal to the argument we just heard from the Senator from New Mexico. He said the holding of this Cabinet nominee was unprecedented. I cannot speak to that one way or another. I have only been here 4 years, but I can say that the actions of his President, our President, are also unprecedented. An Executive order that totally rewrites labor law and obviates the Constitution is unprecedented and has no standing, in my judgment, in this debate—none.

I think the Senator from Iowa said it eloquently. This is one we do for the volunteers.

Mr. LEAHY. Mr. President, as I said yesterday, I believe that the goal of encouraging voluntarism is a laudable one. I stand ready to work with others on a bipartisan or nonpartisan approach to doing so. This bill, S. 543, is not the answer and appears not even to ask the right question. It is flawed and would benefit from attention through the normal legislative process of hearing, public comment, review, committee consideration, amendment and report, and Senate action. Instead, the majority is trying to force this bill through the Senate to catch the train of press coverage on the Presidents' summit on America's future.

The contrast between what has taken place in Philadelphia and here in Washington could not be more stark. In Philadelphia, thousands of volunteers and activists are joining with leaders who have served as Presidents from both major political parties, First Ladies, involved celebrities, and cor-

porate sponsors. The summit may well spark a renewed dedication among the millions of Americans to get involved to make a difference.

Ours is a tradition rich in neighbor helping neighbor and citizen service. The honest involvement of so many and the commitment to improve the lives and futures of 15 million children is extraordinary.

By contrast, this week the Republican controlled Senate simply cannot abide the nonpartisan events in Philadelphia. I do not know whether it is the involvement of Gen. Colin Powell, Nancy Reagan, George and Barbara Bush, or President Clinton and Mrs. Clinton that is driving the Republican leadership bonkers, but something has. Is it not possible that something happening outside of Washington can have meaning to millions of Americans without congressional Republicans having to insert themselves for partisan gain. I asked yesterday why we are being forced to take up the ill-considered S. 543. The answer is because the Republican leadership says so. Otherwise, they might miss out on claiming credit in connection with this week's activities in Philadelphia. I guess in their minds nothing happens that does not involve their political agenda. Voluntarism should not be about politics. The summit was not partisan and about politics. Unfortunately, this heavyhanded effort is purely partisan.

I suggest that the 130 cosponsors of all political persuasion who have joined in the approach outlined by H.R. 911 may have a better idea. It is much less of the Federal Government knows best approach that is embodied in S. 543. Indeed, I suspect that sometime soon the Republican majority will try to snuff out this alternative approach to the excesses of S. 543. The House bill is too acceptable an alternative, too widely supported to be tolerated in these partisan times. Only a bill with a pure Republican pedigree will be tolerated in this 105th Congress. How quickly the Republican leadership has forgotten the lessons of legislating through bipartisan cooperation for the good of the country.

Why is the Federal incursion into State law and local volunteer activity needed? Why is this bill the top priority for Congress? Why has the majority leader threatened to shut down the Senate until this particular bill is passed and devoted an entire week to it? Well, the bill purports to protect volunteers from "liability abuses." Voluntarism is at an all-time high according to the Wall Street Journal—and that was before the summit in Philadelphia. This morning the principal sponsor of the bill and the majority leader clarified that it is not so much that judgments are being awarded against volunteers or volunteer organizations but that there is a threat of suit. If that is so then why are we being forced to adopt broad-based Federal standards, which by the way will

not prevent the filing of lawsuits but only provide a series of Federal law defenses based on factual proof after hearings?

Why not, instead, encourage the States in their efforts to allow or require indemnification of volunteers for the costs of suit? That is what Georgia and Vermont and many other States have already done.

Where are the outrageous jury awards against charitable organizations that threaten voluntarism in America? This morning the proponents of this legislation admit that they do not exist. Nonetheless, purportedly in the interests of the beneficiaries of their services, we are being asked to adopt a Federal standard other than the exercise of due care that such activities otherwise might be held to under 200 years of State law development even though the behaviors we are discussing will affect the most vulnerable among us.

I ask unanimous consent to have printed in the RECORD the statement of administration policy received from the administration.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, April 29, 1997.

#### STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

S. 543—Volunteer Protection Act of 1997—(Coverdell (R) Georgia and 10 cosponsors) Although the Administration strongly supports national and community service and volunteerism, it opposes S. 543.

The President has a deep commitment to volunteer and service activities and supports efforts to encourage Americans to engage in these activities. The Administration will work with Congress on proposals that, while respecting state law, help provide reasonable liability protection to volunteers involved in the delivery of needed services.

S. 543 is not such a bill. Without any hearings demonstrating the inadequacy of state law in this area, S. 543 effects a sweeping preemption of state law in cases involving "non-profit organizations" and "volunteers." The over-broad definitions in the bill—which might apply to hate groups, street gangs, or violent militia—make this takeover of state law potentially troubling.

As with broader tort reform measures, the Administration is also troubled by the legislation's one-way preemption—state laws would be preempted if they favor plaintiffs, but not if they favor defendants—and by Section 5 of the Bill, which would totally abolish joint-and-several liability for noneconomic damages (e.g., pain and suffering). This provision would unfairly discriminate against the most vulnerable members of our society—the elderly, the poor, children, and nonworking women—whose injuries often involve mostly noneconomic losses. Noneconomic damages are as important to victims as economic damages and must not be relegated to second-class status.

Mr. LEAHY. Mr. President, the statement notes the President's deep commitment to volunteer and service activities, indeed his AmeriCorps initiation and participation at the summit

are both noteworthy examples of his commitment. The statement notes as I have the overbroad definitions in the bill and its unnecessary takeover of State law, among other serious problems.

The principal sponsor came to the floor this morning to say that the Ku Klux Klan is not included within the bill's definition of nonprofit organizations that would be covered by its provisions. Unfortunately, he did not say why. Wishing does not change the words of the bill.

To my colleagues who believe S. 543 could not immunize the Ku Klux Klan from liability, let me refer you to a letter to me from Morris Dees of the Southern Poverty Law Center. As many of us know, this organization has been on the front lines in the battle against hate groups like the KKK. The Southern Poverty Law Center is acutely aware, probably more so than most of my colleagues, of the hateful acts perpetrated by groups like the KKK. Yet the Senate is considering a bill that would potentially bestow liability immunity upon the KKK.

I know that every one of my colleagues violently opposes the KKK and would not support liability protection for them, but because we have not been given adequate time to consider this bill, flawed provisions like this overbroad definition remain.

The definition of nonprofit organizations includes the Government and not-for-profit organizations. Not-for-profit organizations appear to be self-defined to include any organization "conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes."

Who decides which groups qualify for limited liability under this definition and what happens when groups like the KKK declare themselves a noncommercial, nonprofit volunteer organization?

The Southern Poverty Law Center realizes this and opposes S. 543 because they know the Senate bill before us would make it more difficult to prosecute hate groups like the KKK. To quote Morris Dees, the highly respected director of the Southern Poverty Law Center:

We strongly urge you to withdraw this legislation and vote against any law that limits the ability of our civil justice system to punish those people and organizations that inflict unspeakable injuries on our friends, neighbors, family members and communities. Please, do not help protect white supremacists, neo-Nazi organizations, violence-prone militia groups and others who commit hate crimes.

Mr. President, I don't know about my colleagues, but when Morris Dees speaks, I think we should pause and listen. I ask unanimous consent that Mr. Dees' letter be printed in the RECORD.

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

THE SOUTHERN

POVERTY LAW CENTER,

Montgomery, AL, April 29, 1997.

Sen. PATRICK J. LEAHY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR LEAHY: The Southern Poverty Law Center opposes Senate Bill 543, legislation that would make it more difficult to sue non-profit organizations. Because the bill broadly covers all non-profit organizations, it would protect white supremacists, neo-Nazi and violent militia groups. These are the types of organizations the Southern Poverty Law Center has crippled over the past ten years through the use of both federal and state tort laws.

Senate Bill 543 raises the standard of care and the standard of proof in punitive damages cases, making it harder for the victims of hate activity and racial attacks to punish wrongdoers. For example, it would allow punitive damages against non-profit organizations or its volunteers if their misconduct constituted "willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed." However, misconduct that constitutes "gross negligence" or "recklessness" would be exempt from such damages. In other words, if a cross burning were legally held on Ku Klux Klan property and a larger fire ensued, spreading to a neighbor's home and killing the neighbor, the KKK would be immune from punitive damages if its conduct constituted "recklessness" or "gross negligence."

