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PANAMA CANAL TREATY IMPLEMENTATION

HEARINGS

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, REFUGEES,
AND INTERNATIONAL LAW

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 1716

PANAMA CANAL TREATY IMPLEMENTATION

APRIL 3, 1979

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PANAMA CANAL TREATY IMPLEMENTATION

TUESDAY, APRIL 3, 1979

**U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND
INTERNATIONAL LAW, OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.**

The subcommittee met at 1:25 p.m. in room 2237 of the Rayburn House Office Building, Hon. Elizabeth Holtzman (chairwoman of the subcommittee) presiding.

Present: Representatives Holtzman, Hall, Harris, Barnes, Fish, Butler, and Lungren.

Staff present: Arthur P. Endres, Jr., counsel.

Ms. HOLTZMAN. Our hearing today will be on the Panama Canal Treaty implementing legislation. The committee will be considering H.R. 1716, the administration's proposal; H.R. 111; and H.R. 454.

[A copy of H.R. 1716 follows:]

(1)

96TH CONGRESS
1ST SESSION

H. R. 1716

To implement the Panama Canal Treaty of 1977 and related agreements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 1979

Mr. MURPHY of New York (for himself, Mr. ZABLOCKI, Mr. RODINO, and Mr. PRICE) (by request) introduced the following bill; which was divided and referred for a period ending not later than April 10, 1979, as follows: Sections 101 through 105 and section 107 to the Committee on International Relations; Title II and section 106 to the Committee on Merchant Marine and Fisheries; Title III to the Committee on Post Office and Civil Service; Title IV to the Committee on the Judiciary; and Title V and section 2 concurrently to the Committees on International Relations, the Judiciary, Merchant Marine and Fisheries, and Post Office and Civil Service.

A BILL

To implement the Panama Canal Treaty of 1977 and related agreements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That it is the purpose of this Act to provide legislation neces-
4 sary to or desirable for the implementation of the Panama
5 Canal Treaty of 1977 between the United States of America

- 1 and the Republic of Panama and of the related agreements
- 2 accompanying that Treaty.

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- Sec. 102. Authority of the Ambassador.
- Sec. 103. Security legislation.
- Sec. 104. Arms export control.
- Sec. 105. Privileges and Immunities.
- Sec. 106. Termination of Canal Zone Government; transfer of records.
- Sec. 107. Payment to Panama; repealer.

TITLE II—PANAMA CANAL COMMISSION

CHAPTER 1—ORGANIZATIONAL MATTERS

- Sec. 201. Establishment; purposes; location of office.
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- Sec. 203. Expenditures and payments to Panama.
- Sec. 204. Public service payments to Panama.
- Sec. 205. Board of Directors of Commission.
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- Sec. 210. Commission property and assets; depreciation and amortization.
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- Sec. 230. Measurement rules; changes in rates.
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TITLE IV—COURTS AND RELATED FUNCTIONS

- Sec. 401. Continuation of Code and other laws.
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- Sec. 404. Term of certain offices.
- Sec. 405. Residence requirements.
- Sec. 406. Special district judge.
- Sec. 407. Magistrates' courts.
- Sec. 408. Oath.
- Sec. 409. Transition authority.
- Sec. 410. Special immigrants.
- Sec. 411. Prisons; parole; pardon.

TITLE V—MISCELLANEOUS PROVISIONS

- Sec. 501. Health director; hospitals.
- Sec. 502. Disinterment, transportation, and reinterment of remains.
- Sec. 503. Effective date.

1 SEC. 2. DEFINITIONS AND GENERAL PROVISIONS.—

2 (a) As used in this Act, references to the Panama Canal
3 Treaty of 1977 and related agreements mean the Panama
4 Canal Treaty between the United States of America and the
5 Republic of Panama signed September 7, 1977, the agree-
6 ments relating to and implementing that Treaty signed on the
7 same date, and any agreement concluded pursuant to the Ex-
8 change of Notes relating to Air Traffic Control Services
9 signed September 7, 1977.

10 (b) The Canal Zone Code is hereby redesignated the
11 Panama Canal Code.

12 (c) Except as otherwise provided in, or where inconsis-
13 tent with, the provisions of this Act, the following words and
14 phrases are amended as follows wherever they appear in the
15 Panama Canal Code and other laws of the United States,
16 unless in context the changes are clearly not intended, or
17 unless such words and phrases refer to a time prior to the
18 effective date of this Act, as defined in section 503 (herein
19 called “the effective date”):

20 (1) “Panama Canal Company” to read “Panama
21 Canal Commission”.

22 (2) “Company” to read “Commission” wherever
23 the word “Company” has reference to the Panama
24 Canal Company.

1 (3) "Canal Zone Government" to read "Panama
2 Canal Commission".

3 (4) "Governor" or "Governor of the Canal Zone"
4 to read "Panama Canal Commission" wherever the
5 reference is to the Governor of the Canal Zone.

6 (5) "President" to read "Administrator" wherever
7 the word "President" has reference to the president of
8 the Panama Canal Company.

9 (6) "Government of the Canal Zone", or "Gov-
10 ernment", wherever the reference is to the Govern-
11 ment of the Canal Zone, to read "United States of
12 America".

13 (7) "Canal Zone waters" and "waters of the
14 Canal Zone" to read "Panama Canal waters" and
15 "waters of the Panama Canal", respectively.

16 (8) "Canal Zone Merit System" to read "Panama
17 Canal Employment System".

18 (9) "Canal Zone Board of Appeals" to read
19 "Panama Canal Board of Appeals".

20 (d) Reference to the Canal Zone in provisions of the
21 Panama Canal Code or other laws of the United States
22 which apply to transactions, occurrences, or status after
23 (treaty effective date) shall be deemed to be to areas and
24 installations in the Republic of Panama made available to the

1 United States pursuant to the Panama Canal Treaty of 1977
2 and related agreements.

3 (e) The President shall, within two years after the
4 Panama Canal Treaty of 1977 enters into force, submit to
5 the Congress proposed legislation which would—

6 (1) amend or repeal provisions of law which in
7 their present form are applicable only during the tran-
8 sition period prescribed in Article XI of that Treaty,
9 and

10 (2) incorporate the remaining provisions of the
11 Panama Canal Code into the United States Code, pro-
12 posing any changes thereto considered advisable in
13 light of the experience as of that time under that
14 Treaty.

