VOLUNTEER PROTECTION ACT OF 1997

Mr. INGLIS of South Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 911) to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities, as amended.

The Clerk read as follows:

H.R. 911

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Volunteer Protection Act of 1997''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) clarifying and limiting the liability risk assumed by volunteers is an appropriate subject for Federal legislation because—

(A) of the national scope of the problems created by the legitimate fears of volunteers about frivolous, arbitrary, or capricious lawsuits;

(B) the citizens of the United States depend on, and the Federal Government expends funds on, and provides tax exemptions and other consideration to, numerous social programs that depend on the services of volunteers;

(C) it is in the interest of the Federal Government to encourage the continued operation of volunteer service organizations and contributions of volunteers because the Federal Government lacks the capacity to carry out all of the services provided by such organizations and volunteers; and

(D)(i) liability reform for volunteers, will promote the free flow of goods and services, lessen burdens on interstate commerce and uphold constitutionally protected due process rights; and

(ii) therefore, liability reform is an appropriate use of the powers contained in article 1, section 8, clause 3 of the United States Constitution, and the fourteenth amendment to the United States Constitution.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide certain protections from liability abuses related to volunteers serving nonprofit organizations and governmental entities.

SEC. 3. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers or to any category of volunteers in the performance of services for a nonprofit organization or governmental entity.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer in which all parties are citizens of the State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS TO ORGANIZATIONS AND ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION OR ENTITY.—Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF VOLUNTEERS.—

(1) GENERAL RULE.—Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

(1) IN GENERAL.—The limitations on the liability of a volunteer under this Act shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to effect subsection (a)(3) or (e).

SEC. 5. LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In any civil action against a volunteer, based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of the volunteer for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant who is a volunteer, shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) HARM.—The term ''harm'' includes physical, nonphysical, economic, and noneconomic losses.

(3) NONECONOMIC LOSSES.—The term ''noneconomic losses'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means—

(A) any organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and which does not practice any action which constitutes a hate crime referred to in subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note); or

(B) any not-for-profit organization which is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes and which does not practice any action which constitutes a hate crime referred to in subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note).

(5) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) VOLUNTEER.—The term ''volunteer'' means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reasonable reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation,

in excess of $500 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect 90 days after the date of enactment of this Act.

(b) APPLICATION.—This Act applies to any claim for harm caused by an act or omission of a volunteer where that claim is filed on or after the effective date of this Act but only if the harm that is the subject of the claim or the conduct that caused such harm occurred after such effective date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from South Carolina [Mr. INGLIS] and the gentlewoman from Texas [Ms. JACKSON-LEE] each will control 20 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. INGLIS].

GENERAL LEAVE

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

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

There was no objection.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we will consider the Volunteer Protection Act of 1997. My distinguished colleague from Illinois, Mr. PORTER, has worked on this bill for some time now, and I hope that we will fulfill his hard work today in this House.

Our Nation has an extensive tradition of volunteering. It is almost impossible to be an American and not have had contact with one of the hundreds of public service groups. The circumstances surrounding that volunteer work are as pleasant as a Girl Scout camping trip or as tragic added flood relief. Now our tradition is in danger like never before. One of the reasons is frivolous lawsuits.

Mr. Speaker, across the country the fear of getting sued keeps people from volunteering. In a recent Gallup survey one in six volunteers reported withholding their services for fear of being sued. About 1 in 10 nonprofit groups report the resignation of a volunteer over the threat of liability.

□ 1200

I have seen this problem firsthand. In my district, for example, a group called Christmas in April, associated with a national organization, rehabilitates houses, creating all kinds of possibilities for frivolous lawsuits. Fear of getting sued is omnipresent and getting worse all the time.

I can illustrate with an example. Assume a volunteer is working on one of those houses and his or her hammer head falls off and hits the homeowner's parked car. Should the homeowner be able to sue the volunteer? Reasonable people, I believe, would say no. The volunteer did not intend to hit the car and was not negligent in losing the hammer. If one is being a good Samaritan and there is an accident that is not one's fault, one should not get sued.

That is the commonsense intent of this bill and here is how it would protect volunteers. First, the bill provides that volunteers will not be liable for harm caused by their acts, as long as they are acting in good faith. To have this protection, the volunteers must act within the scope of their responsibilities in the organization and must not cause harm by willful or criminal misconduct, gross negligence, or reckless misconduct.

Second, the bill offers no protection for individuals who commit hate crimes, violent crimes, section crimes, or who violate the civil rights of others. The bill also does not apply when defendants were under the influence of drugs or alcohol.

Third, the bill allows States to opt out if they choose not to adhere to these standards. In sum, Mr. Speaker, this bill sets a very commonsense standard for protecting volunteers. It makes sense that volunteer groups should use their scarce resources to do their work of mercy rather than use them to defend against frivolous lawsuits.

By passing the Volunteer Protection Act, we will promote voluntarism by removing the risk of getting sued for acts of kindness.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER], who has done such fine work on this bill for a number of years and whose work we are now hopefully going to fulfill today.

Mr. PORTER. Mr. Speaker, I thank the gentleman from South Carolina for yielding, and for his great leadership on this issue.

Let me say that H.R. 911, Mr. Speaker, was originally introduced in 1986 in Congress and was introduced in every Congress since that time. It has repeatedly had over 200 Members as cosponsors and about 30 to 40 percent of those cosponsors were our colleagues from the other side of the aisle. It has had very, very strong bipartisan support. Nevertheless, until this Congress, the bill had never had a hearing and was strongly opposed by the American Trial Lawyers Association.

In 1993, even without a hearing, Mr. Speaker, it was offered by me as an amendment to the National Service Act, and was adopted on a voice vote, and then on a motion to instruct conferees to keep that amendment for volunteer protection in the act. The vote was 422 to nothing. Cynically, however, Mr. Speaker, it was stripped out immediately in conference and never adopted.

