those who spoke to equal protection was not to have integration. When the fundamental values of our society changed in the intervening years, the Supreme Court of the United States recognized that and interpreted the Constitution and equality and equal protection in a very different way.

When I was in the Philadelphia District Attorney's Office, I saw firsthand the changing values that led to new and different constitutional doctrines. The case of Mapp v. Ohio decided in 1961 started a cavalcade or an avalanche of Supreme Court decisions which changed the constitutional law of defendants' rights.

In Wolf v. Colorado in 1949, the Supreme Court of the United States said that the due process clause of the 14th amendment did not incorporate the fourth amendment prohibition against search and seizure.

Back in 1916, in Weeks v. The United States, the Supreme Court ruled that evidence obtained by an unreasonable search and seizure could not be introduced in a criminal prosecution. But that was not applicable to the States until the U.S. Supreme Court broadened what due process meant and said the fourth amendment prohibition against unreasonable search and seizure was a fundamental value in our society and it applied to State prosecutions as well.

I recall one case that came up in the Philadelphia criminal court not long thereafter where the defense advanced the concept of unreasonable search and seizure and cited Mapp v. Ohio, and the Philadelphia judge said, well, that is a Ohio case, and disregarded the constitutional law. He later found out that Ohio cases were binding in Pennsylvania when they are decided by the Supreme Court of the United States.

Mapp v. Ohio was then followed by a case involving a right to counsel, and it was decided that there was a constitutional right to counsel. Justice Black said that anyone who was hauled into court had a right to counsel in a State prosecution.

Then the Escobedo v. Illinois case in 1964 concluded that a defendant was entitled to certain warnings, and Miranda v. Arizona in 1966 expanded that doctrine.

In my tenure in the Philadelphia District Attorney's Office I saw firsthand on an ongoing basis the prosecutor's job being made more complicated, but understandably so, and in the long trail of history, decisions which improved the quality of our civilization so that due process of law had broader concepts.

The principal case in the field continues to be Brown v. Board of Education, and it is time to reminisce a bit, time to focus. There is still a great deal more to be done on equality in our society. If we take a look at the statistics of earnings of African Americans versus Caucasians—way down. If we take a look at the earning opportunities for women, the glass ceiling still prevails. There is decided improvement in the Senate. When I was elected, only Senator Nancy Kassebaum of Kansas had been in this Chamber as a woman, and Senator Paula Hawkins was elected in 1980 as the second woman. Now the number is 14 and growing. The Senate is a better place for the additional women whom we have. At the top of the list is the distinguished Presiding Officer—or near the top of the list, or tied for the top of the list; I do not want to get into too many comparisons—the distinguished Senator from Alaska, LISA MURKOWSKI.

THE FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT

Mr. SPECTER. I have also sought recognition to comment about the status of pending asbestos legislation under S. 2290, the Fairness in Asbestos Injury Resolution Act. The Judiciary Committee passed out of committee a bill in July of last year, largely along party lines, which I supported because I thought it important to move the legislation forward even though I had grave reservations about the quality of the bill.

There was no doubt that there was an urgent need for Federal legislation on this subject because some 70 corporations have gone bankrupt, thousands of individuals who have been exposed to asbestos have deadly diseases, mesothelioma and other ailments, and were not being compensated because their employers, potential defendants, were bankrupt. I enlisted the aid—he is still a very young man, although a senior judge—of the former chief judge for the Court of Appeals for the Third Circuit, Edward Becker, who is now a senior judge, having taken that status in May of last year, and I asked him to assist in trying to resolve many of the problems in the asbestos issue. For 2 days in August of last year he and I met in his chambers with representatives of the manufacturers, the insurers, the reinsurers, the AFL–CIO, and the trial lawyers, trying to work through many of the problems. On many intervening days since last August, he and I have met with those parties in my conference room, trying to work out many of the complex issues.

These efforts were recognized by the majority leader, Senator FRIST, and the leader of the Democrats, Senator DASCHLE, who asked Judge Becker to take on formal status as a mediator. He has spent many hours, many days working under the auspices of the leaders.

Right now, the efforts to find a legislative solution have been held in abeyance because of the differences between the manufacturers, insurers, and reinsurers on one side, and the stakeholders, representing the injured parties, the AFL–CIO, and the trial lawyers, on the other, as to what the amount of the trust fund ought to be.

