

## OFFSHORE TAX HAVENS

Mr. LEVIN. Mr. President, I will ask to have printed in the RECORD a timely opinion piece that was written by Mr. Robert M. Morgenthau, the District Attorney of the County of New York, and appeared in the Wall Street Journal on Tuesday, September 30. Since the 1960s, Mr. Morgenthau has been a leader in the fight against the abuse of offshore havens for fraud, money laundering, tax evasion and a host of other illicit activities.

As Congress votes on a plan to restore the soundness and credibility of our financial system, Mr. Morgenthau's column correctly reminds us of a factor that contributed significantly to this financial crisis—the activities of financial institutions that have hidden away trillions of dollars in offshore tax havens and that claim to be domiciled in those offshore havens, when all of their key personnel and operations are here in the United States. Mr. Morgenthau points out that this charade places these trillions of dollars, and the activities of the entities that control them, outside the oversight and supervisory control of the U.S. financial regulatory system. As the hearings held by the Permanent Subcommittee on Investigations, which I chair, have demonstrated, this charade is also a breeding ground for tax abuse, draining our system of billions of dollars in needed tax revenues.

In his article, Mr. Morgenthau reminds us that the supervisory and safety mechanisms that have been established to protect our citizens and their savings are dependent on transparency and strong regulatory vigilance. So is our tax system. When funds are hidden in offshore jurisdictions that promote secrecy and weak regulatory standards, and the funds are controlled by entities that claim they are not subject to our regulatory system, the safety net that we have established cannot function to provide our citizens the security it was designed to offer.

While we have voted on a plan to alleviate the current crisis, we have a lot more work to do to rectify the root causes of this problem. As Mr. Morgenthau points out, the abuse of offshore jurisdictions by financial institutions must be high on that agenda, and I look forward to addressing this matter in the next Congress.

Mr. President, I ask unanimous consent to have the opinion piece to which I referred printed in the RECORD.

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

[From the Wall Street Journal, Sept. 30, 2008]

**TOO MUCH MONEY IS BEYOND LEGAL REACH'**  
(By Robert M. Morgenthau)

A major factor in the current financial crisis is the lack of transparency in the activities of the principal players in the financial markets. This opaqueness is compounded by

vast sums of money that lie outside the jurisdiction of U.S. regulators and other supervisory authorities.

The \$700 billion in Treasury Secretary Henry Paulson's current proposed rescue plan pales in comparison to the volume of dollars that now escape the watchful eye, not only of U.S. regulators, but from the media and the general public as well.

There is \$1.9 trillion, almost all of it run out of the New York metropolitan area, that sits in the Cayman Islands, a secrecy jurisdiction. Another \$1.5 trillion is lodged in four other secrecy jurisdictions.

Following the Great Depression, we bragged about a newly installed safety net that was suppose to save us from such a hard economic fall in the future. However, the Securities and Exchange Commission, the Federal Reserve System, the Comptroller of the Currency and others have ignored trillions of dollars that have migrated to offshore jurisdictions that are secretive in nature and outside the safety net—beyond the reach of U.S. regulators.

We should have learned a long time ago that totally unsupervised markets, whether trading in tulips or subprime mortgages, will sooner rather than later get into trouble. We don't have to look back very far in history to understand this.

Long Term Capital Management, a hedge fund "based" in Greenwich, Conn., but composed of eight partnerships chartered in the Caymans, was supposed to be the wonder-kind of the financial world. At its peak in the late 1990s, its gross holdings were valued at \$1.8 trillion. But, regrettably, its liabilities exceeded its assets and the Federal Reserve Bank of New York had to step in and rescue it when the value of its assets plummeted.

Most recently, two Bear Stearns hedge funds, based in the Cayman Islands, but run out of New York, collapsed without any warning to its investors. Because of the location of these financial institutions—in a secrecy jurisdiction, outside the U.S. safety net of appropriate supervision—their desperate financial condition went undetected until it was too late.

Of course, BCCI Overseas, which was part of the then largest bankruptcy in history, was also "chartered" in the Caymans.

We have to learn from our mistakes. Any significant infusion to the financial system must carry assurances that it will not add to the pool of money beyond the safety net and supervisory authority of the United States. Moreover, the trillions of dollars currently offshore and invested in funds that could impact the American economy must be brought under appropriate supervision.

If Congress and Treasury fail to bring under U.S. supervisory authority the financial institutions and transactions in secrecy jurisdictions, there will be no transparency with the inevitable consequences of the lack of transparency—namely, a repeat of the unbridled greed and recklessness that we now face. Because of the monolithic character of world financial markets, a default crisis anywhere becomes a default crisis everywhere.

