96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 96-608

THE REFUGEE ACT OF 1979

NOVEMBER 9, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. HOLTZMAN, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL, SEPARATE, AND MINORITY VIEWS

[To accompany H.R. 2816]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2816) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

PURPOSE

The purpose of the bill is to establish a coherent and comprehensive U.S. refugee policy. This objective is accomplished by creating a systematic and flexible procedure for the admission and resettlement of refugees.

Specifically, the bill amends the definition of refugee to eliminate current discrimination on the basis of outmoded geographical and ideological considerations. It separates the admission of refugees from that of immigrants under the preference system, and authorizes the annual admission of up to 50,000 refugees a year. It also authorizes the admission of more than the 50,000 normal flow of refugees in situations where it is foreseen prior to the beginning of the fiscal year that humanitarian concerns justify additional numbers and when unfore-

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seen emergencies arise after the beginning of the fiscal year. Procedures for consultation with Congress on numbers and allocations of refugees in these situations are carefully delineated. Finally, the bill includes comprehensive and uniform provisions for Federal support of refugee resettlement and absorption, to be administered by a newly-created Office of Refugee Resettlement within the Department of Health, Education, and Welfare.

Background

In opening the hearings on the Refugee Act of 1979, Congresswoman Elizabeth Holtzman, Chairwoman of the Subcommittee on Immigration, Refugees, and International Law stated:

> In good measure, our country's humanitarian tradition of extending a welcome to the world's homeless has been accomplished in spite of, not because of, our laws relating to refugees. (Hearings on Refugee Act of 1979, page 1; hereafter cited as "Hearings".)

Since World War II, provision has been made for the admission of refugees into the United States under a series of ad hoc legislative and administrative authorizations. Even today, 14 years after the development of a permanent statutory provision for the admission of refugees, the majority of refugees continue to be admitted outside the regular procedure established by statute.

In order to better understand the urgent need for remedial refugee legislation, it is useful briefly to review the history of U.S. refugee laws.

The first significant statute for refugee admissions, the Displaced Persons Act of 1948 (act of June 25, 1948; 62 Stat. 1009), was enacted primarily in response to the plight of the one million natives of Eastern Europe displaced by World War II who refused to return to their countries of origin because of fear of persecution by newly-formed communist governments. As originally enacted, the legislation was highly restrictive in its qualifications for eligibility, but the limits were somewhat modified by subsequent amendments to the act in 1950 and 1951. (Act of June 16, 1950, 64 Stat. 219; act of June 28, 1951, 65 Stat. 96.) The numbers of displaced persons entering under this legislation were charged against the national immigration quotas for their country of origin and if these quotas were oversubscribed, the country's quota was "mortgaged" into the future. During the three and a half year life of this program over 390,000 refugees were admitted to the United States.

Not long after the expiration of the Displaced Persons Act, another major refugee admission statute was enacted. The Refugee Relief Act of 1953 (act of August 7, 1953; 67 Stat. 400) was aimed at the expeditious admission into the United States of refugees escaping from behind the Iron Curtain. The 209,000 visas were made available for specific categories of refugees, outside of those available under the national origin quotas of the 1952 immigration law. The Refugee Relief Act was in effect from August 7, 1953 until December 31, 1956. During this period, approximately 189,000 refugees were either admitted or adjusted their status to immigrants under the act.

The so-called Refugee-Escapee Act of 1957 (act of September 11, 1957; 71 Stat. 639) authorized the issuance of 18,656 visas that had remained available at the expiration of the Refugee Relief Act. Included among those who were eligible for these visas were "refugee-escapees," defined as victims of racial, religious or political persecution who were from communist or communist-dominated or occupied countries or a country in the area of the Middle East. This was the origin of the definition of "refugee" which exists under current law in section 203(a)(7) of the Immigration and Nationality Act.

When Soviet troops marched into Hungary in October 1956, more than 200,000 Hungarians fled into Austria. In late November, President Eisenhower announced that the United States would offer asylum to a total of 21,500 Hungarian refugees. Of this number, 6,500 were to receive visas under the expiring Refugee Relief Act while, lacking any other alternative, the remaining numbers would be admitted under the parole authority of the Attorney General.

The power to "parole" aliens into the United States is granted to the Attorney General by section 212(d)(5) of the Immigration and Nationality Act of 1952 which reads as follows:

> The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

At the time of its enactment, Congress intended that the parole provision would be used for the temporary admission of otherwise inadmissible individual aliens. The practice of using the parole provision for the admission of groups or classes of aliens, rather than individuals, originated with the Hungarian refugee crisis. By 1958, 32,000 Hungarians had been paroled into the United States.

The use of parole for large groups of refugees was sanctioned by Congress with its enactment of the Fair Share Law of 1960. This legislation was intended to provide for the admission into the United States of a portion of refugees remaining in refugee camps in Europe under the mandate of the United Nations High Commissioner for Refugees. The Fair Share Law gave special authority to the Attorney General to use the parole authority to admit our "fair share" of these refugees specified to be 25 percent of the number of similar refugees resettled in nations other than the United States. The statute also provided for the adjustment of status of the parolees after two years residence in the United States. The limited refugee admissions provisions of this legislation, originally due to expire July 1, 1962, were extended by the Migration and Refugee Assistance Act of 1962.

The 1965 amendments to the Immigration and Nationality Act (act of October 3, 1965; 79 Stat. 911) established the first permanent statutory basis for the admission of refugees. Section 203(a)(7) made pro-

vision for the conditional entry of refugees as the seventh preference category of the preference system. In order to be eligible for conditional entry, the alien must have fled a Communist country or a country in the Middle East and be unable to return because of persecution on account of race, religion, or political opinion, or must be the victim of a natural disaster. While conditional entry is not admission to this country for permanent residence, those entering under that section may have their status adjusted after two years in the United States. The number of conditional entries available today is 17,400—a number far too low to respond to the current worldwide refugee situation.

When the conditional entry provision was enacted in 1965, Congress reiterated its original intent that the parole provision be used only for isolated, individual cases. However, due to the numerical, ideological and geographic limitations of the conditional entry provision, parole has continued to be the basis for the entry of large groups of refugees into the United States. A notable example is the Cuban refugee program. Cubans were initially paroled into the United States in 1961 when diplomatic relations were severed with Cuba. After the Cuban airlift program was announced by President Johnson in 1965, the number of refugees from Cuba coming into the United States increased dramatically. Because the 1965 amendments limited the applicability of the preference system to the Eastern Hemisphere, Cubans were ineligible for seventh preference conditional entry. As a result, it was necessary for President Johnson to resort, once again, to the parole authority. To date more than 600,000 Cubans have entered the United States as parolees. Special legislation was enacted in 1966 (act of November 2, 1966; 80 Stat. 1161) to adjust the status of Cuban parolees.

While the primary vehicle for admitting refugees prior to 1960 was special legislation, since that time refugees have been admitted under a variety of procedures including parole, nonpreference visas, and the conditional entry provisions in the 1965 Act. In addition to the Cuban refugees mentioned above, parole was utilized in the 1960's and early 1970's for Chinese refugees from Hong Kong and Macao, Czechoslovakian refugees, Soviet Jewish refugees, and Ugandan refugees. More recently, parole has been used for admitting Chilean refugees, Cuban prisoners, Latin American refugees and detainees, and over 250,000 Indochinese refugees.

Prior to 1960, U.S. refugee funding was largely confined to participation in the activities of international organizations aiding refugees, and to funding specific programs for refugee assistance abroad. Direct Federal financial assistance to refugees in this country began in December 1960, when President Eisenhower authorized $1 million from the President's contingency Fund under the Mutual Security Act of 1954 for use in establishing and operating a Cuban refugee emergency center in Miami. In January 1961, President Kennedy issued a directive officially establishing the Cuban Refugee Program under the authority of the Department of Health, Education, and Welfare. An additional $4 million was authorized from the Mutual Security contingency fund for use through June 30, 1961. During 1962, financing was provided from the President's contingency fund under the Foreign Assistance Act of 1961.

In 1961 legislation was proposed by the Kennedy administration, in the words of the President, "to centralize the authority to conduct and to appropriate funds to support U.S. programs of assistance to refugees, escapees, migrants and selected persons." This legislation, which was enacted as the Migration and Refugee Assistance Act of 1962 (act of June 28, 1962, Public Law 87–510, 76 Stat. 121), authorized the continued participation of the United States in the Intergovernmental Committee for European Migration (ICEM), United States contributions to the United States High Commissioner for Refugees (UNHCR), and unilateral United States assistance for refugees, all of which had previously been authorized under the Mutual Security Act of 1954. The legislation also provided an open-ended authorization for assistance to Cuban refugees in the United States. This law, which this Committee exclusively considered, remains the legal basis for most of our country's migration and refugee assistance programs.

With the influx of Indochinese refugees in 1975, it was necessary to separately authorize assistance for this refugee group since the Migration and Refugee Assistance Act confined its authority to resettlement of Western Hemisphere refugees. The Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94–23) authorized assistance to or on behalf of Indochinese refugees under the terms of the Migration and Refugee Assistance Act. Funding for the initial phase of the Indochinese refugee program was aimed at the evacuation and temporary care of these refugees (administered by the Department of State) and their resettlement in the United States (administered by the Department of Health, Education, and Welfare). The 1975 Act has been amended three times for the purposes of extending it to include Laotian refugees and extending the authorization period for domestic assistance. The 1975 legislation expired on September 30, 1979.

Assistance has also been provided for the resettlement of Soviet Jews in this country. Most recently, the Foreign Assistance Appropriations Act for fiscal year 1979 earmarked $20 million for expenditure by the Department of Health, Education, and Welfare for an assistance program for Soviets and other refugees not covered by the Cuban and Indochinese programs.

Need for Legislation

There are several inescapable conclusions that can be drawn from the brief review of the United States' response to refugee problems over the last 30 years. First, the need for resettlement of refugees is neither unusual nor incidental, but is a continuing problem which must be faced by all nations, including the United States. Second, the United States has lacked a consistent refugee admissions policy and, as a result, our response to refugee emergencies has been haphazard, incoherent and often inadequate. Third, previous domestic assistance programs have been unrealistically limited both in scope and duration. These inadequacies have long been recognized by the legislative and executive branches and led to a concerted effort in this Congress to enact remedial legislation.

In transmitting the draft legislation to the Congress on March 7, 1979, Secretary of State Cyrus Vance noted that the bill provides a

"more rational, stable and equitable Federal policy for the admission of refugees to this country and for assistance to them within the United States." In later testimony before the Subcommittee on Immigration, Refugees, and International Law on the refugee crisis in Indochina, he reiterated the urgent need for this legislation:

> This vital legislation will provide, for the first time, a comprehensive framework for responding effectively to refugee crises of this gravity.

Chairman Rodino summarized the need for comprehensive refugee legislation in his remarks to the House upon introducing H.R. 2816:

> Our history in refugee crises has been one of reaction rather than one of anticipation, preparation and long-range planning.
>
> This was brought forcefully to our attention in the spring of 1975 when in the wake of our withdrawal from Vietnam we were faced with having to care for and resettle immediately more than 135,000 refugees who had been associated with our presence in that area. The Committee and the House acted promptly and positively in enacting special legislation to respond to that emergency. This experience demonstrated, in a dramatic way, the necessity for enacting coherent legislation to meet future and continuing refugee emergencies.

To create a truly comprehensive approach to refugees, the committee has determined that any new statute must consolidate admissions and resettlement policies. Among the major consequences of our piecemeal approach to refugee crises has been the lack of coordination of resettlement assistance programs with refugee admissions. In its recent report, "The Indochinese Exodus: A Humanitarian Dilemma" (April 24, 1979), the General Accounting Office (GAO) commented at length on the deficiencies of current law in this regard and noted that the instant legislation "addresses the major problems stemming from existing laws." In particular, GAO observed that "current law does not clearly express U.S. intentions and commitments to refugee resettlement and has made planning and processing of refugees very difficult." (GAO Report, page iv.)

The Committee believes that the problems of fragmentation and lack of coordination at the Federal level will be greatly alleviated by this legislation which establishes a statutory mechanism for the admission of refugees and for the provision of domestic resettlement assistance. By combining our admissions and resettlement policies into one permanent statute, the legislation accomplishes two important objectives. First, it assures the countries of first asylum and the international community that the United States has an ongoing program of refugee resettlement. Second, it assures State and local governments that they will not be unduly burdened by Federal decisions to admit refugees.

History of Legislation

Experience during the 94th and 95th Congresses with the emergency enactment and subsequent extensions of the Indochina Migration and Refugee Assistance Act of 1975 clearly demonstrates the need for a

permanent United States refugee policy. Cognizant of this need, the Committee began its active consideration of comprehensive refugee legislation early in the 95th Congress. Three days of hearings were held by the House Judiciary Subcommittee on Immigration, Citizenship, and International Law on H.R. 3056 in February, March, and April 1977 ("Admission of Refugees into the United States," 95th Cong. 1st sess. 1977, Ser. No. 5). A clean bill, H.R. 7175, was reported on May 13, 1977, following two days of Subcommitte mark-up, but no further action was taken by the full Judiciary Committee.

In the 96th Congress, H.R. 2816, the Refugee Act of 1979, was introduced on March 13, 1979 by Committee Chairman Peter W. Rodino, Jr., and Congresswoman Elizabeth Holtzman, Chairwoman of the Subcommittee on Immigration, Refugees, and International Law. The bill, introduced on behalf of the Carter Administration, was the subject of five days of hearings in May 1979 ("Refugee Act of 1979," 96th Cong. 1st sess. 1979, Ser. No. 10).

During the course of these hearings testimony was received from the following Federal officials: Attorney General Griffin Bell, Secretary of Health, Education, and Welfare, Joseph A. Califano, Jr., United States Coordinator for Refugee Affairs, Dick Clark, and the General Accounting Office. Other witnesses included representatives of State Governments, voluntary agencies, Amnesty International, the American Civil Liberties Union, and the National Coalition for Refugee Resettlement. The Subcommittee also received extensive testimony from research scholars and resettlement experts concerning domestic aspects of our refugee policies and resettlement approaches utilized by other countries.

During Subcommittee mark-up of H.R. 2816 on August 1, 1979, Congresswoman Holtzman offered an amendment in the nature of a substitute which made significant changes in the original legislation. A single Subcommittee amendment to H.R. 2816 was approved and the bill, as amended, was ordered favorably reported to the full Committee on August 2, 1979. Following two days of full Committee mark-up, on September 13 and 19, 1979, and on the latter date, the Committee ordered the bill (H.R. 2816) favorably reported to the House, with an amendment, by a vote of 20–6.

In order to expedite consideration of the legislation, the Committee on Foreign Affairs agreed not to insist on sequential referral of those provisions in the original bill or in the reported bill which may have affected its jurisdiction. This position was set forth in the following letter from the Honorable Clement J. Zablocki, Chairman of the House Committee on Foreign Affairs, to Chairman Rodino:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., November 1, 1979.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing with regard to H.R. 2816, the Refugee Act of 1979, which has been ordered favorably reported as amended by the Committee on the Judiciary. As you know, substan-

tial portions of this bill fall within the jurisdiction of the Committee on Foreign Affairs, and the normal legislative procedure would be for referral of H.R. 2816 as amended to this committee for consideration of those portions. However, because of the urgent need for expeditious passage of this legislation, we are willing to accept your request that we not insist on sequential referral of H.R. 2816 to this committee with the understanding that such action does not in any way diminish or prejudice the jurisdiction and continuing interest of the Committee on Foreign Affairs with regard to the bill or the subject matter addressed therein.