The concept of a trust fund is an outstanding idea. Senator HATCH, the chairman of the Judiciary Committee, deserves great credit for moving the legislation in the direction of a trust fund with a schedule of payments analogous to workmen's compensation so the cases would not have to go through the litigation process. But a fund would be established to pay them once their damages were determined; credit also to Senator LEAHY, the ranking member, and credit also to members of the Judiciary Committee and the leadership, Senator FRIST and Senator DASCHLE, and many others.

I asked Judge Becker to submit a memorandum summarizing where the issue stood, which at an appropriate time I will ask to have printed in the RECORD. Judge Becker's memorandum notes:

. . . the achievements on an administrative structure for processing claims, and on provisions for judicial review.

And, further:

. . . other significant matters such as the definition of exigent claims, timing of payments, and . . . some consensus on certain concepts such as the anatomy of the ''start up''. . . .

There was:

. . . a much clearer understanding [as a result of these mediation efforts] on the troublesome issue of projecting disease incidence . . . and claim filings over the next [many] years.

Judge Becker noted that:

. . . there are still some loose ends to be tied down, especially on the issue of distribution of non-cancer asbestos claimants with increasing degrees of lung impairment claims . . .

And noted further:

. . . a significant breakthrough on the related issue of partial ''sunset''. . . .

And then itemized some of the issues which have yet to be resolved:

Treatment of pending claims and bankruptcies; subrogation of workers compensation payments; and the venue of any revision to the tort system as a vehicle for ''sunset''. . . .

As noted, these mediation efforts have achieved a great deal. Much of the controversy has been resolved and many of the other issues, although not resolved, have seen very substantial progress.

There is a considerable difference, as noted, as to what the fund ought to be with the insurers, reinsurers, and manufacturers on one side and the injured workers represented by the AFL–CIO and the trial lawyers on the other side. Judge Becker notes in his memorandum he is duty-bound not to make a disclosure as where the parties stand, but also noted there have already been disclosures by the parties. So it is not really a secret matter. But I will respect the confidentiality the leaders asked for, and not talk about that.

I think maybe a certain hiatus in the negotiations would be appropriate. Judge Becker concluded his intensive 6 days of mediation last week. I have been talking to the parties on both sides and it is my hope to reconvene the mediation process.

If the matter goes back to committee, it will not have the input from all of the stakeholders which is so important and so vital in understanding all the issues and trying to come to agreement. The parties may be motivated by reconstituting negotiations because of their desire to find a way to have agreement as opposed to having the Senate impose decisions that are not agreed to by the parties.

I think it would be unfortunate if the Senate imposed the judgment as to where we stand on these complex issues because I think they require a lot more detail and a lot more study than the Judiciary Committee can give them. It is a much better forum to have the parties continue to work. As to the amount of money, it is my hope there will be flexibility on all sides.

We ought not to consider this as a matter for extracting the last dollar one way or another because there are so many thousands of injured workers who have mesothelioma, which is deadly, who are not being compensated because their companies are bankrupt. There are some 70 companies in bankruptcy. It would be an enormous help to the economy if there could be a resolution of this very troublesome problem.

I ask unanimous consent the full text of Judge Becker's memorandum to me, dated May 11, be printed in the RECORD following my comments.

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

MEMORANDUM

Date: May 11, 2004.
To: Senator Arlen Specter.
From: Judge Edward R. Becker.
Re: Pending Asbestos Legislation S. 2290 (Fairness in Asbestos Injury Resolution Act; Status Report on Mediation).

You have asked that I update my previous evaluation of the status of the 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. 2290, 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. I am pleased to do so.

You and I began the mediation process in the summer of 2003, and intensified it in the early months of 2004, leading to significant agreement among the stakeholders on a number of major issues, most notably on an administrative structure for processing claims, and on provisions for judicial review. We also achieved agreement on a number of other significant matters such as the definition of exigent claims, the timing of payments, and we reached some consensus on certain concepts such as the anatomy of the ''start up'', though details remained to be worked out.

