

The next year, in 2004, I brought that bill to the floor, fought for a vote. Unfortunately, because of partisan and I guess it was election year politics at the time, the bill was filibustered by the Democrats. It was blocked by the Democrats.

After that failed cloture vote, 11 sitting Democrats wrote me and expressed their desire to keep working on the bill, to keep working on an asbestos trust fund to provide necessary relief to victims and businesses. As has been mentioned earlier, I worked closely with Senator Daschle's office to try to construct a compromise at the leadership level. But, again because of partisan, election year politics, negotiations stalled.

Over the course of the following year, Chairman SPECTER took it upon himself to keep that momentum going. We heard a lot of that outlined a few moments ago on the floor of the Senate. He held 36 separate meetings with stakeholders on the topic—the business community, the unions, the trial lawyers, the insurance companies; meeting after meeting. He held a total of six hearings on the matter.

In May of 2005, the Judiciary Committee voted out, in a bipartisan way—the vote was 13 to 5—the bipartisan FAIR Act, the bill we are considering today.

They were finally able to hammer out—it was bipartisan, drawing upon both sides of the aisle—a fair solution to the crisis.

In that July letter of 2004 which was written to me by the 11 Democrats, they summed it up best:

With each passing day, more and more victims face serious illness and even death, and more and more workers and companies face the threat of bankruptcy.

While creating a national asbestos trust fund is unquestionably an extraordinarily complex undertaking, too much progress has been made to let this issue go unaddressed in this Congress.

That was July of 2004. They were right then, and they are right now. That is why several months ago I told both sides of the aisle that the leadership was going to bring this bill to the floor at this point in time. It is time for us to act. If we don't seize this opportunity, it is simply not going to happen. The asbestos litigation crisis is crippling our economy and it is endangering our fellow citizens who suffer from asbestosis, mesothelioma, and cancer.

It comes back to the victims themselves, with real injuries today, who are offered almost no recourse, spending years awaiting a trial without getting the justice they deserve. It has been 15 years since Chief Justice Rehnquist sounded the alarms. Congress has invested 7 years working through the trust fund solution. Resolution of the asbestos crisis is simply overdue. A vote against cloture to proceed to address asbestos reform is a vote against solving this problem.

As mentioned earlier today, there will be the opportunity to vote at 6

o'clock tomorrow night on this issue. The timing of that is determined by schedules of people. We should have everyone back for that vote. That vote is not going to be on passage of the bill; it is not going to be on amendments to the bill; it is simply going to be a clear-cut vote among our colleagues as to whether we consider it important to look at fairness and justice for the victims who today are suffering. It is a motion to proceed.

Months ago, we said we were going to address it. The time has come, and if we don't act now, this issue will have to be put on the back burner. Thousands of victims will continue to be left without the medical treatment they need and the justice they deserve.

CLOTURE MOTION

Mr. FRIST. Mr. President, I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 131, S. 852: A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

Bill Frist, Arlen Specter, Jeff Sessions, Pat Roberts, Lamar Alexander, Lisa Murkowski, Johnny Isakson, Richard M. Burr, Wayne Allard, Mitch McConnell, Mike DeWine, George V. Voinovich, Jim Talent, David Vitter, Bob Bennett, Mel Martinez, Ted Stevens.

Mr. FRIST. Mr. President, under the order entered on Thursday, this vote will occur at 6 p.m. on Tuesday. We will continue with debate on the motion to proceed today and through tomorrow. I hope cloture will be invoked and we will then be able to begin debate on this important underlying legislation.

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.

Mr. DURBIN. Mr. President, pending before the Senate is a bill, S. 852, the Fairness in Asbestos Injury Resolution Act of 2005. This bill has been a long time in coming. I was first elected to the U.S. House of Representatives over 20 years ago. In the first year that I served, I was approached, in 1983, 23 years ago, by a representative of Johns Manville, one of the largest asbestos manufacturers in America. This person said he wanted to talk to me about the

asbestos issue 23 years ago. He knew then that his company was in trouble, maybe headed for bankruptcy, and he wanted to know if there was another way to approach it.

He could not have imagined the reach of asbestos poisoning and contamination in America. I don't know the number of potential victims of asbestos poisoning and contamination. I am sure it reaches into the hundreds of thousands, maybe into the millions. But there is one thing I do know for sure: not a single victim of asbestos that I have ever heard of or met voluntarily exposed themselves to this dangerous and toxic mineral.

