

which this Department, under existing regulations, allows not only as to dwellings, but also as to replacement in kind of all types of real property.

Section 802(f) would make all functions performed under section 802 subject to the provisions of the act of June 11, 1946, and to judicial review. The primary purpose of section 802(f) is to give recognition to the principle that the payments authorized by section 802 should be viewed as rightful compensation of persons displaced by Federal programs. The need for this provision would appear to be more theoretical than practical. The Department of Defense has during 17 years administered thousands of applications for payments for relocation costs under its broad authority (10 U.S.C. 2680) with a negligible number of appeals from displaced individuals to the Department. We believe that the objective of this provision can be achieved by making clear that the provisions of section 802 as regards relocation payments would represent congressional policy and that the heads of agencies would be responsible for its faithful execution. For the language now in section 802(f) we recommend substituting: "Any person aggrieved by a determination as to eligibility for a payment authorized by this section, or the amount of a payment, may have his application reviewed by the head of the agency, whose determination shall be final, and no provision of this section shall be construed to give any person a cause of action in any court."

Senator MUSKIE. May I ask this question? You say the need for this provision would appear to be more theoretical than practical. Do you intend to indicate by that observation that, in your judgment, it would be little used?

Mr. HART. Our intent is to point out that from our experience, we do not think it would be really necessary. We do not believe there would be that many disputes. Of course, under our present authority, we pay for actual expenses incurred. These are realistic figures and they can be proven or documented. We have taken a very liberal view in our regulations as to the items covered. We have endeavored to cover practically all actual expenses.

Now, of course, these do not include, as we now might have, intangible or indirect damages that a person might suffer, but only any actual moving expenses. So as an illustration, we have checked just recently our last 2 years of figures and in some 3,900 applications for payments that have been processed, we have only had 47 actual, you might say, appeals and these were not all appeals per se. That included requests for guidance from the field offices, it included inquiries as to whether things could be allowed. Actual disputes, we have had relatively very few. So in this case, we think that you do not actually have to have a judicial review, or rather, if you had, there would not be too much requirement.

Senator MUSKIE. The reason I put the question as I did is that it would not be as easy as you may think to eliminate this provision of the bill. It was certified in the last Congress as a result of very strong representation by a member of this committee. It would be difficult to eliminate it, so I wanted to know to what extent would it be used. Would it be burdensome, would it flood us with a long line of litigation? Is it the kind of thing that perhaps might be salutary by its presence in the bill?