As you know, I have just concluded six days of intensive mediation under the auspices of Majority Leader Frist, and Minority Leader Daschle, focused on the critical issues of claims values, projections, and the overall funding necessary to sustain a viable National Trust. These sessions were attended by the top representatives of all the stakeholders, including a large cadre of CEO's and corporate general counsels. This process served a number of highly useful purposes. At the threshold, as the result of a session attended by four leading experts, we came to a much clearer understanding of the troublesome issue of projecting disease incidence and, more importantly, claim filings over the next forty to fifty years. There are still some loose ends to be tied down, especially on the issue of distribution of non-cancer asbestosis claimants with increasing degrees of lung impairment claims (S. 2290 levels III, IV and V), but in other respects we have a good handle on the issues. While the confidentiality attendant to the mediation process cautions me against memorializing the details of the parties' positions on claim values, projections, and the size of the fund, I can fairly state that major progress was made in all these areas. There was also a significant breakthrough on the related issue of partial ''sunset'' of claims by lung cancer victims with significant asbestos exposure, but without x-ray evidence of pleural thickening or asbestosis, if and when these claims exceed an agreed upon number. . . . In short, the parties are significantly closer than they had been before. Additionally, on the vital issue of the size of the up-front funding (during the first 5 years of the fund), major strides have also been made.

While there is still a good deal of distance between the positions of the stakeholders on these matters, I am optimistic that, with further discussions with the right intermediary, the gap might be closed. Such a ''gap closure'' would not, I must add, seal a consensus in the absence of agreement on a number of other issues of great importance to the parties, most of which are inextricably intertwined with the financial issues just described. The most important items on this list are: (1) treatment of pending claims and bankruptcies; (2) subrogation of workers' compensation payments; and (3) the venue of any revision to the tort system as a vehicle for ''sunset'' in the event that the fund becomes insufficient to make the required payments to victims. But if the claims values, projections and funding issues can be resolved, I believe that these latter issues would fall into place.

I am encouraged by the joint statement made today by Senator Frist and Senator Daschle that they ''are committed to working together to determine whether a compromise can be reached that would provide sufficient payments to asbestos victims and certainty to companies.''

Mr. SPECTER. In the absence of any Senator on the floor seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. ALEXANDER. Madam President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

COMPUTING AND SCIENCE

Mr. ALEXANDER. Madam President, yesterday Secretary Abraham of the Department of Energy announced that Oak Ridge National Laboratory in my home State of Tennessee was selected the winner of the Department of Energy's competition to develop a leadership class computational facility.

To put that in plain English, that means the Oak Ridge Laboratory, being one of the most famous names in science in the world, will lead an effort that includes many of the brightest minds in our country to try to regain leadership in high-speed and advanced computing for the United States of America.

Oak Ridge, because of this competition, will receive $25 million in funding from the Department of Energy this year for developing this leadership class facility, and the Department has requested an additional $25 million for this activity for next year.

Secretary Abraham's decision will put the United States back in the leadership position in high-performance computing by supporting the development of a 50-teraflop high-end computing facility capable of performing 50 trillion calculations per second.

Why is that important to us? It will permit us in this country to address many scientific problems. For example, we have great debates in this Chamber about global warming and climate change. We base a lot of important policy decisions about clean air regulations—decisions that cost us money—on what is happening in the Earth's climate. This high-end, advanced computing will help us simulate the Earth's climate and have better science upon which to make our policy decisions about global warming.

High-performance computing is also required to model and simulate the plasma phenomena to examine whether fusion power can become a reality. We have enormous debates, and we have not resolved the energy picture. If fusion were an option, we would have a completely different energy picture in the world today because it would offer the promise of virtually no-cost or low-cost energy for people all around the world. Nanoscience has the possibility of revolutionizing chemistry and materials sciences. Yet the full benefit of nanoscience may not be achieved without detailed simulation of quantum interactions.

Advanced manufacturing: We have great debates in this Chamber about how to keep our manufacturing jobs from moving overseas. One way to do that is to lower manufacturing costs and advance our technology, and we should be able to do that. Having advanced computing would help us do it.

I was in Japan about a month ago. One of my purposes for going there was to get a briefing on what Japan calls the Earth Simulator. The Earth Simulator is Japan's high-speed, advanced computing technology. It is currently 2.5 times more powerful than anything else in the world. It has held this distinction for 2 years. The United States is not No. 1 in advanced computing; Japan is. Two years is a very long time to hold the top spot in the computing field.