15 TITLE I—PANAMANIAN RELATIONS AND
16 SECURITY MATTERS

17 SEC. 101. UNITED STATES-PANAMA JOINT COMMIT-
18 TEES.—(a) The President shall appoint the representatives of
19 the United States to the Joint Commission on the Environ-
20 ment to be established under paragraph 2 of Article VI of the
21 Panama Canal Treaty of 1977.

22 (b) The President shall designate and the Secretary of
23 State shall coordinate the participation of the representatives
24 of the United States to the Consultative Committee between
25 the United States and the Republic of Panama to be estab-

lished under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

SEC. 102. AUTHORITY OF THE AMBASSADOR.—(a)

The Ambassador to the Republic of Panama shall have full responsibility for the coordination of the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) The Administrator of the Panama Canal Commission and personnel under his supervision shall not be subject to the direction or supervision of the United States Chief of Mission in the Republic of Panama with respect to the responsibilities of the Commission for the operation, management, or maintenance of the Panama Canal as established in this or other Acts, and the Panama Canal Treaty of 1977 and its related agreements; in other respects, section 2680a of title 22, United States Code, shall be applicable.

SEC. 103. SECURITY LEGISLATION.—(a) Sections 34 and 35 of title 2 of the Panama Canal Code are repealed.

(b) Section 1 of title II of the Act of June 15, 1917 (50 U.S.C. 191) is amended by (1) striking the second paragraph of that section, and by (2) striking the term “the Canal Zone,”.

(c) Section 2 of the Act of November 15, 1941 (50 U.S.C. 191b) is repealed.

1 (d) Section 1 of title XIII of the Act of June 15, 1917
2 (50 U.S.C. 195) is amended by striking the term “the Canal
3 Zone and”.

4 (e) Section 1 of the Act of August 9, 1954 (50 U.S.C.
5 196) is amended by striking the term “including the Canal
6 Zone,”.

7 SEC. 104. ARMS EXPORT CONTROL.— Section 38 of
8 the Arms Export Control Act (22 U.S.C. 2778) is amended
9 by striking out subsection (d) thereof.

10 SEC. 105. PRIVILEGES AND IMMUNITIES.—The Secre-
11 tary of State shall from among persons recommended by the
12 Panama Canal Commission determine, and shall maintain
13 and from time to time furnish to the Government of the Re-
14 public of Panama, the list of those officials and other persons
15 who shall enjoy the privileges and immunities accorded under
16 Article VIII of the Panama Canal Treaty of 1977.

17 SEC. 106. TERMINATION OF CANAL ZONE GOVERN-
18 MENT; TRANSFER OF RECORDS.—(a) Sections 1, 2, 3, 31,
19 32, 33, 333, and 334 of title 2 and sections 5081 through
20 5092 of title 6 of the Panama Canal Code are repealed.

21 (b) The Panama Canal Commission, other agencies or
22 departments, and United States courts in the Republic of
23 Panama are authorized to transfer any of their records, or
24 copies thereof, including records acquired from the Canal
25 Zone Government or Panama Canal Company such as vital

1 statistics records, to other agencies, departments, or courts of
2 the United States and, if determined by the head of the
3 agency or department concerned to be in the interest of the
4 United States, to the Government of the Republic of
5 Panama. Transfer of records or copies thereof under this sec-
6 tion to the Government of the Republic of Panama shall be
7 accomplished under the coordination and with the approval of
8 the Ambassador.

9 SEC. 107. PAYMENT TO PANAMA; REPEALER.—Title
10 I of the Act of November 27, 1973 (87 Stat. 636) is amended
11 by striking out the heading “PAYMENT TO THE REPUBLIC
12 OF PANAMA” and all that follows under that heading.

13 TITLE II—PANAMA CANAL COMMISSION

14 CHAPTER 1—COMMISSION: FISCAL MATTERS

15 SEC. 201. (a) Section 61 of title 2 of the Panama Canal
16 Code is amended to read as follows:

17 “SEC. 61. CONTINUATION, PURPOSES, OFFICES, AND
18 RESIDENCE OF THE COMMISSION.—(a) For the purposes of
19 managing, operating, and maintaining the Panama Canal and
20 its complementary works, installations, and equipment, and
21 of conducting operations incident thereto, in accordance with
22 the Panama Canal Treaty of 1977 and related agreements,
23 the Panama Canal Commission is established as a body cor-
24 porate and as an agency and instrumentality of the United

1 States, and is declared to be the successor to the Panama
2 Canal Company.

3 “(b) The principal office of the Commission shall be lo-
4 cated in the Republic of Panama in one of the areas made
5 available for the use of the United States under the Panama
6 Canal Treaty of 1977 and related agreements, but the Com-
7 mission may establish agencies or branch offices in such other
8 places as it deems necessary or appropriate in the conduct of
9 its business. Within the meaning of the laws of the United
10 States relating to jurisdiction or venue in civil actions, the
11 Commission is an inhabitant and resident of the District of
12 Columbia, and of the eastern judicial district of Louisiana.”.

13 (b) Subsection (a) of section 62 of title 2 of the Panama
14 Canal Code is amended by substituting the words “Panama
15 Canal Company” for “Company” and the words “Panama
16 Canal Commission” for “Panama Canal Company”.

17 SEC. 202. (a) Subsection (e) of section 62 of title 2 of
18 the Panama Canal Code is repealed.

19 (b) Subsection (f) of section 62 of title 2 of the Panama
20 Canal Code is amended by substituting the words “compute
21 its capital surplus account” for “account for its surplus”, and
22 by deleting the words “in determining the base for the inter-
23 est payments required by subsection (e) of this section”.

24 (c) Section 70 of title 2 of the Panama Canal Code is
25 amended by deleting the words “in determining the base for

1 interest payments required by section 62(e) of this title", and
2 by inserting the term "including operating expenses and pay-
3 ments required by paragraph 5 of Article III and paragraphs
4 4 (a), (b), and (c) of Article XIII of the Panama Canal Treaty
5 of 1977," after the term "working capital requirements,".

6 (d) Section 72 of title 2 of the Panama Canal Code is
7 amended by deleting the words "pursuant to section 62(e) of
8 this title".

