

forced into bankruptcy as a result of what it termed "the crushing burden of asbestos related lawsuits."

You should know these facts about the Rutland Fire Clay case:

Rutland Fire Clay, with its 22 employees, is a small, 116 year-old family business, in Rutland, Vermont.

The business was started in 1883 by Rufus Perkins and his two sons and has manufactured, for more than 100 years, a cement material for use in the repair of furnaces and residential wood stoves sold through hardware stores. The product originally contained a very small amount of encapsulated asbestos, although Rutland discontinued the use of asbestos in its products almost 30 years ago.

Since 1984, there have been 50,000 asbestos cases filed against the company, and 37,000 remain pending today—most of these cases involving non-sick claimants.

The company has estimated its liability for current and future asbestos claims at \$67 million, with assets of only \$3 million.

Thomas Martin, the firm's president, said in a Rutland press interview last week, that if it weren't for asbestos claims, the 116 year old company would never have wound up in bankruptcy. He described business as "excellent," with the company expecting a record sales year.

The Rutland Fire Clay case is a stark example of what happens in the asbestos litigation world today. Asbestos lawyers continue to draw from an almost limitless pool of potential defendants by targeting, with the touch of a word processing button, small and large companies—many with only a tangential association to asbestos. These "asbestos" defendants include local building products distributors, home remodeling centers, "mom and pop" hardware stores, and other unsuspecting companies who manufactured, or only distributed, products that may have contained nominal amounts of asbestos in a component part of end products, such as forklifts, cranes, gaskets, grinding wheels, lawnmower engines, etc.

While the principal focus of the bipartisan Fairness in Asbestos Compensation Act is, as it should be, on the rights of deserving asbestos victims, we believe that the interests of the hundreds of large and small businesses affected by this national travesty, their employees, pensioners, communities who depend upon them, and their millions of shareholders warrant your support of the Act as well.

EXHIBIT NO. 2

RUTLAND FIRE CLAY COMPANY,
Rutland, VT, October 29, 1999.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: Thank you for sending me the recent advertisement produced by the Coalition for Asbestos Resolution (CAR) that is using our recent bankruptcy filing in its campaign in support of S. 758 and its companion, H.R. 1283.

We presently have over 37,000 lawsuits pending against us and we have approximately \$4 million of insurance and \$2 million in assets. For small firms such as ours with limited remaining insurance and minimal assets, the burden of claims is indeed crushing as quoted in the CAR advertisement. However, I reviewed this bill and my opinion is it would not help Rutland Fire Clay Company reduce this burden, nor would it help any other small business with thousands of claims. As an example under section 601 apportionment of costs for the ARC are addressed. Potential disputes could easily arise between defendants as to their respective

share of costs. Our company cannot afford the expense of litigation if disagreement with the large defendants is the result. In addition, our historical costs per claim processed for defense and indemnity have been very low relative to that of other defendant companies. Under S. 758 costs would be apportioned to Rutland Fire Clay Company equally, and thus higher, than under the current system.

The advertisement's headline gave the impression that our family business would be "ruined" and that our 22 employees would be out of work. The truth is that we have worked out a consensual bankruptcy plan which recognizes the value of Rutland Fire Clay Company and its employees. No jobs will be lost and we will continue to serve the fireplace and home repair markets as we have for 116 years.

Lastly, our firm in no way assisted in preparation of the CAR advertisement nor did we have any knowledge of it until our office sent me a copy.

Thank you,
Sincerely,

THOMAS P. MARTIN,
President

MESSAGE FROM THE HOUSE

At 12:36 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ARCHER, Mr. BLILEY, Mr. ARMEY, Mr. RANGEL, and Mr. DINGELL as the managers of the conference on the part of the House.

MEASURE PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 1832. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5969. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated October 27, 1999; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Energy and Natural Resources, and to the Committee on Foreign Relations.

EC-5970. A communication from the Director, Office of Administration, United States

International Trade Commission, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC-5971. A communication from the Executive Director, United States Holocaust Memorial Museum, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC-5972. A communication from the Secretary, The Commission of Fine Arts, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC-5973. A communication from the Office of Independent Counsel Thompson, transmitting, pursuant to law, a report relative to the Office's audit and investigative activities for fiscal year 1999; to the Committee on Governmental Affairs.

EC-5974. A communication from the Chair, Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, a report relative to the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC-5975. A communication from the Chairman and Chief Executive Officer, Chemical Safety and Hazard Investigation Board, transmitting, pursuant to law, a report relative to the Office's audit and investigative activities for fiscal year 1999; to the Committee on Governmental Affairs.

EC-5976. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Fiscal Year 1998 Annual Report on Advisory Neighborhood Commissions"; to the Committee on Governmental Affairs.

EC-5977. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility; 64 FR 56256; 10/19/99", received October 29, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-5978. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska: Pollock by Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea", received October 16, 1999; to the Committee on Commerce, Science, and Transportation.

