

founded. Each of us has a responsibility to participate in the process of self-government.

It is an essential balance: rights and responsibilities. When we neglect either side of that equation, our democracy is in trouble.

Mr. DASCHLE. I agree with the Senator from Tennessee. It's not enough for the principles of our democracy to be known by only a few. That's not American democracy. In order to have a strong, vibrant democracy, everyone has to participate. Everyone has to know the history and the rules. We all need to learn not just names and dates, but the process of democracy. We also need to develop new and better ways to keep adults informed and involved in the civic life of their communities and of our nation.

Our nation faces grave, new challenges today. The very real threat of terrorism is forcing us to examine the balance between liberty and security. How do "we the people" respond to terrorism? How do "we the people" operate in an increasingly global world? In a world in which we are inundated with information of all kinds, how do we assure that people get the information they need to make informed decisions about our democracy and our future? These are the kinds of questions that future Congressional Conferences on Civic Education can explore.

Mr. FRIST. My friend is correct. The challenges and questions our nation faces today are different than those faced by our founders. But they are, in many ways, just as profound.

The great principles of democracy are what unify us as a people and bind us together as a nation. They are what gives us the strength to face the challenges of a complex world as one people. And, as my friend noted, they are what has made it possible for us to preserve the miracle of Philadelphia and keep our republic for more than two centuries.

I look forward to working with the distinguished democratic leader and with our colleagues in the House leadership to prepare for next year's conference. I also look forward to working with my fellow Tennesseans to see that our State produces an outstanding State action plan before that conference.

Mr. DASCHLE. I ask unanimous consent to have printed in the RECORD the Conference Statement and join the majority leader in encouraging all of our colleagues to lend their support to this Congressionally-sponsored effort to dramatically improve civic education and civic participation in America.

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

CONFERENCE STATEMENT—FIRST ANNUAL CONGRESSIONAL CONFERENCE ON CIVIC EDUCATION

The participants at the First Annual Congressional Conference on Civic Education acknowledge that there is an urgent need to address the low level of civic engagement in America. We recognize that:

Civic knowledge and engagement are essential to maintaining our representative democracy. While many institutions help to develop Americans' civic knowledge, skills, and dispositions, schools must have the capacity to prepare students for engaged citizenship. Civic education should be a central purpose of education essential to the well-being of representative democracy.

Civic education should be seen as a core subject. Well-defined state standards and curricular requirements are necessary to ensure that civic education is taught effectively at each grade level from kindergarten through 12th grade. Strengthening the civic mission of schools must be a shared responsibility of the public and private sectors at the community, local, state, and national levels.

Policies that support quality teacher education and professional development are important to ensure effective classroom instruction and raise student achievement.

Well-designed classroom programs that foster an understanding of fundamental constitutional principles through methods such as service learning, discussion of current events, or simulations of democratic processes and procedures are essential to civic education.

In recognition of these findings, we resolve to take action to reaffirm the historic civic mission of our schools.

Adopted by the Delegates to the First Congressional Conference on Civic Education, September 22, 2003, in Washington, D.C.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I wish to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On November 11, 2003, a religious fundamentalist was arrested as a suspect in an alleged plot to bomb abortion clinics and gay bars throughout the eastern United States. On the day of his arrest, the suspect had purchased gasoline cans, flares, propane tanks and starter fluids, in addition to pistols and silencers. Thankfully, the suspect was arrested before he was able to commit multiple crimes of hate.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

Mr. DODD. Mr. President, I rise today to briefly discuss legislation to reform the rules governing class litigation. In October of this year, the majority leader sought to proceed to the Class Action Fairness Act, S. 1751.

I joined forty of my colleagues in opposing the motion to proceed. I said at the time that while I supported some reform of class action procedures, I could not support S. 1751 in its current form. I also expressed concern about whether there would be any meaningful opportunity for interested Senators to

negotiate changes to the bill in a bipartisan fashion.

Subsequent to the vote in October, I joined with three of my colleagues in sending a letter to the majority leader on November 14, 2003. In that letter, we reiterated our interest in class action reform and we outlined several areas where we believed revisions to S. 1751 were in order.

In November, Senators LANDRIEU, SCHUMER and I entered into discussions with Senators FRIST, HATCH, GRASSLEY, KOHL, and CARPER. Those discussions have resulted in a compromise agreed to by our eight offices that I believe significantly improves upon S. 1751. I also ask unanimous consent that a summary of the compromise produced by my office be printed in the RECORD.

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

(See exhibit 1.)