9 SEC. 203. Subsection (g) of section 62 of title 2 of the
10 Panama Canal Code is amended to read as follows:

11 "(g) The Panama Canal Commission shall pay directly
12 from Canal operating revenues to the Republic of Panama
13 those payments required under paragraph 4 of Article XIII
14 of the Panama Canal Treaty of 1977. In determining the
15 adequacy of operating revenues for the purpose of payments
16 to Panama under paragraph 4(c) of that Article, such operat-
17 ing revenues of a given fiscal period shall be reduced by (1)
18 all costs attributable to the operation, maintenance, and im-
19 provement of the Canal of that period including (i) operating
20 expenses determined in accordance with generally accepted
21 accounting principles, (ii) payments to Panama under para-
22 graphs 4(a) and 4(b) of that Article and under paragraph 5 of
23 Article III of the Treaty, and (iii) amounts in excess of de-
24 preciation and amortization programed to fund requirements
25 for plant replacement, expansion, and improvements; (2)

1 amounts allocated prior to the effective date of an increase in
2 toll rates for the purpose of matching revenues with expenses
3 during the period projected for the increase to remain in
4 effect; (3) the accumulated sum from prior years (beginning
5 with the year in which the Panama Canal Treaty of 1977
6 enters into force) of any excess of such cost requirements of
7 the Commission over operating revenues; and (4) working
8 capital requirements of the Commission as approved annually
9 by its Board of Directors.”.

10 SEC. 204. Section 62 of title 2 of the Panama Canal
11 Code is amended by adding a new subsection (h) to read as
12 follows:

13 “(h) Payments by the Commission to the Republic of
14 Panama for providing public services in accordance with
15 paragraph 5 of Article III of the Panama Canal Treaty of
16 1977 shall be treated for all purposes as an operating cost of
17 the Commission.”.

18 SEC. 205. Subsection (a) of section 63 of title 2 of the
19 Panama Canal Code is amended to read as follows:

20 “(a) A Board of Directors shall manage the affairs of the
21 Panama Canal Commission. The President of the United
22 States shall appoint the members of the Board in accordance
23 with paragraph 3 of Article III of the Panama Canal Treaty
24 of 1977, and neither this chapter nor any other law prevents
25 the appointment and service as a director, or as an officer of

1 the Commission, of an officer or employee of the United
2 States, or of a person who is not a national of the United
3 States. Each director so appointed shall, subject to paragraph
4 3 of Article III of the Panama Canal Treaty of 1977, hold
5 office at the pleasure of the President, and, before entering
6 upon his duties, shall take an oath faithfully to discharge the
7 duties of his office.”.

8 SEC. 206. Subsection (c) of section 63 of title 2 of the
9 Panama Canal Code is amended to read as follows:

10 “(c) The directors shall hold meetings as provided by
11 the bylaws of the Panama Canal Commission. A quorum for
12 the transaction of business shall consist of a majority of the
13 directors of which a majority of those present are nationals of
14 the United States.”.

15 SEC. 207. Section 64 of title 2 of the Panama Canal
16 Code is amended to read as follows:

17 “SEC. 64. ADMINISTRATOR AND DEPUTY.—The Presi-
18 dent of the United States shall appoint the Administrator and
19 Deputy Administrator of the Panama Canal Commission.
20 The Administrator shall, subject to the direction and under
21 the supervision of the Board, be the chief executive officer of
22 the Commission. The Administrator and Deputy Administra-
23 tor shall hold office at the pleasure of the President.”.

1 SEC. 208. Paragraph (3) of subsection (a) of section 65
2 of title 2 of the Panama Canal Code is amended to read as
3 follows:

4 “(3) Sue and be sued in its corporate name, except
5 that—

6 “(A) its amenability to suit is limited by the im-
7 munities provided by Article VIII of the Panama
8 Canal Treaty of 1977, and otherwise by law;

9 “(B) salaries or other moneys owed by the Com-
10 mission to its employees shall not be subject to attach-
11 ment, garnishment, or similar process, except as other-
12 wise expressly provided by the laws of the United
13 States; and

14 “(C) it is exempt from any liability for prejudg-
15 ment interest.”.

16 SEC. 209. The opening clause of subsection (a) of sec-
17 tion 66 of title 2 of the Panama Canal Code is amended to
18 read as follows:

19 “(a) Subject to the Government Corporation Control
20 Act (31 U.S.C. 841 et seq.), and to the Panama Canal
21 Treaty of 1977 and related agreements, the Panama Canal
22 Commission may:”.

23 SEC. 210. Sections 67 and 73 of title 2 of the Panama
24 Canal Code are repealed. Section 68 of that title is amended
25 to read as follows:

1 “SEC. 68. ASSETS AND LIABILITIES.—(a) Property
2 and other assets of the Panama Canal Company and of the
3 Canal Zone Government which are not transferred to other
4 United States Government agencies or to the Republic of
5 Panama, or otherwise disposed of, shall, notwithstanding sec-
6 tion 5 of the Act of July 16, 1914, as amended (31 U.S.C.
7 638(a)), be the property and assets of the Panama Canal
8 Commission from and after the effective date, and except as
9 otherwise provided by law, the Commission shall assume the
10 liabilities of the Panama Canal Company and Canal Zone
11 Government then outstanding.

12 “(b) The Commission may depreciate the Panama
13 Canal, its complementary works, installations, and equip-
14 ment, and all other property and assets of the Commission,
15 and may amortize over the life of the Panama Canal Treaty
16 of 1977 the right to use certain assets such as housing made
17 available to the United States under that Treaty and related
18 agreements. The value of these use rights, as determined by
19 the Commission, shall be established as an asset on the books
20 of the Commission and amortized over the period of use.

21 “(c) The assets and liabilities referred to in this section
22 shall be deemed to have been accepted and assumed by the
23 Commission without the necessity of any act on the part of
24 the Commission except as otherwise stipulated by section 62
25 of this title.”.

1 SEC. 211. (a) The introductory phrase to section 1331
2 of title 2 of the Panama Canal Code is amended by striking
3 out the word "President" and by inserting in lieu thereof the
4 word "Commission".

5 (b) Paragraph (1) of section 1331 of title 2 of the
6 Panama Canal Code is amended by striking out the words
7 "harbors and other waters of the Canal Zone" and by insert-
8 ing in lieu thereof the words "waters of the Panama Canal
9 and areas adjacent thereto including the ports of Balboa and
10 Cristobal".