Since the determination of the numbers and kinds of refugees to be admitted to the United States are issues involving U.S. foreign policy considerations, the Attorney General will necessarily have to consult with the Secretary of State on these matters. In addition, the Committee on Foreign Affairs will continue to exercise its jurisdiction with respect to refugee matters including the Office of the U.S. Coordinator for Refugee Affairs in the Department of State.

Concerning several specific matters in H.R. 2816 as amended which are of concern to the Foreign Affairs Committee, please be advised that the Honorable Dante B. Fascell, Chairman of the Subcommittee on International Operations, intends to offer amendments dealing with the following subjects when H.R. 2816 is considered on the House floor: (1) definition of a "refugee"; (2) role of an Office of Refugee Resettlement in the Department of Health, Education, and Welfare; and (3) raising the funding ceiling of the Emergency Migration and Refugee Fund. It would be appreciated if you would include this letter in your committee's report on H.R. 2816.

Thanking you for your cooperation, I remain

Sincerely yours,

CLEMENT J. ZABLOCKI,
Chairman.

[The response to the November 1, 1979 letter follows:]

CONGRESS OF THE UNITED STATES,
COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 2, 1979.

Hon. CLEMENT ZABLOCKI, M.C.
Chairman, Committee on Foreign Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of November 1 regarding H.R. 2816, the Refugee Act of 1979, which has been ordered favorably reported with an amendment by this Committee.

In accordance with your request, your letter will be inserted in our Committee report on the legislation. I certainly appreciate your agreement not to insist on sequential referral of the bill due to the urgent need to expedite House consideration of this legislation.

It is evident that the jurisdictional situation regarding refugee legislation is in need of clarification and I am hopeful that appropriate arrangements can be made in the future to resolve this difficult problem. In this regard, it should be noted that the Committee's elimination of proposed amendments to the Migration and Refugee Assistance

Act of 1962 does not represent any cession of jurisdiction over that Act or expenditures which are made thereunder.

Once again, I wish to express my appreciation to you for your cooperation and for your interest in expediting consideration of this legislation.

Kind regards,

Sincerely,

PETER W. RODINO, Jr., *Chairman.*

ANALYSIS OF THE LEGISLATION, AS AMENDED

TITLE II—ADMISSION OF REFUGEES

New definition of "refugee"

The Committee Amendment provides a new definition of the term "refugee" which will be added to the Immigration and Nationality Act. The first part of the new definition essentially conforms to that used under the United Nations Convention and Protocol Relating to the Status of Refugees (to which the United States is a party), and eliminates the geographical and ideological restrictions now applicable to conditional entrant refugees under section 203(a)(7) of the Act. A "refugee" is defined as "any person who is outside . . . [his or her] country . . . who is unable or unwilling to return to . . . that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion."

The Committee feels that the definition of "refugee" in present law, which is limited to those fleeing communist countries or the Middle East, is clearly unresponsive to the current diversity of refugee populations and does not adequately reflect the United States' traditional humanitarian concern for refugees throughout the world. All witnesses appearing before the Committee strongly endorsed the new definition, which will finally bring United States law into conformity with the internationally-accepted definition of the term "refugee" set forth in the 1951 United Nations Refugee Convention and the Protocol which our Government ratified in 1968.

The Committee Amendment also includes in the new definition those persecuted or who have a well-founded fear of persecution within their own country on account of race, religion, nationality, membership in a particular social group, or political opinion. While these individuals are not covered by the U.N. Convention, the Committee believes it is essential in the definition to give the United States sufficient flexibility to respond to situations involving political or religious dissidents and detainees throughout the world. The need to provide for prisoners of conscience and those threatened with persecution is already recognized in United States policy and the Attorney General's parole authority has traditionally been used to aid such persons. Recent examples of these parole programs are the Chilean and Cuban prisoners brought directly into the United States; in each of these cases, the local government agreed to release political prisoners on the condition that they obtain resettlement in another country. There is also currently a hemispheric parole program for prisoners in Argentina and other Latin American

countries. Additionally, the Committee feels this language is necessary to handle situations like the evacuation of Saigon in 1975, where our Government wished to aid persons who were not able to flee to a country of first asylum.

Although the definition of "refugee" in the bill originally submitted by the Administration did not explicitly include those within their own country, Administration witnesses testified that they intended to cover such individuals and believed that the original proposal adequately provided for them. Ambassador Dick Clark, the United States Coordinator for Refugee Affairs, stated that "the bill doesn't preclude categories of people subject to oppression within their own country. This is done by repealing that section of the law that presently requires a refugee to go to a second country." (*Hearings*, page 67.) Nonetheless, the Committee concluded that the definition should be clarified, and numerous witnesses supported this approach, including Amnesty International, the voluntary agencies, the American Civil Liberties Union, HIAS, and the American Jewish Committee.

The Committee carefully considered arguments that the new definition might expand the numbers of refugees eligible to come to the United States and force substantially greater refugee admissions than the country could absorb. However, merely because an individual or group of refugees comes within the definition will not guarantee resettlement in the United States. The Committee is of the opinion that the new definition does not create a new and expanded means of entry, but instead regularizes and formalizes the policies and the practices that have been followed in recent years.

The Committee Amendment also adds language specifically to exclude from the definition of "refugee" those who themselves engaged in persecution. This is consistent with the U.N. Convention (which does not apply to those who, *inter alia*, "committed a crime against peace, a war crime, or a crime against humanity"), and with the two special statutory enactments under which refugees were admitted to this country after World War II, the Displaced Persons Act of 1948 and the Refugee Relief Act of 1953.

Annual admission of refugees

The Committee Amendment for the first time establishes a comprehensive statutory procedure for the admission of refugees to replace the limited conditional entry and open-ended parole provisions of current law. Under a new section 207(a), to be added to the Immigration and Nationality Act, no more than 50,000 refugees may be admitted each year, except in cases where the President, prior to the beginning of the fiscal year and after consultation with the Committees on the Judiciary, determines that there is a foreseeable need to admit a greater number and it is justified by humanitarian concerns.

The allocation of refugee admissions—that is, which individuals and groups of refugees will be admitted to the United States—will be based on a determination made by the President, again after consultation with Congress. Importantly, although consultation with Congress with respect to numbers of refugees admitted is only required when the 50,000 limit is exceeded, consultation on allocations of refugee admissions is mandated in all cases. Only refugees of "special humanitarian concern" to the United States will be eligible for admission.

The need for this new statutory framework was emphasized by Attorney General Bell in his testimony before the Committee:

> Mr. BELL. Under the current law, the Attorney General has the sole authority under the Immigration and Nationality Act for the admission of refugees, either through the conditional entry provisions or the exercise of the parole power.
>
> The numbers of refugees admitted through use of the parole power have become far greater than was contemplated by Congress.
>
> This authority, which rests solely with the Attorney General, has the practical effect of giving to the Attorney General more power than the Congress in determining limits on the entry of refugees into the country. The bill transfers the responsibility for refugee policy decisions to the President in consultation with the Congress.
>
> The Department of Justice welcomes and is in complete agreement with this change.
>
> The transfer of policymaking authority to the President recognizes that these decisions are of such importance to the United States that they should be made only at the highest level. The bill provides for policy direction by the President, and also formally recognizes the importance of productive consultation with the Congress on refugee matters. (Hearings, page 22.)

The 50,000 normal flow figure was selected based on past experience with refugee outflows from Southeast Asia, the Soviet Union, Eastern Europe and other areas. The Committee took note of the fact that this ceiling would have been adequate to respond to every refugee situation in recent years under the normal flow provisions except for the mass exodus after the collapse of South Vietnam in 1975 and the current crisis in Southeast Asia. Although it has become increasingly clear that the 50,000 figure will not be sufficient for the next several fiscal years, in view of the fact that this legislation is expected to create a permanent statutory framework, the Committee believes that it is inadvisable to set a higher limit based on the present situation in Indochina. To do so would skew the statute. The Committee continues to believe that the 50,000 limit will be reasonable once the current crisis has abated.

Although the 50,000 figure represents an increase over the 17,400 admissions allowed under the present 203(a)(7) conditional entry provision, the number does not actually increase overall annual refugee admissions to the United States, since the Attorney General's parole authority has consistently been used to exceed substantially the conditional entry ceiling.

The annual 50,000 refugee numbers provided in the Committee Amendment will be obtained by reassigning 20,000 numbers from the yearly worldwide immigration ceiling of 290,000. Of these numbers, 17,400 are currently allocated to conditional entrants under section 203(a)(7), which the Committee Amendment repeals. The remaining 30,000 numbers will be added to the present worldwide

limitation. However, in years when refugee admissions are increased by a Presidential determination after consultation with Congress, this figure can be exceeded.

Admission of refugees in emergency situations

The Committee Amendment also establishes procedures to admit refugees when unforeseen emergency situations develop. If the President determines, after consultation with the Judiciary Committees, that an unforeseen emergency refugee situation exists, that the admission of refugees in response to the situation is justified by grave humanitarian concerns, and that admissions cannot be accomplished under the normal flow provisions, he may fix a number of refugees to be admitted for up to one year. The admission numbers will be allocated among refugees of "special humanitarian concern" to the United States as determined by the President after consultation with Congress.

The emergency admission procedures are limited to circumstances which are unforeseen prior to the beginning of the fiscal year. The Committee intends that refugee situations which can be foreseen before the fiscal year begins should be handled through normal flow provisions. Obviously, no piece of legislation can specify with certainty all the possible situations which would qualify as unforeseen emergencies. Nonetheless, some examples might be: a dramatic increase in the number of refugees in an area of the world where outflows were foreseen but at a substantially lower level; an unexpected exodus of refugees from a country from which there has been no refugee flow previously, due, for example, to a change in government; a diplomatic breakthrough resulting in a foreign government's willingness to release large numbers of political or religious dissidents; or urgent problems affecting countries of first asylum and requiring immediate action to preserve peace and stability in the area or to save refugee lives.

The Committee Amendment requires that the admission of refugees under the emergency flow provision be justified by "grave humanitarian concerns." This is a stricter standard than that required for the admission of refugees under the normal flow procedures, which must be warranted by "humanitarian concerns." The Committee intends by this stricter standard to limit the emergency admission procedures to situations where the refugees' lives are placed in immediate jeopardy, where their personal safety is threatened or where there is an imminent possibility of loss of freedom.

Although the nature of emergency refugee situations makes the imposition of a rigid statutory ceiling on the number of refugees to be admitted impractical, the Committee Amendment does limit the President's authority to admit refugees under this provision to a maximum 12 month period. It is the intent of the Committee that the President should admit refugees under this provision only until the beginning of the next fiscal year when the emergency situation refugees should be included in the determination of that fiscal year's normal flow numbers and allocations made after consultation with Congress.

Refugees of "special humanitarian concern"

Under the Committee Amendment all refugee admission numbers—whether normal flow or emergency—will be allocated to refugees of

"special humanitarian concern" to the United States. The legislation does not—and cannot—further define this phrase. The Committee believes that any attempt to do so would unnecessarily restrict future public policy decisions. The Committee recognizes that determining which refugees are of "special humanitarian concern" to the United States will be a matter to be considered, debated and decided at the time refugee situations develop.

As originally introduced, the bill provided for allocations to be made among refugees of "special concern" to the United States. However, several witnesses expressed reservations about this formulation, the substance of which is reflected in the following colloquy between Congresswoman Holtzman and U.S. Refugee Coordinator Clark:

> Ms. HOLTZMAN. Let me turn to the issue of which refugees we are going to consider for admission.
>
> The only standard is persons of "special concern," and that term is wholly undefined, although in your testimony you point out certain features, for example, "whether the refugees have cultural, historical, or especially family ties to the United States."
>
> Now, it was only recently that we abolished the national origins character of our immigration laws where we provided favorable treatment to those persons whom we thought had "cultural or historical" ties to the United States.
>
> Are we reinstituting national origin quotas?
>
> Mr. CLARK. No; as a matter of fact I think probably that this was an attempt to try to look a little more closely at what we mean by "special concern." But I must say, I share the Attorney General's reluctance in trying to define it, because as soon as you begin to try to define it, that's exactly the kind of problems you run into. . . .
>
> Family ties, I think, is pretty legitimate, because it tracks cloely with our immigration policies. And I think it's natural that those people with family ties we would consider of special concern.
>
> But I agree that we'd get into more dangerous territory when you start talking about narrowing that definition, to cultural, or historical, or anything else. (Hearings, page 67.)

By changing the standard to refugees of "special humanitarian concern," the Committee intends to emphasize that the plight of the refugees themselves, as opposed to national origins or political considerations, should be paramount in determining which refugees are to be admitted to the United States.

The Committee does believe that past history can give some guidance as to the range of factors that may be considered in determining whether refugees are of "special humanitarian concern" to the United States. In addition to the plight of the refugees, the pattern of human rights violations in the country of origin (including the extent of persecution to which they have been subjected and the severity of their present situation), family ties, historical, cultural or religious ties, the likelihood of finding sanctuary elsewhere, and previous contact with the United States Government have all been legitimately employed as criteria in selecting refugees for admission to this country. Further, the United States in the past has responded generously to

refugees from countries with which we have been directly involved or with which we have treaty obligations.

In recent months, many Members of Congress have stressed our government's special relationship with, and special responsibility for, the Hmong (or Meo) tribesmen from North Central Laos. Many of these refugees were closely associated with the United States as the result of their service with Vang Pao's "Secret Army," which was supported and financed by the Central Intelligence Agency for many years. The Members of this Committee are deeply concerned over the plight of the Hmong refugees and the consultative Members of the Committee have communicated their concerns to the Departments of State and Justice on several occasions. Following a trip to Southeast Asia in February of this year, Congresswoman Holtzman and Congressman Fish strongly urged that additional parole numbers be allocated to land cases in Thailand in order to expand resettlement opportunities in this country for the Hmong.

Consultation

The Committee has made every effort to assure that Congress has a proper and substantial role in all decisions on refugee admissions. In the past, the Attorney General's consultation with this Committee regarding admissions has been merely a matter of courtesy or custom. Consequently, unlike the bill initially submitted by the Administration, the Committee Amendment explicitly defines the consultation process.

Specifically, the Committee Amendment states that consultation means "discussions in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary . . . to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns" and to provide detailed information, as follows:

(1) A description of the nature of the refugee situation;

(2) A description of the number and allocation of the refugees to be admitted;

(3) A description of the proposed plans for their resettlement and the estimated cost of their movement and resettlement;

(4) An analysis of the anticipated social, economic, and demographic impact of their admission to the United States;

(5) Such additional information as may be appropriate or requested by such members.

The Committee cannot overemphasize the importance it attaches to consultation. The Congress is charged under the Constitution with the responsibility for the regulation of immigration, and this responsibility continues with respect to refugee admissions.

Although no time limit is stipulated in the legislation for the completion of the consultation process, the Committee expects it to be accomplished expeditiously. The Committee Amendment does specify that, to the extent possible, the information required shall be provided to the Committee members at least two weeks in advance of the meeting with the President's representatives. In view of this, and the

urgency of many refugee situations, it is expected that the whole process should not take longer than 15–20 days.

The Committee wishes to make it clear that its prior consultative practice will be followed once this legislation is enacted. The practice has traditionally involved consultation with the Chairs of the full Judiciary Committee and the Subcommittee on Immigration, Refugees, and International Law, as well as the Ranking Minority Members of the full Committee and that Subcommittee. The Committee intends that consultation in the future will include these Members of the Committee.

