

describes an incident where he lost his passport a day before his departure from Beijing. Without his passport he knew he would most certainly have to miss his scheduled flight. Because this was peak travel season for many Asians and the airlines were solidly booked, it would also mean an indefinite stay in China. This delay would become very difficult for this person because of health concerns and the lack of his daily medication.

Ms. Fossan and Mr. Ryssdale worked beyond normal working hours to ensure that this Hawaii resident could secure a temporary passport. With temporary passport in hand, my constituent went to the Chinese Security Office to get his visa stamped, and he was able to board his plane to Honolulu the next morning as scheduled.

All too often the hard work and dedication of our foreign service officers go overlooked. Many of these people live and work in very difficult conditions. The Secretary of State has testified before a committee of the Senate about "sewer gases" leaking into the embassy building in Beijing and the difficult living conditions under which the Americans who work there must endure.

Ms. Fossan and Mr. Ryssdale represent the best in foreign service personnel who serve and protect our citizens abroad. To all personnel serving in our embassies abroad and to the Honorable James Sasser, Ambassador to the Peoples Republic of China, and his staff, I say thank you for your dedicated work for our country. •

#### THE PASSING OF MR. ALFRED HALL

• Mr. KEMPTHORNE. Mr. President, among those tragically killed last Friday in a plane crash on Crowell Mountain southeast of Libby, MT, was Mr. Alfred (Al) Hall.

Al Hall worked as the pilot for Idaho Forest Industries [IFI], and flew with his son Cody, as his co-pilot. I speak from personal experience that Al was a fine pilot, as I was able to fly with him several times. I have to tell you that I enjoyed flying with Al and his son Cody because of the enthusiasm they shared for their work. I remember one particular flight during which Al commented that he was the luckiest man he knew. When I asked him why, he responded that it was because his co-pilot was his best friend, and also happened to be his son.

His supervisors at IFI were recently quoted as saying that Al "probably had every rating that an aviator could have." He was known as an experienced and safe pilot, gained from years of experience beginning with his time as a Navy pilot, then as a pilot for the Forest Service, and for Empire Airlines before he went on to work for IFI.

Al leaves behind his wife, Mary Mac Hall, and two adult children, his son, Cody, and his daughter, Laura. The thoughts and prayers of myself and my staff are with them all. •

#### TRIBUTE TO PAUL DENSEN

• Mr. LAUTENBERG. Mr. President, I rise today to recognize Paul Densen on his 80th birthday, which is on August 8. I want to honor Paul not simply because he has reached a milestone, but because his life has been a model of public service and philanthropy.

After fighting for his country in World War II, he headed a major packaging corporation until the 1970's. His philosophy has always been that success obligates us to give something back to the society that enabled us to succeed. When we succeed, we owe something to our community and to those who may be less fortunate. Densen's record of philanthropy and community service confirms that attitude.

He is associate governor of the international board of governors of the Hebrew University of Jerusalem, and a member of the board of directors and a vice-president of the American Friends of Hebrew University. He also serves as a board member of the Suburban Community Music Center in Madison, NJ.

Paul has been a member of the board of directors of the National Conference of Christians and Jews, a member of the dialog committee on interreligious affairs at Seton Hall University, and a budget committee member for the Jewish Education Association. He was also president of the West Orange Charter Association and a member of the West Orange Economic Development Committee.

Given this record, it's probably not surprising that it was public service which initially brought Paul and I together. Our first meeting took place decades ago, when we met to discuss the Lautenberg Center for General and Tumor Immunology at the Hebrew University of Jerusalem-Hadassah Medical School.

Since 1976, Paul has been chairman of the center's endowment committee, and he has been a driving force in its development and volunteer recruitment efforts. Without Paul's dedication and leadership, the Lautenberg Center could not have achieved the remarkable history of success of which we are all so proud.

Mr. President, many people have benefited from Paul Densen's work, and I have certainly benefited from our friendship. I congratulate Paul on his 80th birthday. Reaching this milestone is a cause for celebration. However, through his work, his public service and his civic involvement, Paul definitely proves that what's important isn't simply the years in our life, but the life in our years. •

#### DEPARTMENT OF TRANSPORTATION APPROPRIATIONS BILL

• Mr. MCCAIN. Mr. President, last night I voted against the Department of Transportation appropriations bill. I would like to take a minute of the Senate's time to explain my reasons for

my vote. I had intended to give the following remarks on the Senate floor last night. However, due to the late hour, I chose not to keep the Senate any longer than necessary and instead therefore ask unanimous consent that my statement appear in the RECORD at this time.

First, Mr. President, let me commend the chairman and the ranking member of the subcommittee for all their hard work on this important bill. Their diligence in bringing this bill up and passing it so quickly is ample evidence of their abilities.