11 (c) Paragraph (4) of section 1331 of title 2 of the
12 Panama Canal Code is amended by striking out the words
13 "waters of the Canal Zone" and by inserting in lieu thereof
14 the words "waters of the Panama Canal and areas adjacent
15 thereto including the ports of Balboa and Cristobal".

16 SEC. 212. FUNDS AND ACCOUNTS.—(a) Section 231 of
17 title 2 of the Panama Canal Code is repealed.

18 (b) Section 232 of title 2 of the Panama Canal Code is
19 amended to read as follows:

20 "SEC. 232. FURNISHING OF SERVICES; REIMBURSE-
21 MENTS.—(a) The Department of Defense shall reimburse the
22 Panama Canal Commission for amounts expended by the
23 Commission in maintaining defense facilities in standby con-
24 dition for the Department of Defense.

1 “(b) Such agency as the President may designate is au-
2 thorized to provide educational and health care services to
3 persons eligible to receive such services under the Panama
4 Canal Treaty of 1977 and related agreements. Notwithstand-
5 ing any other law, the appropriations of such agency are
6 made available for conducting educational and health care
7 activities, including kindergartens and college, formerly car-
8 ried out by the Canal Zone Government, and for providing
9 the services related thereto.

10 “(c) Amounts so expended for furnishing services to per-
11 sons eligible to receive them under the Panama Canal Treaty
12 of 1977 and related agreements, less amounts payable by
13 such persons, shall be fully reimbursable to the agency fur-
14 nishing the services, except to the extent that such expendi-
15 tures are the responsibility of that agency. The appropri-
16 ations or funds of the Panama Canal Commission are made
17 available for such reimbursements on behalf of employees of
18 the Commission and other persons authorized to receive such
19 services and eligible under the Panama Canal Treaty and
20 related agreements. The appropriations or funds of other
21 agencies conducting operations in the Republic of Panama,
22 including the Smithsonian Institution, are made available for
23 reimbursements on behalf of employees of such agencies and
24 their dependents.

1 “(d) The appropriations or funds of United States agen-
2 cies conducting operations in the Republic of Panama are
3 made available to defray the cost of (i) health care services to
4 elderly or disabled persons who were eligible to receive such
5 services prior to the effective date, less amounts payable by
6 such persons, and (ii) educational services provided by
7 schools in the Republic of Panama which are not operated by
8 the United States to persons who were receiving such serv-
9 ices at the expense of the Canal Zone Government prior to
10 the effective date.”.

11 (c) Section 233 of title 2 of the Panama Canal Code is
12 amended by striking the term “Canal Zone Government or
13 the Panama Canal Company” and by inserting in lieu thereof
14 the term “Panama Canal Commission”.

15 (d) Section 234 of title 2 of the Panama Canal Code is
16 amended by striking the term “Canal Zone” and by inserting
17 in lieu thereof the term “Panama Canal Commission”.

18 (e) Section 235 of title 2 of the Panama Canal Code is
19 amended by striking the term “Canal Zone Government and
20 the Panama Canal Company” and by inserting in lieu thereof
21 the term “Panama Canal Commission”.

22 SEC. 213. PUBLIC PROPERTY AND PROCUREMENT.—

23 (a) Section 371 of title 2 of the Panama Canal Code is re-
24 pealed.

1 (b) Section 372 of title 2 of the Panama Canal Code is
2 amended to read as follows:

3 "SEC. 372. TRANSFERS AND CROSS-SERVICING BE-
4 TWEEN AGENCIES.—(a) In the interest of economy and
5 maximum efficiency in the utilization of Government proper-
6 ty and facilities, there are authorized to be transferred, not-
7 withstanding section 5 of the Act of July 16, 1914, as
8 amended (31 U.S.C. 638(a)), between departments and agen-
9 cies, with or without exchange of funds, all or so much of the
10 facilities, buildings, structures, improvements, stock, and
11 equipment of their activities located in the Republic of
12 Panama as may be mutually agreed upon by the departments
13 and agencies involved and approved by the President of the
14 United States or his designee. With respect to transfers with-
15 out exchange of funds, transfers to or from the Panama
16 Canal Commission are subject to section 62 of this title, as
17 amended.

18 "(b) The Panama Canal Commission and other agencies
19 of the United States may enter into cross-servicing agree-
20 ments for the use of facilities, furnishing of services, or per-
21 formance of functions.

22 "(c) The provisions of subsections (a) and (b) above shall
23 be applicable to the Smithsonian Institution."

1 CHAPTER 2—TOLLS

2 SEC. 230. Section 411 of title 2 of the Panama Canal
3 Code is amended to read as follows:

4 “SEC. 411. PRESCRIPTION OF MEASUREMENT RULES
5 AND TOLLS.—(a) The Panama Canal Commission may pre-
6 scribe, and from time to time change:

7 “(1) the rules for the measurement of vessels for
8 the Panama Canal; and

9 “(2) subject to section 412 of this title, the tolls
10 that shall be levied for the use of the Canal.

11 “(b) The Commission shall give three months’ notice, by
12 publication in the Federal Register, of proposed changes in
13 basic rules of measurement or in rates of tolls, during which
14 period a public hearing shall be conducted. Changes in basic
15 rules of measurement and changes in rates of tolls shall be
16 subject to and shall take effect upon the approval of the
17 President of the United States, whose action in such matters
18 shall be final.”.

19 SEC. 231. In order to insure that the rates of tolls in
20 effect on the effective date are adequate to meet the require-
21 ments of section 412 of title 2 of the Panama Canal Code, as
22 amended by section 232 of this Act, the Panama Canal Com-
23 pany is authorized, in advance of that date, to change the
24 rates, effective on the effective date, such change to be sub-
25 ject to the approval of the President whose action in the

1 matter shall be final. If and to the extent that time permits,
2 the Company shall give three months' notice, by publication
3 in the Federal Register, of such proposed changes in rates of
4 tolls, during which period a public hearing shall be
5 conducted.

6 SEC. 232. BASES OF TOLLS.—(a) Subsection (b) of sec-
7 tion 412 of title 2 of the Panama Canal Code is amended to
8 read as follows:

9 “(b) Tolls shall be prescribed at rates calculated to
10 cover as nearly as practicable all anticipated costs of main-
11 taining and operating the Panama Canal, together with the
12 facilities and appurtenances related thereto, including depre-
13 ciation of assets, amortization of use rights, and the pay-
14 ments to Panama pursuant to paragraph 5 of Article III and
15 paragraphs 4(a) and 4(b) of Article XIII of the Panama
16 Canal Treaty of 1977. In determining the rates of tolls, there
17 may also be taken into account unrecovered past costs, fund-
18 ing required to establish or maintain a capital reserve ac-
19 count programed to fund requirements for plant replacement,
20 expansion, and improvements, and the necessity of establish-
21 ing reserves for the purpose of matching revenues with ex-
22 penses during the period projected for a given toll rate to
23 remain in effect.”.