Although the Committee Amendment does not set forth what action is required to conclude the consultation process, the Committee believes it is clear that the Administration cannot move ahead to admit additional refugees after consultation until some response has been received from the consultative members. This was the Administration's position during testimony on the original bill (which did not include an explicit description of the consultation process) :

> Ms. HOLTZMAN. I'm glad you mentioned the role of Congress.
>
> Mr. Attorney General, in the bill there are several instances in which consultation with the Congress is required; one, for example, is in the admission of emergency situation refugees. What does consultation mean? Does it mean that the President can come to the Congress and say, we are going to admit 1 million, 2 million, or 10 million refugees because this is an emergency? What, then , is the role of Congress? Can the committee say, well, we don't think the number should be so high, or we think the people should be admitted from a different country?
>
> The consultation process is not formalized; there is no description of what role the Congress actually has. There is no requirement that the President take account of concerns or disagreements that Congress expresses.
>
> Do you think consultation procedures will protect the role of Congress?
>
> Mr. BELL. This morning we are in the process of making legislative history and I will give you my view of what the consultation process means, or ought to mean. There are legal writings on this approach.
>
> I would treat the consultation process as a report-and-wait provision. Report-and-wait provisions are prone to the law of legislative veto.
>
> The executive department and the President, by consulting, reports to the Congress what he wants to do and gives it a certain period of time within which, not only to consult, but to act, if it wishes to act. You might say we don't agree with that; we want to block that.
>
> But I wouldn't make it set a number of days in which the Congress has to act. That's beyond the spirit of a good faith consultation. However, the period of consultation ought to be long enough for the Congress to decide whether or not it agrees.

> So the law, I think, would be akin to a report-and-wait provision. If that is in the legislative history, you will find that everyone will understand that. (Hearings, pages 23–24.)

The Committee believes that two other changes in the original legislation also will strengthen the consultation process. First, consultation is required on the allocation of all refugees admitted to the United States, in addition to the consultation on numbers above 50,000 and in emergency situations. (The Committee believes that in most cases consultations on numbers and allocations can occur simultaneously.) Second, the President is required to designate a Cabinet member to participate in consultations with the Judiciary Committees. In view of the fact that the Attorney General has traditionally represented the Administration in refugee consultations and because of the importance of the refugee issue, the committee feels such a requirement is warranted. Nonetheless, the Committee does not wish to preclude other Administration representatives from participating in the consultation process, and expects that the U.S. Coordinator for Refugee Affairs, for example, will accompany the designated cabinet member.

The Committee wishes to make it clear that the consultative procedure specified in this bill is not intended to preclude the exercise of oversight responsibilities by other appropriate Committees of the Congress. The Committee would expect that the Foreign Affairs Committee will oversee those aspects of worldwide refugee problems within its jurisdiction and will be in consultation with the Department of State regarding, among other matters, the impact of refugee problems on the various countries of first asylum, and the Attorney General will necessarily have to consult with the Secretary of State on these matters.

Admission status

The Committee Amendment provides that all refugees—both those coming to the United States under the normal flow provisions and those entering in emergency situations—will be admitted as refugees, rather than as lawful permanent residents. Admitting refugees as refugees—in effect granting them a new status—will allow officials to conduct better and more intensive screening prior to granting them lawful permanent residence. Although the bill as originally drafted by the Administration admitted normal flow refugees as lawful permanent residents, in testimony before the Committee, Attorney General Bell stated clearly in the following colloquy with Congresswoman Holtzman that he was not satisfied with current screening procedures and that he would support a status akin to conditional entry after admission:

> Ms. HOLTZMAN. Mr. Attorney General, I'm concerned about the fact that under this bill refugees will be admitted immediately to the United States as permanent residents. What concerns me is that this means that our ability to screen the refugees will be seriously impaired.
>
> Are you satisfied with the present screening procedures that we have? Do you think that the intelligence agencies and the drug enforcement agencies are giving the Immigration Serv-

ice the best possible information to make decisions and judgments on people who are coming here?

Mr. BELL. I couldn't say that I'm totally satisfied. These things are done on an emergency basis, and it could be that someone slips through. We are operating with large numbers, so I wouldn't be able to assure the committee that someone is not slipping through that should not.

Ms. HOLTZMAN. I take it, then, that if the committee reviewed this and decided perhaps the conditional entry program ought to remain in some form, that you would——

Mr. BELL. I would not object to that. (Hearings, page 36.)

Applicants for admission as refugees will be required to establish that they come within the refugee definition, that they have not become firmly resettled in any foreign country, and that they are admissible as immigrants under the Immigration and Nationality Act, with certain exceptions.

Asylum and Withholding of Deportation

Since 1968, the United States has been a party to the United Nations Refugee Protocol which incorporates the substance of the 1951 U.N. Convention of Refugees and which seeks to insure fair and humane treatment for refugees within the territory of the contracting states.

Article 33 of the Convention, with certain exceptions, prohibits contracting states from expelling or returning a refugee to a territory where his or her life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group or political opinion. The Committee Amendment conforms United States statutory law to our obligations under Article 33 in two of its provisions:

(1) *Asylum.*—The Committee Amendment establishes for the first time a provision in Federal law specifically relating to asylum. A new section 208 of the Immigration and Nationality Act, added by the legislation, requires the Attorney General to establish (within 60 days) a procedure under which an alien either in the United States or seeking entry can apply for asylum, and authorizes the Attorney General to grant asylum if he determines that the alien is a refugee within the meaning of the bill. The Committee Amendment also entitles the spouse or child of an alien granted asylum to the same status, if not otherwise eligible. A grant of asylum under the section can be terminated if the Attorney General, in accordance with prescribed regulations, determines that the alien is no longer a refugee because of changes in circumstances in the alien's country of nationality or residence.

Currently, United States asylum procedures are governed by regulations promulgated by the Attorney General under the authority of section 103 of the Immigration and Nationality Act (see 8 CFR 108), which grants the Attorney General authority to administer and enforce laws relating to immigration. No specific statutory basis for United States asylum policy currently exists. The asylum provision of this legislation would provide such a basis.

The Committee wishes to insure a fair and workable asylum policy which is consistent with this country's tradition of welcoming the oppressed of other nations and with our obligations under international

law, and feels it is both necessary and desirable that United States domestic law include the asylum provision in the instant legislation. The Committee intends to monitor closely the Attorney General's implementation of the section so as to insure the rights of those it seeks to protect.

(2) *Withholding of Deportation.*—Related to Article 33 is the implementation of section 243(h) of the Immigration and Nationality Act. That section currently authorizes the Attorney General to withhold the deportation of any alien in the United States to any country where, in his opinion, the alien would be subject to persecution on account of race, religion, or political opinion.

Although this section has been held by court and administrative decisions to accord to aliens the protection required under Article 33, the Committee feels it is desirable, for the sake of clarity, to conform the language of that section to the Convention. This legislation does so by prohibiting, with certain exceptions, the deportation of an alien to any country if the Attorney General determines that the alien's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion. The exceptions are those provided in the Convention relating to aliens who have themselves participated in persecution; who have been convicted of particularly serious crimes which make them a danger to the community of the United States; with respect to whom there are serious reasons for considering that they have committed a serious non-political crime outside the United States prior to admission; or who may be regarded as a danger to the security of the United States.

As with the asylum provision, the Committee feels that the proposed change in section 243(h) is necessary so that U.S. statutory law clearly reflects our legal obligations under international agreements.

Adjustment of Status Provisions

The Committee Amendment provides in section 209 for adjustment of status of both refugees and those granted asylum. Adjustment is authorized for any refugee admitted under section 207—either under the normal flow provision or in an emergency situation—whose entry has not been terminated by the Attorney General, who has been physically present in the United States for at least two years, and who has not otherwise acquired lawful permanent resident status. Those seeking adjustment also must meet the admission requirements of normal immigrants (with some exceptions). Once granted, the lawful resident status operates retroactively to the date of the refugees' arrival in the United States, so that in terms of eligibility for naturalization the refugee is not disadvantaged by the waiting period.

The legislation also provides that 5,000 of the normal flow admission numbers authorized under section 207 may be used to adjust to the status of lawful permanent resident any alien granted asylum under section 208. Applicants must establish that they have been present in the United States for two years after being granted asylum, that they continue to meet the refugee definition, that they are not firmly resettled in any foreign country, and that they are admissible as immigrants (again, with certain exceptions). The permanent resident status will be recorded as of the date two years prior to the approval of the application.

TITLE III—RESETTLEMENT OF REFUGEES

Program Goals and Priorities

The purpose of Title III of the legislation is to establish an equitable, permanent and accountable resettlement program for refugees.

One of the primary criticisms of current resettlement policies and procedures is that separate programs—providing different types and levels of assistance—have been developed based on the nationality of the particular refugee group. This "patchwork" of Federal programs is not only inequitable, but it has also seriously hindered effective resettlement and generated considerable confusion among public and private agencies involved in resettlement activities. Secretary of Health, Education, and Welfare Califano commented on the problem during his testimony:

> After much thought and evaluation, we are convinced that a single authority for domestic assistance will help us respond better to changing world circumstances, and to all groups of refugees. With a unified refugee policy, we feel we can do a better job. (Hearings, page 224.)

The Committee shares this view and believes that assistance should be provided to refugees regardles of their country of origin. As a result Title III makes domestic resettlement services available to all refugees. In the Committee's judgment, this development of an equitable and consistent resettlement policy is long overdue.

Another serious problem—and one that has particularly plagued the Indochinese Refugees Assistance Program (IRAP)—has been the absence of permanent funding to support resettlement efforts. The temporary nature of the original IRAP program, coupled with "last minute" extensions of the program in 1977 and 1978, has precluded effective planning, management, and evaluation. Due to the lack of dependable Federal funding, state and local governments have been required to structure their programs on a temporary basis with a view to eventual termination. Further, past experience with Indochinese as well as other refugee groups clearly demonstrates that decisions on the admission of refugees were made independent of, and without proper consideration to, their resettlement needs. Title III addresses this problem by establishing a permanent statutory mechanism for the provision of resettlement assistance. In the words of one GAO witness before the Committee:

> A positive and predictable Federal policy for refugee admissions and resettlement would help assure that effective refugee resettlement is a product of a more organized and consistent national effort, rather than of fortunate circumstance. (Hearings, page 154.)

Another objective of this Title is to insure accountability and flexibility in the implementation of the resettlement program. Currently, there is no Federal department, agency, or office charged by statute with the responsibility for administering our domestic resettlement program (This situation would have remained unchanged under the Administration's draft bill.) As a result, there has been a distinct lack

of leadership and direction at the Federal level. As GAO indicated in its report:

> there are no detailed and comprehensive program guidelines * * * [and] one regional official noted, no program evaluations had been made because he felt there are no program evaluation guidelines. (GAO Report, page 81.)

During the course of the Immigration Refugees, and International Law Subcommittee's extensive hearings, Congresswoman Holtzman repeated her concerns that the program lacked coordination and accountability, and suffered from the absence of defined goals and priorities. The Committee Amendment would correct these problems by: (1) creating a high-level Office of Refugee Resettlement within HEW (described further below); (2) requiring detailed monitoring and evaluation of the resettlement program; (3) requiring detailed reports to the Congress on the operation of the program and the activities of the aforementioned Office; and (4) requiring states to submit resettlement plans and report on the use of Federal funds in previous fiscal years.

In light of the serious problems confronting our domestic resettlement efforts, the Committee rejected the open-ended and ambiguous approach contained in Title III of the Administration's bill. Those provisions would have made few, if any, changes in the structure and operation of the existing resettlement program. Instead, the Committee felt that it was necessary to include in this legislation specific guidance concerning program priorities and objectives. In particular, the Committee bill is designed to:

(1) insure state and local government involvement in the resettlement process;

(2) insure that essential services are made available to refugee women and children;

(3) require Federal and state-wide coordination in the expenditure of resettlement funds;

(4) improve medical screening procedures; and

(5) expand and intensify language, job training, and other programs which promote economic self-sufficiency.

Office of Refugee Resettlement

The Committee Amendment creates an Office of Refugee Resettlement in HEW with its Director reporting to the Secretary of HEW. The Office will provide a high-level focal point for state and local governments, as well as for public and private agencies involved in the resettlement process. It also makes a designated Federal official accountable both to the Congress and to the American public for all aspects of the domestic resettlement process.

The Committee is convinced that the creation of this Office is essential in order to insure proper planning, coordination, and accountability in the administration of the United States resettlement program. At the same time, the legislation provides a large degree of flexibility in the operation of the program. For example, it authorizes cooperative arrangements with other offices within HEW, as well as with other agencies and departments. The Committee wishes to make it clear that this Office does not interfere with, duplicate, or conflict

with any function currently performed by the United States Coordinator for Refugee Affairs (except for the transfer of reception and placement grants to HEW after fiscal year 1980). The Committee does not intend to diminish in any way the responsibility or authority of the U.S. Coordinator. The Office is charged with the responsibility of administering programs which are already being administered by HEW or which are authorized by this bill. The U.S. Coordinator's mandate on the other hand is to coordinate the activities of all Federal agencies with respect to refugee affairs.

By creating this Office by statute the Committee is attempting to insure that refugee resettlement will not become diffused within the HEW structure, and that proper attention and resources will be focused on the resettlement program. In the past, staffing and funding limitations, particularly with respect to HEW regional personnel, have seriously hindered program evaluation.

According to GAO, this problem has been aggravated by "HEW reorganizations, funding delays and staff reductions." At the current time, for example, there are only 28 persons in the HEW central office—7 of whom are professional staff—responsible for administering the program. HEW regional offices are staffed with only 17 part-time refugee specialists and translator/assistants. Clearly, with the increased discretionary funding in this legislation and the large number of refugees entering the country, staffing for the administration and monitoring of this program must be augmented.

The following colloquy between Congressman Fish and HEW Secretary Califano points out the desirability of program consolidation within HEW:

> Mr. FISH. Mr. Secretary, I plan to ask you some questions about the desirability of the consolidation of domestic programs, and included in your testimony was that that is what you have decided to do.
>
> If I read it correctly, it is a single authority for domestic assistance to respond to all groups of refugees. I take it that you are going to take the Indochinese program and the Cuban program and the Soviet program and all the refugees who are not Indochinese and Cubans, and mesh the three?
>
> Secretary CALIFANO. That is what would happen under this legislation.
>
> Now they are all reporting to the Social Security Administrator for the time being. In the future, we would not like to make such distinction on the basis of whether they are Cubans, or Indochinese, or Soviet Jews. I would rather make those decisions from an operational point of view—should the cash assistance programs be under social security, and the medicaid program under medicaid.
>
> Under any circumstances, we would like to have one refugee program.
>
> Mr. FISH. You want all funds consolidated, and one authorization to be coordinated by one office?
>
> Secretary CALIFANO. Ultimately, that would be the ideal in terms of being able to plan a program and operate efficiently. (Hearings, page 231.)

Initial Resettlement

Refugee resettlement in this country has traditionally been carried out by private voluntary resettlement agencies. Each of these agencies has a contract with the Department of State under which it receives a per capita reception and placement grant, which has varied from $250 to $500. The Committee recognizes that the efforts of these agencies are vital to successful refugee resettlement. It is anticipated that the commitment to consistent resettlement funding that is embodied in this legislation will encourage the continued cooperation of these agencies.

In addition to reception and placement of the refugee (i.e. airport reception; arranging inland transportation; providing basic orientation, food, clothing and shelter; placement with the sponsor), the voluntary agencies provide a variety of follow-up services, such as counseling and referral for English language training, educational and vocational training, and advice and guidance on immigration matters.

