

CITIZENSHIP OF CERTAIN CLASSES OF PERSONS BORN
IN THE CANAL ZONE OR REPUBLIC OF PANAMA

JULY 26, 1937.—Referred to the House Calendar and ordered to be printed

Mr. SCHULTE, from the Committee on Immigration and Naturalization, submitted the following

REPORT

[To accompany S. 2416]

The Committee on Immigration and Naturalization, to whom was referred the bill (S. 2416) relating to the citizenship of certain classes of persons born in the Canal Zone or the Republic of Panama, having considered the same, report it back to the House without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to declare and establish the citizenship of the children of American citizens, and their children, who are employees of the United States, or the Panama Railroad Co., a Government-owned instrumentality, born either in the Canal Zone proper, or in the Republic of Panama and to confer upon this class of Americans the benefits of American citizenship, the same as though they had been born in the United States.

GENERAL INFORMATION

The necessity for this legislation is apparent because the citizenship of persons born in the Canal Zone of American parents, has never been defined either by Constitution, treaty, or congressional enactment. This bill would definitely establish the certain classes entitled to citizenship.

The homes of many of the employees of the Government are located adjacent to the Canal Zone, but on the territory of the Republic of Panama. The hospitals managed by Americans under officers of the United States Army, and where the children of employees are born are located on territory of the Republic of Panama. Even children born within the limits of the Zone which is under the jurisdiction of the United States are not citizens.

These children referred to born in Panama do not come within the statutes on citizenship as they only provide for children born outside the limits and jurisdiction of the United States.

The fourteenth amendment to the Constitution provides that children born of parents residing within the United States and subject to its jurisdiction are citizens.

Children of American parents in Canal Zone are not outside the jurisdiction of the United States, neither are they within the limits of the United States.

The effective date in the bill of February 26, 1904, is because that is the date when the agreement between the Republic of Panama and the United States with reference to construction and jurisdiction of the Canal Zone became effective.

The beneficiaries under the bill are the children of American employees, under Civil Service or serving in the United States Army, who owe allegiance to the United States and are citizens in every sense except as a matter of law.

The proposed legislation is entirely different from legislation that would confer citizenship on residents of territories of the United States of different blood. The bill if enacted would not confer citizenship on any alien employee or the children of such alien employee, even though such alien children were born within the limits of the Canal Zone.

Public hearings were held on two separate days at which time representatives of the Panama Canal and residents of the Canal appeared and testified. Also representatives from the legal divisions of the State and Labor Departments. Every phase of legal and social matters involved were thoroughly discussed and no objections to the bill were made but in each instance the bill was endorsed.

As a part of this report there is included the report of the Senate committee, which contains letters of endorsement from the following Departments:

The Secretary of War, Secretary of Labor, Attorney General, and the Secretary of State.

There is also included in this report a memorandum from the Governor of the Canal Zone.

Your committee is convinced from the information and evidence as presented that there is necessity for this legislation and therefore unanimously recommend favorable action on this bill.

MEMORANDUM SUBMITTED BY THE GOVERNOR OF THE CANAL ZONE

	Born in Canal Zone	Born in Panama
Both parents American.....	1,441	1,079
Fathers American.....	356	438
Mothers only American.....	46	0
Total.....	1,843	1,517

In form the bill closely follows section 6, title 8, United States Code, which has been in effect since 1855 as to children born on the Isthmus, with only such modifications as are necessitated by special conditions on the Isthmus.

The theory underlying the bill is that the Canal Zone should not be considered as foreign territory so far as it affects the citizenship of children born here of parents one or both of whom are citizens of the United States. It does not affect children born of parents both of whom are aliens.

The primary purpose of the bill is to remove doubt as to the applicability of section 6, title 8, to persons born in the Canal Zone, and in Colon Hospital, particularly those whose fathers or mothers themselves were born of American parents and have lived in the Canal Zone all their lives. Section 6 applies to persons born out of the limits of and jurisdiction of the United States.

The precise political status of the Canal Zone has not been authoritatively determined and although the Canal Zone is out of the limits of the United States it is not outside the jurisdiction. A child born in the Canal Zone whose father was also born in the Canal Zone and who has continuously resided here and is employed here by the United States Government and both of whose parents were American citizens, would not acquire citizenship at birth under existing law and could acquire citizenship only through regular naturalization proceedings.

The provisions of the act of May 24, 1934, permits citizenship to be derived through citizen mother in case of children born abroad. Prior to the enactment of May 24, 1934, children born abroad acquired American citizenship only in case the father was a citizen. It was never required that both parents be citizens. To provide as to children born on the Isthmus that both parents must be Americans would be highly discriminatory and would establish a far more rigid rule for the Isthmus than prevails as to children born elsewhere outside the United States. It is important to note that the proposed legislation would apply, with only a negligible number of exceptions, to children of American employees of the United States Government.