24 (b) Subsection (c) of section 412 of title 2 of the Panama
25 Canal Code is amended to read as follows:

1 “(c) Vessels operated by the United States, including
2 vessels of war and auxiliary vessels, and ocean-going training
3 ships owned by the United States and operated by State nau-
4 tical schools, shall pay tolls.”.

5 (c) Subsection (d) of section 412 of title 2 of the Panama
6 Canal Code is amended by deleting the words “of articles
7 XVIII and XIX of the convention between the United States
8 and Panama concluded on November 18, 1903, and”, by in-
9 serting a comma in place of the period at the end of the
10 subsection, and by adding thereafter “and of Articles II, III,
11 and VI of the Treaty Concerning the Permanent Neutrality
12 and Operation of the Panama Canal, between the United
13 States of America and the Republic of Panama, signed Sep-
14 tember 7, 1977.”.

15 CHAPTER 3—CLAIMS

16 SEC. 260. Chapter 11 of title 2 of the Panama Canal
17 Code is amended as follows:

18 (a) The title of the chapter is amended to read “Claims
19 Arising from Operation of Canal.”

20 (b) Section 271 of title 2 of the Panama Canal Code is
21 repealed.

22 (c) The headings of subchapters I and II are deleted.

23 (d) Section 291 of title 2 of the Panama Canal Code is
24 amended as follows:

1 (1) The period at the end of the first sentence is
2 changed to a comma, and the following language is
3 added: "unless it is established that the injury was not
4 proximately caused by the negligence or fault of any of
5 its officers or employees acting within the scope of his
6 employment and in the line of his duties in connection
7 with the operation of the Canal."

8 (2) In the fourth sentence, the words "the side"
9 are amended to read "any portion of the hull".

10 (e) Section 293 of title 2 of the Panama Canal Code is
11 amended to read as follows:

12 "SEC. 293. MEASURE OF DAMAGES.—(a) In determin-
13 ing the amount of the award of damages for injuries to a
14 vessel for which the Panama Canal Commission is deter-
15 mined to be liable, there may be included—

16 "(1) actual or estimated cost of repairs;

17 "(2) charter hire actually lost by the owners, or
18 charter hire actually paid, depending upon the terms of
19 the charter party, for only the time the vessel is actu-
20 ally undergoing repairs, on drydock or otherwise;

21 "(3) maintenance of the vessel and wages of the
22 crew, if they are found to be actual additional expenses
23 or losses incurred outside of the charter hire, for only
24 the time the vessel is actually undergoing repairs, on
25 drydock or otherwise; and

1 “(4) except as prohibited by subsection (b) of this
2 section, or by any other provision of law, other ex-
3 penses which are definitely and accurately shown to
4 have been incurred necessarily and by reason of the
5 accident or injuries.

6 “(b) Agent’s fees or commissions, general average ex-
7 penses, attorney’s fees, bank commissions, port charges or
8 other incidental expenses of similar character, or any items
9 which are indefinite, indeterminable, speculative, or con-
10 jugal shall not be allowed.

11 “(c) The Commission shall be furnished such vouchers,
12 receipts, or other evidence as may be necessary in support of
13 any item of a claim. If a vessel is not operated under charter
14 but by the owner directly, evidence shall be secured if availa-
15 ble as to the sum for which vessels of the same size and class
16 can be chartered in the market. If the charter value cannot
17 be determined, the value of the use of the vessel to its owners
18 in the business in which it was engaged at the time of the
19 injuries shall be used as a basis for estimating the damages
20 for the vessel’s detention; and the books of the owners show-
21 ing the vessel’s earnings about the time of the accident or
22 injuries shall be considered as evidence of probable earnings
23 during the time of detention. If the books are unavailable,
24 such other evidence shall be furnished as may be necessary.”.

1 (f) Section 294 of title 2 of the Panama Canal Code is
2 amended by deleting the word "or" in paragraph (5), by re-
3 numbering the present paragraph (6) as paragraph (7), and by
4 inserting a new paragraph (6) to read as follows:

5 "“(6) time necessary for investigation of marine ac-
6 cidents; or”.

7 (g) Section 296 of title 2 of the Panama Canal Code is
8 amended by deleting the words "United States District Court
9 for the District of the Canal Zone" in the first sentence and
10 inserting in lieu thereof the words "United States District
11 Court for the Eastern District of Louisiana".

12 (h) The present section 297 of title 2 of the Panama
13 Canal Code is designated as subsection (a), and a new sub-
14 section (b) is added to read as follows:

15 "“(b) Lack of knowledge on the part of the master, offi-
16 cers, crew, or passengers that an accident giving rise to a
17 claim under this chapter has occurred does not excuse non-
18 compliance with the requirements of this section.”.

19 (i) A new section 298 of title 2 of the Panama Canal
20 Code is added, to read as follows:

21 "SEC. 298. TIME FOR PRESENTING CLAIM AND COM-
22 MENCING ACTION.—A claim against the Commission under
23 this chapter shall be forever barred unless it is presented in
24 writing to that agency within two years after such claim ac-
25 crues or unless action is begun within one year after the date

1 of mailing of notice of final decision on the claim by the Com-
2 mission.”.

3 (j) A new section 299 of title 2 of the Panama Canal
4 Code is added, to read as follows:

5 “SEC. 299. BOARD OF LOCAL INSPECTORS.—(a)

6 There is established a Board of Local Inspectors of the
7 Panama Canal Commission which shall perform, in accord-
8 ance with regulations prescribed by the Commission—

9 “(1) the investigations called for by section 297 of
10 this chapter; and

11 “(2) such other duties in matters of a marine
12 character as it may be assigned by the Commission.

13 “(b) The Commission shall, by regulation, designate the
14 members of the Board and establish procedures by which the
15 Board carries out its functions.

16 “(c) In conducting the investigations provided for by
17 subsection (a) of this section, members of the Board may
18 summon witnesses, administer oaths, and require the produc-
19 tion of books and papers necessary thereto.”.