The Committee Amendment establishes broad and flexible funding authority for the aforementioned resettlement services performed by both nonprofit voluntary resettlement agencies and public agencies. It specifically requires the Director, in allocating funds for this purpose, to take into account the different resettlement approaches and practices of the voluntary agencies. Because (1) these resettlement services are performed in the United States, (2) the Department of State has no capacity to monitor the domestic activities of the voluntary agencies (in providing services under the reception and placement grants) and (3) there is some confusion and a lack of coordination between State and local agencies and the voluntary agencies in providing certain long-term resettlement and social services, the Committee Amendment transfers this contracting authority from the Department of State to HEW. Regarding the desirability of this transfer of the reception and placement grants, the following exchange took place between Congresswoman Holtzman and HEW Secretary Califano:

> Ms. HOLTZMAN. I am talking about the grants from the State Department for the initial period of time. Should not all the grant programs be consolidated in one place, once the refugee reaches this country?
>
> Secretary CALIFANO. There is no doubt in my mind that that is the best way to do it. (Hearings, page 237.)

Nevertheless, due to concerns expressed by representatives of the American Council for Voluntary Agencies, the Committee Amendment postpones the transfer for one fiscal year. During this time, the Committee will closely monitor the activities of the Office of Refugee Resettlement and will scrutinize the joint monitoring and coordinating efforts mandated by the legislation for fiscal year 1980. This postponement will insure that there will be no disruption in the admission and resettlement of Indochinese refugees, particularly in view of the recent decision to double the flow of such refugees.

The Committee Amendment also requires the Director to develop, where appropriate, orientation, job training, language training and educational programs for refugees in overseas camps who are awaiting entry to the United States. Because of HEW's technical expertise in these areas, the Committee believes that the responsibility for pro-

gram development and the authority for awarding contracts should rest with that Department. On the other hand, the language in the Committee Amendment specifically requires the Director to "make arrangements" for the implementation of these programs in the countries of first asylum. This language is intended to insure that HEW will make such "arrangements" through the Department of State and not directly with foreign governments. The Committee does not intend to authorize HEW to negotiate or consult with foreign governments on these matters. The Committee believes that any concerns that this will occur are unwarranted and it is expected that the State Department under this bill will continue to discharge its normal diplomatic functions.

Supportive Services and Training for Refugees

The Committee is convinced that the availability of a wide range of services to help refugees become self-sufficient is the cornerstone of a successful resettlement program.

Under the current IRAP program, these services have been provided through two different mechanisms—direct special project funding and reimbursement to states for social services provided in accordance with Title XX of the Social Security Act. These services include: job training, employment services, day care, career and cultural counseling, professional refresher training, family planning, transportation, English as a second language training and other supportive services. Under this combined funding mechanism $18.5 million was spent in FY 1978 and $37.7 million in FY 1979. The present method of providing services developed in an ad hoc manner which inhibited the development of an organized and accountable program which could provide all necessary services.

The Committee Amendment combines these services into a single funding channel and, at the same time, allows substantial flexibility in the delivery of such services. In essence, the Title XX-type reimbursement mechanism is eliminated in favor of a direct grant funding approach. As a result, grants can be made directly to public or private agencies or can be channelled through state governments. In either case, successful applicants would be directly accountable to the Federal Government, since grants and contracts can be awarded only to those agencies "which the Director determines can best perform the services." The Committee Amendment also authorizes health (including mental health and family planning) services where specific needs have been demonstrated.

For the first time, the aforementioned resettlement services would be made available to all refugees admitted to the United States, regardless of national origin. Because of their importance, the Committee has eliminated the Administration's proposal to limit Federal support for social services and training to a two year period after the refugee's arrival. When queried on the rationale for this limitation during the course of the hearings, Secretary Califano replied:

> [T]he restrictions in the bill for a 2 year limitation on the social services part of the program is much more a reflection of budgetary policy than it is of anything else. And there are, I suppose, stronger arguments for having a more extended period of time. (Hearing, pages 227–228.)

The Committee Amendment specifically authorizes some $200 million for these services over the next two fiscal years.

When one considers the background and skill levels of the newly arriving Indochinese refugees, the need for a comprehensive resettlement program becomes obvious. In general, they are less-educated, less-skilled, less able to speak English (some, such as the Hmong, come from a pre-literate society), and experience more medical and cultural adjustment problems than the initial arrivals from Vietnam in 1975. Witnesses before the Committee also indicated that they are more difficult to resettle than Soviet Jewish and Eastern European refugees because they lack an imigrant base in the United States and have often escaped from their country under traumatic circumstances. These needs cannot be ignored and the Committee expects that these services will be "front-ended" so that refugees can be placed on the road to self sufficiency as soon as possible after arrival here.

The Committee believes that a concerted effort to provide refugees with language training and employment-related services as quickly as possible after their arrival will enhance their economic and social self-sufficiency and reduce refugee dependence on public assistance. Concerning this issue Dr. Barry Stein, an Associate Professor at Michigan State University stated:

> The refugees' initial high motivation to recover what has been lost must be used and aided otherwise discouragement and welfare dependency may set in. I believe that greater expenditures at the beginning of a program will result in long term welfare cost savings * * *
>
> [W]e have to design programs that maximize in the first 3 or 4 years the opportunities for the refugee so that hopefully we wouldn't end up supporting them further on down the road. My own guess is that more money spent at the beginning of the resettlement process will mean less in the way of long-term costs on refugees." (Hearings, pages 211 and 217.)

Cash and Medical Assistance

At the current time, there are three different Federal programs providing some form of cash and medical assistance to refugees—each separately authorized, funded and administered. The underlying purpose of these programs is to insure that state and local governments are not adversely impacted by Federal decisions to admit refugees. Under the programs for Cuban and Indochinese refugees, Federal reimbursement is provided to the state for cash and medical assistance. The Cuban program is operated under the authority of the Migration and Refugee Assistance Act of 1962, while IRAP was established under the Indochinese Migration and Refugee Assistance Act of 1975, which carried forward most of the authorities contained in the basic 1962 Act.

Since 1961, the Federal government has expended approximately $1.4 billion on the Cuban program under the open-ended authorization of the 1962 Migration and Refugee Assistance Act. Since 1975, HEW has expended about $400 million for the domestic resettlement of Indochinese refugees. In an effort to provide greater equity in the operation of our resettlement programs, Congress, in fiscal year 1979,

appropriated $28 million for domestic assistance to Soviet refugees and other refugee groups. This latter program distributes funds to nonprofit voluntary agencies on a matching grant basis. The grant covers long-term resettlement services such as language and skills training, maintenance assistance and health care to needy refugees, and employment counseling.

The Committee Amendment, in an effort to eliminate the current fragmentation and disparity in our resettlement programs, consolidates all funding authority for domestic resettlement into one basic statute. As noted earlier in the report (in the *Background* section), such consolidation was intended to be accomplished by the enactment of the Migration and Refugee Assistance Act of 1962. Regrettably, that objective was never achieved due to the emergence of unforeseen refugee situations and conflicting Committee jurisdiction regarding the overseas and domestic aspects of United States refugee programs. Hopefully, by concentrating all funds for cash and medical assistance to refugees into a single authority, this legislation will result in a coordinated and coherent resettlement program.

The need for full Federal funding for cash and medical assistance for a reasonable period of time is evidenced by our experience under IRAP. According to the latest report from HEW (Report to the Congress—Indochinese Refugee Assistance Program, December 31, 1978), the Indochinese refugee population in the United States has labor force and employment rate levels comparable to the United States population as a whole. Despite this generally positive picture, large numbers of refugees have resorted to cash assistance to supplement their wage or salary income. This has occurred because many refugees must accept low paying, entry level jobs—many of which are not commensurate with the skills and background of the refugees. HEW has indicated that as of May of this year, 40% of the Indochinese refugees were receiving cash assistance under IRAP, but that only 13% were totally dependent on cash assistance. An additional 2% of the refugees were receiving assistance under the Supplemental Security Income (SSI) program for blind, aged, and disabled persons. In light of these factors, state and local governments have urgently requested enactment of the instant legislation because the IRAP program expired on September 30, 1979.

The Committee Amendment, while combining all domestic assistance programs into one funding authorization, nevertheless preserves a great degree of flexibility in the development and implementation of programs designed to increase economic self-sufficiency. For example, cash and medical assistance may be in the form of direct reimbursement to state governments or it may be funneled through public or private agencies. In addition, the Director of the Office of Refugee Resettlement is permitted to provide such assistance through arrangements with other Federal agencies.

The Committee Amendment specifically provides that State governments (as well as other public and private agencies) may be reimbursed for up to 100 percent of their costs in providing cash or medical assistance to any refugee who has been in the United States for less than 48 months from the date of arrival of the refugee. It allows the Director to tailor programs to meet the specific needs of the refugees, and to

utilize the expertise of the various resettlement agencies. For example, the resettlement program for Soviet Jews has been extremely successful. As mentioned, Federal funding for long-term services and assistance to Soviet refugees has been provided under a matching grant program and this legislation permits the continuation of this approach, as well as the development of other innovative methods to deliver interim cash and medical assistance.

HEW Secretary Califano urged that some limitation on Federal support for refugees is essential in order to encourage States and localities to work toward refugee self-sufficiency and to promote equality of treatment for United States citizens, permanent resident aliens, and refugees. The Administration proposal would have limited Federal reimbursement to a two-year period. The Committee, believing that the two-year period was unreasonable and unrealistic, adopted the 4-year limitation previously described.

The Committee Amendment also includes a one-year transitional period during which the 4-year limitation will not apply. In other words, in fiscal year 1980, the Federal Government will be authorized to provide up to 100 percent reimbursement for all refugees in the United States regardless of the date of arrival of the individual refugee. In fiscal year 1981, the four-year limitation will apply and assistance in that fiscal year and in succeeding fiscal years can be provided to a refugee only if he or she has been in the United States less than four years.

It is the Committee's position that the four-year limitation and the one-year transitional period draw a proper balance between the Federal and State responsibility to develop programs to assist refugees to become self-supporting. A longer period, in the Committee's judgment, would inhibit and discourage State efforts to absorb refugees.

In an effort to provide equitable and uniform assistance to all refugees regardless of place of birth, the Committee Amendment terminates authority for the special Cuban refugee program after fiscal year 1980.

While the language in the Committee bill authorizes full funding for all refugees during fiscal year 1980, the Committee recognizes that the conferees in considering the HEW Appropriations bill (H.R. 4389) provided funds to permit reimbursement for only 75% of the costs of the Cuban program.

The Committee Amendment also relaxes normal eligibility requirements for medical assistance for refugees in this country less than one year. Based on reports from refugee resettlement experts, additional flexibility in the provision of medical assistance will result in reduced reliance on cash assistance. One voluntary agency representative described the problem in the following testimony before the Immigration Subcommittee:

> "[I]n order to receive medicaid you really have to register for public assistance. . . . This is counterproductive. What we are trying to do is keep them out of the [welfare] system and get them as self-sufficient as quickly as possible. Therefore, we really need to devise a mechanism whereby medical care can be given without necessarily tying the individual into the total public welfare system." (Hearings, page 257.)

The legislation specifically enables refugees to qualify for such assistance without having to meet the eligibility requirements for cash assistance. In making medical assistance available independent of cash assistance, the Director is required to make a finding that the provision of such assistance will: (1) encourage economic self-sufficiency, or (2) avoid unduly burdening state and local governments.

The Committee Amendment also incorporates the present requirement that employable refugees receiving public assistance register with an appropriate employment service and accept appropriate offers of employment or training. It also expressly requires the Director to develop training programs for employable refugees receiving cash assistance. By coordinating efforts to provide cash assistance with employment-related training and services, the Committee expects to encourage refugee self-sufficiency.

Service for Refugee Children

The Committee has been concerned for some time by the inordinate delays encountered in admitting unaccompanied refugee children to this country. Large numbers of children have been languishing in overseas refugee camps for lengthy periods of time because of bureaucratic delays and legal obstacles to their admission. For example, problems of custody, guardianship and responsibility for providing services to these children have seriously hampered efforts to assist them.

Witnesses before the Committee indicated that the problem stems from the confusion between Federal and State officials as to their respective roles and the lack of dependable funding. The director of a foster care program for Indochinese refugee children, Rev. Henry K. Wohlgemuth, testified as follows:

> There has been a lot of ignorance on the part of State officials. The communication between Federal and State [governments] has sometimes broken down. That is improving within the past half-year.. . .
>
> The other problem is money. . . . But with proposed legislation with that phrase in their regarding 100 percent funding being guaranteed until the age of majority as defined in that State, that will be a boon. I have been to five different States talking with the officials as a consultant, and that has been the big issue that is always raised. (Hearings, page 144)

To address these problems, the Committee Amendment provides for full Federal reimbursement for child welfare services including foster care costs, health care costs and other services for all refugee children who enter the United States unaccompanied by their parents or other adult guardians. Such assistance will be provided until the children reach the age of eighteen or such higher age as the foster care plan of their State of residence provides. Reimbursement for child welfare services for other refugee children is authorized during the first four years after their arrival.

The bill reported by the Committee clarifies legal custody and financial responsibility issues concerning unaccompanied minors; requires States to provide for the care and supervision of unaccompanied minors; and requires the Director to compile and maintain a list of unaccompanied minors (including the names and addresses of living parents).

The Committee is hopeful that these provisions will facilitate the admission of unaccompanied refugee children and encourage state governments and voluntary resettlement agencies to expand their efforts to assist them.

The bill reported by the Committee authorizes funding for special educational services (including English language training) for refugee children in elementary and secondary schools where a demonstrated need has been shown. This legislation does not amend, replace, or disturb the program of educational assistance for refugee children authorized by the Indochina Refugee Children Assistance Act of 1976 (P.L. 94–405) and extended by the Education Amendments of 1978 (P.L. 95–561).

Reporting Requirements

The Committee Amendment sets forth a detailed congressional reporting requirement. Specifically, the Director of the Office of Refugee Resettlement is required to report semi-annually to the Committees on the Judiciary of the House and Senate. This reporting requirement reflects the Committee's concern that the resettlement program should be carefully monitored and evaluated. In the past, such monitoring and evaluation has been inadequate.

In view of the comprehensive nature of the resettlement program created by this legislation, the increased number of refugees who will enter the United States in the coming year, and the flexibility in the administration of the program, the Committee believes that semiannual reports to the Congress are necessary and appropriate.

Items to be included in the report are: updated profiles of employment data on refugees, a description of the extent to which refugees have received assistance under the legislation; a description of the geographic location of refugees; a summary of the results of the monitoring and evaluation required by the bill; a description of the activities, expenditures and policies of the Office of Refugee Resettlement, as well as the activities of states, voluntary agencies, and sponsors; a description of plans for improvement of refugee resettlement; evaluations of the extent to which the services provided under the program are assisting refugees in achieving economic self-sufficiency, improving English language ability, and securing employment commensurate with their skills and abilities; a summary of reported instances of fraud, abuse or mismanagement in the provision of services or assistance; a summary of the location and status of unaccompanied refugee children admitted to the United States; a summary and evaluation of the information supplied by refugees in conjunction with their applications to the Attorney General for adjustment of status; and a summary of waivers of grounds of exclusion under the Immigration and Nationality Act granted by the Attorney General to refugees during the reporting period.

In addition, the Secretary of HEW is required to conduct a study and report to Congress on: resettlement systems used by other countries and their applicability to the United States; the desirability of using a system other than the current welfare system for the provision of cash assistance and/or medical assistance to refugees; and alternative resettlement strategies.

