

Mr. President, I am very proud of these young people.

I am here today to commend them publicly, and to share their accomplishments with all of you because they are truly making a difference in the battle against teenage smoking.

Florida has encouraged its youth to creatively combat one of the foremost problems facing today's teenagers, entrusting them with the tools and means to successfully meet their goals.

As other areas work towards the development of a youth-based anti-tobacco initiative, SWAT will be the model upon which their programs will be based.

To the over 10,000 members of SWAT, thank you for your efforts to educate Floridians about the dangers of tobacco.

DEATH ON THE HIGH SEAS ACT

Mr. SPECTER. Mr. President, as it appears unlikely the House and Senate conferees will come to agreement this year on a bill to reauthorize the Federal Aviation Administration, I have sought recognition today to introduce legislation which will provide equitable treatment for families of passengers involved in international aviation disasters. This measure is identical to legislation I introduced in the 105th Congress, and similar to provisions contained in both the House and Senate FAA bills.

As my colleagues know, the devastating crash of Trans World Airlines Flight 800 on July 17, 1996 took the lives of 230 individuals. Perhaps the community hardest hit by this tragedy was Montoursville, PA, which lost 16 students and 5 adult chaperones from Montoursville High School who were participating in a long-awaited French Club trip to France.

Last Congress it was brought to my attention by constituents, who include parents of the Montoursville children lost on TWA 800, that their ability to seek redress in court is hampered by a 1920 shipping law known as the Death on the High Seas Act, which was originally intended to cover the widows of seafarers, not the relatives of jumbojet passengers embarking on international air travel.

Under the Warsaw Convention of 1929, airlines are limited in the amount they must pay to families of passengers who died on an international flight. However, domestic air crashes are covered by U.S. law, which allow for greater damages if negligent conduct is proven in court.

The Warsaw Convention limit on liability can be waived if the passengers' families show that there was intentional misconduct which led to the crash. This is where the Death on the High Seas Act comes into play. This law states that where the death of a person is caused by wrongful act, neglect, or default occurring on the high seas more than 1 marine league which is 3 miles from U.S. shores, a personal

representative of a decedent can sue for pecuniary loss sustained by the decedent's wife, child, husband, parent, or dependent relative. The Act, however, does not allow families of the victims of TWA 800 or other aviation incidents such as the Swissair Flight 111 crash and the recent EgyptAir 990 tragedy to obtain other types of damages, such as recovery for loss of society or punitive damages, no matter how great the wrongful act or neglect by an airline or airplane manufacturer.

My legislation would amend Federal law to provide that the Death on the High Seas Act shall not affect any remedy existing at common law or under State law with respect to any injury or death arising out of an aviation incident occurring after January 1, 1995. In effect, it would clarify that federal aviation law does not limit remedies in the same manner as maritime law, and permits international flights to be governed by the same laws as domestic flights.

My legislation is not about blaming an airline or airplane manufacturer. It is not about multimillion dollar damage awards. It is about ensuring access to justice and clarifying the rights of families of victims of plane crashes.

The need for this legislation is suggested by the Supreme Court decision *Zicherman v. Korean Airlines*, 116 S. Ct. 629 (1996), in which a unanimous Court held that the Death on the High Seas Act of 1920 applies to determine damages in airline accidents that occur more than 3 miles from shore. By contrast, the Court has ruled that State tort law applies to determine damages in accidents that occur in waters 3 miles or less from our shores. *Yamaha v. Calhoun*, (1996 WL 5518)

I believe it is inequitable to make such a distinction at the 3 mile limit in civil aviation cases where the underlying statute predates international air travel. I would note that the Gore Commission on Aviation Safety and Security noted in its final report that "certain statutes and international treaties, established over 50 years ago, historically have not provided equitable treatment for families of passengers involved in international aviation disasters. Specifically, the Death on the High Seas Act of 1920 and the Warsaw Convention of 1929, although designed to aid families of victims of maritime and aviation disasters, have inhibited the ability of family members of international aviation disasters from obtaining fair compensation."

I would further note that in an October, 1996 brief filed at the Department of Transportation by the Air Transport Association, the trade association of U.S. airlines, there is an acknowledgment that the Supreme Court in *Zicherman* did not apparently consider 49 U.S.C. § 40120(a) and (c), which preserve the application of State and common law remedies in tort cases and also prohibit the application of Federal shipping laws to aviation. My legislation amends 49 U.S.C. § 40120(c) to clar-

ify that nothing in the Death on the High Seas Act restricts the availability of remedies in suits arising out of aviation disasters.

