

If we allow this to sort of wander along without dealing with the intricacies and the complicated questions involved, then one can almost predict with certainty what is going to happen at the end of the day. So the offer is there. I make it to my friends and colleagues on this side of the aisle and the other. I am prepared to be a part of those efforts, if they find it fruitful and worthwhile, or to sit on the sidelines and watch it happen and be supportive of whatever they are able to produce.

Let's move forward and get this done. The American people deserve better. We are not working together as often as we should on critical questions. If we do not do it, then we do a great disservice to the American public.

So I hope the leaders would take up the offers that have been made, sit down and see if we cannot pull this bill together. For those who are interested, we ought to be prepared to start that process today—this afternoon—if people are so willing.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask for 2 minutes of personal privilege to add a few remarks to the RECORD. I, too, remain firmly committed to class action reform and have stated so publicly many times and will continue to state publicly that intention.

There are two or three reasons I could not vote to move to debate on this bill because there were not clear indications given that certain language in this underlying bill would be removed.

I understand the legislative process. I am clear about the legislative process, but I am also clear about the way that arrangements can be made in this Chamber, arrangements with this White House and the House so that we can come out with a bill that is fair to the American public, that helps us to increase jobs, to remove the forum shopping, and to eliminate the abuses that are in this system, without undermining people's rights to get their day in court.

So as one of the votes that obviously could have made a difference in the outcome today, I most certainly remain open. The language, however, regarding mass torts must be removed. The coupon settlement language must be addressed. The jurisdictional question somewhere between the Feinstein and Breaux language would be acceptable, and the bounty provisions, which are very important to civil rights legislation, must be addressed.

These are four issues that I am going to be discussing, and if the side that is for reform is really interested in real reform and not just a political issue, these discussions can be had with this Senator.

THE PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I will speak briefly about this issue as well. I think as we bring this up, it is

important, if we can, to move this forward and get it resolved. One of the things we need to be constantly focusing on is what can we do to grow jobs and create jobs.

We have been pressing forward. The Federal Reserve has been pressing forward, keeping interest rates low. We have been pressing forward in cutting taxes to try to stimulate. The early medicine seems to be working. We are starting to get some economic growth. We are starting to get some job creation taking place.

Another clear area of importance and need is this area of litigation reform. This is sapping a great deal of strength out of the economy and sapping strength from job creation. This is one of the areas we need to reform. I think there are ways that we can do this and still protect the rights of the individual, rights of those who are harmed in the system, but we are going to have to start to address this problem if we are going to be serious about job creation in the country and serious about what all we can do as a legislative body in creating an atmosphere and situation in the United States that can be the most growth oriented, and in a way that still protects all the rights of individuals in this country.

Those are the efforts that are taking place. That is what we are trying to do with this.

NOBEL PEACE PRIZE TO SHIRIN EBADI OF IRAN

Mr. BROWNBACK. Mr. President, I rise to draw the attention of my colleagues to a topic that is of significant importance in the world.

On October 10, the Nobel Peace Prize, the peace prize that was granted to the Dalai Lama in the past, to Martin Luther King, Jr., and to Nelson Mandela, was granted to Shirin Ebadi, not a household name. This lady is a prominent human rights activist in Iran. She was awarded the 2003 Nobel Peace Prize.

I want to draw the attention of my colleagues to her because Iran is one of those countries that is a state sponsor of terrorism. They are as a country on the very low end of recognition of human rights. The ruling clerics do not let participation in the society take place.

She has been fighting for the rights of students and activists to peacefully meet and speak out. She has done it from inside Iran. For that, she has paid for it in jail time and in harassment. She should now receive a reward from us in recognition.

Naturally, the regime in Tehran did not kindly meet upon her recognition as a Nobel Peace Prize winner. The regime actually went on to say there are other Nobel Prizes that are more important, like literature. I looked at that and I thought how would one deny their own countryman the peace prize, the highest of these? They are saying there is something else that is higher.

But it is because she has been going at this regime that is illegitimate and does not recognize the people.

I want to extend my heartfelt congratulations to Ms. Ebadi and to the Iranian people for their continued struggle for freedom, for democracy, and for human rights, against the clerics who have stripped them of every ounce of human dignity.