The Committee is convinced that existing resettlement mechanisms,

policies and procedures must be continuously reviewed and evaluated in order to determine whether improvements are needed or whether alternative approaches should be adopted. This requirement will focus the attention of the Administration on these issues, and provide the Congress with a basis upon which to evaluate the need for change.

SECTION-BY-SECTION ANALYSIS OF H.R. 2816, AS AMENDED

Title I—purpose

Title I sets forth the purpose of the legislation.

Title II—Admission of refugees

Section 201(a) provides a new definition of the term "refugee" which will be added to the Immigration and Nationality Act.

Section 201(b) adds new sections 207, 208, and 209 to the Immigration and Nationality Act, dealing with admission procedures for refugees.

Section 207(a) provides for a normal flow of refugees not to exceed 50,000 annually except in cases where the President, prior to the beginning of the fiscal year and after consultation with the Committees on the Judiciary, determines that a greater number is foreseeable and is "justified by humanitarian concerns."

Section 207(b) provides for the admission of refugees in unforeseen emergency situations.

Section 207(c)(1) provides that all refugees—normal flow and emergency situation—will be admitted by the Attorney General as refugees not as lawful permanent residents. Applicants for refugee admission will be required to establish that they meet the refugee definition, that they have not become firmly resettled in any foreign country, and that they are admissible as immigrants under the Act (except as provided in section 207(c)(3) below).

Section 207(c)(2) allows the spouse and children of any refugee admitted under the bill to qualify for the same admission status as the principal alien if not so entitled in their own right. Such a spouse or child would be charged against the appropriate numerical limitation.

Section 207(c)(3) states that refugees, their spouses and children need not meet the following admissibility requirements for immigrants: the labor certification requirements of section 212(a)(14) of the Immigration and Nationality Act, the public charge provisions of section 212(a)(15), the immigrant visa requirements of sections 212(a)(20) and (21), the literacy requirements of section 212(a)(25), or the provisions of section 212(a)(32) pertaining to alien physicians. The remaining exclusionary provisions of section 212(a), except for 212(a)(27), relating to those entering to engage in activities which would endanger the welfare, safety or security of the United States, 212(a)(29), relating to those who might engage in sabotage or espionage, or 212(a)(33), relating to those who engaged in persecution under the Nazis, or so much of 212(a)(23) as relates to trafficking in narcotics, may be waived by the Attorney General for "humanitarian purposes, to assure family unity, or when it is otherwise in the public interest."

Section 207(c)(4) allows the Attorney General to terminate refugee status if it is determined that the alien was not in fact a refugee at the time of admission.

Section 207(d)(1) requires the President to report annually to the Judiciary Committees on the foreseeable number of refugees in need of resettlement during the next fiscal year and the anticipated allocation of refugee admissions.

Section 207(d)(2) requires the House and Senate Judiciary Committees to print the substance of consultations on refugees in the Congressional Record.

Section 207(e) defines the "consultation" required under the bill.

Section 208(a) creates a statutory asylum procedure.

Section 208(b) allows the Attorney General to terminate grant of asylum if conditions change in the individual's home country so that he or she would no longer be subject to persecution upon return.

Section 208(c) entitles the spouse and children of an individual granted asylum to the same status.

Section 209(a)(1) authorizes adjustment to lawful permanent resident status for any refugee admitted under section 207, either under the normal flow provision or in an emergency situation.

Section 209(a)(2) provides that once granted the lawful permanent resident status operates retroactively to the date of the refugee's arrival in the United States.

Section 209(b) provides that up to 5,000 of the normal flow admission numbers authorized under section 207(a) may be used to adjust to the status of lawful permanent resident any alien granted asylum under section 208. The admission for lawful permanent residence will be recorded as the date two years prior to the approval of the application. Spouses and children of refugees adjusted under this provision would also qualify for adjustment.

Section 209(c) states that refugees, those granted asylum, and their spouses and children adjusting their status under section 209 need not meet certain admissibility requirements for immigrants (the same as those specified in section 207(c)(3)).

Section 201(c) amends the table of contents of the Act to reflect new sections 207, 208, and 209.

Sections 202 and 203 of the bill provide various conforming amendments to the Immigration and Nationality Act. In addition, *section 203(e)* amends section 243(h) of the Act, relating to withholding of deportation, to require (with some exceptions) the Attorney General to withhold deportation of aliens who qualify as refugees and who are in exclusion as well as deportation, proceedings. Also, *section 203(f)* restricts the parole power of the Attorney General with respect to admitting groups of refugees.

Section 204(a) provides that the Refugee Act will take effect on October 1, 1979, except as provided in subsection (b).

Section 204(b)(1) is a savings clause that preserves the rights of those aliens who had been admitted conditionally under section 203(a)(7) of the Immigration and Nationality Act, or paroled into the United States under Section 212(d)(5) of the Act, before the effective date.

Section 204(b)(2) is a savings clause that preserves the rights of those aliens who already established a priority date for admission to the United States under section 203(a)(7) before its repeal by this bill.

Section 204(c)(1) is a transitional section for fiscal year 1980 only. Under the proposed section 207(a), the President is required, before the beginning of the fiscal year, to make a determination as to whether the number of refugees admitted to the United States will exceed 50,000. Since this legislation will be enacted after the beginning of the 1980 fiscal year, such a timely determination will be impossible. This section will allow the President 45 days from the date of enactment to take the actions required under section 207(a).

Section 204(c)(2) requires the Attorney General to establish the asylum procedure referred to in section 208(a) within a 60-day time period.

Title III—Domestic Assistance for Refugees

Section 301 adds a new Chapter to Title IV of the Immigration and Nationality Act, dealing with domestic assistance for refugees. The Chapter contains four sections (sections 411, 412, 413, and 414).

Section 411(a) creates an Office of Refugee Resettlement within HEW.

Section 411(b) charges the Office with the responsibility of administering all domestic assistance programs for refugees including programs for: (1) reception and placement of refugees; (2) resettlement services; and (3) reimbursement to state and local governments.

Section 412(a)(1) sets forth various program goals relating to employment training and placement, English-language training and self-sufficiency and requires equality of opportunity for services for women.

Section 412(a)(2) requires the Director of the Office to consult regularly with state and local governments and the private resettlement agencies concerning the development of criteria relating to the sponsorship and resettlement process.

Sections 412(a)(3), (4), and (5) require the Director of the Office to: (1) conduct a needs assessment and to allocate resources accordingly; (2) award grants and contracts to applicants, based upon "ability to perform"; and (3) insure that assistance is flexible and nondiscriminatory.

Section 412(a)(6) requires the States, as a condition of receiving assistance, to submit a statewide resettlement plan and a report on the usage of Federal funds during the previous fiscal year.

Section 412(a)(7) requires the Secretary of HEW to develop a system for monitoring all domestic assistance programs for refugees, including evaluations, auditing, and data collection.

Section 412(a)(8) requires the Attorney General to provide information supplied by refugees adjusting status to the Director of the Office for compilation and evaluation.

Section 412(a)(9) insures that spouses and children of refugees will be eligible for assistance and services under the program.

Section 412(b)(1) authorizes funds for initial resettlement services.

Section 412(b)(2) states that the Director of the HEW Office must develop programs and make arrangements for English language and job training in camps or transit centers while refugees are awaiting resettlement in the United States.

Section 412(b)(3) authorizes the establishment of processing centers for refugees if necessary.

Section 412(b)(4) establishes procedures to improve the medical screening and treatment of refugees.

Section 412(c) authorizes funds for employment services, language training, health services (including mental health and family planning) and social services. These services are currently provided under special project funding and through a mechanism similar to title XX of the Social Security Act. This subsection would consolidate all such services in a single funding mechanism.

Section 412(d)(1) authorizes funds for special education services for refugee children where a demonstrated need has been shown.

Section 412(d)(2) authorizes funds for child welfare services for 4 years after arrival, except for unaccompanied children who would be eligible until age 18 (or higher depending on the State's child welfare services plan). It also makes the Office legally and financially responsible for unaccompanied children prior to placement under the child welfare laws of a State.

Section 412(e)(1) authorizes 100 percent reimbursement to State governments for cash and medical assistance provided to refugees for a 4-year period after arrival.

Section 412(e)(2) requires refugees receiving cash assistance to register with appropriate employment agencies and accept offers of employment except in cases where good cause is shown.

Section 412(e)(3) directs the Director of the Office to develop plans to provide language and other training for refugees on assistance.

Section 412(e)(4) is a technical amendment relating to reimbursement for refugees eligible for regular assistance programs.

Section 412(e)(5) grants the Director authority (for one year after arrival) to provide medical assistance to refugees who are not eligible for cash assistance.

Section 413(a) requires detailed reports to the Committees on Judiciary regarding, among other things, the effectiveness of expenditures made under the bill, the geographic and employment statistics of refugees, and the activities of the Office of Refugee Resettlement.

Section 413(b) requires the Secretary of HEW to report to Congress within one year on resettlement systems used by other countries; the feasibility of using a system other than the welfare system to provide assistance to refugees; and alternative resettlement strategies.

Section 413(c) requires the Director of the Office to keep the Judiciary Committees informed of ongoing developments regarding refugee resettlement.

Section 414 authorizes appropriations.

Section 302 contains technical amendments.

Section 303(a) sets the effective date as October 30, 1979.

Section 303(b) waives for fiscal year 1980 the four year limit established in sections 412 (d) and (e) on cash, medical, and child welfare reimbursement in order to provide a transition period for refugees whose assistance may be terminated by this limitation.

ADMINISTRATION POSITION

The bill was originally introduced on behalf of the Carter Administration as the result of an Executive Communication submitted to the Congress on March 7, 1979. While the Administration has some concerns regarding certain portions of the legislation as reported by the Committee, the Administration still strongly supports its enactment. A copy of the letter from Secretary of State Cyrus Vance to the Speaker of the House of Representatives, transmitting the draft legislation, follows:

THE SECRETARY OF STATE,
Washington, March 7, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: Attorney General Bell and Secretary Califano join me in transmitting for the consideration of the Congress a draft bill "To amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes."

At present, refugee admission numbers are provided under the conditional entry provisions of the Immigration and Nationality Act or through the Attorney General's discretionary exercise of the parole authority. Assistance to refugees from different parts of the world is available through different programs and funding sources. The bill represents the Administration's views on the most appropriate manner to provide a more rational, stable, and equitable Federal policy for the admission of refugees to this country and for assistance to them within the United States.

Title I of the draft bill contains a brief statement of policy and the purposes of the Act.

Title II would amend the Immigration and Nationality Act to provide more systematic United States Government procedures for the admission of refugees into the United States. The major amendment made by this title would provide for the admission of 50,000 refugees annually. These admission numbers would be allocated to those groups or classes of refugees determined by the President to be of special concern to the United States. There is also authority for the President, before the beginning of the fiscal year, to adjust to a fixed higher number, upon appropriate consultation with the Congress, should he determine that the higher number is necessary in the national interest based upon a review of foreseeable refugee needs. There is a second provision for group admissions usable only for unforeseen refugee emergencies, again following consultations with the Congress. The Attorney General would also maintain his authority to parole individual refugees into the United States.

Title III of the draft bill contains amendments to the Migration and Refugee Assistance Act of 1962. That Act contains the basic authority for assistance to Cuban and Indochinese refugees coming to and already in the United States. Title III makes few substantive changes from current administrative practice under the Act. Instead, it clarifies the purposes for which assistance will be furnished, reflecting experience gained in the administration of refugee assistance since 1962.

One major substantive addition, however, is the establishment of express limitations on the period for which the Federal government will pay the full cost of cash and medical assistance under programs authorized by the Social Security Act. The Federal government will bear the full cost of new refugees under these particular programs for only the first two years after their arrival in the United States. After that, the State will be expected to provide whatever assistance would be available to its other residents, with the same allocation of cost between the Federal and State governments. A similar two-year limitation will also apply to most other forms of federal assistance under this Title.

Since the beginning of this Administration, the President has emphasized this country's historic role in protecting and promoting the human rights of all people throughout the world. A sound refugee program, permitting us to respond to the needs of those who have fled persecution in their homelands, is an essential component of this country's human rights policy. This draft bill provides the needed framework, and Attorney General Bell, Secretary Califano and I urge your prompt and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

CYRUS VANCE.

ESTIMATE OF COST

The bill provides a two-year authorization for the domestic resettlement assistance programs established in Title III. The Congressional Budget Office has estimated that the bill will cost $444 million for fiscal year 1980 and $352 million for fiscal year 1981. Pursuant to clause 7, Rule XIII of the Rules of the House of Representatives, the Committee states that it concurs with the cost estimate submitted by the Congressional Budget Office and which is set forth below.

BUDGETARY INFORMATION

Clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives is inapplicable because the instant legislation does not provide new budgetary authority. Pursuant to clause 2(l)(3)(C) of Rule XI, the following estimate was prepared by the Congressional Budget Office and submitted to the Committee.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 28, 1979.

Hon. PETER RODINO,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 2816, the Refugee Act of 1979.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

SEPTEMBER 28, 1979.

1. Bill No.: H.R. 2816.
2. Bill title: Refugee Act of 1979.
3. Bill status: Ordered reported from the House Judiciary Committee, September 19, 1979.
4. Bill purpose: The purpose of this bill is to amend and extend the authorization for federal assistance for Indochinese refugees and to establish a new agency of Refugee Resettlement in the Department of Health, Education, and Welfare in order to establish a more uniform basis for the provision of assistance to all refugees. This bill consolidates all the refugee assistance programs under one law and extends the authorization through 1981.
5. Cost estimate:

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Authorization levels:					
Estimated Indochinese cash and medical assistance costs	210	308			
Indochinese job training and other social services	203	3			
Estimated State administrative costs	31	41			
Total authorization levels	444	352			
Estimated total outlays	256	424	116		

Note: The costs of this bill fall in function 600.

6. Basis for estimate: The costs in this estimate are associated with the Indochinese refugee program due to expire on September 30, 1979 that is being extended by this bill to 1981. All of the other refugee program costs have permanent authorization. While this bill serves to consolidate those authorizations into one law, it does not increase the current authorization levels. Congress, however, may expect increases in the appropriation requests of approximately $97 million for initial refugee resettlement programs as well as $5 million in federal administrative expenses under the new agency as a result of the U.S. commitment to specific refugee levels rather than as a direct result of this bill. The specific details on the costs associated with H.R. 2816 are stated below.

Cash and Medical Assistance

The cash and medical assistance estimates are based on the Administration's projected average federal cost per person of approximately $1,988 for 1980 and increased by the CPI for fiscal year 1981. The Indochinese refugee stream assumes 14,000 new refugees per month with a total of 168,000 new refugees by the end of fiscal year 1980. An additional 168,000 new refugees are assumed to enter the United States during fiscal year 1981. It is not known entirely how the characteristics of the new refugees will relate to those who entered the country during the 1975 period. The historical rate for those needing public assistance had originally been 33 percent and has since risen to 45 percent. From reports and testimony by government representatives, states, and world organizations the new refugees will be less skilled, less likely to speak English, and after two years in refugee camps, more likely to have serious health problems. This estimate assumes the new refugees will

be somewhat more needy than those who came earlier. Therefore, 50 percent of the refugees will require cash and medical assistance in both 1980 and 1981. Also, 50 percent of the approximately 80,000 Indochineses refugees who entered the United States prior to fiscal year 1980, primarily those entering during the later half of 1979, are expected to require cash and medical assistance in 1980; this is projected to decline to 33 percent by the end of 1981. The estimate assumes the lag time in reimbursing the states will be small even though the federal agency will be new.

