''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

does happen, it is our obligation as legislators to remove that backlog and to make sure we have enough judges in place to handle any volume of cases that may be filed in respective jurisdictions. We have always done that. We will continue to do that.

I ask my colleagues to review this bill very carefully and to allow us to move forward today by voting in favor of the cloture motion, which will allow us to get the bill on the floor and have the debate, talk about the issues of fairness, and talk about the issues necessary to ensure that plaintiffs do get justice in cases where justice is deserved; but, by the same token, that there is some stability on the part of the business community where unjust cases are being filed against them.

I ask my colleagues to vote in favor of the cloture motion. Let's move forward, have the debate. I will be one who agrees with a lot that is in the act and will probably have some questions about the act. I look forward to the debate and look forward to moving forward and to coming out with a good, fair, and just class action reform bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, how much time is available?

The PRESIDING OFFICER. The Senator is recognized for 9 minutes.

Mr. CORZINE. If the Chair would notify me when I have used 8 minutes please.

The PRESIDING OFFICER. Yes, sir.

CHEMICAL PLANT SECURITY

Mr. CORZINE. Mr. President, the primary topic I will talk about today is the markup tomorrow with regard to chemical plant security. The Environmental and Public Works Committee will take up legislation dealing with one of the most serious security threats to our Nation. According to statistics by EPA, there are 123 facilities in 24 States where a chemical release could expose more than a million people to a toxic chemical, and nearly 3,000 facilities spread across 49 States where 10,000 people could be exposed.

This is a serious issue that can create real health and safety hazards to our community, particularly in a time when we know we are under potential terrorist attack at home.

This is an issue that has been identified by the Department of Homeland Security and by almost every security expert as one of the most serious exposures we have in our infrastructure. When we go from code yellow to code orange, chemical plants are identified as part of the infrastructure that needs to be hardened in those events.

It seems to me we need to be addressing this matter. I am pleased Chairman INHOFE, EPW, and others are taking up this challenge to address this issue. I have been pushing on this for the last 2 years, actually got a vote in EPW on a bill that had 100-percent support of everyone in the committee a year and a half ago. Until the lobbyists went to work, we thought we had a real response that would work on a bipartisan basis. We have adjusted that bill, made changes, offered economic incentives to the industry to move forward. We have a roadblock to dealing with one of the most important risks we have in our infrastructure.

I commend Senator INHOFE and other members of the committee for addressing the issue. Unfortunately, I do not think the bill meets the needs of what we are trying to accomplish. Constructively, the committee has moved to require chemical plants to develop security plans and submit them to the Department of Homeland Security. The administration had not asked them to submit the plans. Unfortunately, DHS will not have to review them according to the bill, as I understand it. They would not have to evaluate them. They would not have to approve them. They would not have to do anything to assure the public is protected. That is a problem. The Department could simply let the plans sit on a back shelf and let dust accumulate.

Furthermore, it would tighten all 15,000 chemical plants without any kind of prioritization in the country, which is also a big mistake. We need to make sure these plans are actually reviewed, that there is real accountability. That is my major concern with the mark that will be coming through tomorrow.

There are other problems also. It is not strong enough on one of the fundamental issues with regard to my original bill, inherently safer technologies. There are alternative approaches. We cannot build fences high enough and put enough guards to make sure that every possible terrorist attack or criminal attack on a chemical plant could actually be accomplished. We need to make sure if there is a successful attack, that it has minimal exposure. We ought to do everything we can to have inherently safer technologies within economic feasibility. That is practical.

While there is a step forward in recognizing this is immediate, and there is necessary evaluation that is being asked for from chemical producers, I don't think we are going far enough in requiring the use of inherently safer approaches if they are economically feasible and practical. That should be a requirement of the law. This is one of the major issues I have.

Finally, there is a gaping loophole in this legislation as I understand it, and I hope others will challenge it tomorrow in the committee mark. I certainly will if it gets to the floor; that is, if the chemical industry or any particular private sector approach has a substantially equivalent standard as opposed to what DHS puts out as a standard, that will be acceptable to the Department of Homeland Security. They have already embraced a private standard that they have suggested is very good. It does not include inherently safer technologies. It does not require accountability in that other standard being established by the chemical industry.

As a consequence, we are actually moving back to a completely voluntary approach. I don't get it. I don't understand it. I don't think it is the direction we should be taking. It is a loophole that erases all the good things that have been included in the mark if you go to a substantially equivalent standard.

There are serious shortfalls in the mark, at least as I understand them. I hope they will be debated seriously in the committee tomorrow. I want folks to know this is not an issue that will die down. We have eight of these plants in New Jersey. They are located right smack dab in the middle of some of the highest concentrations of population in our country. We have had accidents over the years in my community that have taken lives in the community and evacuated the surrounding citizens. This is a vulnerability that everyone acknowledges is real, it is present, and it needs to be addressed. That is why I feel so strongly about it.

This should be a bipartisan issue. I am glad Senator CHAFEE has been working to push the issue in committee this year. But we need to move it.

By the way, just finally, there is something I have a problem with also in the bill in the sense that if somebody turns loose one of the plans that is filed by an individual plant, that will be subject to criminal penalties. But if a chemical producer does not comply with the standards they set down in the plan, that is a civil liability. It sounds right to me there would be criminal penalties for people who leak information into the public that could be dangerous and used against the public. But it strikes me as unequal treatment; it sort of does not jibe with regard to parity that those people who are actually not complying with the law are going to be treated on a civil basis.

Where is the parity? It seems to me we are listening to industry more than we are listening to the needs of the American people. If September 11 taught us anything, it is that America can no longer avoid thinking about the unthinkable. We have to face up to the Nation's most serious vulnerabilities. We have to focus on them. And we have to confront them head on.

That is why I have long advocated the adoption of legislation to create meaningful and enforceable security standards for chemical facilities. Under my proposal, the Federal Government would identify ''high priority'' chemical facilities—those that potentially put a larger number of people at risk. It then would require those facilities to assess their vulnerabilities and implement plans to improve security. These plans would have to be submitted for review. And changes could be required if deficiencies are identified.