The Economist described Ms. Ebadi as this: Assertive, severe, and frighteningly well versed in Islamic and Western law, characteristics that challenge the status quo of Iran and the religious ruling clique.

Since being barred from serving as a judge, Ms. Ebadi has fought for the rights of homeless children under the repressive regime which treats the children like common criminals. In addition, she has spent the last 4 years investigating the attacks on student protestors by Iranian security forces during the massive July 9, 1999, protest. Ezzat Ebrahim-Nejad was one of those protestors killed during the 1999 protest. Ms. Ebadi represented his family in tracking down the thugs who attacked the students and their paymasters within the Ayatollah's regime. Her devotion to this case and many others landed her a 15-month jail sentence.

This year Ms. Ebadi established a nonprofit organization, a legal defense center for the families of Iranian dissidents and activists. This is challenging work that all Iranians can celebrate, and I am confident she will use the prestige that comes with the award of the Nobel Peace Prize to continue the struggle in Iran.

There are dissidents in Iran who I think deserve highlighting, who are being held without reason. Hassan Zarezadeh, a 25-year-old student, is one. He is being held because of participation in a July 9, 1999, protest. He has been in prison since July 6, 2003, in preparation of the anniversary recognition of that protest. There are reports he is enduring torture during his detention.

Dr. Farzad Hamidi disappeared on June 18, 2003, in Tehran, barely 1 year after being released from jail. His whereabouts is unknown, but friends and family believe his disappearance is connected to his role in the student protest.

Shirin Ebadi's struggles continue for these and many other individuals and activists inside Iran, and dissidents—and all they want to do is be able to peacefully meet and to be able to communicate their message to people within Iran. All they are getting for that is jail, harassment, and, unfortunately, death.

Systematic change is needed to take place. A number of people are calling for that inside Iran. The student protesters and others are calling for an internationally monitored referendum on the Government in Iran. That is, indeed, what should take place.

I wanted to draw Shirin Ebadi's name and her recognition and her award to

the notice of my colleagues. This is an important step in the recognition and movement toward human rights in Iran. We need to celebrate it.

I yield the floor.

CLASS ACTION FAIRNESS ACT

Mr. DORGAN. Mr. President, I want to echo some comments made by my colleague from Connecticut, Senator DODD, on the issue of class action reform.

I believe that we need to do a class action reform bill. Some of us who voted against cloture this afternoon believe that there have been abuses in the area of class action litigation, and that reform is needed.

But class action reform has to be sensible and thoughtful, and it needs to be resolved through negotiation. I am hopeful that this will be accomplished. The minority leader indicated he is willing to negotiate. The majority leader indicated he is willing to negotiate on these issues. It is my hope that these negotiations will be fruitful.

There is no question that there have been instances of abusive forum shopping. There are cases being filed in state court in places like Madison County, Illinois, where there are thousands of plaintiffs, but only a handful are from that area. It's pretty clear to me that cases like that, when brought on behalf of nationwide classes, should be heard in federal court.

I have a long list of such cases here, which on their face involve abuses of the class action mechanism. I think I shall not go through them all today. Suffice it to say that forum shopping is a problem, and we need reforms in this area.

I also believe that there is a problem with coupon settlements. It makes no sense to have settlements where plaintiffs get meaningless coupons that are never redeemed. That, too, in my judgment, can and should be changed.

I have decided to cosponsor the class action reform proposal described by Senator JOHN BREAUX, because I think it takes care of the problems of forum shopping and also coupon settlements. I think it is superior to the bill that was the subject of today's cloture vote, because it will more effectively address the issues of coupon settlements and forum shopping.

With respect to coupon settlements, the Breaux bill is much tougher than the Grassley-Hatch bill, which was the subject of today's cloture vote. The Grassley-Hatch bill simply says that the courts should review coupon settlements for fairness. By contrast, the proposal that is offered by Senator BREAUX, that I am cosponsoring, actually ties legal fees to the rates at which coupons are actually redeemed. So in a case where plaintiffs get meaningless coupons, the lawyers get paid accordingly. That is a much preferable provision, in my judgment, in reforming the class action area.