Job Training and Other Social Services

The estimate for job training and other social services includes the $200 million authorized in the bill. It also includes $3 million in both years to cover the costs for unaccompanied children.

State Administrative Costs

The federal share of the state administrative costs average approximately 10 percent of the total federal share of the cost of the programs. The estimates for 1980 and 1981 assume that the funds for job training and other social services are spread over the two year period of time.

Outlays for cash and medical and administrative expenses are assumed to be 75 percent the first year and the remainder in the second. The outlays for job training and other social services are assumed to be 38 percent the first year, 50 percent the second, and 12 percent the third year.

7. Estimate comparison: None.

8. Previous CBO estimate: On August 28, 1979 CBO prepared an identical estimate for H.R. 2816 as reported from the House Subcommittee on Immigration, Refugees and International Law.

9. Estimate prepared by Deborah Kalcevic.

10. Estimate approved by:

C. G. NUCKOLS

(For James L. Blum, Assistant Director for Budget Analysis).

OVERSIGHT STATEMENTS

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee states that the Subcommittee on Immigration, Refugees and International Law will maintain close oversight with respect to those Departments responsible for administering the various provisions of this bill. In particular, the Subcommittee intends to monitor closely the role of the Department of Justice in admitting refugees to this country and the bill requires detailed consultation with the Committee on the admission of all refugees. The Subcommittee will also oversee closely the operation of the Office of Refugee Resettlement created in Title III of the bill, and such oversight is enhanced by the Congressional reporting requirements set forth in that Title.

Over the past two Congresses, the Subcommittee on Immigration, Refugees, and International Law has held extensive legislative and oversight hearings on the refugee issue. During that period, 14 days of hearings were held on refugee legislation and 7 days of oversight hearings were held on the Indochinese refugee problem alone. As

noted above, the Subcommittee will continue to exercise its oversight responsibilities on this subject.

Clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives is inapplicable since no oversight findings and recommendations have been received from the Committee on Government Operations.

Inflationary Impact Statement

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that this bill will not have a significant inflationary effect on prices and costs in the operation of the national economy.

Committee Vote

On September 19, 1979, the full Committee on the Judiciary, with a quorum present, approved H.R. 2816, as amended, by a record vote of 20–6.

Committee Recommendation

The Committee, after careful and detailed consideration of all the facts and circumstances involved in this legislation, is of the opinion that this bill should be enacted and accordingly recommends that H.R. 2816, as amended, do pass.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

Immigration and Nationality Act

* * * * * * *

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TITLE II—IMMIGRATION

CHAPTER 1—SELECTION SYSTEM

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House

* * * * * * *

TITLE IV—MISCELLANEOUS

CHAPTER 1—MISCELLANEOUS

CHAPTER 2—REFUGEES ASSISTANCE

TITLE I—GENERAL

DEFINITIONS

SECTION 101. (a) As used in this Act—
(1) * * *

* * * * * * *

(42) The term "refugee" means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term "refugee" does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

TITLE II—IMMIGRATION

CHAPTER 1—SELECTION SYSTEM

NUMERICAL LIMITATIONS

[SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), and immediate relatives of United States citizens as specified in subsection (b) of this section, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to

section 203(a)(7), enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-seven thousand and shall not in any fiscal year exceed a total of two hundred and ninety thousand.]

SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who are admitted or granted asylum under section 207 or 208, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.

* * * * * * *

NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE

SEC. 202. (a) No person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of his race, sex, nationality, place of birth, or place of residence, except as specifically provided in section 101(a)(27), section 201(b), and section 203: *Provided*, That the total number of immigrant visas [and the number of conditional entries] made available to natives of any single foreign state under paragraphs (1) through [(8)] (7) of section 203(a) shall not exceed 20,000 in any fiscal year.

* * * * * * *

(e) Whenever the maximum number of visas [or conditional entries] have been made available under section 202 to natives of any single foreign state as defined in subsection (b) of this section or any dependent area as defined in subsection (c) of this section in any fiscal year, in the next following fiscal year a number of visas [and conditional entries], not to exceed 20,000, in the case of a foreign state or 600 in the case of a dependent area, shall be made available and allocated as follows:

(1) * * *

(2) Visas shall next be made available, in a number not to exceed [20] *26* per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence.

* * * * * * *

[(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe, in a number not to exceed 6 per centum of the number specified in this subsection, to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country within the general area of the Middle East, and (ii)

are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term 'general area of the Middle East' means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethiopia on the south: *Provided*, That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.]

[(8)] *(7)* Visas so allocated but not required for the classes specified in paragraphs (1) through [(7)] *(6)* shall be made available to other qualified immigrants strictly in the chronological order in which they qualify.

ALLOCATION OF IMMIGRANT VISAS

SEC. 203. (a) Aliens who are subject to the numerical limitations specified in section 201(a) shall be allotted visas [or their conditional entry authorized, as the case may be,] as follows:

(1) * * *

(2) Visas shall next be made available, in a number of not to exceed [20] *26* per centum of the number specified in section 201(a), plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence.

* * * * * * *

[(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe and in a number not to exceed 6 per centum of the number specified in section 201(a), to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country within the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term "general area of the Middle East" means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethio-

pia on the south: *Provided*, That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.]

[(8)] (7) Visas authorized in any fiscal year, less those required for issuance to the classes specified in paragraphs (1) through (6) [and less the number of conditional entries and visas made available pursuant to paragraph (7)], shall be made available to other qualified immigrants strictly in the chronological order in which they qualify. Waiting lists of applicants shall be maintained in accordance with regulations prescribed by the Secretary of State. No immigrant visa shall be issued to a nonpreference immigrant under this paragraph, or to an immigrant with a preference under paragraph (3) or (6) of this subsection, until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14). No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States; and (B) the child has been irrevocably released for immigration and adoption: *Provided*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

* * * * * * *

[(9)] (8) A spouse or child as defined in section 101(b)(1)(A), (B), (C), (D), or (E) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa [or to conditional entry under paragraphs (1) through (8)] *under paragraphs (1) through (7)*, be entitled to the same status, and the same order of consideration provided in subsection (b), if accompanying, or following to join, his spouse or parent.

* * * * * * *

(d) Every immigrant shall be presumed to be a nonpreference immigrant until he establishes to the satisfaction of the consular officer and the immigration officer that he is entitled to a preference status under paragraphs (1) through [(7)] (6) of subsection (a), or to a special immigrant status under section 101(a)(27), or that he is an immediate relative of a United States citizen as specified in section 201(b). In the case of any alien claiming in his application for an immigrant visa to be an immediate relative to a United States citizen as specified in section 201(b) or to be entitled to preference immigrant

status under paragraphs (1) through (6) of subsection (a), the consular officer shall not grant such status until he has been authorized to do so as provided by section 204.

* * * * * * *

[(f) The Attorney General shall submit to the Congress a report containing complete and detailed statement of facts in the case of each alien who conditionally entered the United States pursuant to subsection (a) (7) of this section. Such reports shall be submitted on or before January 15 and June 15 of each year.

[(g) Any alien who conditionally entered the United States as a refugee, pursuant to subsection (a)(7) of this section, whose conditional entry has not been terminated by the Attorney General pursuant to such regulations as he may prescribe, who has been in the United States for at least two years, and who has not acquired permanent residence, shall forthwith return or be returned to the custody of the Immigration and Naturalization Service and shall thereupon be inspected an examined for admission into the United States, and his case dealt with in accordance with the provisions of sections 235, 236, and 237 of this Act.

[(h) Any alien who, pursuant to subsection (g) of this section, is found, upon inspection by the immigration officer or after hearing before a special inquiry officer, to be admissible as an immigrant under this Act at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a)(20), shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.]

* * * * * * *

ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES

SEC. 207. (a) Except as provided in subsection (b), the number of refugees who may be admitted under this section in any fiscal year may not exceed fifty thousand, unless the President determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of fifty thousand is justified by humanitarian concerns. Admissions under this subsection shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation.

(b) If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed 12 months) in response to the emergency refugee situation and such admissions shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after the appropriate consultation provided under this subsection.

(c)(1) Subject to the numerical limitations established pursuant to subsections (a) and (b), the Attorney General may, in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe, admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act.

(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of any refugee who qualifies for admission under paragraph (1) shall, if not otherwise entitled to admission under such paragraph, be entitled to the same admission status as such refugee if accompanying, or following to join, such refugee and if the spouse or child is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act. Upon the spouse's or child's admission to the United States, such admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged.

(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking admission to the United States under this subsection, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation.

(4) The refugee status of any alien (and of the spouse or child of the alien) may be terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe if the Attorney General determines that the alien was not in fact a refugee within the meaning of section 101(a)(42) at the time of the alien's admission.

(d)(1) Before the start of each fiscal year the President shall report to the Committees on the Judiciary of the House of Representatives and of the Senate regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year. The President shall provide for periodic discussions between designated representatives of the President and members of such Committees regarding changes in the worldwide refugee situation, the progress of refugee admissions, and the possible need for adjustments in the allocation of admissions among refugees.

(2) As soon as possible after representatives of the President initiate appropriate consultation with respect to an increase in the number of refugee admissions under subsection (a) or with respect to the admission of refugees in response to an emergency refugee situation under subsection (b), the Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of such consultation.

(e) For purposes of this section, the term "appropriate consultation" means, with respect to the admission and allocation of refugees, discussions in person by designated Cabinet-level representatives of

the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns, and to provide such members with the following information:

(1) A description of the nature of the refugee situation.

(2) A description of the number and allocation of the refugees to be admitted.

(3) A description of the proposed plans for their movement and resettlement and the estimated cost of their movement and resettlement.

(4) An analysis of the anticipated social, economic, and demographic impact of their admission to the United States.

(5) Such additional information as may be appropriate or requested by such members.

To the extent possible, information described in this subsection shall be provided at least two weeks in advance of discussions in person by designated representatives of the President with such members.

ASYLUM PROCEDURE

SEC. 208. (a) The Attorney General shall establish a procedure for an alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for asylum, and the alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

(b) Asylum granted under subsection (a) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided.

(c) A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (a) shall, if not otherwise eligible for asylum under such subsection, be entitled to the same status as the alien.

ADJUSTMENT OF STATUS OF REFUGEES

SEC. 209. (a)(1) Any alien who has been admitted to the United States under section 207—

(A) whose admission has not been terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe,

(B) who has been physically present in the United States for at least two years, and

(C) who has not acquired permanent resident status,

shall, at the end of such two years, return or be returned to the custody

of the Service for inspection and examination for admission to the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

(2) Any alien who is found upon inspection and examination by an immigration officer pursuant to paragraph (1) or after a hearing before a special inquiry officer to be admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of the alien's inspection and examination shall, notwithstanding any numerical limitation specified in this Act, be regarded as lawfully admitted to the United States for permanent residence as of the date of such alien's arrival into the United States.

(b) Not more than five thousand of the refugee admissions authorized under section 207(a) in any fiscal year may be made available by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least two years after being granted asylum,

(3) continues to be a refugee within the meaning of section 101(a)(42)(A) or a spouse or child of such a refugee,

(4) is not firmly resettled in any foreign country, and

(5) is admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

Upon approval of an application under this subsection, the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date two years before the date of the approval of the application.".

(c) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking adjustment of status under this section, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

DOCUMENTARY REQUIREMENTS

SEC. 211. (a) Except as provided in subsection (b) *and subsection (c)* no immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such visa of the accompanying parent, and (2) presents a valid unexpired passport or other suitable traved document, or document of identity and nationality, if such document is required under the regulations issued by the

Attorney General. With respect to immigrants to be admitted under quotas of quota areas prior to June 30, 1968, no immigrant visa shall be deemed valid unless the immigrant is properly chargeable to the quota area under the quota of which the visa is issued.

* * * * * * *

(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States under section 207.

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212. (a) Except as otherwise provided in this Act, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

(1) * * *

* * * * * * *

(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a)(3) and (6), and to nonpreference immigrant aliens described in section 203(a)[(8)] (7);

* * * * * * *

(32) Aliens who are graduates of a medical school not accredited by a body or bodies approved for the purpose by the Commissioner of Education (regardless of whether such school of medicine is in the United States and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)[(8)] (7);

* * * * * * *

(d)(1) * * *

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(5)(A) The Attorney General may, *except as provided in subparagraph (B)*, in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.

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CHAPTER 5—DEPORTATION; ADJUSTMENT OF STATUS

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COUNTRIES TO WHICH ALIENS SHALL BE DEPORTED; COST OF DEPORTATION

SEC. 243. (a) * * *

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[(h) The Attorney General is authorized to withhold deportation of any alien (other than an alien described in section 241(a)(19)) within the United States to any country in which in his opinion the alien would be subject to persecution on account of race, religion, or political opinion and for such period of time as he deems to be necessary for such reason.]

(h)(1) The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(C) there are serious reasons for considering that the alien has committed a serious non-political crime outside the United States prior to the arrival of the alien in the United States; or

(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States.

SUSPENSION OF DEPORTATION; VOLUNTARY DEPARTURE

SEC. 244. (a) * * *

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(d) Upon the cancellation of deportation in the case of any alien under this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date the cancellation of deportation of such alien is made, and unless the alien is an immediate relative within the meaning of section 201(b) the Secretary of State shall reduce by one the number of nonpreference immigrant visas authorized to be issued under section 203(a)[(8)](7) for the fiscal year then current.

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TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

CHAPTER 1—MISCELLANEOUS

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CHAPTER 2—REFUGEE ASSISTANCE

OFFICE OF REFUGEE RESETTLEMENT

SEC. 411. (a) There is established, within the Department of Health, Education, and Welfare, an office to be known as the Office of Refugee Resettlement (hereinafter in this chapter referred to as the "Office"). The head of the Office shall be a Director (hereinafter in this chapter referred to as the "Director"), to be appointed by the Secretary of Health, Education, and Welfare (hereinafter in this chapter referred to as the "Secretary"), who shall report directly to the Secretary.

(b) The function of the Office and its Director is to fund and administer (directly or through arrangements with other Federal agencies) programs of the Federal Government under this chapter which are designed to provide domestic assistance to refugees including—

(1) initial resettlement (including initial reception and placement with sponsors) of refugees in the United States;

(2) services to refugees and overall planning for their effective resettlement;

(3) assistance or reimbursement to State and local governmental agencies to adjust to admissions of refugees; and

(4) any other Federal grants, agreements, payments, or contracts with public or private agencies for the provision of any of the services described in paragraph (1), (2), or (3).

AUTHORIZATION FOR PROGRAMS FOR DOMESTIC RESETTLEMENT OF AND ASSISTANCE TO REFUGEES

SEC. 412. (a) CONDITIONS AND CONSIDERATIONS.—(1) In providing assistance under this section, the Director shall, to the extent of available appropriations, (A) make available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible, (B) provide refugees with the opportunity to acquire sufficient English language training

to enable them to become effectively resettled as quickly as possible, (C) insure that cash assistance is made available to refugees in such a manner as not to discourage their economic self-sufficiency, in accordance with subsection (e)(2), and (D) insure that women have the same opportunities as men to participate in training and instruction.

(2) The Director shall consult regularly with State and local governments and private nonprofit voluntary agencies concerning the development and implementation of criteria relating to the sponsorship process and the intended distribution of refugees among the States and localities.

