

next 40 years at Fisher Body. His public service continued throughout his life exemplifying his commitment and concern for improving the lives of all people.

For 20 years, Jim served as a councilman in his hometown of Jefferson Boro, which honored him with the Crossweight Award in recognition of this service. He also served as a trustee at his church, as the chairman of the Jefferson Boro Democratic Committee, and as president of Local No. 544 of the United Auto Workers. In truth, however, this collection of titles and official positions, while impressive, barely scratches the surface in terms of defining the man.

Jim McFarland was a truly compassionate individual the likes of which this world is rarely lucky enough to see. His presence graced the lives of everyone he came in contact with including his wife, Garnet, his son, Kevin, and his brothers, sisters, and grandchildren. On a personal level, I considered Jim to be one of my most trusted and valued friends. I only knew Jim for a small part of his 68 years, but from the day I first met him some 5 years ago I was struck by his rare combination of dedication, intellect, and extraordinary compassion. I was truly honored to have Jim consider me his friend. I know that I speak not only for myself, but for everyone that knew Jim, in saying that while we will miss him terribly, there is still a sense of joy because the world is a better place because of the life of Jim McFarland.

AIRLINE DISASTER RELIEF ACT

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1997

Mr. McDADE. Mr. Speaker, I rise today to introduce, with 38 members of a bipartisan coalition, the Airline Disaster Relief Act, a measure which will provide equitable treatment for families of passengers involved in aviation disasters regulated by the Death on the High Seas Act of 1920 [DOHSA].

The White House Commission on Aviation Safety and Security in its February 1997 report stated, "Certain statutes and international treaties, established 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 aviation disasters to obtain fair compensation."

The Airline Disaster Relief Act will reverse the injustice of the Death on the High Seas Act by allowing plaintiff families of air disaster victims to obtain a fair jury trial and receive just compensation for loss of companionship, loss to society, and punitive damages for the death of their loved ones which claimants are currently restricted from obtaining. It is time to bring sanity and justice to the application of the Federal laws and international treaties which regulate airline disaster claims. Passage of the Airline Disaster Relief Act will be an important first step in achieving this objective.

Currently, there are two legal hurdles which families must overcome to obtain financial compensation for a lost loved one. The first is

the Warsaw Convention of 1929 which is the primary vehicle to initiate lawsuits related to airline disasters. The second, is the Death on the High Seas Act which the Supreme Court recently ruled is the Federal law that determines the categories of damage awards. Under the Warsaw Convention, which governs the liability of airlines for airline disasters, families of passengers who died on international flights, such as TWA Flight 800, can receive no more than \$75,000 for the loss of their loved one unless they can prove willful misconduct on the part of the airline. In November 1996, the airline industry waived the \$75,000 cap and the need to prove willful misconduct for all future compensation cases. The airlines are to be commended for this action. However, in the case of the TWA 800 families, the waiver does not apply since the air disaster occurred in July 1996 and the tariff waiver agreement was signed the following November 1996. The lack of retroactive application of the waiver to TWA 800 means the \$75,000 cap is still in place and willful misconduct is still the threshold under the Warsaw Convention to be proven for greater compensation. It is my hope that the administration, the Airline Transportation Association and the airline will work to reverse his injustice and grandfather the TWA families into the November 1996 Tariff Agreement.

Although the Warsaw Convention is the primary vehicle through which plaintiffs initially seek compensation, the Supreme Court has ruled that damage awards will be based on the antiquated federal law the Death on the High Seas Act [DOHSA]. In 1920, the Death on the High Seas Act was designed for the immediate family of sailors lost at sea to obtain compensation for lost income before a U.S. District Judge under maritime law. Additionally, DOHSA restricts the circle of claimants to those family members who are economically dependent upon the decedent. It took the Supreme Court 77 years to fold major civil aviation related tragedies occurring more than 3 miles from the shores into the Death on the High Seas Act, which was passed at a time when international civil aviation did not exist. DOHSA is invoked when a crash occurs more than a marine league, roughly 3 miles, offshore as in the case of TWA Flight 800.

When the \$75,000 cap of the Warsaw Convention and the compensatory restriction of only seeking loss of income under DOHSA are combined, family members of TWA 800 victims may receive minimal or no compensation through the courts. The interactions of these archaic and arcane laws are dealing families a grave and cruel injustice.

As in the case of TWA 800 and the families of the 21 high school students and chaperons from Montoursville High School, PA, the application of DOHSA will mean that the families of the students will receive minimal compensation since children generally contribute little economically in support of their families. If your children are not supporting you or it is proven in court that they would not have the ability or inclination to support the parents, there will be no compensation. Additionally under DOHSA, surviving parents will be unable to obtain compensation for loss of companionship, loss to society, pain and suffering or punitive damages for lost loved ones. Furthermore, family members of adult victims may receive no compensation unless that individual was directly contributing to the economic welfare of the parents or siblings.

Clearly, under most state tort laws, these limits on categories and thresholds of compensation would be viewed as inequitable, unfair, and inhuman. This inequality is best demonstrated in the State of Pennsylvania. On January 9, 1996, the Supreme Court ruled in *Yamaha versus Calhoun* that State tort law applies when an accident occurs within 3 miles from the shore, and on January 16, 1996, the same Supreme Court decided in *Zicherman versus Korean Airlines* that the Death on the High Seas Act governs tragedies beyond the 3-mile territorial limit. Thus, in *Yamaha versus Calhoun*, Pennsylvania State law applies which allows numerous categories compensation for injury or death of a family member. In *Zicherman versus Korean Airlines*, where DOHSA is applied, families such as those involved in the KAL 007 and TWA 800 air disasters will be restricted to obtaining only one category of compensation—loss of income. The application of DOHSA to the TWA 800 incident will have a draconian impact on the families of the Montoursville High School students and chaperons since they will receive minimal compensation for the loss of their children. DOHSA also applies to all civil air flights, whether domestic or international, such as the airports in Boston, New York, San Francisco, and Los Angeles, where approaches and landings are often over water.

Both the Supreme Court in *Zicherman versus Korean Airlines* and the White House Commission on Aviation Safety and Security recommend that Congress correct these inequities—as other countries have done already, considering that DOHSA was enacted in 1920 to protect widows of seamen—at a time when civil aviation did not exist. The Airline Disaster Act will abrogate the impact of the Death on the High Seas Act and allow families to seek just compensation under State and common law. I therefore urge my colleagues to join me in supporting passage of the Airline Disaster Relief Act, a measure whose time has come, to correct the judicial injustices which the application of the Death on the High Seas Act inflicts on families of air disaster passengers. Mr. Speaker, thank you for your consideration and support of this timely and badly needed legislative initiative.

CONGRATULATIONS TO 1997 GRADUATES OF SAN PEDRO/NARBONNE COMMUNITY ADULT SCHOOL

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1997

Ms. HARMAN. Mr. Speaker, I rise today to congratulate the 1997 graduating classes of the San Pedro/Narbonne Community Adult School. I was sorry to miss the ceremonies on Wednesday evening which honored students who successfully met the requirements for ESL competency certificates, eighth grade diplomas, and high school diplomas. I also congratulate principal Camilla Kocol and all the faculty and staff of the San Pedro/Narbonne Community Adult School.

It is my pleasure to share with my colleagues a poem that was written by one of the students of the school's creative writing class. This poem was recited by author and adult