20 CHAPTER 4—SEA-LEVEL CANAL STUDY

21 SEC. 270. (a) The President shall appoint the repre-
22 sentatives of the United States to any joint committee or
23 body with the Republic of Panama to study the possibility of
24 a sea-level canal in the Republic of Panama pursuant to Arti-
25 cle XII of the Panama Canal Treaty of 1977.

1 (b) Upon the completion of any joint study between the
2 United States and the Republic of Panama concerning the
3 feasibility of a sea-level canal in the Republic of Panama pur-
4 suant to paragraph 1 of Article XII of the Panama Canal
5 Treaty of 1977, the text of the study shall be transmitted by
6 the President to the President of the Senate and to the
7 Speaker of the House of Representatives.

8 (c) No construction of a sea-level canal by the United
9 States in the Republic of Panama shall be undertaken except
10 with express congressional authorization after submission of
11 the study by the President as provided in subsection (b).

12 TITLE III—EMPLOYEES AND POSTAL MATTERS

13 CHAPTER 1—EMPLOYMENT SYSTEM

14 SEC. 301. (a) Sections 101, 102, 122, 123, 147, and
15 154 of title 2 of the Panama Canal Code are repealed.

16 (b) Section 103 of title 2 of the Panama Canal Code is
17 amended by striking the terms “Canal Zone Government,
18 Panama Canal Company” and inserting in lieu thereof the
19 term “Panama Canal Commission”, and by redesignating
20 that section as section 122 of that title and code.

21 SEC. 302. Section 141 of title 2 of the Panama Canal
22 Code is amended as follows:

23 (a) The definition of the word “department” is amended
24 to read as follows: “‘department’ means (i) the Panama
25 Canal Commission, and (ii) an executive agency (within the

1 meaning of section 105 of title 5 of the United States Code)
 2 which makes an election under section 142(b) of this chap-
 3 ter;”.

4 (b) The definition of the word “position” is amended to
 5 read as follows: “‘position’ means those duties and responsi-
 6 bilities of a civilian nature under the jurisdiction of a depart-
 7 ment which are performed in the Republic of Panama.”.

8 SEC. 303. Section 142 of title 2 of the Panama Canal
 9 Code is amended by redesignating subsection (b) thereof as
 10 subsection (d), and by striking the caption and subsection (a)
 11 thereof and inserting in lieu thereof the following:

12 “SEC. 142. PANAMA CANAL EMPLOYMENT
 13 SYSTEM.—(a) The Panama Canal Commission shall conduct
 14 its wage and employment practices in accordance with a
 15 Panama Canal Employment System which shall be estab-
 16 lished in accordance with—

17 “(1) the principles established in the Panama
 18 Canal Treaty of 1977 and related agreements, and
 19 with the provisions of this chapter and other applicable
 20 law; and

21 “(2) regulations promulgated by, or under the au-
 22 thority of, the President in accordance with this chap-
 23 ter and taking into account any recommendation of the
 24 Panama Canal Commission.

1 “(b) The head of an executive agency other than the
2 Panama Canal Commission may elect to have the Panama
3 Canal Employment System made applicable in whole or in
4 part to personnel of his agency in the Republic of Panama.

5 “(c) The provisions of chapter 71 of title 5 of the United
6 States Code shall not apply to the Panama Canal Commis-
7 sion or to its personnel. In lieu thereof, the President shall
8 establish a form of collective bargaining, applicable to the
9 Commission’s employees; into which is incorporated the sub-
10 stance of sections 7102, 7106, 7116, 7120, and 7131. The
11 form of collective bargaining so established shall contain such
12 other necessary provisions, and shall be administered, so as
13 to provide the Commission’s employees with the right to bar-
14 gain collectively under the same conditions and with respect
15 to the same subject matter that obtains where that right is
16 exercised generally in the Federal service within the conti-
17 nental United States.”.

18 SEC. 304. Notwithstanding other provisions of this
19 chapter, the provisions of subchapter III of chapter 7 of title
20 2 of the Panama Canal Code establishing the Canal Zone
21 Merit System, and the administrative regulations promulgat-
22 ed thereunder, shall continue in effect until such time as the
23 Panama Canal Employment System has been established
24 pursuant to section 303 of this Act.

1 SEC. 305. Section 144 of title 2 of the Panama Canal
2 Code is amended by deleting subsection (d) thereof. Section
3 146 is amended to read as follows:

4 "SEC. 146. RECRUITMENT AND RETENTION REMU-
5 NERATION.—(a) In addition to basic compensation, addition-
6 al remuneration in such amounts as the head of the depart-
7 ment concerned determines, may be paid as overseas recruit-
8 ment and retention differentials to the following categories of
9 individuals if, in the judgment of the head of the department
10 concerned, the recruitment and retention of such employees
11 is essential—

12 "(1) persons employed by the Panama Canal
13 Company, Canal Zone Government, or a department
14 in the Canal Zone prior to the effective date;

15 "(2) persons thereafter recruited outside of
16 Panama for a position in the Republic of Panama; and

17 "(3) medical doctors employed by the Department
18 of Defense or Panama Canal Commission.

19 "(b) Employees who fall into more than one of the three
20 categories described in subsection (a) of this section may
21 qualify for additional remuneration under only one of those
22 categories.

23 "(c) Additional remuneration prescribed under this sec-
24 tion may not exceed 25 percent of the rate of basic compen-
25 sation for the same or similar work performed in the conti-

1 nental United States by employees of the Government of the
2 United States.”.

3 SEC. 306. (a) Title 2 of the Panama Canal Code is
4 amended by adding a new section 147 to read as follows:

5 “SEC. 147. TRANSFER OF FEDERAL EMPLOYEES TO
6 PANAMA CANAL COMMISSION.—The head of any Federal
7 agency, including the United States Postal Service, is au-
8 thorized to enter into agreements for the transfer or detail of
9 that agency’s employees, serving under permanent appoint-
10 ment, to the Panama Canal Commission. Under regulations
11 prescribed by the Office of Personnel Management, any em-
12 ployee so transferred or detailed shall, upon completion of his
13 tour of duty with the Commission, be entitled to reemploy-
14 ment with the agency from which he was transferred or de-
15 tailed without loss of pay, seniority, or other rights or bene-
16 fits to which he would have been entitled had he remained on
17 the rolls of that agency.”.