(3) In the provision of domestic assistance under this section, the Director shall make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services under this chapter in each of the States and the resources available to meet such needs. In allocating resources, the Director shall avoid duplication of services and provide for maximum coordination between agencies providing related services.

(4) No grant or contract may be awarded under this section unless an appropriate proposal and application (including a description of the agency's ability to perform the services specified in the proposal) are submitted to, and approved by, the Director. The Director shall make grants and contracts to those public or private agencies which the Director determines can best perform the services. Payments may be made under grants and contracts under this chapter in advance or by way of reimbursement.

(5) Assistance and services funded under this section shall be provided to refugees without regard to race, religion, nationality, sex, or political opinion.

(6) As a condition for receiving assistance under this section, a State must—

(A) submit to the Director a plan which provides—

(i) a description of how the State intends to encourage effective refugee resettlement and to promote economic self-sufficiency as quickly as possible,

(ii) a description of how the State will insure that language training and employment services are made available to refugees receiving cash assistance,

(iii) a description of how the State will provide for Statewide coordination of services to refugees in the State,

(iv) for the designation of an individual, employed by the State who will be responsible for such coordination,

(v) for the care and supervision of and legal responsibility for unaccompanied refugee children in the State, and

(vi) for the identification of refugees who at the time of resettlement in the State are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation and such monitoring of such treatment or observation as may be necessary;

(B) meet standards, developed by the Director, which assure the effective resettlement of refugees and which promote their economic self-sufficiency as quickly as possible and the efficient provision of services; and

(C) submit to the Director, within a reasonable period of time after the end of each fiscal year, a report on the uses of funds provided under this chapter which the State is responsible for administering, including in such report—

(i) a list of grants and contracts made, with funds provided under this section, by or through the State or local government agencies to public or private agencies within the State during the year,

(ii) the total amount of funds available to the State under each program under this section for the year, and

(iii) a report on the number of individuals served by programs, projects, or activities assisted with such Federal funds.

(7) The Secretary shall develop a system of monitoring the assistance provided under this section. This system shall include—

(A) evaluations of the effectiveness of the programs funded under this section and the performance of States, grantees, and contractors;

(B) financial auditing and other appropriate monitoring to detect any fraud, abuse, or mismanagement in the operation of such programs; and

(C) data collection on the services provided and the results achieved.

(8) The Attorney General shall provide the Director with the information supplied by refugees in conjunction with their applications to the Attorney General for adjustment of status, and the Director shall compile, summarize, and evaluate such information.

(9) For purposes of this chapter, the term "refugee" includes any alien described in section 207(c)(2).

(b) PROGRAM OF INITIAL RESETTLEMENT.—(1) For—

(A) fiscal year 1980 only, the Secretary of State is authorized, and

(B) fiscal year 1981 and succeeding fiscal years, the Director is authorized,

to make grants to, and contracts with, public or private nonprofit agencies for initial resettlement (including initial reception and placement with sponsors) of refugees in the United States. In making such grants to, or contracts with, private nonprofit voluntary agencies the Secretary of State (for fiscal year 1980) and the Director (for succeeding fiscal years) shall, consistent with the objectives of this chapter, take into account the different resettlement approaches and practices of such agencies. During fiscal year 1980, the Secretary of State shall provide for the coordination of the provision of resettlement assistance under this paragraph in coordination with the provision of other assistance provided for by the Director under this chapter. The Secretary of State and the Director shall jointly monitor the assistance provided during fiscal year 1980 under this paragraph.

(2) The Director shall develop programs and make arrangements, where appropriate, for such orientation, instruction in English, and job training for refugees, and such other education and training of refugees, during any period when the refugees are awaiting entry into the United States, as facilitates their resettlement in the United States.

(3) The Director is authorized to make arrangements (including cooperative arrangements within the Department of Health, Education, and Welfare, and with other Federal agencies) for the temporary care of refugees in the United States in emergency circumstances, including the establishment of processing centers, if necessary.

(4) The Director shall—

(A) assure that an adequate number of trained staff are available at the location at which the refugees enter the United States to assure that all necessary medical records are available and in proper order;

(B) provide for the identification of refugees who, at the time of arrival, are determined to have medical conditions requiring treatment;

(C) assure that State or local health officials at the resettlement destination within the United States of each refugee are promptly notified of the refugee's arrival and provided with all applicable medical records not later than the time of the refugee's arrival in the United States; and

(D) provide for such monitoring of refugees identified under subparagraph (B) as will insure that they receive appropriate and timely treatment.

The Director shall develop and implement methods for monitoring and assessing the quality of medical screening and related health services provided to refugees awaiting resettlement in the United States.

(c) PROJECT GRANTS AND CONTRACTS FOR SERVICES FOR REFUGEES.—The Director is authorized to make grants to, or enter into contracts with, public or private nonprofit agencies for projects specifically designed—

(1) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services;

(2) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and

(3) to provide health (including mental health) services, social services, educational and other services, where specific needs have been shown and recognized by the Director.

(d) ASSISTANCE FOR REFUGEE CHILDREN.—(1) The Director is authorized to make grants, and enter into contracts, for payments to State and local agencies for projects to provide special educational services (including English language training) to refugee children in elementary and secondary schools where a demonstrated need has been shown.

(2)(A) The Director is authorized to provide assistance, reimbursement to States, and grants to and contracts with private nonprofit agencies, for the provision of child welfare services, including foster care maintenance payments and services and health care, furnished to refugee children (except as provided in subparagraph (B)) during the 48-month period beginning with the first month in which the refugee children are in the United States.

(B) (i) In the case of a refugee child who is unaccompanied by a parent or other close adult relative (as defined by the Director), the services described in subparagraph (A) may be furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of the Social Security Act prescribes for the availability of such services to any other child in that State).

(ii) The Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the Director shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

(iii) In carrying out the Director's responsibilities under clause (ii), the Director is authorized to contract with appropriate public or private nonprofit agencies under such conditions as the Director determines to be appropriate.

(iv) The Director shall prepare and maintain a list of (I) all such unaccompanied children who have entered the United States after April 1, 1975, (II) the names and last known residences of their parents (if living) at the time of arrival, and (III) the children's location, status, and progress.

(e) CASH ASSISTANCE AND MEDICAL ASSISTANCE TO REFUGEES.—(1) The Director is authorized to provide assistance, reimbursement to States, and grants to, and contracts with, public or private nonprofit agencies for up to 100 percent of the cash assistance and medical assistance provided to refugees during the 48-month period beginning with the first month in which the refugees have entered the United States and for the identifiable and reasonable administrative costs of providing the assistance.

(2) Cash assistance provided under this subsection to an employable refugee is conditioned, except for good cause shown—

(A) on the refugee's registration with an appropriate agency providing employment services described in subsection (c)(1), or, if there is no such agency available, with an appropriate State or local employment service, and

(B) on the refugee's acceptance of appropriate offers of employment,

except that subparagraph (A) does not apply during the first 60 days after the date of the refugee's entry.

(3) The Director shall develop plans to provide English training and other appropriate services and training to refugees receiving cash assistance.

(4) If a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplemental security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or

for such supplemental payments with respect to cash and medical assistance provided with respect to such refugee under this paragraph.

(5) The Director is authorized to allow for the provision of medical assistance under paragraph (1) to any refugee, during the one-year period after entry, who does not qualify for assistance under a State plan approved under title XIX of the Social Security Act on account of any resources or income requirement of such plan, but only if the Director determines that—

(A) this will (i) encourage economic self-sufficiency, or (ii) avoid a significant burden on State and local governments, and

(B) the refugee meets such alternative financial resources and income requirements as the Director shall establish.

CONGRESSIONAL REPORTS

SEC. 413. (a)(1) The Director shall submit a report on activities of the Office under this chapter to each member of the Committees on the Judiciary of the House of Representatives and of the Senate not later than December 31, 1979, for the fiscal year ending on September 30, 1979, not later than each May 31 thereafter, for the six-month fiscal period ending on the preceding March 31, and not later than each November 30 thereafter, for the fiscal year ending on the preceding September 30.

(2) Each such report shall contain —

(A) an updated profile of the employment and labor force statistics for refugees admitted under the Immigration and Nationality Act since May 1975, as well as a description of the extent to which refugees received the forms of assistance or services under this chapter during that period;

(B) a description of the geographic location of refugees;

(C) a summary of the results of the monitoring and evaluation conducted under section 412(a)(7) during the period for which the report is submitted;

(D) a description of (i) the activities, expenditures, and policies of the Office under this chapter and of the activities of States, voluntary agencies, and sponsors, and (ii) the Director's plans for improvement of refugee resettlement;

(E) evaluations of the extent to which (i) the services provided under this chapter are assisting refugees in achieving economic self-sufficiency, achieving ability in English, and achieving employment commensurate with their skills and abilities, and (ii) any fraud, abuse, or mismanagement has been reported in the provision of services or assistance;

(F) a description of any assistance provided by the Director pursuant to section 412(e)(5);

(G) a summary of the location and status of unaccompanied refugee children admitted to the United States;

(H) a summary of the information compiled and evaluation made under section 412(a)(8); and

(I) a summary of the number of waivers granted by the Attorney General under section 207(c)(3) to refugees during the period for which such report is required and a summary of the reasons for granting such waivers.

(b) The Secretary shall conduct and report to Congress, not later than one year after the date of the enactment of this chapter, an analysis of—

(1) resettlement systems used by other countries and their applicability to the United States,

(2) the desirability of using a system other than the current welfare system for the provision of cash assistance, medical assistance, or both, to refugees, and

(3) alternative resettlement strategies.

(c) The Director shall keep the Committees on the Judiciary of the House of Representatives and of the Senate appropriately informed of important developments affecting the use of funds and exercise of functions authorized by this chapter.

AUTHORIZATION OF APPROPRIATIONS

SEC. 414. (a)(1) There are hereby authorized to be appropriated for the two-year-fiscal period ending September 30, 1981, such sums as may be necessary for the purpose of providing initial resettlement assistance, cash and medical assistance, and child welfare services under subsections (b)(1), (b)(3), (b)(4), (d)(2), and (e) of section 412.

(2) There are hereby authorized to be appropriated $200,000,000 for the two-fiscal year period ending September 30, 1981, for the purpose of carrying out the provisions (other than those described in paragraph (1)) of this chapter.

(b) The authority to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

SECTION 6 OF THE ACT OF OCTOBER 5, 1978

AN ACT To amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy

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SEC. 5. Notwithstanding any other provision of law, any refugee, not otherwise eligible for retroactive adjustment of status, who was or is paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Nationality Act before September 30, [1980] *1979*, shall have his status adjusted pursuant to the provisions of section 203 (g) and (h) of that Act.

SECTION 2 OF THE MIGRATION AND REFUGEE ASSISTANCE ACT OF 1962

SEC. 2. (a) The President is hereby authorized to continue membership for the United States in the Intergovernmental Committee for European Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953. For the purpose of assisting in the

movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Committee and all necessary salaries and expenses incident to United States participation in the Committee.

(b) There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or in behalf of whom he is exercising his good offices; *and*

(2) for assistance to or in behalf of refugees, *who are outside the United States* designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the defense, or to the security, or to the foreign policy interests of the United States[;].

[(3) for assistance to or in behalf of refugees in the United States whenever the President shall determine that such assistance would be in the interest of the United States: *Provided*, That the term "refugees" as herein used means aliens who (A) because of persecution or fear of persecution on account of race, religion, or political opinion, fled from a nation or area of the Western Hemisphere; (B) cannot return thereto because of fear of persecution on account of race, religion, or political opinion; and (C) are in urgent need of assistance for the essentials of life;

[(4) for assistance to State or local public agencies providing services for substantial numbers of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof) for (A) health services and educational services to such individuals, and (B) special training for employment and services related thereto;

[(5) for transportation to, and resettlement in, other areas of the United States of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof) and who, having regard for their income and other resources, need assistance in obtaining such services; and

[(6) for establishment and maintenance of projects for employment or refresher professional training of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof) and, who having regard for their income and resources, need such employment or need assistance in obtaining such retraining.]

(c)(1) Whenever the President determines it to be important to the national interest he is authorized to furnish on such terms and conditions as he may determine assistance under this Act for the purpose of meeting unexpected urgent refugee and migration needs *with respect to individuals who are outside the United States.*

(2) There is established a United States Emergency Refugee and Migration Assistance Fund to carry out the purposes of this section.

There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the fund to carry out the purposes of this section, except that no amount of funds may be appropriated which, when added to amounts previously appropriated but not yet obligated, would cause such amounts to exceed $25,000,000. Amounts appropriated hereunder shall remain available until expended.

(3) Whenever the President requests appropriations pursuant to this authorization he shall justify such requests to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives, as well as to the Committees on Appropriations.

* * * * * * *

ADDITIONAL VIEWS OF HON. ROBERT McCLORY

At the outset, I wish to indicate my strong support for comprehensive refugee legislation. As one of the Members of the Judiciary Committee who has participated in informal "consultations" during several of the past parole requests, I can personally attest to the need to replace our present ad hoc system with a permanent and comprehensive program for the admission of refugees and assistance for their resettlement in this country.

The bill we report, H.R. 2816, provides for such a program. However, I feel the bill should include additional provisions to take a more realistic approach to this problem.

(*1*) *Sunset provisions.*—In P.L. 95–412, Congress established a Select Commission on Immigration and Refugee Policy, charged with the responsibility to study overall policies in these areas, and make recommendations for long-range reforms (The Immigration and Nationality Act has not been thoroughly revised since 1952.). Clearly their mandate includes evaluation of the total number of immigrants—including refugees—that our country can successfully absorb in the future. Efforts to limit the term of this bill to the short-term future—until September, 1982, a date by which the Select Commission Report will have been issued and its recommendations evaluated—were unsuccessful. (The Senate version of this bill—S. 643—contains such a provision.)

I feel some type of sunset provision should be included. In this way, we can provide for the current refugee situation, and retain the broadest options in developing overall immigration policy following the Select Commission's report. The Commission's recommendations regarding refugees may be the same as the structure established in this bill. On the other hand, they may see refugee admissions differently in their conclusions regarding total immigration. Our actions should *not* be viewed as establishing a permanent refugee policy, thereby compromising the work of the Select Commission.

We should give the Commission the boadest latitude to carry out its mandate, and a sunset provision would accomplish this.

(*2*) *Lack of Criteria.*—This bill transfers broad authority to the executive to determine the numbers of refugees to be admitted to this country. The President may determine the numbers of "normal flow" refugees of over the 50,000 authorized annually, as well as the numbers of refugees admitted due to an unforeseen emergency. Members of Congress would be consulted on all admissions above the 50,000 normal flow. However, the bill fails to include any criteria to guide the executive in determining the number and identity of refugees.

There are millions of persons who may qualify under the expanded definition of refugee in this bill. Obviously, they all cannot come to this country. We must choose—from those who seek to come—those who we will admit. The bill requires that refugees be of "special humanitarian

concern" for purposes of allocating refugee numbers. However, the bill fails to establish even broad guidelines, setting forth what is considered to be such concern.

Indochinese refugees are now admitted if they are (1) close relatives of persons living in the United States; (2) former employees of the United States, or (3) had other prior close association with the United States. Such criteria might not apply to all refugee situations, but I feel that the Congress should set forth some broad guidelines that, while not necessarily binding, will assist in focusing on refugees who should be accepted for admission.

(*3*) *New Bureaucracy in HEW.*—This bill would create a new office, within the office of the Secretary of Health, Education, and Welfare to coordinate and direct all phases of the refugee resettlement program. (The Senate bill merely expands the definition of aid that could be made available to refugees within the existing structure).

