

July 15, 1981

Statement of Senator George J. Mitchell  
Introduction of Superfund Amendments

Mr. President,

I am today introducing legislation to redress the imbalance that currently exists in the "Superfund" hazardous waste law.

My bill will provide compensation to persons injured by toxic chemicals, relief that is not now available. The law passed last year by the Congress makes no provision for medical expenses incurred when human beings are harmed by hazardous substances, but permits recovery of expenses incurred when natural resources are damaged by those same substances.

Giving a higher priority to things than to people is misguided, inequitable and unacceptable. Good health is irreplaceable. When one party acts in a way harmful to another's physical well-being, he should be held responsible for that harm.

Yet, in the law as it is now written, that is not the case. Not only is the guilty party held free from responsibility for taking away a person's health, but the law also does not provide any recourse to the industry-financed fund to compensate for health care.

But the law does place legal responsibility upon those who damage federal or state natural resources with toxic chemicals. And the federal and state governments may also be compensated for damage to those natural resources should the legal process provide inadequate recovery.

Thus, we now have a law that elevates things above people. No longer can a victim of chemical poisoning seek from the fund out-of-pocket medical expenses for an illness resulting from the action or inaction of another party. Indeed, as to the fund, a guilty party can not be held

accountable for any damage it has inflicted on a person.

Under the law now, if a toxic waste discharge injures both a tree and a person, the tree's owner, if it is a government, can promptly recover from the fund for the cost of repairing the damage, but the person cannot. In effect, at least as to the Superfund, it's all right to harm people but not trees.

My bill will redress the imbalance in the current law in two ways. First, any person whose health is damaged by exposure to a hazardous substance may recover his or her medical expenses from the "Superfund," which is financed primarily through a tax on those who make chemicals. This is an extension of the existing law which now permits recovery for the expense of cleaning-up hazardous wastes and for damage to federal and state natural resources. Without this source of compensation, an individual, made temporarily ill or permanently impaired by chemical exposure, is burdened with medical bills, because of the action of another party.

I ask my colleagues: To what higher use could this fund be put? What is more precious than good health? The answer of course, is nothing,

Second, any person harmed as a result of exposure to a hazardous substance will be given a cause of action against a responsible party. This is simply an extension of the cause of action provided in current law to pursue those who damage federally or state owned natural resources, and those who do not fulfil their legal responsibility to clean up releases of hazardous substances into the environment. Without this change in the law, persons whose health is impaired- by these wastes must bear the financial burden of health care made necessary by circumstances out of their control.

When Congress enacted the existing law, it made the judgment that the judicial process

may be inadequate or too slow, or too expensive, for the recovery of cleanup costs, or for natural resource damages. If this is so with respect to the land and water, why is the status quo acceptable for recovery of damages to human health? I do not believe this is acceptable, and my amendments will address this serious shortcoming in the law.

Mr. President, we should not delude ourselves that the hazardous waste problem is solved simply because we passed a law. Today there are as many dangerous dump sites, as many threatened water supplies, and as many people at risk as there were before the law was passed. We have just begun. And, until the law provides compensation for human beings, we have not yet begun to address the real tragedy of chemical poisons -- injury to humans.

When the superfund law was passed by the Senate last year, I reminded this body that we were denying real individuals help. I quoted testimony from a distraught mother whose son is one of the human tragedies of Love Canal. That mother, Ann Hillis, wrote to me recently to tell me more about her son. She said: "After over two years of unbelievable mental anguish and also fighting for what I thought were our Constitutional Rights, the right to live in a safe environment, our family has relocated to what we pray is a little better environment. But the anguish goes on, I smile and lead a[s] normal a life as I can, but at times and in the quiet of the night I think about the lumps in my son's lymph glands, What are they? Why have they not gone away? I also think if he will will have to forego [sic] the wonderment of siring and watching his own child grow, for he will have to make this decision, he has to think about the chromosome damage he may have.

My son has had too much physical, psychic trauma for his young years, but my child and all the others should have the right to know, the right to have testing, if they so

wish.

As money prevented our leaving Love Canal in the early days of awareness, so does it prevent the testing and other help he may need.

Yes, I have a paranoia for my child and all the other children.

I cry for my earth, I cry for my government, and most of all, I cry for the children, with as many as 50,000 waste dumps all over our land, I cry."

Mr. president, the people who suffer now from exposure, to these chemicals poisons have asked for our help. We have let them down once. We cannot let them down again.