EC-5979. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna; Opening of General Category NY Bight Fishery" (I.D. 100899B), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-369. A resolution adopted by the House of the Legislature of the State of Michigan relative to hazardous materials facilities; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 223

Whereas, Federal law under Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) requires identifying the locations of facilities which handle hazardous materials and also requires the development of a plan for communities to respond

to hazardous material releases and to establish right-to-know provisions for hundreds of substances identified as extremely hazardous materials plus an additional 1,000 potentially hazardous substances and toxic chemicals; and

Whereas, More than 3,200 businesses and industries within the Commonwealth of Pennsylvania have been officially identified as being within the SARA Title III planning requirements; and

Whereas, The time frames for reporting chemicals used by facilities under SARA Title III may be considered ineffective at times due to the length of the required reporting period; and

Whereas, Conforming the time frames for reporting Material Safety Data Sheets to State and local officials, mirroring Occupational Safety and Health Administration requirements on the reporting of hazardous materials, may lead to an enhanced and more accurate reporting system; and

Whereas, The establishment of Hazardous Material Exposure Parameters around hazardous material facilities and the requirement of direct reporting to residences and businesses within these parameters may lead to the increased safety of our communities; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania respectfully request that the Congress of the United States pursue amendments to SARA Title III to ensure higher levels of safety for communities which have hazardous material facilities within their borders; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 623. A bill to amend Public Law 89-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes (Rept. No. 106-203).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1052. A bill to implement further the Act (Public Law 94-241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes (Rept. No. 106-204).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1836. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 1837. A bill to amend title XIX of the Social Security Act to provide low-income medicare beneficiaries with medical assistance for out-of-pocket expenditures for outpatient prescription drugs; to the Committee on Finance.

By Mr. WELLSTONE:

S. 1838. A bill to provide that certain income derived from an agreement between the Bois Forte Band of Chippewa Indians and the State of Minnesota shall not be considered income for purposes of Federal assistance eligibility; to the Committee on Indian Affairs.

S. 1839. A bill to provide that land which is owned by the Lower Sioux Indian Community in the State of Minnesota but which is not held in trust by the United States for the Community may be leased or transferred by the Community without further approval by the United States; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ABRAHAM:

S. Res. 212. A resolution to designate August 1, 2000, as "National Relatives as Parents Day"; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 213. A resolution to authorize testimony, document production, and representation of employees in the Senate in *Bonnie Mendelson v. Delaware River and Bay Authority*; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 1838. A bill to provide that certain income derived from an agreement between the Bois Forte Band of Chippewa Indians and the State of Minnesota shall not be considered income for purposes of Federal assistance eligibility; to the Committee on Indian Affairs.

INCOME EXEMPTION FROM FEDERAL ASSISTANCE ELIGIBILITY REQUIREMENTS

• Mr. WELLSTONE. Mr. President, I am introducing today legislation of great importance to two tribes in Minnesota, the Bois Forte Band of Chippewa and the Grand Portage Band of Chippewa. This bill would exempt income derived from an agreement between the two bands and the State of Minnesota from being considered as income for purposes of Federal assistance eligibility when the funds from the agreement are distributed to tribal members.

Under current law, most payments to Indians derived from trust resources are exempt from consideration as income or resources for the purposes of determining federal benefits under various Federal or federally assisted programs. Regulations promulgated by various Federal agencies reflect the statutory exemptions for income derived from interests of individual Indians in trust or restricted lands and from payments distributed to tribal members as the result of Indian claims

awards. This legislation is to accord similar treatment to payments made to the approximately 2,700 members of the Bois Forte Band and the 790 members of the Grand Portage Band.

In 1988 the two bands entered into an agreement with the state of Minnesota whereby the State agreed to make an annual payment to the bands in exchange for the bands' restriction of their members' hunting and fishing rights. These rights are guaranteed by the treaty of September 30, 1854. From that payment, the Tribal Councils of the Bands make small annual payments to their members. The Bois Forte Band pays each of its members \$500 per year, for example. The shares of minors are paid into a trust fund that cannot be disbursed until the minor reaches the age of 18. The shares of adults are paid directly to them.

These payments are intended to compensate the band members for a Federal treaty right that they have elected to forgo in return for these funds. As a result, this constitutes income which is derived from a trust resource. The intent of the Federal law is that such funds—up to a certain level, are not treated as income for purposes of Federal benefit eligibility. This is in recognition of the special status of Indian tribes within the United States, and the trust relationship that the Federal Government maintains to this day. However, while these payments clearly fall within the intent Federal law to protect trust resources, the current statute does not encompass these payments.

The result is that for a small number of band members, approximately 10 percent of the Bois Forte band and currently no members of the Grand Portage Band, this income is of no real benefit because it reduces or eliminates their public assistance payment. These members are all extremely poor, elderly, or disabled. Mr. President, these are people who can least afford to bear the brunt of this loophole in Federal law.

Additionally, Mr. President, these band members see a spike in their income—an extremely small spike mind you—in 1 month out of the year. Does it serve any public purpose to kick them off of Federal assistance in that 1 month, only to require them to reapply in the following month? Their circumstances are not changed by this payment. These funds will not lift anyone out of poverty, they do not replace an income lost to disability or age.

This bill will ensure that members of the Bois Forte and Grand Portage Bands receive fair—though small—compensation for their foregone treaty rights. It is a question of simple equity and I urge my colleagues to support it.●

By Mr. BAUCUS:

S. 1837. A bill to amend title XIX of the Social Security Act to provide low-income Medicare beneficiaries with medical assistance for out-of-pocket