We know some people who were almost innocent in their lifestyle, with very little, if any, exposure to asbestos, turned out to be some of its most painful victims. People with mesothelioma contracted because a wife did her husband's work clothes with the laundry each week, shaking out his dirty work clothes, and asbestos fiber flew into the air, invisible to her eyes. She breathed it in, and a timebomb started ticking. That kind of situation was repeated over and over again—for the millions of men and women who were workers in the shipbuilding industry during World War II and since; for others who worked in occupations that you never thought would lead to asbestos exposure; people who bought plants and plant fertilizers, not realizing that the vermiculite included in the plants bought at the grocery store was tainted with asbestos and endangered them; people who worked on putting brake linings into cars; putting insulation in homes; putting shingles on houses; people putting flooring tiles on the floor, never realizing that as they were cutting these products and working with them, they were exposing themselves to something very deadly.

It turns out the people who made these products knew a long time ago that asbestos was dangerous. Maybe as far back as 85 years ago, they had the first evidence that people working around asbestos were getting sick and dying. What did they do? They covered it up because it was bad news. It hurt the bottom line. That coverup went on for decades.

Now we know a lot more about asbestos. Some of the companies that made the most money with asbestos products have gone out of business because they have been sued by their customers and their workers. The argument has been made that the ordinary court system of America can't handle this; there will be too many claimants. So the proposal in this bill is to set up a trust fund, a \$140 billion trust fund. Where did that figure come from? Senator SPECTER of Pennsylvania said earlier that it was a figure that was brought up by former Senator Daschle of South Dakota several years ago, and Senator FRIST. I don't know where it came from. I don't know the circumstances under which it was suggested. But today it has become absolutely a doctrine of faith that \$140

billion is all we are going to need to pay off all the victims of asbestos.

When we asked during the course of the committee consideration, let's figure out how many people are sick, how much we are going to pay them, and what it is really going to cost, we got the runaround. We couldn't get the information that led to this calculation of \$140 billion for the trust fund. So the starting point of this legislation is fatally flawed.

Then comes the second point. Who is going to pay the money into the trust fund? Nominally it will be existing trust funds from asbestos-type companies, other companies across America with some exposure because they have been involved in the use of asbestos, and their insurance companies. So the idea was they would pay into the trust fund and then escape all liability in court.

But we have asked, who are these companies? What are their names? How much will they pay in? Once again, there has been a refusal to provide this most basic information. A \$140 billion trust fund, a figure no one can basically explain, coming from thousands of businesses across America which no one can name, does that give you peace of mind? If you are someone who thinks maybe in the distant future someone in your family may need to turn to this trust fund to be paid, is that a good starting point? I don't think it is.

Then comes the question about victims. I will concede there have been numerous hearings on this bill. We have brought in people from all walks of life but very few victims. That is what troubles me. I have met with some of them. I have met with men and women who are literally dying from exposure to asbestos. It is a sad and painful death. Some say it is one of the most painful ways to die, mesothelioma, asbestosis.

I know in my family, my father died of lung cancer. I stood next to his bedside. I was a high school student at the time. I watched this poor man suffocate because of his addiction to tobacco. I can only imagine that asbestos deaths are similar, a painful experience for the victim and a tragic experience for the families.

Look at the amount of money that is being provided. Some of it sounds absolutely grandiose. One million for a mesothelioma victim. Mesothelioma victims, no one even questions, are victims of asbestos exposure. And their diagnosis is almost always—maybe always—a fatal one. So they were people who would recover in court once this diagnosis is made.

The amount of \$1 million for a mesothelioma victim may sound like a large amount of money until you take a look at the medical bills and take a look at the lost wages and consider that some of these mesothelioma victims are fathers of children, two and three children, and their entire life's worth from this asbestos tragedy is translated into \$1 million.

And over the course of debating this bill, medical treatment of mesothelioma has changed. There was a time when it was flatout a death sentence. There was no place to turn. Then people started trying radical surgeries and treatments to buy a few more months of life. Well, they do; they live a little longer. But, sadly, it costs a ton of money and a million dollars is gone.

What do you think about a victim, a mesothelioma victim—let's not quibble about whether it is asbestos or a serious victim—what do you think about a mesothelioma victim who has been working 2 years, first realizing they had exposure, wondering if they were sick and discovering they had mesothelioma, now they are pushing forward in court, and they have spent time, and they are ready, the trial is about to begin, and this law passes?

Except in the most extreme cases where we carve out an exception, for most of them it means they start over. For asbestosis, in particular, they start over. It means that all the work that was put in by the family, the doctors, the lawyers, to get them ready for their day in court to make their appeal for just compensation is wasted.

I know that lawyers are not a favored class when it comes to this legislation. In fact, if you can imagine, this trust fund says to the victims: if you want legal representation, go right ahead, but you cannot pay more than 5 percent of whatever you recover to the lawyer.