In 1997, this year, the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary, granted hearings. Senators COVERDELL and MCCONNELL over on the Senate side provided leadership to bring the bill to the Senate floor where it passed 99 to 1. Over here on this side, my colleague, the gentleman from South Carolina [Mr. INGLIS] provided the leadership in the House to make a good bill even better.

The Inglis legislation, which was reported out by the Committee on the Judiciary, provides a uniform national standard for protecting volunteers, but allows States to opt out by an affirmative act if they do not wish to be covered. The original bill merely encouraged State action. H.R. 911 now provides a national standard for all volunteers.

The problem, Mr. Speaker, is not that volunteers are having to pay large judgments, that has not occurred in our legal system, but what has occurred is that volunteers have routinely been named as defendants in lawsuits and have had to hire an attorney, go to court, and attend to all the costs and time obligations that that involves.

Volunteers, Mr. Speaker, are central to our society. America could not operate without them. The fact that so many have been named as defendants has had a chilling effect, both on direct service volunteers and as those who

would serve as members of boards of directors of charitable organizations.

That is why, Mr. Speaker, there are 124 separate charitable organizations that support this legislation very strongly. They range from the American Association of University Women to the American Heart Association, to the American Red Cross, to the American Symphony Orchestra League, to B'nai Brith International, the Girl Scout Council USA, the National Association of Retired Federal Employees, the National Easter Seal Society, the Salvation Army, Save the Children, United Way, the YMCA. Any national organization that one can think of probably is a strong supporter of this legislation.

I commend the leadership of our Committee on the Judiciary, and the gentleman from South Carolina [Mr. INGLIS] in particular, for moving this legislation ahead so strongly. I commend it to the Members. I hope that the House will see fit to pass it with the same good margin as the Senate.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the concept of volunteer tort liability legislation. The purpose of this act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs and nonprofit organizations and government agencies that depend on volunteer contributions.

Let me first of all thank the leading proponent of this legislation. I think I was just with him in an appropriations meeting where he gave the history of his advocacy. Since 1986, I believe, the gentleman from Illinois [Mr. PORTER] has been on the side of encouraging a volunteer spirit that does not hamper or hinder the quality of the volunteer service, but protects the dedicated volunteer.

None of this suggests that we are interested in protecting section offenders, criminals, and others who may find their way into the warm and comfortable settings of Girl Scouts, Boy Scouts, other types of volunteer entities. We are suggesting that the bulk of America's volunteers are the average Mr. and Mrs. America in the urban and rural communities who every day rise up to support causes in our cities and in our counties and in our States.

As a result, H.R. 911 encourages the States to enact legislation to grant immunity from personal civil liability under certain circumstances to volunteers working on behalf of nonprofit organizations and government entities.

Let me as well acknowledge the gentleman from Illinois [Mr. HYDE] our chairman of the Committee on the Judiciary, and the gentleman from South Carolina [Mr. INGLIS] for their work in committee, and of course, although we had opportunities to disagree, I am gratified that there were many opportunities to agree, and I thank the gentleman for his work on this matter.

In 1996, the Nonprofit Risk Management Center and the American Bar Association published an analysis of State liability laws for charitable organizations and volunteers. Their findings revealed that prior to the last decade, the number of lawsuits filed against volunteers might have been counted on one hand, perhaps with fingers left over. Although the law permitted suits against volunteers, in practice no one sued them, and volunteers had little reason to worry about personal liability.

In the mid-1980's, that changed. More volunteers were sued and those suits attracted national media attention. Thus, many individuals were deterred from volunteering their services to nonprofit organizations. The nonprofit organizations that thrive on the services of volunteers have been hurt by the drastic reduction of volunteers who were scared away because of the rising threat of suits.

I raised issues in committee which I would like to comment on. This legislation in no way counters the rights of citizens to go in and address their grievances or to not seek remedy for being harmed. I think it is extremely important that we recognize the importance that where there is an extreme degree of culpability on the part of an entity that there should be relief on behalf of that individual. This is to give protection, if you will, to the thousands upon thousands upon thousands upon millions of volunteers who volunteer without danger to those they volunteer on behalf of.

Since 1986 at least 20 States have passed some form of volunteer immunity legislation. However, all of this legislation has given a false impression that volunteers nationwide are immune from lawsuits. To the contrary, many volunteers remain fully liable for any harm they cause and all volunteers remain liable for some actions. Furthermore, some State laws exclude gross negligence or some other category of error above negligence. A few laws even permit suits based on negligence, which nullifies the purpose for which they are offered.

Some of the State laws are confusingly worded, exceptionally complicated, designed for profit making when other problems arise.

Let me say a note if I might to the legal community. From my perspective, this is not a bashing the legal community legislation, and I would like to defend them. I have never seen a calling which has so many accusers, and I would venture to say that throughout this Nation there are a body of individuals, lawyers who practice before the bar, who raise up the highest standards of the legal profession.

I would hope that this discussion does not relegate itself to lawyer bashing, for every citizen deserves to be represented. This creates an even playing field for our volunteers, which we cherish. Just a few weeks ago, the President, Colin Powell, and others, raised up the call for voluntarism.

I hope as we speak today, more and more people are volunteering everywhere and throughout their community, not necessarily the large entities, but working in their neighborhood recreational centers, in their churches and parishes and synagogues, or maybe simply on their block.

A few laws even permit suits based on negligence, which, as I said, nullifies the purpose for which they are offered, and some States are having laws confusingly worded. Even the very best laws require a careful analysis to determine which volunteers they cover and what exceptions they contain. The goal of H.R. 911 is to establish volunteer protection laws that are not confusing and are easily applicable in a judicial proceeding. However, this bill also states that nothing in this act shall be construed to preempt the law governing tort liability actions.