In September, 1998, during consideration of the Federal Aviation Administration authorization bill, I offered a compromise amendment with a limit on damages in order to move ahead to obtain some possible compensation for victims' families beyond pecuniary damages. I did so because had an amendment to the Death on the High Seas Act been enacted which would have had unlimited damages, there was the announced intent to filibuster the bill. While my amendment was accepted by a voice vote in the Senate, the underlying FAA bill was not enacted into law.

This year the Senate passed a new FAA reauthorization bill which included the compromise provision agreed to last year. As the bill conferees appear unlikely to reach agreement with the House this year, I am reintroducing the original version of my bill because I fundamentally oppose any cap on damages and am hopeful that this legislation can be enacted independently of the FAA bill to provide the fullest amount of relief to the families of aviation disaster victims.

At a time when so many Americans live, work, and travel abroad, taking part in the global economy or seeing the cultural riches of foreign lands, they and their families should know that the American civil justice system will be accessible to the fullest extent if the unthinkable occurs.

I urge my colleagues to support this legislation and look forward to working with them to ensure its ultimate enactment during the second session of the 106th Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEATH ON THE HIGH SEAS ACT.

Section 40120(c) of title 49, United States Code, is amended to read as follows:

"(C) ADDITIONAL REMEDIES.

"(1) IN GENERAL.—Nothing in this part or the Act entitled 'An Act relating to the maintenance of actions for death on the high seas and other navigable waters' approved March 30, 1920 (46 U.S.C. App. 761 et seq.), popularly known as the 'Death on the High Seas Act,' shall, with respect to any injury or death arising out of any covered aviation incident, affect any remedy—

"(A) under common law; or

"(B) under State law.

"(2) ADDITIONAL REMEDIES.—Any remedy provided for under this part or the Act referred to in paragraph (1) for an injury or death arising out of any covered aviation incident shall be in addition to any of the remedies described in subparagraphs (A) and (B) of paragraph (1).

"(3) COVERED AVIATION INCIDENT DEFINED.—In this subsection, the term 'covered aviation incident' means an aviation disaster occurring on or after January 1, 1995."

75TH ANNIVERSARY OF THE U.S.
BORDER PATROL

Mrs. HUTCHISON. Mr. President, on behalf of Senators ABRAHAM, KYL, and GRAMM, I am proud to introduce Senate Concurrent Resolution No. 74, honoring the 75th anniversary of the United States Border Patrol.

Mr. President, the men and women of the Border Patrol are our Nation's first line of defense in the war on drugs and illegal immigration. Since 1924, the Border Patrol has guarded some 8,000 miles of international boundaries, and has maintained a reputation for getting the job done. The Border Patrol story is one of long hours and hard work in defense of our country.

The Department of Labor Appropriations Act of 1924 created a Border Patrol within the Bureau of Immigration, with an initial force of 450 Patrol Inspectors, a yearly budget of \$1 million, and a yearly salary of \$1,300 for each Patrol Inspector, with each patrolman furnishing their own house.

The Border Patrol has grown from that initial force of 450 to more than 8,000 today, located in 146 stations under 21 sectors. The Border Patrol's officers have assisted in controlling civil disturbances, performing National security details, aided in foreign training and assessments, and responded with security and humanitarian assistance in the aftermath of numerous natural disasters. 86 agents and pilots have lost their lives in the line of duty—six in 1998 alone.

By far, the Border Patrol's greatest challenge has come along our nation's Southwest Border, which is a sieve for illegal drugs and aliens. Last year, there were 6,359 drug seizures along the Southwest Border by the Border Patrol. These drugs had an estimated street value of \$2 billion. There were also nearly 5 million illegal crossings.

The Border Patrol and the Congress are responding to this challenge, providing funding to hire 1,000 new agents in fiscal year 2000, just as we have for the past two years. I hope that the Immigration and Naturalization Service will put these funds to good use, hiring these critical agents, and using other resources Congress has provided to improve the equipment and technology available to the Border Patrol.

The United States Border Patrol has the difficult dual mission of protecting our borders and enforcing our immigration laws in a fair and humane manner. They do both very well under difficult conditions.

I want to congratulate all who serve with the U.S. Border Patrol on this 75th anniversary and express to them to thanks of a grateful nation.

• Mrs. FEINSTEIN. Mr. President, I rise today to submit a resolution that commends and remembers events that transpired in Remy, France as its citizens honored the fallen World War II Army Air Corps pilot, Lieutenant Houston Braly. This inspiring story happened over fifty years ago, but its example of compassion and brotherhood remains in our hearts and minds.