The bill does contain a number of narrow exceptions for volunteers, including misconduct that constitutes a crime of violence, hate crime, sexual offense or civil rights violation. However, these kinds of misconduct are only exempt from the bill's restrictions if the defendant was first convicted in a criminal court. Our cases against Klan and White Aryan Resistance leaders would not have fallen under Senate Bill 543's exemptions, since these individuals had no prior criminal convictions. Moreover, the \$12.5 million judgment we obtained against the White Aryan Resistance, which put this group out of business, consisted mostly of punitive damages which may have been subject to Senate Bill 543's limitations.

Important questions relating to a non-profit organization's responsibility and conduct are liability issues judges and juries should decide, not Congress. We strongly support your opposition to this legislation that would limit the ability of our civil justice system to punish those people and organizations that inflict unspeakable injuries on our friends, neighbors, family members and communities. Thank you for not helping to protect white supremacists, neo-Nazi organizations, violence-prone militia groups and others who commit hate crimes.

Sincerely,

MORRIS DEES.

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

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

Mr. DASCHLE. Mr. President, I wanted to come to the floor prior to the vote to respond briefly to the distinguished majority leader. We have had the good fortune to work together

on a number of issues, and I am disappointed that at least to date on this matter we have not been able to find common agreement.

I am disappointed with his announcement that we would not be taking up additional legislation, which I assume he meant even the emergency supplemental disaster assistance legislation until we dispose of this bill. I have expressed my concerns already about the need to expedite consideration of disaster help to 23 States who are waiting for us to respond quickly.

The situation all through the country, but especially in the upper Midwest, is very severe. There are thousands of people who are homeless today as a result of the floods and natural disasters that they have had to face, thousands of people without businesses, thousands of people without homes, and thousands of people without schools. These thousands of people, hopefully, will be able to get through in spite of these difficulties and who still have hope that we can respond as quickly as possible.

I do not know who the anonymous donor was, but apparently an anonymous donor has agreed to provide \$2,000 to every person living in Grand Forks and East Grand Forks to help them get through these difficulties. We estimate that is at least a \$10 million contribution. Well, if somebody, anonymously, can do that, it seems to me that this Congress can also respond—obviously, without anonymity—but as quickly and as effectively as this donor has.

So I hope that we can move this. I hope we are not going to subject this to extraneous legislation and I hope that, regardless of whether we agree or disagree on this particular bill, we recognize the urgency with which we have to deal with this issue and come to grips with it and respond, as we have in other emergency situations.

We ought to recognize that it is not Democrats or Republicans who are going to suffer the consequences of delay; it is farmers, businesses, children, hospitals, and so many people who await our decision—not by the week or the day, but by the hour. So we don't have much opportunity. South Dakota was hit, Mississippi was hit, North Dakota was hit—23 States. So we all know the dramatic repercussions that natural disasters can have, and we know how critical it is that we respond as quickly as possible.

On this particular piece of legislation, I have a great respect for the distinguished Senator from Georgia. I differ with him on this particular bill, in part, because I, frankly, think there is a better way to do it. Congressman PORTER, Senator LEAHY, and others have worked on legislation that would allow us to deal with the legitimate circumstances presented by the distinguished Senator from Georgia, but in a way that also protects individuals who may be physically abused or sexually abused, or who may be victims of circumstance and have no recourse if this

legislation were to pass. We want to be sure that we can provide a meaningful way with which to provide the balance, I guess, between the need of victims to address problems and the need for volunteer organizations to be protected from lawsuits that, in many cases, are frivolous. So we are seeking balance here. I think we can provide better balance in the Porter-Leahy legislation.

The majority leader came to the floor this morning and put a new urgency on this bill that I had not heard before. If there was such urgency, it is somewhat surprising to me that our Republican colleagues did not see fit to move it through the legislative process with the same degree of urgency. Why didn't we hold hearings immediately upon the introduction of the bill? Why didn't we have a markup in the committee if it was so urgent? Why hasn't there been more discussion? And why wasn't the Democratic leader consulted about the urgency and the nature of this legislation weeks ago, to say this week we are going to take this up because it is urgent? No one said anything to me about urgency. I first heard about urgency today. I am puzzled by the urgency that we have now attributed to this legislation, given the record.