Let me also note, and I appreciate and will engage the gentleman from South Carolina [Mr. INGLIS] in a colloquy later in the debate, but let me appreciate very much the support of the members of the Committee on the Judiciary for clarifying that this particular legislation does not promote hate groups and their activities.

Mr. Speaker, volunteers are essential to the everyday workings of nonprofit service organizations. In fact, we begin to teach our children voluntarism. With that in mind, I hope that this legislation will be seen for what it is, simply a good measure to both protect those who are volunteered upon as well as those who volunteer. It is important that we remember the good samaritans.

Mr. Speaker, I support the concept of volunteer tort liability legislation. The purpose of this act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs and nonprofit organizations and government agencies that depend on volunteer contributions. As a result, H.R. 911 encourages the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and government entities.

In 1996, the Nonprofit Risk Management Center and the American Bar Association published an analysis of State liability laws for charitable organizations and volunteers. There findings revealed that, prior to the last decade, the number of lawsuits filed against volunteers might have been counted on one hand, perhaps with fingers left over. Although the law permitted suits against volunteers, in practice no one sued them and volunteers had little reason to worry about personal liability. In the mid-1980's, that changed. More volunteers were sued and those suits attracted national media attention. Thus, many individuals were deterred from volunteering their services to nonprofit organizations. The nonprofit organizations that thrive on the services of volunteers have been hurt by the drastic reduction

of volunteers who are scared away because of the rising threat of suits. Since 1986, at least 20 States have passed some form of volunteer-immunity legislation. However, all of this legislation has given a false impression that volunteers nationwide are immune from suit. To the contrary, many volunteers remain fully liable for any harm they cause and all volunteers remain liable for some actions. Furthermore, some State laws exclude gross negligence or some other category of error above negligence. A few laws even permit suits based on negligence, which nullifies the purpose for which they are offered. Some of the State laws are confusingly worded, exceptionally complicated, designed for profit-making corporations, or otherwise problematic. Even the very best laws require a careful analysis to determine which volunteers they cover and what exceptions they contain.

The goal of H.R. 911 is to establish volunteer protection laws that are not confusing and are easily applicable in a judicial proceeding. However, this bill also states that nothing in this act shall be construed to preempt the laws of any State governing tort liability actions. Mr. Chairman, volunteers are essential to the every day workings of nonprofit service organizations. It is important that we provide protection to these good samaritans.

Mr. Speaker, I reserve the balance of my time.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BOEHNER], the distinguished chairman of the Republican Conference.

Mr. BOEHNER. Mr. Speaker, I want to congratulate the members of the Committee on the Judiciary for bringing this important piece of legislation to the floor today. I particularly want to give thanks to our colleague, the gentleman from Illinois [Mr. PORTER], for his hard work on this subject for many years.

Mr. Speaker, this is important legislation that is long overdue. It is important for our citizens who volunteer; it is important for those groups that do so much for our communities, and to those who need the services that volunteers provide.

As General Powell stated so compellingly in Philadelphia a few weeks ago, our volunteers share our Nation's most important asset: the guiding hands and caring hearts of the American people. Millions of people volunteer on a daily basis for one big reason: because they care. Their caring not only builds homes for Habitat for Humanity, not only helps children and adults reach the goal of literacy, not only does that caring result in coaches for Little League and scout leaders for Girl Scouts and Boy Scouts, this is the type of action that we want to promote on behalf of communities in America.

Government can provide some level of service, but if we are going to be successful in solving our Nation's problems, we need to reach out and we need to allow these organizations to do the best that they can do, and this bill will help that.

□ 1215

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 7 minutes to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Speaker, I rise procedurally in opposition to this bill, theoretically in favor of it. I will explain that during the course of my remarks.

Mr. Speaker, I rise today concerned and in opposition to this bill. This is very difficult, because the Volunteer Protection Act of 1997 is legislation that has the greatest of intentions. There is no question in my mind that the sponsor of it, my distinguished colleague, the gentleman from Illinois [Mr. PORTER] is sincerely concerned about the issue of volunteer liability.

However, the legislation presented before us today is vastly different than that of the original bill, which has over 150 cosponsors. I encourage those who cosponsored H.R. 911 as it was introduced originally to read carefully the amended version of the bill. Section 3 of the original bill stated that nothing in this act shall be construed to preempt the laws of any State governing tort liability actions.

The original bill stated that in cases where a State certifies that it has enacted this type of bill, then there would be an increase in the social services block grant program under title 20 of the Social Security Act. In other words, a State could opt into the Federal law, and if a State did nothing, State law nonetheless applied. This would keep the principles of federalism.

However, H.R. 911, as amended, is a major change from that standard. Section 3(a) of H.R. 911, as amended, states that the act preempts the laws of any State to the extent that such laws are inconsistent with this act, unless the State goes further in protecting volunteers.

Under the amended version, States must specifically choose under certain circumstances not to be covered under the proposed bill, and the State still cannot opt out entirely because it changes such important issues as whether or not the State has jurisdiction of the particular action.

We realize there are liability problems with the not-for-profits, but not every problem means that there is a Federal solution. The issue of volunteer liability has been addressed by many States because the States have exclusive authority over that, with the exception of very few areas. What we are considering here today is legislation that will federalize tort law for volunteers. I am unconvinced there is any blanket Federal jurisdiction with regard to volunteer protection.

States may vary in how they deal with the problems, but it is their prerogative to do so. It is not a Federal matter. There is no Federal law involved. There is absolutely no connection with interstate commerce. I personally like the bill, and if a member of the State legislature, would vote in favor of it.

Three years ago I voted against the current bill because it federalized the criminal code. One year ago I voted against the terrorism bill for the same reason. Today I will vote against this bill because I disagree with federalizing tort law for volunteers. It is different from issues of product liability, where in those cases I favor Federal legislation because there is interstate and worldwide commerce with regard to the production of a particular item.