With respect to forum shopping, let me again point out that the proposal

offered by my colleague, Senator BREAUX, is preferable. It says if fewer than one-third of the plaintiffs are in a State, then it goes to Federal court. If more than two-thirds are in a State, it goes to State court. If it is in between the two, the Federal court shall make a judgment of where it is most appropriate.

The bill that was proposed to be brought to the floor today would have a very different mechanism. It would say that you could not bring a case in state court unless the defendant was a citizen of that state. So, for example, if 1,000 citizens of my State of North Dakota were cheated by a company in Houston, TX, they could not form a class and file an action in North Dakota under North Dakota law. They simply could not do that under the bill brought to the floor of the Senate.

That is not fair. That doesn't make any sense.

Now, I understand that forum shopping is a problem and we ought to deal with it. But there is a right way and a wrong way to deal with it. I think the Breaux approach is the right way. It is a thoughtful, balanced approach. It allows us to stop class action abuses, while at the same time preserving the rights of people to be able to access their own State courts in legitimate cases.

Again, I think it makes no sense to say to North Dakotans, it does not matter if there are two thousand of you who have been injured by an out-of-state company, you cannot access North Dakota State Courts and you cannot have the protection of North Dakota state law. Yet that is precisely what the bill that was the subject of today's vote would have said.

The proposal offered by my colleague, Senator BREAUX, strikes the right balance. It is the right approach. Cases that involve a lot of plaintiffs from around the country would go to federal court. But citizens of a particular state would still be able to band together if they were injured by an out-of-state defendant, and bring a lawsuit in their own state court.

I say to the majority leader, if you are interested in class action reform, then let's work out a solution to the very real problem of class action abuses—but let's do it without depriving the people of any one state of the right to access their state's court, in legitimate cases. I think we can strike that proper balance, and I hope we can do it soon. That is the reason I voted against the motion to proceed.

What we should avoid is a process in which the majority simply says: Here's where the wagon is heading. If you like it, jump on. If you don't like it, tough luck. Don't give us any advice along the way.

I am a conferee on the Energy bill, but I have not been invited to a conference. No Democrat in the Senate has been included in a conference on the Energy bill. In fact, we have been specifically excluded and prevented from

being a part of the conference. If that is the way legislation will be handled in the Congress, it will pervert the legislative process. In the case of the Energy Conference, nearly one-half of the Senate, 49 Members of a body of 100 persons, are being given no voice at the conference. We are told that the majority will make all the decisions.

We are told by the majority: Just let us bring the Energy bill to the floor and we will be fair. Just take our word for it.

Well, I hope and trust that we will follow a different path on the issue of class action reform. The Breaux proposal is a good one. I suggest we begin now seriously negotiating a balanced, responsible solution, that takes care of the problem of class action abuses.

Let me also say parenthetically that there is another issue, in addition to class action reform, that requires meaningful negotiations. That is the issue of asbestos litigation. That, too, is a real problem and we ought to deal with it. It, too, in my judgment, will require negotiation. All sides are going to have to want to do this and be willing to negotiate aggressively. You have a series of stakeholders involved and those stakeholders, in my judgment, need to get together, because the system is broken. We have people who are sick and dying who are not getting help. And we have a huge cloud of uncertainty hanging over the business community.

A solution is going to require, in my judgment, that all the stakeholders be part of the negotiation. Yes, labor is a very significant part of that. So, too, is the business community and others.

I know this is a complex issue, but I hope in the concluding days of this first session of the Congress we will see a breakthrough in negotiations, and solve this asbestos issue in a way that works for everyone.

I think they have been close on a number of occasions. My hope is it finally is completed.

THE 9/11 COMMISSION

Mr. DORGAN. Mr. President, I wish to comment on the 9/11 Commission. That is the commission which has been put together by Federal law and asked to look into what happened on 9/11 and get all of the information from everybody to find out what happened leading up to the attack on this country. What did we know? What did the CIA know? What did the FBI know? What did the FAA do during the attack? What happened? Only by knowing what happened can we prevent it from happening again. Were there dots that should have been connected but weren't? Did we have information that could have perhaps prevented that attack had certain people known of it or had been told of it? Are there deficiencies in some of these agencies? Did people drop the ball?

I do not know. But we put together a panel headed by former Governor