As to children born in the Republic of Panama, legislation would apply exclusively to children one or both of whose parents are or were at the time of birth in the employ of the United States Government or Panama Railroad Co., a Government instrumentality, and would affect primarily children born in Colon Hospital, a United States Government institution, which has been operated by Canal on Panamanian soil adjacent to Canal Zone since 1904. In many such cases, parents who are Americans have actually resided with the Canal Zone and all have been employed on the Canal or railroad, the mother going to the United States Government hospital over the line and in territory under Panamanian political jurisdiction there being no hospital on the Atlantic side within the Canal Zone.

Because Canal Zone is subject to jurisdiction of the United States it is not considered that requirements of section 6 as to residents in the United States prior to acquisition of citizenship by children born here should apply in any case where one or both parents are American citizens as it seems clear that this requirement was intended to apply only to children who were born and continued to reside thereafter in a country actually foreign. The Canal Zone is under the jurisdiction of the United States with nothing but United States laws and customs and hence is not foreign territory.

[S. Rept. No. 678, 75th Cong., 1st sess.]

The Committee on Interoceanic Canals, to whom was referred the bill (S. 2416) relating to the citizenship of certain classes of persons born in the Canal Zone or the Republic of Panama, having considered the same, report it back to the Senate without amendment and recommend that it do pass.

The purposes of, and the need for, the enactment of the proposed legislation, as well as the careful consideration which it has received, are fully set forth in the following communications, which are made a part of this report:

WAR DEPARTMENT,
Washington, April 26, 1937.

Hon. BENNETT CHAMP CLARK,
Chairman, Committee on Interoceanic Canals,
United States Senate, Washington, D. C.

DEAR SENATOR CLARK: There is transmitted herewith draft of bill relating to the citizenship of certain classes of persons born in the Canal Zone or the Republic of Panama. The purposes of and the need for the enactment of the proposed legislation have been stated by the Governor of the Panama Canal as follows:

"The purposes of the proposed bill are to remove the existing uncertainty as to the citizenship of persons born in the Canal Zone of parents, one or both of whom

are citizens of the United States, and to declare to be citizens of the United States persons born in the Republic of Panama since February 26, 1904, the date on which the President proclaimed the treaty between the United States and the Republic of Panama granting the use, occupation, and control of the Canal Zone to the United States, of parents, one or both of whom was or is a citizen of the United States.

"The citizenship status of persons born in the Canal Zone has never been defined either by constitution, treaty, or congressional enactment. The resulting questions which have arisen are of considerable importance because there are in the Canal Zone some 3,000 citizens of the United States employed by the Government on the Panama Canal, and some 10,000 citizens of the United States constituting the personnel of the Army and Navy units stationed in the Canal Zone. These classes of persons, with their families, comprise the whole body of American citizens in the Canal Zone with the exception of a negligible number employed by steamship, oil, and cable companies which are fairly closely allied with the Panama Canal enterprise. The population of the Canal Zone, other than citizens of the United States, consists of some 21,000 inhabitants of diverse nationality, many of whom were born in the Canal Zone subsequent to February 26, 1904.

"The questions involved are of greater concern to those affected because of the fact that, in a number of cases which is constantly increasing, children born in the Canal Zone of American fathers who are employees of the Government of the United States are themselves reaching maturity, entering the Government service, and becoming the parents of children, without ever having resided elsewhere than in the Canal Zone. One of the most important questions involved, therefore, concerns the citizenship status of children born in the Canal Zone of these second-generation citizens of the United States in those cases where a parent capable of transmitting citizenship has not resided in the United States previous to the birth of such a child.

"Problems similar to the above have arisen with respect to the status of children born in the hospitals maintained by the Government of the United States in Colon, Republic of Panama. In the latter class of cases the parent is employed in the Government service and works in the Canal Zone. In a number of these cases the parents of the child actually reside in the Canal Zone. The United States Government hospital in which the child is born is adjacent to the Canal Zone but actually within the political jurisdiction of the Republic of Panama."

The draft of bill attached was prepared under the direction of the Governor of the Panama Canal after extensive studies had been made of the subject matter, and it is recommended that this legislation be given favorable consideration.

The Bureau of the Budget has advised that there would be no objection to the submission to Congress of the proposed legislation.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely yours,

HARRY H. WOODRING,
Secretary of War.

WAR DEPARTMENT,
Washington, February 12, 1937.

The honorable the SECRETARY OF LABOR.

MY DEAR MADAM SECRETARY: I am enclosing herewith a copy of a draft bill relating to the citizenship of certain classes of persons born in the Canal Zone or the Republic of Panama. There is also enclosed a brief review of the purposes of and the need for the proposed legislation, as well as a copy of an extensive review of the citizenship status of persons born in the Canal Zone. The proposed bill was drafted by the Governor of the Panama Canal after extensive studies had been made of the subject matter.

I am satisfied that the need for the proposed legislation is pressing, and unless you feel that there are compelling reasons why this legislation should not be offered at this time I shall endeavor to have the proposed bill introduced in the House at an early date.

Sincerely yours,

HARRY H. WOODRING,
Secretary of War.

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, March 2, 1937.