H.R. 911 is entirely different. I recognize the increasing liability problems of a not-for-profit. My wife and I helped to start the crisis pregnancy centers in Rockford, IL. It is important, however, to allow States the rights and opportunities to resolve these issues, because that is what federalism is about, that it allows the States the options to come up and craft their own types of laws.

Now, let us take this bill and defeat it, and bring it back in the proper form. What I would suggest is this: I would suggest that Congress enact on the Federal level, if it so chooses, a special type of bill to protect volunteers, make it applicable in Federal courts or at the discretion in the State court, providing that there is a finding of interstate commerce. That would give a jurisdictional basis so that this Congress can constitutionally act within the parameters of what we are bound by. That is the Constitution.

Mr. Speaker, I rise today in favor of this type of legislation. But we have to protect the rights and allow the States to move in this area, unless there is jurisdiction.

The gentleman from South Carolina [Mr. INGLIS] said what happens in the case that a hammer drops on the hood of a car. There is absolutely no Federal connection. If we were to follow the language of the substitute bill, under this bill, if a hammer drops on a car there would be Federal jurisdiction. Under this bill, because insurance is purchased through interstate insurance markets, there would be Federal jurisdiction.

Mr. Speaker, that means that simply because somebody buys insurance, that means that the Federal Government will now take over the entire field of saying that this is interstate commerce, and therefore, we have jurisdiction.

This bill also says that where there are private entities that operate in interstate commerce, the law is very clear as set forth by the Lopez decision. Let us not federalize everything. This body yesterday just passed a bill to try to devolve power back to the States, away from the Federal Government. We should be doing that. We should be taking the original H.R. 911 of the gentleman from Illinois [Mr. PORTER], which encourages the States to pass this type of legislation and, as part of the encouragement, allows more Federal funds in certain types of programs. But the original H.R. 911 is so totally and dramatically different from this one that I cannot support it.

Mr. INGLIS of South Carolina. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT], a member of the committee.

Mr. BRYANT of Tennessee. Mr. Speaker, I thank the gentleman for yielding time to me. Also let me extend my congratulations and thanks to the members of the Committee on the Judiciary, our chairman, the gentleman from Illinois [Mr. HYDE], and also the chairman, the gentleman from Illinois [Mr. PORTER], for the work he has done in this area.

I do rise in support of H.R. 911. I believe this is a good bill. I think, No. 1, it is a timely bill. As has already been said today, given the renewed spirit of voluntarism advocated by our President and other distinguished leaders, private citizens ought to be encouraged to get involved without fear of an unjustified lawsuit. Unfortunately, in today's litigious society such concerns are very real, and have had a chilling effect on voluntarism.

No. 2, this bill is appropriate. I have a great deal of respect for my colleague, the gentleman from Illinois [Mr. MANZULLO], and he certainly makes a very good argument on this issue, but it is one with which I would disagree. I think with volunteers serving both from within and without their home State, a Federal, consistent law is certainly needed. If a State strongly disagrees with this, then that State, as he pointed out and as I would state today, has the option to opt out completely.

Finally, No. 3, this bill is reasonable. It protects a volunteer, not the organization but the volunteer herself, who is serving within the scope of her duties with the organization. It protects him or her from the day-to-day ordinary, simple negligence cases. It does not protect against willful negligence, willful conduct, gross negligence, a criminal act, drug use, alcohol, or in a situation where a vehicle is involved.

As such, I think it is overall a very good bill, one that we were proud to vote out from the Committee on the Judiciary, and one that I think does the right things at the right time. I would encourage my colleagues to join in support of this, and also, as part of this, to encourage additional voluntarism.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina [Mr. WATT], a member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentlewoman from Texas for yielding time to me for the purposes of debate.

Mr. Speaker, let me say that this bill will be characterized as a vote on whether one supports voluntarism or not. I really do not think that this has to do with whether one supports voluntarism at all. I think we all support voluntarism. We all supported voluntarism last week or the week before last when the housing bill came to the floor and we got into a massive debate about whether the Federal Government ought to be requiring residents of public housing to volunteer.

It was not about whether we supported voluntarism or not. It was about the relationship that should exist between the Federal Government and the State government, and the gentleman from Illinois [Mr. MANZULLO] has hit the nail completely on the head on that issue.

It amazes me the extent to which we will go to make ourselves reelectable. We will disregard any kind of principles if it makes us look good, and we will get on a one-track mindset, and the one-track mindset for the last 2 or 3 weeks has been voluntarism, and let us do everything we can do to support voluntarism.

Mr. Speaker, there are some principles here that are more important than voluntarism. I thought that my Republican colleagues, of all people, supported those principles of believing in the rights of States to have certain territory within our Federalist system that they have jurisdiction over. This is one of those areas.

There is no reason that we ought to be federalizing the entire tort law of the Nation related to volunteers. We have no jurisdiction. It is unconstitutional, probably, for us to do that, to take an issue that has no connection with the Federal Government and turn it in such a way that we preempt all State law, and then say we are not overstepping our bounds; in fact, we believe in States' rights.

Mr. Speaker, my colleagues on the other side of the aisle keep telling me that they believe in States' rights, and I keep saying, ''Well, when are you going to show it? When are you planning to stand up, and stand up for the rights of States in the Federalist system?''

They federalize juvenile justice, they tried to federalize tort law, they tried to federalize the criminal law. Now here we are, trying to federalize an obligation of the volunteer or the rules related to volunteering and liability when one does volunteer. These are matters of State law, and should be protected in our Federal system if we are going to protect the Federal system at all.

This whole notion that, well, a State can opt out if it wants to, what right do we have to make a State go back to its legislature and pass a law that opts itself out of a piece of Federal legislation? If that is not preemption of State law, we are requiring the States to do that, the Federal Constitution never gave us the right to do that. That is a violation of the whole concept of States' rights.