I made a living as a lawyer, and I can tell you there were many times I cut my fee because I felt sorry for my clients, and I think a lot of lawyers do the same thing. But 5 percent is a virtual guarantee that few victims under the trust fund will ever have an attorney at their side or somebody who will tell them what their real rights would be. That is unfortunate. Workers' compensation, which has been on the books for decades across America, provides a reduced standard, a predictable percentage for a lawyers fee. It doesn't go for the moon, and it should not. These are hurt workers, injured workers. They could have done the same thing here, but they did not.

So you look at this from the perspective of workers, you find there are two or three unions supporting this bill. If I am not mistaken, it is the Sheet Metal Union, the Asbestos Union, and the United Auto Workers Union that are the three main unions supporting the bill. You might understand the asbestos and the sheet metal workers. Why the United Auto Workers? It has a lot to do with the fact that many work for automobile companies that are struggling to survive. I bet you a nickel—though they have never told me as much—that when they sit down with the GMs and the Fords of the world, these corporate executives say: take your pick, we can either pay these victims of asbestos or we can pay your pensions.

I hope it has not come to that. I hope that what it comes to is an under-

standing that we can do the right thing; we can provide an avenue for compensation for victims of asbestos exposure and do it in a sensible way. The States of Texas and Illinois have already moved in this direction. In Illinois, we have what is called the plural registry. It means that if you have been exposed to asbestos, you can sign up—you don't have to file a lawsuit, unless you are sick, but you can sign up and protect your right to bring a lawsuit some day if you become sick. Maybe, God willing, that will never happen. But if, God forbid, it does, you have protected your right to file a lawsuit. I think that is sensible. In Texas, they have established medical criteria for what brings you to court. Once in court, how can you recover? They worked it out within the State of Texas between the trial bar, the attorneys who represent victims, and the legislators and the businesses and insurance companies. They reached an agreement that doesn't create a trust fund, that doesn't say to a person we are slamming the courthouse door but an agreement that gives them their day in court under circumstances and laws that have been agreed to by business and labor and the lawyers and the victims.

Why isn't this bill modeled after that? That seems more sensible. Rather than putting our future in a trust fund with an amount we cannot even rationalize, that assesses companies that we cannot even name, closing off the possibility of going through a court suit to protect your right in court, I think there is a much more sensible way to approach this. I hope that when it is all said and done, all of my colleagues in the Senate will have the same experience I have had—sit down with these families, the families of victims, and understand that is what this is all about. We spent so little time talking about the victims during the course of preparing this bill. I hope, during the course of this debate we will think about it long and hard.

Earlier this afternoon, my colleague, Senator REID of Nevada, spoke on the floor about one of our mutual friends, Bruce Vento of Minnesota. He was a Congressman from St. Paul. He worked in the shipbuilding industry when he was a young man. He went on to have a good public life, being elected to Congress and rising to a position of leadership. I used to see him down at the House gym. He was very conscious of his health. He worked out regularly. He was in good health and was proud of it. Then lightning struck. Those fibers that he ingested in his lungs decades ago created the mesothelioma which spread quickly through his body and took his life. I met with his wife. We talked about Bruce and what his last days were like.

That is a reminder to me that what we are talking about in this bill is not just about formulas and companies, and contributions, and trust funds, we are talking about real people and real

lives. I sincerely hope that at the end of the day, after my colleagues have taken a close look, they will say this bill should not pass, that it is not fair, it is unfair to so many people. It is more important for us to step back now and decide what is reasonable. Follow many State examples, such as Texas and Illinois, that have found ways to deal with this issue in a humane, sensible way, to bring it under control. I think we can do that.

I don't take anything away from Senator SPECTER or Senator LEAHY, the ranking member, who support it. They put in many hours in preparation. But I have to tell them at the end of the day, despite all their best efforts, there are fatal flaws in this bill which I hope will lead to its defeat.

I will vote against the motion to proceed. I hope my colleagues will look at it long and hard because this is not just a matter of passing another bill. This is a bill that would touch the lives of many innocent people, many innocent families, and many victims who will be denied their day in court, their chance for just compensation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRESIDENT RONALD REAGAN'S 95TH BIRTHDAY

Mr. ALLEN. Mr. President, I rise late in the afternoon, early evening, in remembrance of a great patriotic leader, a person who I think was America's greatest leader of the 20th century and one of history's alltime adherence advocates and leaders for freedom, individual freedom, liberty, and the advancement of security for free and just societies. The gentleman I am talking about would have been 95 years old today, and that is Ronald Wilson Reagan.

I would hope, actually, on future birthdays, the date of the birth of Ronald Wilson Reagan, some Senator will stand in this Chamber and remind Americans and remember Ronald Reagan, his words, his ideas, and his inspiration.