I wish I were able to state that I could support their bill—unfortunately, I am not. As with other appropriations bills which I have voted against, I believe that we must begin to stop the practice of earmarking funds. Earmarking is not fair and disproportionately effects where the taxpayer's money is being spent.

For example, Mr. President, the discretionary grants account of the highway trust fund earmarks hundreds of millions of dollars for fixed guideway systems. The bill goes on to list where the money should be spent. To no one's surprise, the motherload of the funds goes to States represented by appropriators.

I am also very concerned that the proviso noting that funds are available for fixed guideway modernization notes that such funds will be available notwithstanding any provision of law. This language was added as a Senate amendment. I would inquire why the Senate felt this proviso was necessary?

I would hope that there was no intention here to insulate items from the line item veto or any other budget cutting tools. I would hope the managers of the bill assure me that such a result was not their intention.

Mr. President, I want to return to the subject of developing a system to determine national priorities. I have discussed this issue before and would like to return to it now. In the area of military construction, Senator GLENN and I have worked with the Department of Defense to develop a system where the Pentagon prioritizes their construction needs.

At the insistence of my good friends, Senator SHELBY, the courts have done the same. I want to point out that until Senator SHELBY took over the Treasury-Postal Subcommittee, courthouse construction in the country was based on no rational plan and hundreds of millions of dollars were wasted. Thanks to Senator SHELBY, the courts—against their will—now prioritize which courthouses should be built. This enables the Congress to spend the taxpayer's money in a more responsible manner.

I would hope we could institute a similar process for the Department of Transportation and the many projects and other earmarks funded by this bill.

Mr. President, such a system not only gives Members of Congress the information needed to make better

choices about how to spend appropriated dollars, but will hopefully take some of the politics out of the spending process. I hope we will move in this direction in the future.

Again, although I intend to vote against this bill, I want to thank the bill's managers, especially the chairman of the subcommittee, Senator HATFIELD.●

#### PRIVATE GAMBLING AND PUBLIC MORALITY

● Mr. SIMON. Mr. President, Prof. George Anastaplo of Loyola University School of Law in Chicago recently spoke at a convention in Las Vegas, commenting about legalized gambling and where we are going as a nation.

It is a thoughtful presentation that I am appending at the end of these remarks. I have condensed his original paper somewhat.

What is interesting to me particularly is to read a quotation from an 1850 U.S. Supreme Court decision, *Phelan versus Virginia*, in which the Court comments on lotteries as compared to private gambling. The Court said:

The suppression of nuisances injurious to public health or morality is among the most important duties of government. Experience has shown common forms of gambling are comparatively innocuous when placed in contrast with the widespread pestilence of lotteries. The former are confined to a few persons and places, but the latter infests the whole community: it enters every dwelling; it reaches every class; it preys upon the hard earnings of the poor; it plunders the ignorant and simple.

Mr. President, I ask that the condensed version of Mr. Anastaplo's remarks be printed in the RECORD.

The condensed version follows:

#### "PRIVATE" GAMBLING AND PUBLIC MORALITY (By George Anastaplo)

Gambling is in evidence all around us. For example, Texas bingo halls took in \$63,000,000 in 1994. The pervasiveness of gambling is evident to anyone who follows sports: the "point spread" helps make each encounter of even mismatched opponents "interesting" and hence the occasion for wagering. Officials of professional leagues used to worry about the influence of gambling. For example, it was once argued, "The values of football are hard work, disappointment, and honest competition, which must exist in an honest environment." Gambling, it was feared, would "accentuate" the pressures on football players beyond a tolerable point, and change a sporting event into a gambling spectacle. Now, the officials of professional leagues cooperate with the gambling industry to make sure that games are not "fixed."

But, it can be noticed, the sports contests that are gambled upon may often be intrinsically interesting—and can attract attention without any organized wagering. But lotteries, slot machines, and the like are far less interesting in themselves. Even so, they can be quite entertaining, even thrilling, for participants. Thus, it has been observed, "Unlike narcotics, which creates droves of criminals who prey on the generally poor black community, the numbers game seems to many people to be just a potent, daily titillation for poor people seeking a rainbow's end." The head of an off track betting con-

poration, upon being accused of taking money from the poor, asked rather rhetorically, "Who's to say what's gambling and what's entertainment?" But then, nicotine, too, can be engaging for the addict, however deadly cigarette-smoking may be.

We tend to be much more relaxed, as a community, about the damage done by gambling than were some of the earlier generations in this country. Tolerance for lotteries, in the first quarter of the Nineteenth Century gave way, because of growing abuses, to efforts by state governments to put lotteries out of business. In 1895 Congress provided support for these states with its own legislation, "An Act for the Suppression of Lottery Traffic through National and Interstate Commerce and Postal Service, Subject to the Jurisdiction and Laws of the United States."