Mr. DODD. Lastly, Mr. President, I want to point out that in my view this is a delicate compromise, which addresses the shortcomings of current class action practice while at the same time protecting the right of citizens to join with fellow citizens to seek the redress of grievances in the courts of our Nation. As I and my colleagues said in our letter of November 14th, it is "critical" that this agreement "be honored as the bill moves forward—both in and beyond the Senate."

EXHIBIT 1

SUMMARY OF CHANGES TO S. 1751 AS AGREED TO BY SENATORS FRIST, GRASSLEY, HATCH, KOHL, CARPER, DODD, LANDRIEU, AND SCHUMER

The Compromise Improves Coupon Settlement Procedures

S. 1751 would have continued to allow coupon settlements even though only a small percentage of coupons are actually redeemed by class members in many cases.

The compromise proposal requires that attorneys fees be based either on (a) the proportionate value of coupons actually redeemed by class members or (b) the hours actually billed in prosecuting the class action. The compromise proposal also adds a provision permitting federal courts to require that settlement agreements provide for charitable distribution of unclaimed coupon values.

The Compromise Eliminates the So-Called Bounty Prohibition in S. 1751

S. 1751 would have prevented civil rights and consumer plaintiffs from being compensated for the particular hardships they endure as a result of initiating and pursuing litigation.

The compromise deletes the so-called "bounty provision" in S. 1751, thereby allowing plaintiffs to receive special relief for enduring special hardships as class members.

The Compromise Eliminates the potential for Notification Burden and Confusion

S. 1751 would have created a complicated set of unnecessarily burdensome notice requirements for notice to potential class members. The compromise eliminates this unnecessary burden and preserves current federal law related to class notification.

The Compromise Provides for Greater Judicial Discretion

S. 1751 included several factors to be considered by district courts in deciding whether to exercise jurisdiction over class action

in which between one-third and two-thirds of the proposed class members and all primary defendants are citizens of the same state.

The compromise provides for broader discretion by authorizing federal courts to consider any "distinct" nexus between (a) the forum where the action was brought and (b) the class members, the alleged harm, or the defendants. The proposal also limits a court's authority to base federal jurisdiction on the existence of similar class actions filed in other states by disallowing consideration of other cases that are more than three years old.

The Compromise Expands the Local Class Action Exception

S. 1751 established an exception to prevent removal of a class action to federal court when 2/3 of the plaintiffs are from the state where the action was brought and the "primary defendants" are also from that state (the Feinstein formula). The compromise retains the Feinstein formula and creates a second exception that allows cases to remain in state court if: (1) more than 2/3 of class members are citizens of the forum state; (2) there is at least one in-state defendant from whom significant relief is sought and who contributed significantly to the alleged harm; (3) the principal injuries happened within the state where the action was filed; and (4) no other class action asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons has been filed during the preceding three years.

The Compromise Creates a Bright Line for Determining Class Composition

S. 1751 was silent on when class composition could be measured and arguably would have allowed class composition to be challenged at any time during the life of the case. The compromise clarifies that citizenship of proposed class members is to be determined on the date plaintiffs filed the original complaint, or if there is no federal jurisdiction over the first complaint, when plaintiffs serve an amended complaint or other paper indicating the existence of federal jurisdiction.

The Compromise Eliminates the "Merry-Go-Round" Problem

S. 1751 would have required federal courts to dismiss class actions if the court determined that the case did not meet Rule 23 requirements. The compromise eliminates the dismissal requirement, giving federal courts discretion to handle Rule 23-ineligible cases appropriately. Potentially meritorious suits will thus not be automatically dismissed simply because they fail to comply with the class certification requirements of Rule 23.

The Compromise Improve Treatment of Mass Actions

S. 1751 would have treated all mass actions involving over 100 claimants as if they were class actions. The compromise makes several changes to treat mass actions more like individual cases than like class actions when appropriate.

The compromise changes the jurisdictional amount requirement. Federal jurisdiction shall only exist over those persons whose claims satisfy the normal diversity jurisdictional amount requirement for individual actions under current law (presently \$75,000).

The compromise expands the "single sudden accident" exception so that federal jurisdiction shall not exist over mass actions in which all claims arise from any "event or occurrence" that happened in the state where the action was filed and that allegedly resulted in injuries in that state or in a contiguous state. The proposal also added a provision clarifying that there is no federal jurisdiction under the mass action provision for

claims that have been consolidated solely for pretrial purposes.

The Compromise Eliminates the Potential for Abusive Plaintiff Class Removals

S. 1751 would have changed current law by allowing any plaintiff class member to remove a case to federal court even if all other class members wanted the case to remain in state court. The compromise retains current law—allowing individual plaintiffs to opt out of class actions, but not allowing them to force entire classes into federal court.