On August 2, 1944, Lt. Braly's squadron of P-51 fighters on patrol in northern France encountered a German munitions train. After three unsuccessful attack runs at the camouflaged train, Lt. Braly's fire hit a car carrying explosives, causing a tremendous explosion.

Airplanes circling 13,000 feet over the battle were hit by shrapnel from the train, haystacks in fields some distance away burned, and nearly all buildings in the small French town were demolished. A 13th century church in the town of Remy barely escaped destruction, but its historic stained-glass windows were shattered.

It was this explosion that tragically claimed the life of Lt. Braly at only twenty-two years of age.

Despite the near total destruction of the small town, the residents of Remy regarded that young American as a hero. A young woman pulled Braly's body from the burning wreck of the plane, wrapped him in the nylon of his parachute, and placed him in the town's courtyard. Hundreds of villagers left flowers around his body, stunning German authorities.

The next morning, German authorities discovered that villagers continued to pay tribute to the young pilot despite threats of punishment. The placement of flowers on Lt. Braly's grave continued until American forces liberated Remy to the cheers of the townspeople.

Almost 50 years later, Steven Lea Vell of Danville, California, discovered this story in his research. Mr. Lea Vell was so moved by the story that he visited Remy, France, only to find that the stained glass windows of the magnificent 13th century church which were destroyed in the explosion had never been replaced. He contacted members of the 364th Fighter Group, under which Lt. Braly had served. After hearing how the residents of Remy had honored their fallen friend, veterans joined together to form Windows for Remy, a non-profit organization that would raise \$200,000 to replace the stained glass windows as a gesture of thanks to Remy for its deeds.

On Armistice Day, November 11, 1995, fifty years after the war ended, the town of Remy paid tribute once more to Lt. Braly. On that day they renamed the crossroads where he perished to "Rue de Houston L. Braly, Jr."

I know that my fellow senators will want to join me in commending the people of Remy for their kindness and recognize the comrades of Lt. Braly for their good will.

Mr. President, I ask unanimous consent that the text of the resolution be printed at this point in the RECORD.

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

S. CON. RES. —

Whereas on August 2, 1944, a squadron of P-51s from the United States 364th Fighter Group strafed a German munitions train in Remy, France;

Whereas the resulting explosion killed Lieutenant Houston Braly, one of the attacking pilots, and destroyed much of the village of Remy, including 7 stained glass windows in the 13th century church;

Whereas despite threats of reprisals from the occupying German authorities, the citizens of Remy recovered Lieutenant Braly's body from the wreckage, buried his body with dignity and honor in the church's cemetery, and decorated the grave site daily with fresh flowers;

Whereas on Armistice Day, 1995, the village of Remy renamed the crossroads near the site of Lieutenant Braly's death in his honor;

Whereas the surviving members of the 364th Fighter Group desire to express their gratitude to the brave citizens of Remy; and

Whereas to express their gratitude, the surviving members of the 364th Fighter Group have organized a nonprofit corporation to raise funds through its project "Windows for Remy" to restore the church's stained glass windows: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends the bravery and honor of the citizens of Remy, France, for their actions with respect to the American fighter pilot Lieutenant Houston Braly, during and after August 1944; and

(2) recognizes the efforts of the surviving members of the United States 364th Fighter Group to raise funds to restore the stained glass windows of Remy's 13th century church.

THE WAKPA SICA RECONCILIATION PLACE ACT

Mr. JOHNSON. Mr. President, I am pleased to join with my colleague from South Dakota, Senate Democratic Leader TOM DASCHLE, as a cosponsor of the Wakpa Sica Reconciliation Place Act, which will establish the Wakpa Sica Reconciliation Place in Ft. Pierre, South Dakota. The Wakpa Sica Reconciliation Place would be an important cultural and interpretive center, in part to compliment the National Lewis and Clark Trail, but with the unique perspective of the Sioux tribes and the impact of the Lewis and Clark encounter on tribal culture and economics.

During the Lewis and Clark expedition, Captains Merriweather Lewis and William Clark anchored their river boats where the Wakpa Sica, or Bad River, flows into the Missouri. After four months of travel from St. Louis, history was made on September 24, 1804. The next day 44 men landed on the west bank of the Missouri and paraded under the United States flag.

These men then joined Chief Black Buffalo and braves from the Teton Sioux for council in the chief's buffalo skin lodge. This was a key and pivotal meeting between representatives of the great Sioux tribes and those of the United States of America. This meeting was less than amicable.

Throughout the rest of South Dakota's history the relationship between native peoples and non-natives has not been a peaceful one. Today we are still facing the challenging experience of working and living together side by side. I am proud of the South Dakotans