

not lend him a hand of help, not a nickel's worth of assistance or anything else until he gives up that post and turns it over to people.

We met with the finance minister from the Palestinian Authority. He was a reasonable individual, wanting to make peace, wanting to stop the violence. The Palestinians cry as much as the Israelis cry when they lose a son or a daughter. The false belief they are going to some kind of martyrdom does not relieve them of the sadness of the loss of a family member.

We learned something else. There was an emergency meeting in Yasser Arafat's compound in Ramallah following the suicide bombing at the Ashdod port. Arafat refused his cabinet's call to use Palestinian security forces against terror organizations.

Palestinian cabinet ministers, such as the interior minister and the commander of the national security forces, pleaded with him to act against Hamas and Fatah's military wing, the Al Aqsa Martyrs Brigade. He refused to intervene. He is an accomplice in these killings no matter how they try to deny it. He provides no useful service to his "leadership in the Palestinian community." He incites them to violence.

We went to Syria, and all President Assad wanted to talk about was the Israeli-Palestinian conflict. There are borders, 600-mile borders. He couldn't stop the people from crossing the border. We know who is crossing the border. He didn't know. He said there were people in innocent travel, business, recreation, family, et cetera. Meanwhile, terrorists are flooding into Iraq, many of them coming across the Syrian border.

That is what happens there. It is the corrupt leadership that has people believing the way out is to kill themselves and to kill Israelis and other innocent people. We don't know what the reach is. To the train bombing in Spain or other acts of violence in other parts of the world? But this notion that violence is an acceptable form of behavior is outrageous, and Arafat is allowing Palestinian society to be undermined and destroyed by a reign of terror. He has chosen to allow terrorism to flourish. Because of Arafat's lack of action, not only are Israeli children being orphaned and Israeli society terrorized, but also the Palestinian people's dream of living in a secure, free, and vibrant state is being destroyed.

I still believe all roads and roadmaps lead to a two-state solution. When I was in the region last week, I urged the Israeli leadership to try to meet and resume direct contacts with Palestinian officials in order to try to make progress toward a settlement. I told Prime Minister Sharon that his plan to withdraw from the Gaza Strip was a good start. Such a withdrawal, however, must be done in coordination with Palestinian and international officials to ensure there is a viable infrastructure to govern the people and to

prevent Hamas and the Islamic Jihad from overrunning the Gaza Strip.

I also encouraged the Israeli Prime Minister to work with the international community to resume progress on the roadmap and to begin looking at how to withdraw remote Jewish settlements from the West Bank as well as from the Gaza Strip. Yet any real progress on the roadmap depends on the speedy emergence of new Palestinian leaders who realize that a healthy Palestinian state cannot be built on a foundation of terror and violence. On this point, there should be no concessions, no flexibility, no turning a blind eye.

Today we see pictures of angry mobs in the Arab world protesting the death of Sheik Yassin, the head of Hamas. The Israeli military's strategy of targeted assassinations is questionable and controversial. But I have to ask my colleagues, if someone is standing in your kid's schoolyard with a gun in his hand, what would you do? Would you meet with him and confer about what he ought to do or would you take advantage of the opportunity of the moment and abolish the threat? Do you eliminate the threat immediately or abide by the Marquis of Queensbury rules when dealing with terrorists? These are difficult questions, but given the lack of real leadership on the Palestinian side, the Israelis are trying to find the best way to protect their population from terror.

Peace in the Middle East begins with the removal of Arafat from power. It is a step the Palestinians must take if they want to move their nation forward. Peace will not be obtained through terror but only through peaceful negotiation. It is something Yasser Arafat clearly does not understand, but we have to help him understand. We can't give him any other help of any kind. As a matter of fact, whatever sanctions we can put on him and his corrupt government, we ought to do it.

It is very painful to witness, I understand, for those who are engaged in the innocent pursuit of life, to suddenly come face to face with someone who has been encouraged to give up his life. What kind of false notion is this, that somehow or other you get rewarded for losing a son or daughter and get a financial reward? I think what we ought to do is try to trace those financial rewards to the countries that offer them. Maybe friends like Saudi Arabia ought to step up and do their share to not permit this to happen, to not permit these militant groups to exist in their society.

