

leave in State court class actions in which the plaintiffs and defendants are all residents of the same State, class actions with fewer than 100 plaintiffs, class actions that involve less than \$5 million, shareholder class actions alleging breaches of fiduciary duty, any class action in which a State government entity is a primary defendant, and any class actions brought against a company in its home State in which two-thirds or more of the class members are also residents of that State.

Secondly, the average State court judge is assigned three times as many cases as his or her Federal counterparts. State court judges are assigned, on average, about 1,500 new cases each year. For example, in California, the average judge was assigned 1,501 cases in 2001. In Florida, the average was 2,210. In New Jersey, the average was 2,620. In Texas, it was a little over 1,600 cases. In contrast, each Federal court judge was assigned an average of 518 new cases during the 12-month period ending September 30, 2002.

The exponential growth of State court class action filings over the last decade has added to the workload problem of State court judges who, in many cases, unlike their Federal counterparts, do not have a number of law clerks, magistrate judges, or special masters to help with particularly time-consuming tasks involving supervising complex cases. Since many State courts or tribunals of general jurisdiction hear all sorts of cases, from traffic violations, to divorces, to felonies, judges who are distracted by class actions do not have enough time to focus on providing basic legal services for the community that they serve.

Finally, recent surveys have shown that the majority of class actions in many jurisdictions would remain in State court under this bill. As far as those cases that could be heard in Federal court under S. 5, many of them involve copycat class actions filed in different jurisdictions, which Federal judges can consolidate under one judge. Therefore, moving more class actions to Federal court would actually reduce the burden for everyone.

Ultimately, this bill will allow claims with merit to go forward while preventing judicial blackmail. That has become, unfortunately, something involved in our judiciary today.

I urge my colleagues to vote a clean class action bill out of the Senate, to vote against any amendments that would dilute the bill and stop us from moving this reform forward, and that would help in job creation in the United States. This is a small measure. I think we should do more, but it is an appropriate measure. It moves us in the right direction. It helps in the creation of jobs in the United States and in litigation reform, which we desperately need in this country.

These sort of bipartisan, modest steps, while they won't have perhaps as big a positive impact as we would like them to have, will have a positive im-

pact on the judicial system and in helping us to reform that. That is something we need to do. We need to move forward on the budget deficit, we need to move forward to make sure we have a true trust fund in Social Security, and we need to move forward in litigation reform. All these are positive steps for our future. I hope we can continue, as with this bill, to work it forward on a bipartisan basis.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3, AS MODIFIED

Mr. DURBIN. Mr. President, earlier I offered an amendment at the desk which needs to be modified. I ask that the amendment, under the rules, be modified accordingly to reflect the pages and lines of the bill.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 21, before the semicolon at the end of line 2, insert "or by the court sua sponte". On page 21, line 9, strike "solely".

Mr. DURBIN. Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

IRAQ VOTES FOR FREEDOM

Mr. ENSIGN. Mr. President, I rise to speak about the recent historic elections in Iraq—elections that had been anticipated by an anxious global community for some time.

This election is the story of true patriots who knew the odds and decided to beat them. This is the story of the millions of Iraqis who defied the threats and the intimidation of "terrorists" to cast their votes for a brighter future in Iraq.

News reports are flush with firsthand accounts from observers. The reports paint a picture of a people acting on their innate desire to be free.

One such account details the determination of Samir Hassan, who at 32

lost his leg in a car bomb blast last October. Hassan said, "I would have crawled here if I had to. I don't want terrorists to kill other Iraqis like they tried to kill me. Today I am voting for peace."

The act of voting by ordinary Iraqis in the face of extreme danger confirms President Bush's belief that people around the globe, when given a chance, will choose liberty and democracy over enslavement and tyranny. Human beings crave freedom at their core.

Early estimates by Iraq's Independent Electoral Commission show that about 8 million of the nearly 14 million registered voters cast their ballot on Sunday—a turnout almost equal to the number of Americans who voted last November without the threat of snipers or suicide bombers.

In the words of Arkan Mahmoud Jawad, who came to vote with his mother and younger brother, "This is the salvation for the Iraqis. I hate the terrorists, and now, I am fighting them by my vote."

These are people who were beaten down by the brutal regime of Saddam Hussein. That is exactly why they want to reclaim their country through these elections. They know what the cost of failure would be.

And they know all too well that tyranny breeds isolation. Any dissent from Saddam Hussein's regime could result in torture or death. Neighbors couldn't trust neighbors. Families were torn apart. All this leaves scars on a nation that may take generations to heal.

I believe that voting is the first act of building a community as well as building a country. With the election we saw a peaceful majority reclaiming their birthright. We saw people gaining courage from realizing that they were not alone—that their friends and neighbors and relatives were going to vote—and that they could vote too. Together they are building their future.

Here is one description of how voting progressed:

The first Iraqis on the streets seemed tense as well, not smiling and not waving back. But as the day unfolded, and more and more voters took to the streets, a momentum seemed to gather, and by mid-morning Karada's main street was jammed with people who had voted and people on their way to vote. Some Iraqis, walking out of the polling places, used their cellphones to call friends and urge them to come. Some banged on their neighbors' doors and dragged them out of bed. Old men rolled up in wheelchairs. Women came in groups, lining up in their long, black, head-to-toe abayas. The outpouring, which filled Karada's streets with Shiites, Christians and even some Sunnis, surprised the Iraqis themselves. When Ehab Al Bahir, a captain in the Iraqi Army, arrived at Marjayoon Primary School, he braced himself for insurgent attacks. The mortar shells arrived, as he anticipated, but so did the Iraqi voters, which he did not.

Voting was an act of defiance against the terrorists and an affirmation that Iraqis control their own destiny through self-government. The people of Iraq realize that a stable, successful,