So I hope, Mr. President, that we can figure out a way to compromise on this legislation in a way that would allow us to expeditiously move this process along. Regardless of circumstance, I hope that we will not hold hostage the emergency disaster legislation in an effort to leverage passage of this bill. We can do better than that. There ought to be ways with which to work this out, as we have found the ability to work out so many other somewhat controversial and, at times, complicated pieces of legislation. Two weeks ago, we got a unanimous consent agreement that was four pages long. If we can pass a unanimous consent agreement that is that complex, taking us four pages, on a treaty as controversial as chemical weapons was just last week, it seems to me that we ought to take something for which there ought to be broad-based interest and support and find a way to compromise this in a way that allows us to move it along.

Quite clearly, there is another matter involved here. The papers addressed it this morning. We are equally troubled by the fact that Ms. Herman has been subjected to an amazing array of practices that I hope will cease. She has had her hearing. She has been investigated, reinvestigated, and subjected to an array of questions. She has been brought in for special meetings and special explanations. She has been the subject of a great deal of rumor, innuendo, and media outlets across the country. She has presented herself in a way that I think is as professional as any I have ever seen. The President deserves the right to have his advisers, to have his Cabinet working with him. Once we have decided that she is qualified—and I guess that based upon the

unanimity with which she was approved in the committee, there is a bipartisan recognition of her qualifications—that should be it. She has dispelled all the questions. She has responded as affirmatively as she knows how to do. The President has made public his choice. What is there left that must be done to advance her nomination?

We have tried to negotiate. We have tried in as many ways as possible to work through this. We are left with no recourse but to oppose cloture so long as we can't get some understanding of what there is left to do in the case of the nomination of Alexis Herman to be Secretary of Labor. So we want to move that, too. We want to find a way to resolve that impediment as well. It is not our desire to hold things up. But when we bypass the committees and then don't take up legislation or nominations that certainly warrant consideration on the Senate floor in an expeditious manner, whether it is the emergency supplemental or the nomination of a Labor Secretary who has been confirmed now for some time by the committee itself, then the question comes, what options do we have left?

At least the volunteer bill gets a cloture vote. Maybe we ought to subject Ms. Herman to a vote, and if there is a certain degree of opposition to that, we can have a cloture vote on her nomination. But we don't even get that. So this isn't the way I hoped we could achieve more meaningful bipartisanship on a whole array of issues. I hope we can do that on all of the bills I mentioned and all of the nominations still pending on the Executive Calendar.

I might say, Mr. President—on the number of nominations—the other day when I looked, there were four pages of them on the Senate Calendar. I see now on page 11, "Nominations Placed on the Secretary's Desk," are now such that we have virtually 11 pages of them, of people that await confirmation, await a decision by the Senate, people whose lives are affected by delay, just as my disaster victims are affected by delay.

The question is, how much longer will they wait? What is it they must wait for? Is it a concern about their qualifications? Is it a concern about something in their background? Is it simply an unwillingness on the part of the majority to deal with the business that we have available to us, which we must address? Every President has the right to make nominations and to make decisions with regard to the personnel in his or her administration. That is the least we can afford this administration, but more importantly, the least we ought to be able to afford those people whose names are on these 11 pages.

So let's get on with the business and let's move ahead. Let's find a compromise on this bill. Let's confirm Ms. Herman. And above and beyond everything else, let's make absolutely certain that we pass the disaster bill as quickly as possible.

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

The PRESIDING OFFICER (Mr. AL-LARD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 11:15 a.m. having arrived, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 543, a bill to provide protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers:

Senators Trent Lott, Paul Coverdell, Connie Mack, Slade Gorton, Don Nickles, Spencer Abraham, Larry E. Craig, Michael Enzi, Craig Thomas, Phil Gramm, Dan Coats, Rick Santorum, Mitch McConnell, Orrin Hatch, R.F. Bennett, and Mike DeWine.

#### CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

#### VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 543, the Volunteer Protection Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUE] is necessarily absent.