A constitutional inquiry into what was indeed "subject to the jurisdiction and laws of the United States" elicited this question from the United States Supreme Court in *Champion v. Ames*: (The Lottery Case), 188 U.S. 121, at 356 (1903):

"If a state, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money, in that mode, why may not Congress, invested with the power to regulate commerce among the several states, provide that such commerce shall not be polluted by the carrying of lottery tickets from one state to another?"

Further on the Court argued (*ibid.*, at 357-58):

"[B]ut surely it will not be said to be a part of anyone's liberty, as recognized by the supreme law of the land, that he shall be allowed to introduce into commerce among the states an element that will be confessedly injurious to the public morals. . . . We should hesitate long before adjudging that an evil of such appalling character, carried on through interstate commerce, cannot be met and crushed by the only power competent to that end."

It is evident how people in authority in the first decade of this century were expected to speak about such gambling as the lottery. The dissenting opinion in *Champion v. Ames* made no defense of lotteries, arguing instead that the power to suppress such "a harmful business" belong to the states, not to the national government.

The majority of the Supreme Court in *Champion v. Ames* insisted that Congress should be able to act:

" . . . to protect the country at large against a species of interstate commerce which, although in general use and somewhat favored in both national and state legislation in the early history of the country, has grown into disrepute, and has become offensive to the entire people of the nation. It is a kind of traffic that no one can be entitled to pursue as a right."

I mention in passing the likelihood that the current indulgences in lotteries and the like will, because of emerging abuses and harmful consequences, eventually be subjected once again to severe restrictions. In fact, it is already likely that lotteries would not be approved in many of the states where they now operate, if put to a popular vote by referendum.

No one on the 1903 Court doubted that state governments could try to suppress lotteries if they wished. *Phelan v. Virginia*, 8 Howard (49 U.S.) 162 (1850) was cited to this effect. The opinion in that case, upholding an 1834 act of Virginia forbidding the sale of lottery tickets, includes this reminder of how lotteries were once regarded in this country:

"The suppression of nuisances injurious to public health or morality is among the most

important duties of government. Experience has shown that the common forms of gambling are comparatively innocuous when placed in contrast with the widespread pestilence of lotteries. The former are confined to a few persons and places, but the latter infests the whole community: it enters every dwelling; it reaches every class; it preys upon the hard earnings of the poor; it plunders the ignorant and simple."

This, then, is the sort of public opinion, running back to 1850 and earlier, that the Supreme Court could invoke in the opening years of this century. Now, at the end of the same century, not only are lotteries no longer spoken of in this fashion by officials, but the states of this Union are themselves in the business of running and vigorously promoting lotteries with ever-growing prizes. In Illinois, for example, the gambling industry contributed more than a million dollars to political candidates in 1995. Furthermore, it has been able to hire a former governor of the state and other former Illinois officials as paid lobbyists.

This is not just an American phenomenon, of course. State lotteries are very much in evidence in Europe and elsewhere. The "pools" have long been a feature of British life. And something is to be said for legalizing (or at least decriminalizing) what is likely to be done anyway, thereby permitting both regulation and taxation. But is not the state's doing it, and promoting it, something significantly different from toleration, taxation and regulation? Is it as if the state had gotten into the business of producing and selling firearms, prostitutes, alcoholic beverages, cigarettes, and other narcotics?

The newest gambling rage in this country, however, is not lotteries but rather casinos. These are licensed by states which count on a hefty cut of the revenues. Respectable newspapers prod their legislatures to take measures to counter the competition from the casinos in neighboring states. Consider, for example, the opening and closing sentences of a recent Chicago Sun-Times editorial ("Casino Shutdown in East Dubuque, Illinois Forces Gambling Issue," December 7, 1995):

"Two Illinois riverboat casino got no satisfaction from the Legislature last month when they asked for help in competing with Iowa boats across the Mississippi River. . . . While the Legislature fiddles, Illinois gaming revenue floats across the Mississippi to lucky Iowa."

It is the practice of the gambling industry, by the way, to refer to the "entertainment" it offers as "gaming," not as "gambling."

A recent Chicago Tribune editorial, supporting an effort to exact more revenues from riverboat casinos, begins with these observations ("Bet on Edgar's casino tax plan," March 8, 1996):

"Who says gambling doesn't pay? Last year the Empress Casino in Joliet hauled in \$200 million, after paying off bettors. For Harrah's, also in Joliet, the figure was more than \$190 million.

"Gov. Jim Edgar's proposed 1997 state budget would impose on those and other high-rolling casinos a graduated tax to tap some of the windfall for the state's schools—and rightly so.

"Under current law, all casinos are taxed a flat 20 percent of their adjusted gross receipts (that's what they have left after they've paid out winnings), regardless of how much money they're making.

"For a struggling operation (and there are some), 20 percent is too much; for the widely successful ones, it's a bargain, and for the state it's an inefficient approach to taxation of this protected industry."

Immediately following this Tribune editorial about how the state should take further advantage of "this protected industry" is an