The Administration bill created no such new office. No testimony was taken on this proposal and the Administration has indicated that they oppose it as an unnecessary and inflexible structure. By a letter of September 17, 1979, the Co-ordinator for Refugee Affairs stated: "* * * We oppose establishment of such an office in statute." A management analysis by HEW as to how best to administer the refugee settlement program is underway, but not yet complete. (The present assistance to refugees is administered through the Social Security Administration).

There is little to be gained by imposing on HEW, at this time, an inflexible structure as is done in this bill. It would be far better to leave the structure for domestic refugee assistance as it is at present, and allow time for completion of the management study. Subcommittee oversight of the implementation of this program should indicate if deficiencies exist in its administration and, if so, appropriate changes can be recommended.

ROBERT MCCLORY.

SEPARATE VIEWS OF MR. BUTLER

I concur with the conclusions reached in the Additional Views of Mr. McClory and the Additional Minority Views of Mr. Hyde. When this bill is considered by the full House, I shall support efforts to make improvements in this bill consistent with those views.

However, it is my present intention to vote in favor of this legislation so that we can establish a rational mechanism for the admission of refugees, rather than the current inadequate system through the use of the Attorney General's parole authority.

M. CALDWELL BUTLER.

ADDITIONAL VIEWS OF HON. F. JAMES SENSENBRENNER, JR.

I voted against H.R. 2816 because the bill does not address the issue of the total numbers of refugees and immigrants entering the United States.

There is a growing concern on the part of the American public about the influx of refugees and immigrants in the United States. I am afraid that a backlash will occur if there is too large an influx of refugees in the United States.

During the Committee mark-up, Congressman Sawyer and I offered amendments which would have required the number of refugees over 50,000 admitted to the United States on an annual basis included in the set quota of 270,000 for overall immigration admissions. In other words to the extent that the President admits two refugees over this 50,000 limit, there is a debit of one on the 270,000 immigrant quota every year.

The effect of this amendment would be to merely reduce the quota of immigrants from all countries, thereby forcing these other countries that could accept refugees for resettlement to live up to their obligations. It recognizes the fact that the world has an obligation to resettle refugees just as the United States has an obligation to resettle refugees. If these countries are not concerned about their humanitarian obligation then the immigration quotas from these unconcerned countries will be reduced proportionately.

The Geneva Conference helped settle some of these concerns in regards to the "boat people." However, it is unrealistic to think that the United States can count on future Geneva Conferences to help settle the continuing problem of other nations neglecting their moral responsibility in future crises.

Hopefully, these and other problems will be corrected when H.R. 2816 reaches the floor.

F. JAMES SENSENBRENNER, Jr.

ADDITIONAL MINORITY VIEWS

H.R. 2816 in its present form gives me a number of concerns, both in its content and more importantly in its omissions.

The main omission is its silence on a refugee policy. This legislation, as I see it, merely puts into law the haphazard practices we have been following since 1956 when the first parole program was instituted to respond to the Hungarian uprising. It merely provides for procedures without addressing the basic philosophical issues which should act as guidelines in assessing refugee situations as they arise, commencing with the difficult but essential task of identifying bona fide refugees.

H.R. 2816 preserves the "squeaky wheel" concept in identifying refugees and gets the Attorney General "off the hook" from making a political end run around the parole provision of the Immigration and Nationality Act.

The bill enormously widens the definition of a refugee, by allowing any person in or out of his country to qualify as a refugee by claiming persecution or well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion. According to the United Nations High Commissioner for Refugees, this definition applies to 13 to 14 million people in the world. The only qualification for selecting which refugees are to be admitted is the requirement that they must be refugees of "special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation."

This is precisely where the "squeaky wheel" concept operates. Are special humanitarian concerns dictated by political considerations, foreign policy concerns, special interest pressures, press and other media coverage or are they dictated by oppressive conditions existing in a particular country? Starvation in Bangladesh, restrictive apartheid policies in South Africa, arbitrary imprisonment of political opponents in government changeovers—are these issues of special humanitarian concern? And is the chief political figure in the United States the person to make these judgments?

The Soviet Union, in a bid to encourage removal of the Jackson-Vanik Amendment, has greatly liberalized the issuance of exit visas to Israel. In a letter to Congressman Hyde and Railsback, dated April 18, 1979, Immigration officials in Rome provided the following information:

> Since 1970, the Soviet Program has shown a remarkable increase from 419 cases in 1970 to over 9,000 during the first six months of Fiscal Year 1979. An unforeseen increase in the number of Soviets arriving in Rome took place beginning October 1978. Information received by INS Rome indicates

that this increase is due to the fact that the Soviets are seeking favored nation status for trade purposes from the United States. It had been learned during October 1978 that the Soviets were issuing 3,000 exit permits per month for Soviet Jews desiring to exit that country. In December 1978, INS Rome learned that the Soviets would increase the number of exit visas issued to 5,000 per month commencing on January 1, 1979. Concerning this fact it should be noted that during March 1979 approximately 4,800 Soviet Jews arrived in Vienna from the USSR, and approximately 3,200 of this group dropped out in Vienna electing to come to Rome to apply as refugees at the American Embassy rather than going on to Israel from Vienna. For the month of April and up to April 17, 2,266 Soviet Jews had arrived in Vienna and 1,575, a total of 65%, dropped out electing to come to Rome. Note also that since 1972 the percentage of drop-outs in Vienna has risen from somewhere around 30% to approximately 65% during April 1979.

On April 9, 1979, there were over 10,000 Soviet Jews in Rome registered with HIAS. Of this number, approximately 4,500 have been presented to INS Rome as parole applicants. In view of this large number of Jews physically present in Rome, the total maintenance costs of these persons, which of course comes from USRP funds, had reached approximately $75,000 per day, or approximately a little over $7.00 per day per person. The State Department, being concerned with this large expenditure, has for months been requesting a new parole program from the Attorney General. The new program was authorized on April 9, 1979. In order to expedite the processing of this large number of refugees, INS Washington authorized a crash program for the INS office in Rome. Five Immigration Officers were sent to Rome during the week of April 16, 1979, to assist in the processing of this large group. The INS goal is to process for approval 10,000 Soviet Jews between April 16, and June 15, 1979.

Let us apply this new definition of refugee to the Soviet Jews who are permitted to leave the Soviet Union presumably destined for Israel. They reach Vienna, Austria, and there about two-thirds opt to come to the United States instead of proceeding to Israel. We admit that there is discrimination concerning these people in the Soviet Union, but they do leave with a valid destination in a democratic hospitable country where they are wanted, needed and cared for. Instead they choose to come to the United States purely for economic and personal reasons. We accept them as refugees, but when we look down the line are they not really immigrants? Surely we are not helping Israel by encouraging over two-thirds of these Soviet "refugees" to come to the United States when Israel desperately needs and wants them.

We are coming back to the age-old problem of making a differentiation between a political refugee and an economic refugee. This distinction is not addressed in this legislation.

Ethnic Chinese in Vietnam flee primarily for economic reasons because their way of life from that of shopkeeper or merchant has been transformed to that of a rural worker. The moment he gets on a boat and lands in an asylum area he is considered a "boat case" and immediately has admission preference to the United States.

A further distinction is warranted here—the moment we hear that an Indochinese refugee has been selected for another country for resettlement, the United States no longer considers him eligible for the U.S. refugee program.

This same policy is not followed in the case of Soviet Jews—why? Special humanitarian concerns, if they apply in these cases, should not differ unless there are other considerations which make the distinction relevant.

It is worth noting that a fifth preference Filipino (with a brother or sister a citizen of the United States) must wait ten years to be admitted under our present immigration laws.

Let me turn to the consultation process as contained in the bill—Members of the Judiciary Committees meet with a cabinet-level official of the Executive Branch who explains the President's program for allocation of numbers; 50,000 or more refugees for the coming fiscal year. What happens if the Congressional representatives disagree with the numbers, allocations or the basic rationale of a particular refugee situation? Is the Administration required to be bound by the dissenting opinion? Nothing in the bill talks about approval or disapproval. As I see it, the President can go ahead in spite of any contrary opinion by the Congressional consultees. We are told we can impose our viewpoint by withholding funds to finance a program we disagree with. Is this really the way to implement a refugee policy?

I believe that this bill dilutes the Congressional mandate of absolute authority over immigration matters. This bill gives the Executive Branch and the President complete control over refugee matters whether we like it or not.

I further question whether four Members of the Judiciary Committee in the consultation process should be empowered to act for the full House. We know there are many divergent views on refugee matters. We have seen it with special parole programs for Cambodians, Lebanese, Ugandans, etc., all initiated by Members who have a special concern for one particular group or another. Under this bill, how are these special concerns to be treated or even expressed?

My one big fear is that if this bill is passed and becomes the Refugee Act of 1979, and its provisions are liberally interpreted in accordance with the expanded definition of refugee with minimal Congressional control, we may create a backlash situation which jeopardize any and all refugee programs and deny admission to the most worthy.

We need an orderly immigration and refugee policy which will be reflected in an orderly immigration and refugee program. We have created a Select Commission to do exactly that because we realize that no comprehensive study on immigration has been made for years.

Now, suddenly we jump the gun and legislate a refugee bill on a minimum of information with absolutely no idea where we are going, what we can expect, and above all, whether we can in the long run absorb the level of admissions permitted by this bill.

To me, an immigrant is an immigrant and all of them should be treated in the same manner. We should carefully define a refugee and put into the law some workable and acceptable guidelines that won't impose an impossible burden on the President, nor subject him to irresistible political pressures. We have failed to do this. We must resist external pressures which cause us to shift our humanitarian principles and philosophy in favor of political and/or foreign policy considerations.

Let us examine each individual refugee on a case-by-case basis to satisfy ourselves that there is really persecution or a well-founded fear of persecution; that we in fact are dealing with special humanitarian concerns and not merely with a situation for which a circumstantial case has been built, and that the other nations of the world are doing their part to alleviate the misery caused by war and disruption.

The American people expect no less of us.

HENRY J. HYDE.
HAROLD S. SAWYER.

MINORITY VIEWS

We have found ourselves in a difficult position through the debate on this bill. We firmly believe the American people are generous, open-hearted and touched by the plight of the boat people, and we have responded generously.

We are now committed to a large-scale increase in the number of refugees admitted into the United States. But, there are those who want that increase to be a permanent change in American immigration law, rather than just to be a temporary response to the current Indochinese crisis.

The Refugee Act of 1979, which this Committee considered, increases the number of refugees brought to the United States and gives the President almost unilateral power to further increase the number of refugees who may come above the quota. Only pro forma consultation with Congress is required of the President, and there is no number limit to the number of refugees he may add.

We oppose this bill, as presently written, on the grounds that we have failed to adequately consider all the implications of unlimited increases in immigration to the U.S.

In Vietnam, America learned that it cannot be the world's policeman. From the Vietnamese, we also have to learn that we cannot be the world's refuge. The problem is too big. Aside from the boat people, the United Nations has determined that there are fourteen million refugees in the world today. There is no way we can admit more than a small fraction into the U.S., and to hold out the hope that we can will only worsen the problem by calling forth new waves of refugees.

In addition, refugees are only part of America's immigration program. The people understand that refugees are immigrants. The United States is the greatest country of immigration in the world today; no other country approaches the number of new immigrants the United States accepts every year. The quota ceiling for legal immigration to the United States is now 290,000 a year—and yet legal immigration is approaching a half million a year. The number of illegal immigrants is impossible to know, though unofficially, reaches into the millions each year. We are discussing adding a number of thousands of refugee immigrants which we are unable to predict on top of the number of immigrants which we are unable to count. The people want us to control our immigration before we take on a job of immigration which promises to further burden our population.

We have failed to adequately consider all the implications of unlimited increases in immigration to the U.S. In considering H.R. 2816, all testimony was aimed at assisting refugee resettlement and the need for additional funds to pay for the program. The bigger concern of the flow of immigrants to this country has not been addressed. This

lack of knowledge is widespread. The President's own Interagency Task Force of Immigration pointed this out in its March 1979 staff report:

> Little attention has been given to the collection and analysis of data of legal immigration and, as a result, there is presently a lack of data with which to evaluate immigration policy.
>
> We question, given this lack of research and data, whether we are making a serious mistake by making such a major permanent change in our immigration policies and quotas.

The Congress recognized this lack of information and need for comprehensive review of immigration and refugee law last year by creating the Select Commission on Immigration and Refugee Policy. The Commission has a $2.5 million budget and is scheduled to issue its final report by December 1980. The Commission was specifically instructed to "assess the social, economic, political, and demographic impact of previous refugee programs and review the criteria for, and numerical limitations on the admission of refugees to the United States."

Now, instead of waiting to receive the recommendations of this blue-ribbon Commission, we are undermining their responsibility by leaping into substantial policy changes. How can we justify this inconsistency to the American people?

There are other difficult questions which we cannot avoid. We cannot overlook the fact that this nation is faced with a long-term energy crisis, resource scarcity, inflation and unemployment, all of which are further strained by population increases. The cost of refugee programs is escalating rapidly. The Cuban refugee program has cost about $1.3 billion. From April 1975 through June 1979 we have spent in excess of one billion dollars on Indochinese refugee assistance programs. With increased flows in fiscal year 1980, our refugee assistance efforts will reach close to $1 billion. These amounts are in addition to the generosity which has been expended by numerous private agencies and individuals.

The point is not that we should cut off funding for important refugee resettlement programs, but rather we must begin to count the future costs in making the decision now to admit unlimited numbers of refugees.

Another concern that we have over H.R. 2816 is that we will cause a let-up in the effort which has finally been expressed by other nations in accepting the world's refugees.

By saying that the United States will always be open to unlimited numbers of refugees, we cannot hope to secure commitments from other nations to accept greater numbers of refugees. The United States must adopt policies which will encourage others to act in a humanitarian fashion.

The United States must have an immigration policy which is as fair to American citizens as it is to immigrants. The present refugee crisis in Southeast Asia shows no signs of abating. We will continue to show compassion and concern and meet this emergency situation; but, we do not need to make major policy changes now which will give the President power for all the years to come.

REFUGEE ADMISSIONS CAN BE CONTROLLED

There is an alternative to H.R. 2816. We need not raise the ceiling on immigration continually, and the Congress need not cede to the President its power to set the immigration ceiling in accordance with the wishes of the American people. H.R. 2816 can be improved by several amendments.

First, require more certain and effective consultation with Congress. This can be accomplished through formal hearings by the Judiciary Committees on proposed admissions over 50,000 and requiring a report to fully inform the Congress as a whole on proposed increases.

Second, a sunset provision is necessary on the authority of the President to make additional admissions above 50,000 at the beginning of each fiscal year. This will insure the bill does not make permanent changes in the immigration policy because of a temporary emergency and before the Select Commission on Immigration and Refugee Policy has a chance to issue its report.

Third, refugees admitted from throughout the world over the 50,000 ceiling can be subtracted from the world ceiling on immigration. As refugee admissions go up over the 50,000 level, immigration admissions would be reduced by one-half the number of refugees over 50,000. This would integrate refugee policy with immigration policy instead of treating them as two totally separate concepts.

The United States should not be trapped between the desire to aid the suffering and the necessity of protecting our own citizens—we can do both by welcoming the refugees under a sensible immigration policy.

HAROLD S. SAWYER.
JACK BROOKS.
CARLOS J. MOORHEAD.
JOHN M. ASHBROOK.
F. JAMES SENSENBRENNER, JR.
HENRY J. HYDE.