Mr. Speaker, I agree with the gentleman from Illinois [Mr. MANZULLO]. Were I a member of a State legislature, this is probably a very, very good bill. But that is not the issue here. They did not send us to Washington to pass legislation that State legislators ought to be dealing with. They sent us here to protect the rights of the States in our Federalist system.

I thought that is what my colleagues stood for on the Republican side, and I hope one day they will come back to that realization and start standing up for States' rights, which they give so much lip service to, rather than just doing what is convenient when it is politically popular to do so. This is a bad idea. We ought to defeat it, send it back, and let the State legislators do it.

Mr. INGLIS of South Carolina. Mr. Speaker, I am pleased to yield 2¼ minutes to the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

□ 1230

Mr. HYDE. Mr. Speaker, I thank the gentleman from South Carolina for yielding me the time.

If I may respond to the rather strident criticism of this bill by the gentleman from North Carolina [Mr. WATT], there is a practical reason why Federal preemption occurs here. Many of the disasters, such as the earthquakes in California, the forest fires, hurricanes in Florida attract volunteers from across State lines. The Red Cross, for example, would like to be able to train people to go in for disaster relief for people to train other volunteers, and it is important that they not have to concern themselves with a checkerboard of liability laws.

In addition, there is a very small insurance market to cover volunteers. The cost of that insurance becomes prohibitive if it has to be complicated by a plethora of liability standards from State to State.

So from a very practical point of view, and sometimes that is inconvenient, but from a very practical point of view, it is useful to have a Federal preemption in many cases so that volunteers who cross State lines to give and risk their lives many times are not troubled by having to comply with a checkerboard of laws and are able to get insurance from the organization that attracts them to protect them.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I would submit to the gentleman, Mr. Speaker, that nobody ever said that federalism was convenient. It is terribly inconvenient to operate in a federalist system. But that is not a justification for the Federal Government taking over all the rights of the State.

Mr. HYDE. Mr. Speaker, what the gentleman says may well be true, but common sense also has a role to play in legislating.

Mr. Speaker, I am very pleased that today the House of Representatives is considering H.R. 911, the Volunteer Protection Act of

1997. While modest in scope, it will yield significant dividends to our communities by assuring charitably minded Americans that they can volunteer their time without the threat of suit over honest mistakes.

We as a society are caring and giving by nature. Clearly Americans have taken to heart the notion that we all bear some responsibility to help the less fortunate. We recognize that in order to enrich our society, we must foster the arts, religion, education, and other such worthy causes with our contributions. Charitable donations are one way in which we show our support for these causes, but an equally important asset that we contribute is our time. For many, the donation of cash is an economic impossibility. On the other hand, all of us have skills which are as essential to providing services to the community as the funding the nonprofits receive. In fact, giving of our time is really more important than giving money, because time cannot be replaced, and in that sense, it is more valuable.

Unfortunately, over the past two decades, our legal liability system has become more and more of a deterrent to people who would otherwise give of themselves. Most volunteers in most States are fully liable for any harm they cause as a volunteer, and only about half the States protect volunteers other than officers and directors of the nonprofit organization. This means that before deciding to volunteer, individuals have to consider whether they are willing to risk liability which could threaten the financial viability of their families. Not surprisingly, the tradeoffs involved in that calculation frequently discourage the volunteer. In fact, frightened by well-publicized cases where volunteers have been sued, one in seven nonprofit organizations whose officers were polled by the Gallup Organization reported that they had eliminated certain worthwhile programs simply because they could be breeding grounds for legal action.

The problem is not that volunteers have been sued successfully in large numbers, but that they are named in so many lawsuits. Ultimately, the volunteer defendants in most of these cases are found not liable, for good reason. However, the cost of legal defense can be staggering, and the mental anguish a volunteer suffers when sued for exorbitant amounts of damages cannot be measured.

In addition to inhibiting people from volunteering, fear of these high-stakes lawsuits arising from volunteer efforts has led to the scarcity and ballooning expense of insurance to protect against potential verdicts. Between 1984 and 1989, the cost of liability coverage for local Little League Baseball programs shot up from $75 to $795 a year. Nationally, the Little League's biggest cost is not bats and balls, but legal and insurance costs associated with liability. This means that organizations must spend more of their resources paying overhead and less in actually providing the services for which they are created. Or, put another way, in order to provide the same level of services, they must raise substantially more money.

The signal that all of this gives is that volunteerism does not pay. This is absolutely 180 degrees from the message we should be delivering. Volunteers provide services which fill large gaps in government programs for the truly needy—gaps which will no doubt increase over the next decade. As both Federal and State governments make fiscal responsibility and balanced budgets the cornerstone of public policy, nonprofit organizations and the volunteers they utilize will play an even larger role. Besides, it is to volunteers that we owe a great deal of gratitude for our social cohesion—our sense of community in America. Giving money to help the needy is certainly laudable, but it cannot replace the sense of personal connection that comes from being the person who ladles the soup at a food bank, or hugs and feeds the AIDS baby, or helps a recent immigrant obtain rights under our laws.

The time to enact protection for our volunteers has come, and I urge my colleagues to join in supporting H.R. 911.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume. I would like to engage in a colloquy with the distinguished gentleman from South Carolina.

I thank the gentleman for the management of this legislation, and I wanted to engage with the gentleman in a discussion on the issue of the hate crime provision that, as the gentleman well knows, I offered in committee, and I was gratified that we were able to work together along with members of the committee to clarify the position as it relates to this particular legislation.