I can tell you one thing. After our visit there, I am more convinced than ever that we must protect Israel no matter what we have to do to see that she survives. It is not because we just love those people. It is because we love the American people. It is because we want to protect America's interests. It is because we don't want to have American troops in the middle of that mad world, with corrupt governments who

siphon off the wealth of their countries while their people in those communities starve and have no opportunity for themselves.

That is the interest I see we have in a strong Israel. It is not just the informational exchange. That is important. But it is the fact of Israel sitting there as a reminder to those corrupt countries, and it is an extension of democracy. It is not an extension of the United States. It is not the 51st State. It is an extension of democracy, and it shows what people can do when they can take a malaria-ridden nation and change it into a thriving agricultural and scientific nation. That is the example that has to be set and that is the one that has to be understood and we ought not to equivocate and say there is violence on both sides. That is the wrong message. You can't say that because that only encourages terrorism. It says violence on one side begets violence on the other side.

I said it before. I have never heard an Israeli, and I know many, nor have I ever seen the country, celebrate the death of children on the other side of the boundary. I have never seen them celebrate when men, women, and children who are innocent are killed—never.

But in the Palestinian community they celebrate by shooting off guns and handing out candy to kids and parading, happy that they have taken someone out of the family, a child, a sister or brother, mother, father—outrageous. Outrageous.

We have to stand steadfast in our support of Israel. We have to insist that Arafat step aside and provide them the right leadership, and there is leadership there but they don't have a chance to operate because he robs them of that opportunity.

It was a wonderful opportunity we had to see what was taking place there and be able to report back and shape our thinking based on the need.

Support our troops. Commend them for what it is that they do in accordance with the tenets of democracy and ultimately decency. We can argue whether we should be there or we should not be there, but we are there and we have to support those people as fully as we can, everyone who wears a uniform. We have to be proud of them. They do their duty splendidly.

With those thoughts, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TAL-ENT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate

now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

ASBESTOS LEGISLATION

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on the bill, S. 1125, which provides for relief on the serious problem facing America involving asbestos.

I have had a number of inquiries on the status of the bill. I recently received a comprehensive memorandum by former Chief Judge Edward R. Becker for the Court of Appeals for the Third Circuit. I thought it would be useful to comment as to the status of this bill at the present time.

Asbestos litigation has caused some 67 bankruptcies in America, and the injuries from asbestos have left workers without compensation and suffering from mesothelioma, asbestosis, and other very serious ailments. In July, the Judiciary Committee passed out S. 1125. I voted for it. It was a vote pretty much along party lines. We passed it out of committee so we could take the next step looking toward floor action.

But the bill required a great deal of evaluation, analysis, and significant changes. I contacted senior Circuit Judge Edward R. Becker, who had been chief judge of the Court of Appeals for the Third Circuit until May 5 of last year. Since he had been involved in major asbestos litigation, I thought he would have special insights into this issue and this problem. He is one of America's leading Federal jurists, if not the leading Federal jurist. He received the Devitt award last year as the author of many scholarly opinions. He was a district judge from 1970 to 1982. He has been on the Court of Appeals for the Third Circuit from 1982 until the present time.

I think bringing in a Federal jurist to help on a legislative matter is unprecedented. During the month of August, when the Senate was in recess, 2 full days were spent in Judge Becker's chambers in Philadelphia, where I attended, and we had representatives from the manufacturers of asbestos; insurance companies, which insured asbestos manufacturers; reinsurers, who reinsured the insurers; representatives of the AFL-CIO, representing the injured parties; and trial lawyers, also representing the injured parties.

Since those two meetings in August, there have been a series of additional meetings in Washington in my office, where Judge Becker has attended. One meeting involved Majority Leader BILL FRIST. Another meeting involved representatives of the Department of Labor. In total, there have been some 15 meetings. We are scheduled to have our 16th one on Thursday of this week.

The bill—the product of very inventive thinking by the chairman of the committee, Senator HATCH—has created a fund, funded initially at \$104 bil-

lion. It has subsequently been increased. The thrust was to create a schedule of payments very much like workers' compensation, where there would not have to be proof of causality, proof of liability; but once the damages were established coming from asbestos, the payments would follow this schedule.

The situation has been compounded, as I say, by the bankruptcy proceedings and the reorganization of some 67 companies. The law has been that workers, or others exposed to asbestos, could be compensated for the full range of their potential injuries even if they had not yet sustained those injuries—a result which I submit does not make good sense in a context where many people who have serious injuries, mesothelioma, asbestosis, and others who are not being compensated at all. This seeks to correct those inequities.