The honorable the SECRETARY OF WAR.

MY DEAR MR. SECRETARY: I have considered the draft of bill declaring certain persons to be citizens by birth in the Canal Zone or in the Republic of Panama, which you enclosed with your recent letter. The letter shows your deep interest in the matter by stating that unless I feel that there are compelling reasons why this proposed legislation should not be adopted at this time you would endeavor to have the bill introduced in the House at an early date.

I understand the bill to apply only to persons born in the Canal Zone or the Republic of Panama on or after November 18, 1903, the date of the treaty between that country and the United States with respect to the Canal Zone. That even then such persons are not to be citizens unless the father or the mother or both was or is a citizen of the United States at the time of the birth of the child. Also that if the child was or is born in the Republic of Panama it is not to be a citizen unless the citizen parent was or is at the time of the child's birth an employee of the Government of the United States or of the Panama Railroad Co.

The memorandum (enclosed with your letter) discussing original sections 1992 and 1993 of the Revised Statutes and the last-mentioned section as amended by the Citizenship Act of May 24, 1934, and discussing also section 6 of the act of March 2, 1907, show a thorough consideration of material statutes.

Owing to the view that the Canal Zone is not an incorporated territory of the United States, hence not "a part of" or "in" the United States, there is doubt that any of the persons described in the bill are citizens of the United States under the Constitution or any existing statutes even though the Canal Zone is under the jurisdiction of the United States. For the same reason it is doubtful that children born in the Republic of Panama are citizens though their parents are employed by the Government of the United States or the Panama Railroad Co. and the grandparents were citizens of the United States. Yet they owe allegiance to the United States and are citizens in every sense except as a matter of law.

Because of the special circumstances pointed out in the memoranda and the fact that you are in favor of the proposed legislation, I see no serious objection to the provisions of the draft. The situation of the classes of children of citizens described in the draft is so special that there is no substantial objection because the draft omits certain conditions and provisos found in the other provisions (mentioned in the memoranda) which are of general application to persons born anywhere outside of the United States.

Very truly yours,

FRANCES PERKINS.

MARCH 20, 1937.

Hon. DANIEL W. BELL,
Acting Director, Bureau of the Budget, Washington, D. C.

MY DEAR MR. BELL: This acknowledges your letter of March 15, transmitting proposed legislation submitted by the Secretary of War, to declare that all persons born in the Canal Zone or in the Republic of Panama, subsequent to November 18, 1903, are citizens of the United States, if either parent was at the time of the birth a citizen of the United States.

Attention is invited to the fact that under the law as it existed prior to May 24, 1934, any child born outside of the United States whose father was an American citizen, was regarded as a citizen from birth (R. S. 1993). The act of May 24, 1934 (48 Stat. 797; U. S. C., title 8, sec. 6, as amended) extended citizenship to children born abroad whose mothers were American citizens. It introduced a limitation, however, that citizenship should not descend to such a child unless the child comes to the United States and resides therein for at least 5 years continuously, immediately prior to his eighteenth birthday, and unless within 6 months after his twenty-first birthday he takes an oath of allegiance to the United States.

The proposed bill would permit the right of citizenship to descend from the mother, as well as the father, to children born in the Canal Zone or in the Republic of Panama, at any time subsequently to November 18, 1903, instead of limiting it to those who were born subsequently to May 24, 1934. Moreover, it would exempt such children from the above-mentioned conditions, imposed by the act of May 24, 1934.

I find no objection to section 1 of the proposed bill, which relates to the Canal Zone. It occurs to me, however, that section 2, which applies to persons born in the Republic of Panama, involves questions of policy, as to which it may be well to consult the Secretary of State.

Sincerely yours,

Attorney General.

DEPARTMENT OF STATE,
Washington, April 14, 1937.

Hon. DANIEL W. BELL,
Acting Director of the Budget, Washington, D. C.

MY DEAR MR. BELL: I have received a letter dated March 15, 1937, from your Bureau enclosing a copy of a draft bill prepared by the Secretary of War relating to the citizenship of certain classes of persons born in the Canal Zone or the Republic of Panama, and requesting an expression of the views of this Department with respect to the proposed legislation.

In both the first and second paragraphs of the proposed bill the date which is used for purposes of determining citizenship is November 18, 1903, the date on which the convention between the United States and the Republic of Panama for the construction of the Panama Canal was signed. Since it was in accordance with the provisions of this convention that the Canal Zone was created, reference to the date of this convention in the proposed legislation is appropriate. It would seem preferable, however, for the effective date for purposes of establishing citizenship to be fixed at the time when the convention actually became effective, namely, February 26, 1904, the date on which ratifications were exchanged at Washington and the convention proclaimed. In other words, although the convention was signed on November 18, 1903, and although that is the date commonly used in referring to it, it did not actually become effective for legal purposes until February 26, 1904.

With the exception of the foregoing suggestion, which is of a purely technical nature, I have no comment to make with respect to the proposed legislation.

Sincerely yours,

CORDELL HULL.