My question refers to the bill's exclusion for groups which practice actions constituting hate crimes. When the committee report states that in order to fall within this exclusion, it would not be sufficient that the organization practice a conduct that forms a predicate of a crime referenced in that statute, that is, the organization's action must rise to the level of a crime, it is my understanding that this language was inserted merely to ensure that the conduct covered falls within subsection (b)(1) of the first section of the Hate Crime Statistics Act.

It is my further understanding neither the bill nor the report language in any way implies that such conduct must rise to the level of a conviction or that it could be established under the usual criminal standard, proof beyond a reasonable doubt.

Am I also correct in understanding that the bill is not intended to prevent exclusion of a group which practices hate crimes but avoid a conviction because of application of evidentiary rules unique to criminal proceedings, such as exclusionary rule.

Mr. INGLIS of South Carolina. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from South Carolina.

Mr. INGLIS of South Carolina. Mr. Speaker, the gentlewoman is correct. It is my understanding that any group which is responsible for conduct covered by subsection (b)(1) of the first section of the Hate Crimes Statistics Act would be excluded from the protection of the bill. The language was inserted to clarify that nonprofit groups responsible for civil violations, which did not constitute a hate crime, were not subject to exclusion from the bill's coverage.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for engaging in this colloquy with me to clarify this issue.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The time of the gentlewoman from Texas [Ms. JACKSON-LEE] has expired. The gentleman from South Carolina [Mr. INGLIS] has 6 minutes remaining.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H.R. 911. I commend the gentleman from Illinois [Mr. PORTER] for introducing this legislation. I have been a longtime supporter and cosponsor of such legislation. The fact is that in our increasingly litigious society, volunteers are being sued more often. Insurance premiums for charitable organizations are increasing at a dramatic rate. As a 1988 poll shows, 10 percent of all volunteers are rethinking their existing commitment to charitable work. Despite the concerns that were raised by the distinguished gentlemen from Illinois and North Carolina, this Member consciously supports what the gentleman from Illinois [Mr. MANZULLO] has termed the federalization of tort reform in this area because of the unreasonable opposition in this area of tort reform among some in the legal community in some States, because the distinguished gentleman from Tennessee [Mr. BRYANT] has pointed to the opt out, State opt out provisions and because of the arguments made by the distinguished gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

The measure could very well be entitled the Good Samaritan Act. As the New Testament parable makes clear, only a few people are willing to sacrifice their time and money to help others. That remains true today.

Mr. Speaker, those who are willing to help others should not be penalized by the threat of lawsuit if someone is inadvertently harmed during the course of a volunteer activity. In closing, I support this legislation and urge my colleagues to do so.

And, Mr. Speaker, I thank the gentleman from South Carolina for yielding me the time.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], who has done excellent work on this bill.

Mr. PORTER. Mr. Speaker, I want to say that I have the highest respect for those who would defend the Constitution as they see it. The gentleman from Illinois [Mr. MANZULLO] and the gentleman from North Carolina [Mr. WATT], I would say to both of the gentlemen that the Senate very, very carefully considered this question when they considered this bill before the House did. The Senate is, after all, the

repository of States' rights under our Constitution. They added the provision for opting out for any State that wished to do so before passing the legislation almost unanimously. I would also say that many of the organizations that depend upon volunteers are national organizations who operate across State lines every day and across the entire country.

Finally, I would say that this matter undoubtedly could be considered by the courts in the course of a lawsuit. I think, rather, what is going to happen, though, Mr. Speaker, is that States, many of which have made progress in this area since this legislation was introduced, and I would like to think maybe were prodded into making some of that progress, will again come back and address this issue. Those who have not addressed it will come back and address it in their own way and, in the process, will adopt legislation that they think is appropriate and then perhaps opt under the clause in the legislation. That will get the job done as well.

The goal here is to protect volunteers, to prevent the chilling effect of possibly being dragged into court from preventing people from coming forward and offering their services that are so vital to our country. I believe this legislation addresses that issue head on and makes great progress. I think it is going to work out in all areas.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 15 seconds to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Speaker, I thank the gentleman for yielding me the time.

As a cosponsor of the Porter bill, I merely want to commend my good friend, the Republican cochairman of the Congressional Human Rights Caucus, for another act of legislative statesmanship. He is bringing great credit to this institution, and I want to congratulate the gentleman from Illinois [Mr. PORTER].

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], with appreciation for her support of this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am delighted to have been able to work with the gentleman from South Carolina [Mr. INGLIS] and to add my appreciation to the gentleman from Illinois [Mr. PORTER] for his guidance.

Let me emphasize to all who might hear, I encourage the support of this legislation and particularly explain to those who heard our colloquy, I am gratified that this legislation excludes those heinous promoting groups of hate and hate crime activities, such as the Ku Klux Klan and others who may engage in these very dastardly thought processes and acts that are not part of the American psychology.

Let me also say that we must think about who is impacted. Diverse groups from the likes of the American Diabetes Association, the American Heart Association, Salvation Army, Save the Children, NAACP and the National Urban League, all fall under the same category of voluntarism.

Might I say to my colleagues that I think this is a giant step not to bribe volunteers or pay off volunteers but it is a giant step to appreciate volunteers.

I thank the gentleman for yielding time to me.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield the balance of my time to the gentleman from Pennsylvania [Mr. GEKAS], a member of the committee.

(Mr. GEKAS asked and was given permission to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, on the same weekend that four Presidents met in Philadelphia to call the country to voluntarism, on that same weekend, I attended three, I think it was four Little League opening games for the season. During those proceedings, there were coaches, administrators, refreshment stand workers, other kinds of attendants at those functions that were in the true spirit of voluntarism.

I wish the four Presidents had come there to observe what voluntarism in action really was. The passage of this legislation here today will do more to add to the incentive that our neighbors and community workers have for helping out in Little League and 100 other kinds of activities than the meeting in Philadelphia, sorry to say.