**HONORING OUR ARMED FORCES**

Mr. DODD. Mr. President, I rise with great sadness and a heavy heart to remember a young man and a great American. Army 1LT Thomas Brown, a native of Shelton, CT, was killed in action in Iraq a few days ago—the 41st citizen of my State to lose his life in

the Iraq or Afghanistan wars. He was 26 years of age.

We honor the sacrifice of all our men and women who give their lives serving this country. But it is never easy to lose someone so young—especially someone for whom life so clearly had much more in store.

As a teenager, Lieutenant Brown attended Notre Dame Catholic High School in Fairport, where it has been said he was all but inseparable from his twin brother, Timothy. He was an honor student and an athlete.

He would graduate from George Mason University in 2004, and like so many young people, he was eager to serve his country—to give something back. He attended Ranger school, Airborne school and officer candidate school.

This young man would go on to serve in the Army's 2nd Battalion, 6th Infantry Regiment, 2nd Brigade Combat Team of the 1st Armored Division. There, I understand, Lieutenant Brown earned great respect and admiration from his fellow soldiers.

Lieutenant Brown was known among his comrades as an officer who led by example, not by order, and was immensely proud to serve his country in the U.S. Army. He was also known for his passionate love of the Boston Red Sox, and for his truly generous spirit.

In recognition of his heroic service and sacrifice, Thomas Brown was posthumously awarded the Bronze Star Medal and the Purple Heart.

One of the saddest facts in this young soldier's passing is that he was due to take leave and return home in 3 short weeks to visit his friends, family and girlfriend. He wanted nothing more than the chance to visit home.

Timothy Brown said recently of his brother: "He wanted to make a difference."

Let the record show that 1LT Thomas J. Brown, in his 26 short years on this Earth, did make a difference—and that we are forever grateful for the remarkable contributions he made to the country he did so love.

**IN MEMORIAM: PAUL NEWMAN**

Mrs. BOXER. Mr. President, I am honored to remember a great American icon who was a renowned actor, activist, and philanthropist—Paul Newman, who passed away on September 26, 2008, at the age of 83.

Paul's movie career spanned five decades, acting in over 65 films. He captivated all of America with his natural on-screen talent and his off-screen ability to give to others. He was more than an incredibly gifted, Academy Award-winning actor; his zeal for life was evident through his remarkable charitable work and favorite pastimes.

Paul Leonard Newman was born in Shaker Heights, OH, on January 26, 1925, to Arthur and Theresa Newman.

Though he hoped to be a professional athlete, his gift for the performing arts showed early as he acted in grade school and high school plays. After high school he served in the U.S. Navy Air Corps and eventually went on to study theatre at prestigious institutions such as the Yale School of Drama and the famous Actor's Studio in New York.

In the 1950s his acting career began in theatre and television. He moved to films and was eventually nominated for 10 Oscars—winning Best Actor for “The Color of Money” and also two honorary Oscars. He played many major roles in classic American films such as “Exodus,” “Hud,” “Butch Cassidy and the Sundance Kid,” “The Verdict,” “The Sting,” and “Absence of Malice.” His legendary performances will forever entertain and captivate the American imagination.

Paul was not only an iconic actor, but he also fervently cared about our Nation. He opposed the Vietnam war and ardently favored civil rights and equality. In addition he was a world-class race car driver, and a flourishing nonprofit entrepreneur. He founded the popular Newman's Own line of food products 25 years ago, and 100 percent of its profits are donated to charities around the world. Among those charities are the Hole in the Wall Camps that Paul helped to create over 20 years ago. These camps allow for a carefree experience for children with illnesses. Newman's Own has raised \$250 million so far.

When his son, Scott, tragically passed away, Paul established the Scott Newman Center in 1980 to prevent drug abuse through educating children. He also helped to cofound the Committee Encouraging Corporate Philanthropy, a consortium of global CEOs in support of corporate giving. Paul Newman lived his life by giving to others and encouraging others to give.

He is survived by his wonderful wife of 50 years, award-winning actress Joanne Woodward; five daughters, Susan, Stephanie, Melissa, Nell, and Clea; two grandchildren; and his brother Arthur. I send my deepest condolences to them.

Our Nation lost an amazing talent and humanitarian with the passing of Paul Newman, but his legacy to the State of California and to all of America will live on.