18 (b) Section 148 of title 2 of the Panama Canal Code is
19 amended by—

20 (1) changing the parenthetical citation “(5 U.S.C.,
21 sec. 2091 et seq.)” in paragraph (1) to read “(5 U.S.C.
22 §§ 8701 et seq.)”;

23 (2) changing the parenthetical citation “(5 U.S.C.,
24 sec. 751 et seq.)” in paragraph (2) to read “(5 U.S.C.
25 §§ 8101 et seq.)”;

1 (3) changing the parenthetical citation “(5 U.S.C.,
2 sec. 2251 et seq.)” in paragraph (4) to read “(5 U.S.C.
3 §§ 8331 et seq.)”; and

4 (4) revising the unindented portion of the section
5 following paragraph (6) to read as follows:

6 “the basic compensation of each employee shall include the
7 rate of basic compensation established for his position, and,
8 where appropriate, the amount of overseas recruitment and
9 retention differentials, determined in the manner respectively
10 provided by sections 144 and 146 of this title.”.

11 SEC. 307. Section 149 of title 2 of the Panama Canal
12 Code is amended to read as follows:

13 “SEC. 149. MERIT AND OTHER EMPLOYMENT RE-
14 QUIREMENTS.—(a) Subject to this subchapter, the President
15 may, from time to time and taking into account any recom-
16 mendation of the Panama Canal Commission, amend or
17 modify the provisions of the Panama Canal Employment
18 System, including provisions relating to selection for appoint-
19 ment, reappointment, reinstatement, reemployment, and re-
20 tention with respect to positions, employees, and individuals
21 under consideration for appointment to positions, established
22 by regulations under section 142 of this chapter.

23 “(b) The Panama Canal Employment System shall—

24 “(1) subject to and as limited by the Panama
25 Canal Treaty of 1977 and related agreements, be

1 based on the merit of the employee or individual and
2 upon his qualifications and fitness to hold the position
3 concerned;

4 “(2) conform generally to policies, principles, and
5 standards for the competitive civil service of the Gov-
6 ernment of the United States; and

7 “(3) include provision for appropriate interchange,
8 between the Panama Canal Employment System and
9 the competitive civil service of the Government of the
10 United States, of citizens of the United States em-
11 ployed by the Government of the United States.”.

12 SEC. 308. Section 155 of title 2 of the Panama Canal
13 Code is amended by redesignating subsection (b) thereof as
14 subsection (c), and by inserting in lieu of subsection (a) there-
15 of the following:

16 “(a) The President shall issue regulations necessary and
17 appropriate to carry out the provisions and accomplish the
18 purposes of this subchapter and, in the event of any election
19 under section 142(b), coordinate the policies and activities
20 under this subchapter of the departments involved.

21 “(b) In order to assist in carrying out his coordination
22 responsibility under subsection (a) and in implementing the
23 provisions of the Panama Canal Treaty of 1977 and related
24 agreements relating to recruitment, examination, determina-
25 tion of qualification standards and similar matters, the Presi-

1 dent may establish, as the successor to the Canal Zone Cen-
 2 tral Examining Office, an office which shall be an entity
 3 within the Panama Canal Commission.”.

4 SEC. 309. Subsection (a) of section 201 of title 2 of the
 5 Panama Canal Code is amended by deleting the words “Gov-
 6 ernor of the Canal Zone and President of the Panama Canal
 7 Company, or as Lieutenant Governor of the Canal Zone and
 8 Vice President of the Panama Canal Company,” and insert-
 9 ing in lieu thereof the words “Administrator or Deputy Ad-
 10 ministrator of the Panama Canal Commission.”.

11 SEC. 310. The provisions of this chapter shall be appli-
 12 cable to Federal employees of the Smithsonian Institution.

13 CHAPTER 2—CONDITIONS OF EMPLOYMENT,
 14 PLACEMENT, AND RETIREMENT

15 SEC. 321. Title 2 of the Panama Canal Code is amend-
 16 ed by adding a new section 202 to read as follows:

17 “SEC. 202. TRANSFERRED EMPLOYEES.—With re-
 18 spect to employees of the Panama Canal Company or Canal
 19 Zone Government who are transferred to employment with
 20 the Panama Canal Commission or other United States Gov-
 21 ernment agencies in the Republic of Panama, the following
 22 terms and conditions of employment shall be generally no
 23 less favorable, from and after the entry into force of the
 24 Panama Canal Treaty of 1977, than the terms and conditions

1 of employment with the Panama Canal Company and Canal
2 Zone Government immediately prior to that date:

3 “Wage rates; tropical differential; premium pay
4 and night differential; reinstatement and restoration
5 rights; injury and death compensation benefits; leave
6 and travel, except as modified to provide equity with
7 other employees within the agency to which the em-
8 ployee is transferred; transportation and repatriation
9 benefits; group health and life insurance; reduction-in-
10 force rights; an employee grievance system, and the
11 right to appeal adverse and disciplinary actions as well
12 as position classification actions; veteran’s preference
13 eligibility; holidays; saved pay provisions; and sever-
14 ance pay benefits.”.

15 SEC. 322. Title 2 of the Panama Canal Code is amend-
16 ed by adding a new section 203 to read as follows:

17 “SEC. 203. PLACEMENT.—(a) A United States citizen
18 who, immediately preceding the effective date of exchange of
19 instruments of ratification of the Panama Canal Treaty of
20 1977, was an employee of the Panama Canal Company or
21 Canal Zone Government, who separates or is scheduled to
22 separate on that date or thereafter in accordance with the
23 program established under subsection (c) of this section for
24 any reason other than misconduct or delinquency, and who is
25 not placed in another appropriate position with the United

1 States Government in the Republic of Panama shall, upon
2 the employee's request, be accorded appropriate placement
3 assistance to vacancies with the United States Government
4 in the United States.

5 “(b) A United States citizen who, immediately preced-
6 ing the effective date of exchange of instruments of ratifica-
7 tion of the Panama Canal Treaty of 1977, was an employee
8 of an agency of the United States Government, or a Federal
9 employee of the Smithsonian Institution, in the Canal Zone
10 other than the Panama Canal Company or Canal Zone Gov-
11 ernment, whose position is eliminated as the result of imple-
12 menting the Panama Canal Treaty of 1977 or related agree-
13 ments, and who is not placed in another appropriate position
14 with the United States Government in the Republic of
15 Panama shall, upon the employee's request, be accorded the
16 placement assistance provided for in subsection (a).