We have wrestled with a great many of the problems, and we have solved a great many issues. Enormous progress has been made on others. We have had the cooperation of many Senators. Senator HATCH has had representatives at the meeting. Senator LEAHY, the ranking Democrat, has had representatives there. The majority leader, Senator FRIST, and the Democratic leader, Senator DASCHLE, have had representatives there. Senators DODD, CARPER, FEINSTEIN and NELSON have also participated with representatives present. Judge Becker prepared a very comprehensive memorandum, dated March 16, outlining the evaluation of the current status of ongoing efforts to achieve a consensus among the manufacturers and insurers, the trial lawyers, and the AFL-CIO.

It is my view that this is the kind of bill that cannot be enacted unless there is a consensus. Unless there is agreement among all of the stakeholders or parties, I think we will not be able to enact this important legislation. If this legislation were to be enacted, it would be an enormous stimulus to the economy and would take these many companies that are in bankruptcy proceedings out of those proceedings so that they become again productive.

Many of those companies are in my home State of Pennsylvania and many across the country.

That is a very brief summary as to where we stand. We will be back at work on Thursday. We are determined to solve these problems. I am optimistic they can be solved. The majority leader has stated his intention to bring this matter to the floor for a vote some time next month. I think we are very close to knowing whether we can resolve these issues, and we will continue to try to do that.

I repeat, I am optimistic we can resolve the issues. The stakes are very high. We have many injured workers who are relying upon some answer to their just compensation. The companies are looking for an answer, and the

economy needs to be stimulated and also looks for an answer.

I ask unanimous consent that the memorandum from Senior Chief Judge Edward R. Becker, dated March 16, 2004, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

Date: March 16, 2004.

To: Senator Arlen Specter.

From: Judge Edward R. Becker.

Re: Pending Asbestos Legislation S. 1125 (Fairness in Asbestos Injury Resolution Act) (Status Report on Progress of our Mediation).

You have asked that I memorialize my evaluation of the current status of our ongoing efforts to achieve a consensus among the manufacturers and other defendant companies, the insurers, the reinsurers, organized labor, and the trial lawyers, i.e., the stakeholders concerned with S. 1125, so as to facilitate consideration of the legislation by the Senate and make possible its ultimate passage in a form satisfactory to the stakeholders and the Senate. This is an interim evaluation. I will be in better position to evaluate the situation after the weekly meeting this Thursday, March 18, 2004. That is because at our meeting of March 11, it was represented to us that draft legislative language with respect to a number of key issues, including "start-up" of the National Trust Fund, on which the stakeholders are apparently close to consensus, will be presented on March 18. The start-up consensus, as I understand it, is to have the insurers and manufacturers put up substantial sums on "day one" so that the Fund can be jump-started and exigent claims can come right into the Fund and not have to linger in the tort system. I have urged that language be drafted to authorize Bankruptcy Courts to approve immediate payments by the Tier 1 (Chapter XI) companies into the Trust Fund. I will give you a follow-up evaluation after the March 18 meeting.

As you know we have made enormous progress over the last few months on quite a number of issues, and already have a clean consensus draft of a comprehensive administrative structure for processing claims which, subject to review by Senate Legislative Counsel, can go right into the bill. Based on representations at recent meetings, I believe that we can expect (consensus) bill language in the next week or two, tying up the few loose ends on the administrative structure, particularly the statute of limitations issue and the definition of exigent claims. The issue of limits on attorney's fees will also have to be resolved, but I think that is do-able. I also expect very shortly consensus bill language covering non-discrimination by health insurers with respect to coverage against workers receiving benefits under S. 1125; and engrafting into S. 1125 Health Insurance Portability & Accountability Act (HIPAA) presumptions regarding exposure criteria; i.e., rebuttable presumptions concerning the extent to which employment (a) in specific industries, (b) in specific occupations within those industries, and/or (c) during specific time periods constitutes "significant occupational exposure."

There are quite a number of other issues on which the stakeholders represent that they are close to agreement including:

1. Values as a range
2. Timing of payments
3. Exclusivity for all asbestos related claims (silica, etc.)
4. The anatomy of medical monitoring
5. Collusive default judgment