#### GAO SLOT AUCTION RULING

Mrs. MURRAY. Mr. President, as chairman of the Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, I rise with my ranking member, Senator BOND, as well as the bipartisan leadership of the Senate Commerce Committee, to address an important issue pertaining to the Federal Aviation Administration, FAA. That issue is the agency's plans to engage in

the practice of auctioning off landing and takeoff slots at slot-controlled airports.

Controversial aviation issues do not always garner immediate agreement on the part of all committee and subcommittee leaders in the Senate. They often trigger disagreements fueled by regional interests or differing views on the appropriate role of the Department of Transportation, DOT, in regulating the market. But in this instance, it should be noted that all four Senators with authorizing and appropriating responsibilities for the FAA are in agreement that the FAA's plans are illegal. We do not come to that conclusion lightly. Just yesterday, the committee received an authoritative legal opinion from the General Counsel of the Government Accountability Office, GAO, that reached that same conclusion.

GAO's legal opinion should not come as a surprise to the FAA. Indeed, the FAA, as recently as 2 years ago, was of the same view as GAO and stated in the Federal Register that it did not have the authority to proceed with such slot auctions. More recently, however, the General Counsel at the DOT concocted what, in my view, is a new far-fetched legal argument for the purpose of evading the clear limitations imposed by the authorizing statute and appropriations law. The GAO reviewed the Department's new interpretations of the law and found that they don't hold water. Indeed, the GAO concluded that, if the FAA were to proceed with these auctions, the agency would be engaging in a blatant violation of the Antideficiency Act. This legal opinion matters not simply because it corroborates our collective bipartisan interpretation of the authorizing and appropriations laws. It matters because the GAO is statutorily charged with making determinations regarding violations of Appropriations law including the Antideficiency Act.

One would think that this opinion would bring an end to this debate. Since we now know, in advance, how the GAO would rule on this question, one would expect the DOT to abandon its interpretation and cancel its planned auctioning of slots. To do otherwise would signal the agency's intention to proceed with a process that will almost certainly be found to be illegal. Unfortunately, we are getting indications that this is precisely what the Department intends to do—proceed with these slot auctions whether they are legal or not. I find the Secretary's plans to be both startling and disappointing. In my view, agency heads should not be launching into actions that are likely to be found to be illegal. And equally important, political appointees should not be forcing non-political officials in their departments to participate in such acts.

So, Mr. President, I, along with my colleagues, am taking the time of the

Senate to implore Secretary Peters to review the GAO's findings and abandon the Department's plans. To do otherwise will just subject the taxpayers to the costs both of litigating this matter while holding a losing hand. The taxpayers will also have to foot the bill for financing the operation of this slot auction process. This represents an expense potentially in the millions of dollars. Those funds would be much better spent addressing the long list of critical safety improvements that must be made by the FAA.

Mr. BOND. It is a rare occurrence in the Senate to get this level of strong bipartisan cooperation, and I thank the chair and our colleagues on the Commerce Committee, Senators INOUE and HUTCHISON, for their support on this issue.

As you mentioned, I, too, am concerned that the administration will ignore the impartial legal opinion articulated by the GAO on slot auctions and proceed with their ill-conceived plan.

The flying public and taxpayers are not well served by carrying through on a plan that will only lead to increased delays and costly litigation. Our aviation system needs a comprehensive overhaul, operationally and technologically, to fix the problems of congestion. An untested scheme to further tax airlines and passengers is certainly not what is needed. The delayed and weary flying public deserves better.

Should the administration proceed with their illegal auction scheme, it will do nothing to reduce congestion and will only postpone needed reforms to the system. The problem of chronic congestion and delays in our aviation system deserves the full attention of all of the stakeholders involved in aviation—from the administration and Congress, the airlines, airports, customers, and the air traffic controllers and operational personnel that keep our system moving. With the GAO's legal ruling, it is my hope that we can move past this failed idea and work towards a real solution.

I look forward to working with you and our Commerce Committee colleagues in addressing the fundamental causes of delays and congestion throughout our system and thank you all again for your continued leadership and support on the issue.

Mr. INOUE. Mr. President, as chairman of the Senate Commerce, Science, and Transportation Committee, I rise in support of the remarks made by my colleagues and would like to express my concern with moving forward on this proposal.

Clearly, such a profound change in aviation policy must be supported by Congress and the agency's underlying authorizing legislation. Congress, however, has consistently opposed the DOT's attempt to auction slots and explicitly prohibited such actions in P.L. 110-161. Just this week, the GAO reaffirmed the position of Congress when