It was wonderful to see the Presidents espouse voluntarism, but it is more important to give some kind of relief to give volunteers the sense of safety that they will have in proceeding to provide those services for the young people of our country.

Those who worry about whether or not our country is falling apart at the seams, all they have to do is go to Big Brothers, to Red Cross, to the charities, to the churches, to the Little League and back again to Philadelphia to see the Presidents call the people to action and voluntarism. What we do here today is more important.

Mr. Speaker, I rise to again express my support for H.R. 911, the Volunteer Protection Act, and to congratulate Mr. PORTER, the sponsor, for his efforts over these many years. My support for this measure goes back to its original introduction over 10 years ago. The bill, which reforms current civil statutes to protect individuals from being sued from harm incurred by another person in the course of volunteering for a charitable cause, arose out of many cases of wrongly-incurred legal liability which has threatened to destroy our system of community volunteerism. The examples abound, and I will not here restate them. But I will point to a particular sector of Americana that has been especially jeopardized by these suits and will find great relief in the passage of this measure: Sports volunteers.

Possibly no sector of our culture relies on volunteers more than sports, and especially youth sports. And over the last decade, volunteer participation in youth sport programs has decreased and become increasingly more difficult to fulfill, and the cost of protecting those volunteers who do risk the personal and financial anguish should a suit arise has grown. All due to the success of what many call completely frivolous law suits. A sad formula: Lawsuit success equals volunteerism decline. Throughout my entire political career, including when I was elected to the U.S. House of Representatives in 1982 until this moment, I have been closely involved with nonprofit sports groups and well aware of the growing lawsuit problem. In 1985, as the representative of the Pennsylvania congressional district which included Williamsport, the home of Little League Baseball, I introduced a measure in the 99th Congress, H.R. 3756, the Nonprofit Sports Liability Limitation Act, modeled after a recently passed State law, in an effort to remove the black cloud of frivolous lawsuits hanging over the nonprofit sports system by limiting the civil liability of managers, coaches, sponsors, and other volunteers who engage in youth sports programs throughout the country.

To no one's surprise, my measure, while lauded as being a ''good idea,'' went nowhere in the Democratic Congress. So, the measure was reintroduced in the 100th Congress as H.R. 1993—with the gentleman from Illinois, Mr. PORTER, as an original cosponsor—and then in the following Congresses. While H.R. 911 speaks to a broad coverage, my measure was more targeted in the hope that its focus, nonprofit sports groups, would be less controversial. I do not feel that either measure was controversial at all, but the reigning party in Congress differed with my acumen. So success eluded both my and Mr. PORTER's measure until now. I am very happy that now, after over a decade of trying, the Congress is finally and definitively addressing the issue of volunteer jeopardy for which both Mr. PORTER and I have been fighting.

I wish to include in the RECORD a copy of an April 17, 1987, Harrisburg Patriot editorial, supporting my proposal, and by extension, H.R. 911. I congratulate Mr. PORTER for his determination and success.

[From the Harrisburg Patriot, Apr. 17, 1987]

LEGAL SHIELD FOR VOLUNTEERS

If this country's civil litigation arena often takes on the appearance of a shark tank at feeding time, it is altogether understandable that otherwise-generous people show some reluctance for getting involved in volunteer work that may involve the risk of legal liability.

Certainly, second thoughts have been generated among adult volunteers in charge of youth sports programs. A 1982 New Jersey case in which the coach of a kids' baseball team was sued after a team member suffered an injury in the outfield provides a chilling example. The case was settled for an undisclosed amount.

Is it right that volunteers and ''good Samaritans'' should have to bear the same liability as neglectful motorists or contractors paid for their services? U.S. Rep. George W. Gekas does not think so. With the backing of Little League Baseball, whose Williamsport headquarters is in his district, the Harrisburg Republican has reintroduced a bill restricting the legal liability of non-paid coaches and managers.

Gekas' bill is based on tried-and-true state law now in effect in Pennsylvania, Delaware and new Jersey. In fact, Pennsylvania's ''Good Samaritan Act,'' intended to protect citizens who come to the rescue of others in distress, was a pioneer effort in this direction.

The Gekas bill provides an umbrella of protection for men and women of good will, enabling them to carry on their beneficent works without the fear of being sued or the expense of having to acquire high-priced liability insurance.

The volunteer spirit is an American institution that is threatened by an aberrant phenomenon. Any reasonable measure that strengthens and preserves this spirit deserves favorable consideration.

Mr. CONYERS. Mr. Speaker, I rise in opposition to this legislation. Although H.R. 911 is well intentioned, it will do nothing to encourage increased voluntarism, it will unnecesarily preempt traditional State law, discriminates against women and seniors, and it fails to adequately protect against abuse by hate groups. Simply put, I believe we can encourage voluntarism without encouraging negligence.

H.R. 911 WILL DO NOTHING TO INCREASE VOLUNTARISM

We all want to increase voluntarism in our communities, but this bill doesn't amount to a hill of beans in that respect. No witness has been able to identify a single case whose outcome would have been altered had H.R. 911 been law at the time of the case, and we've found no evidence of any case filed during the last 7 years whose outcome would have been altered by the legislation. There is absolutely no empirical evidence showing that this bill would do anything to increase voluntarism.

H.R. 911 UNNECESSARILY PREEMPTS STATE TORT LAW

To the extent there is any problem with volunteer liability, the States are fully capable of passing their own laws protecting volunteers from personal civil liability. As a matter of fact, every State in the union now has a law specifically limiting the legal liability of volunteers or nonprofit organizations.

Moreover, by mandating these provisions on the States, we invite legal challenges to congressional authority to legislate in this area, particularly under the Supreme Court's recent decision in United States versus Lopez. The Justice Department Office of Legal Counsel has similarly expressed concern that the bill would invite constitutional challenges because its coverage is not limited to volunteer organizations that engage in interstate commerce or liability that arises by reason of volunteer services affecting interstate commerce.