Ronald Reagan was one who motivated me to get involved in organized politics, and there are literally tens of thousands of others. There are certain people, though, if one looks through history, whose words are ones you can use; they are just enduring principles. I think of Thomas Jefferson, John Locke, George Washington, James Madison, Benjamin Franklin, Mark Twain—all those great quotes from Mark Twain—even Will Rogers. But in our day, the person for inspiration, to help us decide how to meet the challenges of our day, was Ronald Reagan.

President Reagan did leave the White House 17 years ago. For some young people, this seems like a long time ago.

President Reagan's words and deeds are still so applicable today.

He left our world 2 years ago, but we are still living in the wake of the Reagan era. It was Ronald Reagan, let's remember, along with Margaret Thatcher and Pope John Paul II, who fundamentally changed all the dynamics of the Cold War, to bury communism and advance human liberty. While many in those days accepted the perpetual menace of communism and the perpetual servitude of millions of men and women locked behind the Iron Curtain, Ronald Reagan did not. His philosophy toward the Cold War was radically different from the elite sages of the establishment. As Governor of California and then also as President, he offered very clear and refreshing ideas. He was asked one time:

Mr. Reagan, what is your strategy on the Cold War?

He declared:

About the Cold War, my view is that we win and they lose.

He came into office as President. In his inaugural address in 1981, he called for an era of national renewal, and this was something very important after the years of malaise that we had in the late 1970s. That is exactly what his 8-year Presidency turned out to be—an era of national renewal for security, for opportunity, and for foundational values. The Reagan revolution reversed the high unemployment, high inflation, economic policies of the 1970s and unleashed the greatest economic boom in American history.

His policies proved that low taxes are good for the taxpayers, and they are also good for the economy, with more investment and more jobs and, for those who care about it, generating more revenue for the Government. After his tax cuts started to impact the economy in 1983, the wheels of American commerce started to move again. We saw an explosion of job creation, innovation, and investment.

In foreign affairs, President Reagan scrapped the policy of coexistence. He made the advancement of freedom, not containment, into the foundational principle of America's foreign policy. He rebuilt America's military strength. He started and initiated the Strategic Defense Initiative which put unprecedented strains on the Soviet economy and their ability to finance their military.

He refused to be cowed into silence when talking about our enemy or the evils of communism. He called the Soviet Union an evil empire. Oh, they criticized him, but, indeed, that was an accurate description. He was a vocal, tireless champion for freedom. He went to Brandenburg Gate in 1987 and boldly said, "Mr. Gorbachev, tear down this wall." He was criticized, but 2 years later, the Berlin Wall was gone, and 2 years after, the Soviet Union itself was gone, discarded into the "ash heap of

history," as Ronald Reagan prophesied during the depths of the Cold War.

Today, because of Ronald Reagan, there are literally hundreds of millions of people who were once locked behind the Iron Curtain living in countries we now know as free countries—Lithuania, Latvia, Estonia, former East Germany, Poland, the Czech Republic, Slovakia, Hungary, Romania, Bulgaria, and added countries such as Ukraine and Georgia, which are now tasting that sweet nectar of liberty as opposed to being behind the Iron Curtain. It is because Ronald Reagan provided us with a perseverance—he persevered, our allies persevered, particularly in Western Europe, and freedom has prevailed.

Five years after he left office in 1994, we were all crushed to learn about Ronald Reagan being diagnosed with Alzheimer's disease. He concluded his farewell address and letter to the American people by writing:

Now I begin the journey that will lead me into the sunset of my life. I know that for America there will always be a bright new dawn ahead.

As always, Ronald Reagan was right. Despite new and numerous challenges, this blessed country, America, has stood strong for freedom, extending the blessings of liberty and prosperity to a whole new generation of Americans and sharing those blessings with even more people who live here in this world.

When Ronald Reagan passed away on June 5, 2004, I know you, Mr. President—and I see Senator HATCH from Utah here—and all of America grieved and mourned. He was my political hero. But I also felt grateful, grateful for our country, for America, that we and, indeed, the world were blessed to have had Ronald Reagan's common-sense leadership and unwavering commitment to the ideals of freedom throughout the world.

Today, on what would have been his 95th birthday, I reflect on everything Ronald Reagan accomplished during his extraordinary life. If you want to measure a person's greatness and what he or she did in their life, you kind of determine it by the number of people who were positively impacted by their efforts, their deeds, and their life—in Ronald Reagan's case, as I said, the hundreds of millions of people in Central and Eastern Europe who were liberated from the tyranny of communism, but we also have Americans, now over 300 million strong, who have been enriched by the peace and prosperity that resulted from Ronald Reagan's courageous commitment to foundational ideals.

There are many such as myself—and really too many to count—who were inspired by meeting Ronald Reagan in person, who were touched by his great character and integrity, his unflinching optimism and patriotism, his genuine good will and sense of humor, and his words that applied the philosophy of our Founders, whether it is George