The Compromise Eliminates the Potential for Abusive Appeals of Remand Orders

S. 1751 would have allowed defendants to seek unlimited appellate review of federal court orders remanding cases to state courts. If a defendant requested an appeal, the federal courts would have been required to hear the appeal and the appeals could have taken months or even years to complete.

The compromise makes two improvements: (1) grants the federal courts discretion to refuse to hear an appeal if the appeal is not in the interest of justice; (2) Establishes tight deadlines for completion of any appeals so that no case can be delayed more than 77 days, unless all parties agree to a longer period.

The Compromise Preserves the Rulemaking Authority of Supreme Court and Judicial Conference

The compromise clarifies that nothing in the bill restricts the authority of the Judicial Conference and Supreme Court to implement new rules relating to class actions.

The Compromise is Not Retroactive

Unlike the House Bill, the compromise will not retroactively change the rules governing jurisdiction over class actions.

HONORING OUR ARMED FORCES

TRIBUTE TO SPECIALIST AARON J. SISSEL

Mr. GRASSLEY, Mr. President, I rise today to pay tribute to a fellow Iowan and a great patriot, Iowa National Guard Specialist Aaron J. "George" Sissel. Specialist Sissel gave his life in service to his country on November 29, 2003 in support of Operation Iraqi Freedom when the convoy in which he was traveling came under enemy fire. This brave young man was only 22 years old at the time of his death.

I ask my colleagues in the Senate, my fellow Iowans, and all Americans to join me today in paying tribute to Specialist Sissel for his dedication to the cause of freedom and for his sacrifice in defense of the liberties we all so dearly prize. He selflessly served his Nation, sacrificing his life for the great principles that underpin both our way of life and the hopes and dreams of all humankind—the principles of liberty, justice, and equality. In a statement released following his death, Specialist Sissel's family offered the following words about their son and brother: "Aaron 'George' died doing what he loved and believed in. We are very proud of him."

We can all be very proud of men like Specialist Sissel. Our Nation's history is distinguished by the presence of extraordinary men and women willing to risk their lives in defense of our country, but also by families who sacrifice those they love for the sake of the

great principles of American life. While we share the pride felt by Specialist Sissel's family, we also share their grief. My deepest sympathy goes out to the members of Specialist Sissel's family, to his friends, and to all those who have been touched by his untimely passing. May his mother, Jo, his father and stepmother, Kirk and Cindy, his sister, Shanna, and his fiancée, Kari Prellwitz, be comforted with the knowledge that they are in the thoughts and prayers of many Americans, and that they have the eternal gratitude of an entire nation.

Specialist Sissel did not die in vain; rather, he died in defense of the Nation he loved and the principles in which he believed. Indeed, Specialist Aaron J. "George" Sissel has entered the ranks of our Nation's greatest patriots, and his courage, his dedication, and his sacrifice are all testaments to his status as a true American hero.

SP4 DAVID J. GOLDBERG, U.S. ARMY

Mr. HATCH, Mr. President, my heart is heavy. Utah has once again given one of her sons to the cause of liberty.

Any loss of our fine young men or women is a tragedy. However, I believe this is particularly so with the loss of SP4 David J. Goldberg. He was a fine young man, loved dearly by his parents and wife. Though of a young age, he had already accepted the responsibilities of a man and had volunteered to serve his Nation during a time of war. This sense of responsibility, especially to his fellow soldiers, was one of the defining characteristics of his life. I have learned from the many who knew him and loved him that the specialist was always there for his fellow soldiers, frequently volunteering for extra assignments when others were not available. He will be greatly missed.

And so, another name has been added to Utah's List of Honor: SP4 David J. Goldberg. He joins an illustrious list that includes CPT Nathan S. Dalley, West Point graduate and a member of the Army's 1st Armored Division, SSG James W. Cawley, U.S. Marine Corps Reserve; SSG Nino D. Livaudais of the Army's Ranger Regiment; Randall S. Rehn, of the Army's 3rd Infantry Division; SGT Mason D. Whetstone of the U.S. Army and former Special Forces soldier Brett Thorpe.

Their names and the service they performed is something that I shall never forget. I shall always honor them and their families.

CPT NATHAN S. DALLEY, U.S. ARMY

Mr. President, on November 17, God called home one of our best and brightest, CPT Nathan S. Dalley. At the young age of 27, Captain Dalley entered the hallowed list of those sons and daughters of Utah who have given their lives for their country.

Captain Dalley epitomized what a soldier should be: a born leader, mindful of his responsibilities, and eager to help and encourage others. He was exceptional in many ways, yet a decent man that treated everyone with respect. You see, I had the honor of