The practice, drug and other products liability, and the numbers of tort claims would enable the Civil Division to attempt to institute an early decision within the period. In some cases where the agency does not reach a decision in 6 months, the claimant is permitted to go directly to court. These tort claims will, as in the past, in many of the cases continue to require an attorney, legal services such as those offered by lawyers, where adequate representation and reasonable compensation in these matters, the proposed bill authorizes increases in the attorney fees allowable under successful prosecution of these claims: 20 percent of the agency award and 25 percent of a court award or settlement after the filing of a complaint in court.

The bill increases the allowable fee in agency cases from the present 10 to 20 percent. The committee feels this increase will encourage attorneys to take these claims. In recommending this increase the committee points out that increased work will be required in many of the larger claims. Also, this amendment will bring the fees more nearly in line with those prevailing in private practice. Similarly, allowable fees for claims involving litigation have been raised from 20 to 25 percent.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection the bill (H.R. 13650) was considered, ordered to a third reading, was read the third time, and passed.

STATUTE OF LIMITATIONS FOR CERTAIN ACTIONS BROUGHT BY THE GOVERNMENT

The bill (H.R. 13652) to establish a statute of limitations for certain actions brought by the Government was announced as next in order.

The ACTING PRESIDENT pro tempore. Laying over other matters to the present consideration of the bill?

Mr. ERVIN. The bill expressly provides that it does not apply to tax claims. Consequently such claims are governed by other statutes of limitations under the Federal Internal Revenue law.

Mr. KUCHEL. Would the Senator say that where there are today specific provisions, that this general law would not apply?

Mr. ERVIN. The Senator is correct. This bill does not cover tax claims. It merely establishes statutes of limitations for claims of the Government based on contracts or quasi-contracts or torts. Tax claims are neither contracts nor torts.

Mr. KUCHEL. I thank the Senator.

Mr. ERVIN. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 1328), explaining the purpose of the bill.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of this bill is to establish statutes of limitations which will apply to contract and tort actions brought by the United States.

STATEMENT

A similar Senate bill, S. 3142, was introduced by Senator Sam J. Ervin, Jr.
The committee has considered these bills as a group. Their enactment will reduce unnecessary litigation and court congestion, speed up merit settlements and cut down on unproductive paperwork. At the same time, the private litigant will be accorded a more fair and balanced treatment when dealing with the Government.

The bill H.R. 13653 was the subject of a hearing on April 6, 1966. At that hearing it was noted that the Government litigation covered by the bill arises out of activity which is very much of the common variety of the contract and tort claims asserted by the Government are almost indistinguishable from claims made by private individuals against the same or an unrelated transaction. There is only right that the law should provide a period of time within which the Government action on claims justifies the time it now does to as to claiming private individuals. The committee agrees that the equality of treatment between provided cases of the bill is required by modern standards of fairness and equity.

“Statutes of limitation have the salutary effect of bringing suits within a reasonable time of the incident or situation upon which the action is based. In this way the issues presented at the trial can be decided at a time when the necessary witnesses, documents, and other evidence are still available. At the same time, it is being better to testify concerning the facts involved for their memories have not been dimmed by the passage of time. The committee believes that the prompt resolution of the matters covered by the bill is necessary to an orderly and fair administration of justice. Stale claims cannot be effectively prosecuted or adjudicated in a manner which is fair to the parties involved. Even if the passage of time does not prejudice the effective presentation of a claim, the mere preservation of records on the assumption that they will be required to substantiate a possible claim or an administrative proceeding increases the cost of keeping records. As time passes the collection problems invariably increase. The Government, therefore, is even finding the pooling of the individuals against which it may have a claim for they may have died or simply disappeared. These problems are well known to the attention of the committee previously in connection with other legislation. This bill provides the means to resolve these difficulties.

"CONTRACT ACTIONS—6 YEARS"

"Subsection (b) of section 2415 provides that even if the facts are true, based on the damage or injury from a wrongful or negligent act, must be brought by the United States within 3 years of the right such action to the first date. This 3-year period applies to all Government tort actions except those that are expressly referred to in this subsection and an original claim. This latter provision insures that the private party will be placed in a disadvantageous position because the option is given the Government to recommence an action which had previously been dismissed without prejudice.

"OFFSETS AND COUNTERCLAIMS"

"Subsection (f) of section 2415 contains consolidated drafting provisions of the Government to assert its claims by way of offset or counterclaim in actions brought against it by the United States. In other words, there is no statute of limitations applying to Government actions for offsets or a counterclaim. The Government to recommence an action which had originally brought in a timely manner and, at the same time, the opposing party is permitted to assert rights which he may have interposed in the original action.

"RECOVERY OF ERRONEOUS PAYMENTS"

"Subsection (d) provides a 6-year statute of limitations for Government actions to recover money erroneously paid to civilian employees of the United States. While payments of this type might be anticipated to those incident to a contractor, it was felt that it was necessary that the period of time for recovery be considered separately. The United States is not in a position to seek or recover its money in a timely manner. The United States has no auditors or guardians to keep records. The problems posed by this type of Government claim have been the subject of the committee on a number of occasions in connection with other legislation. The provisions of this subsection, when joined with the provisions of H.R. 13653, will provide a timely means for Government to recommence an action which had been barred in the original action. The action is similarly not barred from interposing any claim which would have been barred in the original action. The committee observes that this is in line with the underlying purpose of the bill of extending fair treatment to private litigants while cogently providing that the Government may recommence an action which had previously been dismissed without prejudice.

"RECOMMENCEMENT OF ACTIONS PREVIOUSLY DISMISSED WITHOUT PREJUDICE"

"Subsection (e) of section 2415 provides for the situation where an action has been dismissed without prejudice by providing the Government to recommence an action within 1 year regardless of whether the action would then be barred by this section. As was noted in the analysis, this type of recommence action is similarly not barred from interposing any claim which would have been barred in the original action.