Arguments that the so called opt-out provision protects State prerogatives because it allows them to elect not to have the provisions apply miss the mark. Not only does this require affirmative action in the statehouse and senate as well as the Governor's signature, many States only meet on a biennial basis and couldn't even consider electing to opt-out for several years. In addition, the opt-out provision is unduly narrow in that it would only allow States to preserve their laws if all the parties are residents of the State. This is in direct contravention of traditional conflict of law principles, which typically apply a State's law to outsiders so long as the injury occurred within a State.

H.R. 911 FAILS TO PROTECT AGAINST ABUSE BY HATE GROUPS

While there is a limited provision relating to hate groups in the bill, this does nothing to insure that State law does not unnecessarily immunize such persons. For example, if a particular State provides across the board immunity to volunteers, H.R. 911 continues to allow a member of a militia or hate group who negligently entrusts a gun to a child—who in turn harms an innocent victim—to avoid responsibility for the negligent entrustment.

It is because of the bill's failure to provide full protection against harm perpetrated by hate group members that the Southern Poverty Law Center has chosen to oppose the legislation. Morris Dees, there chief trial counsel has written:

Under this legislation . . . a state could maintain or reinstate protections for volunteers of white supremacists, neo-Nazi and violent militia groups—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 . . . Without two-way preemption, ensuring that volunteers connected with hate groups are never insulated from liability, we would oppose H.R. 911.

H.R. 911 DISCRIMINATES AGAINST WOMEN, CHILDREN, AND ELDERLY

Because H.R. 911 limits recovery for noneconomic damages—the loss of a limb, the loss of reproductive capacity and other pain and suffering—by saying that tortfeasors are not jointly and severely liable for such damages. Losses incurred by a wealthy CEO who is a victim of negligence are easily translated into economic losses which are not limited by this bill. By contrast, losses incurred by a women who loses her reproductive capacity, or a senior, or child who loses a limb, are more likely to be considered noneconomic damages which are limited by the bill.

CONCLUSION

Instead of enhancing volunteerism or helping our poor and underprivileged, H.R. 911 creates a complex and inconsistent new overlay of limitations, confusing a system of State tort law that has served this Nation well for more than 200 years. I urge a ''no'' vote on this legislation.

Mr. DOYLE. Mr. Speaker, as a cosponsor of the Volunteer Protection Act in both the 104th and 105th Congress, I am pleased that the House is considering this thoughtful approach to voluntarism, as it relates to the disincentive of potential litigation. This measure has significant bipartisan support and represents our commitment to encouraging individuals to contribute to the success of their communities by volunteering their valuable time.

In today's climate, schedules are busy and personal demands are great. As Members of Congress, we cannot directly remedy the day-to-day responsibilities of individuals which may pose as obstacles for volunteer service. We can however, remove obstacles for those individuals who have the time and interest in committing themselves to community service.

The Volunteer Protection Act provides protection from personal civil liability in reasonable circumstances to volunteers involved in the activities of groups such as nonprofits, community organizations, nursing homes, educational institutions, and local governments. If we are truly serious about encouraging voluntarism, support of H.R. 911 embodies a responsible, concrete first step. The consensus on the merits of this bill is evident by the wide range of philosophical views held by its 152 cosponsors.

The Volunteer Protection Act has met with success at every level. The Senate overwhelmingly approved this bill by a 99-to-1 vote. And the House Judiciary Committee reported this measure by a 20-to-7 vote. I am confident that the full House will act today in favor of this provolunteer legislation.

In the spirit of voluntarism, I urge my colleagues to join me in sending a message of assurance to those who selflessly provide uncompensated services to those in need by voting in favor of H.R. 911, the Volunteer Protection Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina [Mr. INGLIS] that the House suspend the rules and pass the bill, H.R. 911, as amended.

The question was taken.

Mr. INGLIS of South Carolina. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF HOUSE REGARDING TERRORIST ATTACK IN CAMBODIA

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 121) expressing the sense of the House of Representatives regarding the March 30, 1997, terrorist grenade attack in Cambodia.

The Clerk read as follows:

H. RES. 121

Whereas Cambodia continues to recover from more than three decades of recent warfare, including the genocide committed by the Khmer Rouge from 1975 to 1979;

Whereas Cambodia was the beneficiary of a massive international effort to ensure peace, democracy, and prosperity after the October 1991 Paris Peace Agreements on Cambodia;

Whereas more than 93 percent of the Cambodians eligible to vote in the 1993 elections in Cambodia did so, thereby demonstrating the commitment of the Cambodian people to democracy;

Whereas since those elections, Cambodia has made significant economic progress which has contributed to economic stability in Cambodia;

Whereas since those elections, the Cambodia Armed Forces have significantly diminished the threat posed by the Khmer Rouge to safety and stability in Cambodia;

Whereas other circumstances in Cambodia, including the recent unsolved murders of journalists and political party activists, the recent unsolved attack of party officials of the Buddhist Liberal Democratic in 1995, and the quality of the judicial system—described in a 1996 United Nations report as ''thoroughly corrupt''—raise international concern for the state of democracy in Cambodia;

Whereas Sam Rainsy, the leader of the Khmer Nation Party, was the target of a terrorist grenade attack on March 30, 1997, during a demonstration outside the Cambodia National Assembly;

Whereas the attack killed 19 Cambodians and wounded more than 100 men, women, and children; and

Whereas among those injured was Ron Abney, a United States citizen and employee of the International Republican Institute who was assisting in the advancement of democracy in Cambodia and observing the demonstration: Now, therefore, be it

Resolved, That the House of Representatives—

(1) extends its sincerest sympathies to the families of the persons killed, and the persons wounded, in the March 30, 1997, terrorist grenade attack outside the Cambodia National Assembly;