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 53 Leg.]

#### YEAS—55

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Roberts
Brownback	Gregg	Roth
Burns	Hagel	Santorum
Campbell	Hatch	Sessions
Chafee	Helms	Smith, Bob
Coats	Hutchinson	Smith, Gordon
Cochran	Hutchison	H.
Collins	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	

#### NAYS—44

Akaka	Bingaman	Bryan
Baucus	Boxer	Bumpers
Biden	Breaux	Byrd

Cleland	Hollings	Moynihan
Conrad	Johnson	Murray
Daschle	Kennedy	Reed
Dodd	Kerrey	Reid
Dorgan	Kerry	Robb
Durbin	Kohl	Rockefeller
Feingold	Landrieu	Sarbanes
Feinstein	Lautenberg	Shelby
Ford	Leahy	Torricelli
Glenn	Levin	Wellstone
Graham	Mikulski	Wyden
Harkin	Moseley-Braun	

#### NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote the yeas are 55, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRAMS. Mr. President, I also ask that I may be allowed to speak in morning business for up to 5 minutes.

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

#### MEMBERS OF THE MINNESOTA NATIONAL GUARD DESERVE OUR THANKS

Mr. GRAMS. Mr. President, as we discuss the topic of voluntarism, I rise today to acknowledge a group of individuals who are making a very big difference, a tremendous difference as the people of Minnesota are fighting the floodwaters that have paralyzed so much of our State.

The men and women of the Minnesota National Guard have stepped up these last several weeks and served with distinction under what have been very deplorable conditions. Battling a rising river is back-breaking work in itself. It is nearly impossible when combined with the ice and the extreme cold produced by a blizzard. Yet those are the conditions that the Guard endured as they worked side by side with the residents of Minnesota's flood devastated communities.

Well over 2,000 National Guard troops have been called up to assist in both preventing flood damage and cleaning up when the waters finally begin to recede. These are men and women who have full-time jobs and lives outside the Guard and take time away from their other responsibilities to fulfill an obligation they feel to Minnesota and its communities. Many of the mayors and elected officials within the declared disaster area told me that the Guard has been such an integral part of their flood response efforts that they cannot imagine being without their assistance. The National Guard have always been instrumental in so many ways, in so many communities, that it

is nearly impossible to list every activity in which they have been involved.

Now, as the flood waters began to rise, they helped with the sandbagging that saved so many homes and buildings. They went door to door, urging residents to leave before the waters forced them to go. They put their engineering expertise to work, finding ways to ward off the flooding. And when it came time to evacuate, the National Guard played a key role moving Minnesotans to safety, whether by helicopter or truck, and helped evacuate nursing homes and hospitals. When all the residents were gone, they were there to guard the deserted towns and kept away sightseers and potential looters. The Guard's water purification units and electrical generators have been invaluable during the flooding.

The members of the Minnesota National Guard have served with little sleep and under the worst of conditions, but they have continually exceeded our expectations and they deserve a great deal of the credit for leading us through this time of crisis. Without the Guard, I think it is safe to say that a great many more lives would have been lost and a great deal more property would have been damaged. They have earned the respect and the deep gratitude of all Minnesotans and I salute them for standing with us and I thank them for their service.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

#### VOLUNTEER PROTECTION ACT OF 1997—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. COVERDELL. Mr. President, just before the vote, the minority leader was speaking. Of course he addressed many matters not related to the legislation before us, but he did allude to it. I appreciate the kind remarks that he made and that perhaps there could be work done to arrive at an agreement which both sides—at least he could agree with. But he specifically alluded to the situation where you would not want to have a volunteer involved with a sexual harassment or sexual crime.

I really do hope—this is not a long piece of legislation. It is 12 pages. I wish the staffs and Members would read it. I want to read this brief section, to respond to his comment:

EXCEPTIONS TO LIMITATIONS ON LIABILITY.—The limitations on the liability of a volunteer, nonprofit organization, or governmental entity under this section shall not apply [Note. No protection. There is no protection to the volunteer] to any misconduct that—

(1) constitutes a crime of violence . . . (2) constitutes a hate crime . . . (3) involves a sexual offense. . .

So the very point to which the minority leader felt that he could not