

“gatekeeper” for all the documents the Justice Department has requested from the White House. Mr. Gonzales’ office said he would not rule out seeking to withhold documents under a claim of executive privilege or national security.

What kind of a zoo is this outfit?

Mr. Gonzales says he can withhold these documents from this investigation on the basis of national security.

Wait a minute. It is our national security that has been breached by this leak. Now we are going to have an invocation of protecting national security to protect who leaked it, I guess.

I believe this matter could have been resolved very quickly. President Bush could have called his senior staff members into the Oval Office and asked them one by one if they were involved. He could have them sign a document stating they were not involved in this leak. He could have each of them sign a release to any reporter to release anything they have ever said to a reporter thereby exempting the reporters.

There has been coverup after coverup after coverup on this CIA leak, and it is not going to go away. People of America will demand that we get to the bottom of it.

The PRESIDING OFFICER. The Senator from Georgia.

#### UNDERCOVER AGENT INVESTIGATION

Mr. CHAMBLISS. Mr. President, as I sat here and listened to my friend from Iowa once again bring up an issue to which we are all very sensitive, I can’t help but respond that I have an entirely different outlook and opinion about what is going on with respect to this issue. Those of us who have been involved in the intelligence community, and as a member of the Intelligence Committee, I, too, am somewhat outraged that we have the so-called “leak” or disclosure of a CIA individual that occurred not too long ago. We have a process whereby this is to be handled. That process is working the way the process is designed to work.

The White House was outraged about this, and the White House is moving very favorably and very aggressively towards resolving this issue. They are going to resolve the issue. The Justice Department is moving independent of the White House to get to the bottom of this. At some point in time a report is going to be made back to the Congress and to the American people, and we will find out what did happen.

Again, there is a process to be followed under law. That process is going to allow us to get to the bottom of this in the way it should be. We don’t need to be here banging political heads against the wall when the legal heads are the ones that need to be banged against the wall, and that is taking place.

#### CLASS ACTION FAIRNESS ACT OF 2003

Mr. CHAMBLISS. Mr. President, I rise in support of the Class Action Fairness Act of 2003. Today we are going to have a cloture vote to determine whether or not we move forward with this bill. I hope we obtain the 60 votes to move forward.

To a great extent, the bulk of the tort reform—that is needed in this country needs to be handled at the State level. States have their own ideas about what kind of tort reform ought to take place. I hope that is where tort reform—that each State decides it needs in and of itself—does take place. However, as the tort system now stands, there are about a handful of State court jurisdictions in the United States where a tremendously disproportionate number of class action lawsuits are filed. That is just not right. People have referred to these jurisdictions as “magnet courts” because they draw in class action suits with their soft juries and pro-plaintiff judges.

Under the Class Action Fairness Act, businesses can break loose from these magnet State courts and get a fair trial in Federal court.

Over the last 2 days of debate on class action reform, my colleagues have been dispelling a lot of myths about the Class Action Fairness Act that have been spread around by the opponents of the bill. I would like to take some time to address one of these myths about which I feel very strongly; that is, that some critics of the Class Action Fairness Act have argued that the bill is an affront to federalism because it would move more cases involving State law claims to Federal court.

But when it comes to federalism, this bill is actually the solution and not the problem. Right now, magnet State courts are trampling over the laws of other States in their zeal to certify nationwide class actions and help enrich, frankly, the plaintiffs’ trial bar. The Class Action Fairness Act actually promotes federalism concerns by helping ensure that magnet State court judges stop dictating national policies from their local courthouse steps. It will allow those cases that are truly justified class action lawsuits filed by trial lawyers who are filing them with the right intention to move forward and to obtain justice for their clients.

This is why, when it comes to federalism, critics of this bill have it backwards.

First, the bill does not change State substantive law. If an interstate class action based on violations of State law is removed to Federal court, the Federal court will simply apply the State law to resolve the case, just as the Federal courts do today in all “diversity” cases in the Federal court system. Critics attempting to argue that the bill is an affront to federalism are doing nothing more than attacking the fundamental concept of diversity jurisdiction, a concept enshrined in article II of the Constitution.

Second, the cases that would be affected by the legislation are truly interstate in nature. They have a real Federal implication. When the Framers of the Constitution created the Federal courts, they thought that large interstate cases should be heard in Federal court. Interstate class actions often involve thousands of plaintiffs nationwide and multiple defendants from many States. They require the application of the laws of several States and seek hundreds of millions or even billions of dollars. It is hard to imagine a better case for diversity jurisdiction.

Third, this legislation has a narrow scope. Smaller cases that are truly local and cases involving State government defendants will all remain in State court.

Fourth, the bill will stop magnet State courts from trampling on federalism principles by trying to dictate the substantive laws of other States in nationwide class actions. Too often magnet State courts take it upon themselves to decide important commercial issues for the entire country regardless of whether other States have reached different conclusions on the same issue. By allowing these cases to be heard in Federal court where the judges have been much more sensitive to differences in State laws and the need to balance various States’ interests in a controversy, the Class Action Fairness Act will put an end to this troubling practice.

Is this a perfect bill? It certainly isn’t. It is not perfect but it does deal with a very complex issue. That is why it is difficult to reach out and obtain a perfect bill.

However, by allowing this to move forward, the amendments that have now been filed, and other amendments that are being contemplated—and I have a couple of amendments myself that I may file to try to improve this bill—at the end of the day we need to make sure that lawyers representing individuals who have been damaged and are part of a class have the opportunity to seek justice; they have the opportunity to seek a fair result in their particular claim, whatever that claim may have arisen from.

By the same token, the business community should have the opportunity also to expect fairness and to expect that at the end of the day their particular defense to the cause that has been filed will be justly dealt with.

In sum, we have a bill with bipartisan support. Despite the misinformation being spread around, actually this bill will promote the proper assignment of class action cases between State court and Federal court dockets as was originally intended by the Framers.

There is one other issue that has been raised that needs to be addressed. That is the issue relative to the potential this bill has to clog the Federal judicial system. That may be the case in some jurisdictions. As a member of the Judiciary Committee, if we see that