17 “(c) The Office of Personnel Management shall develop
18 and administer a Federal Government-wide placement pro-
19 gram for all eligible employees who request placement assist-
20 ance under this section.”.

21 SEC. 323. Title 2 of the Panama Canal Code is amend-
22 ed by adding a new section 204 to read as follows:

23 “SEC. 204. EDUCATIONAL TRAVEL BENEFITS.—De-
24 pendants of United States citizen employees of the Panama
25 Canal Commission who are eligible for educational travel

1 benefits under regulations issued by the Commission shall be
2 entitled to one round trip per year for undergraduate studies
3 in the United States until they reach their 23rd birthday.”.

4 SEC. 324. ADJUSTMENT OF COMPENSATION.—United
5 States citizen employees of the Panama Canal Commission
6 shall be paid an allowance to offset the increased cost of
7 living that may result from the withdrawal of the eligibility of
8 such employees and their dependents to use military postal
9 services, sales stores and exchanges five years after the date
10 of entry into force of the Panama Canal Treaty of 1977. The
11 amount of the additional compensation shall be determined by
12 the Panamal Canal Commission.

13 SEC. 325. EARLY RETIREMENT ELIGIBILITY.—Sec-
14 tion 8336 of title 5 of the United States Code is amended—

15 (1) by redesignating subsection (c) as subsection
16 (c)(1) and adding a new paragraph (2) to read as fol-
17 lows:

18 “(2) A law enforcement officer or firefighter employed
19 by the Panama Canal Company or the Canal Zone Govern-
20 ment immediately prior to the effective date of exchange of
21 instruments of ratification or entry into force of the Panama
22 Canal Treaty of 1977, who is separated from the service
23 prior to January 1, 2000, and, upon separation, meets the
24 age and service requirements in paragraph (1), or who is sep-

1 arated within 2 years prior to meeting the age and service
2 requirements in paragraph (1) is entitled to an annuity.”,

3 (2) by redesignating subsection (h) as subsection
4 (k) and inserting new subsections (h), (i), and (j) to read
5 as follows:

6 “(h) An employee of the Panama Canal Commission or
7 of an Executive agency conducting operations in the Canal
8 Zone or Republic of Panama, who is separated from the serv-
9 ice prior to January 1, 2000—

10 “(1) involuntarily, as a result of the implementa-
11 tion of the Panama Canal Treaty of 1977 or related
12 agreements, except by removal for cause on charges of
13 misconduct or delinquency, after completing 20 years
14 of service;

15 “(2) voluntarily, after completing 25 years of
16 service or after becoming age 50 and completing 20
17 years of service; or

18 “(3) involuntarily, as a result of the implementa-
19 tion of the Panama Canal Treaty of 1977 or related
20 agreements, except by removal for cause on charges of
21 misconduct or delinquency, or voluntarily within 2
22 years prior to meeting the age and/or service require-
23 ments in paragraph (2) is entitled to an annuity if he—

24 “(A) was employed by the Canal Zone Gov-
25 ernment or the Panama Canal Company immedi-

1 ately prior to the effective date of exchange of in-
2 struments of ratification or entry into force of the
3 Panama Canal Treaty of 1977; and

4 “(B) has been continuously employed by the
5 Panama Canal Commission or by an Executive
6 agency conducting operations in the Canal Zone
7 or the Republic of Panama since the effective date
8 of exchange of instruments of ratification of the
9 Panama Canal Treaty of 1977 or its entry into
10 force.

11 “(i) An employee of the Panama Canal Commission or
12 of an Executive agency conducting operations in the Canal
13 Zone or Republic of Panama, who is separated from the serv-
14 ice as a result of the implementation of the Panama Canal
15 Treaty of 1977 or related agreements, prior to January 1,
16 2000, involuntarily, except by removal for cause on charges
17 of misconduct or delinquency—

18 “(1) after completing 20 years of service; or

19 “(2) within 2 years prior to meeting the age and/
20 or service requirements in paragraph (2) of subsection
21 (h) of this section is entitled to an annuity if he—

22 “(A) was employed in the Canal Zone by an
23 Executive agency other than the Panama Canal
24 Company or the Canal Zone Government immedi-
25 ately prior to the effective date of exchange of in-

1 struments of ratification or entry into force of the
2 Panama Canal Treaty of 1977; and

3 “(B) has been continuously employed by the
4 Panama Canal Commission or an Executive
5 agency conducting operations in the Canal Zone
6 or the Republic of Panama since the effective date
7 of exchange of instruments of ratification of the
8 Panama Canal Treaty of 1977 or its entry into
9 force.

10 “(j) For the purpose of subsections (h) and (i) of this
11 section, Federal employment by or under the United States
12 District Court for the District of the Canal Zone and by the
13 Smithsonian Institution shall be treated as employment by an
14 ‘Executive agency’.”.

15 SEC. 326. EARLY RETIREMENT COMPUTATION.—Sec-
16 tion 8339 of title 5 of the United States Code is amended—

17 (1) by inserting in subsection (f), immediately after
18 “subsections (a)–(e)”, the following: “and (n)”;

19 (2) by inserting in subsection (i), immediately after
20 “subsections (a)–(h)”, the following: “and (n)”;

21 (3) by inserting in subsections (j) and (k)(1), imme-
22 diately after “subsections (a)–(i)” each time it appears,
23 the following: “and (n)”;

24 (4) by inserting in subsection (l), immediately after
25 “subsections (a)–(k)”, the following: “and (n)”;

1 (5) by inserting in subsection (m), immediately
2 after “subsections (a)–(e)”, the following: “and (n)”;

3 and

4 (6) by adding at the end thereof new subsections
5 (n), (o), and (p) to read as follows:

6 “(n) The annuity of an employee retiring under this sub-
7 chapter who was employed by the Panama Canal Company
8 or Canal Zone Government immediately prior to the entry
9 into force of the Panama Canal Treaty of 1977, who contin-
10 ues in employment with the Panama Canal Commission, or
11 with another Executive agency or the Smithsonian Institu-
12 tion, in the Republic of Panama is computed with respect to
13 the period of that service performed on a continuous basis
14 after the entry into force of the Panama Canal Treaty of
15 1977 by multiplying—

16 “(A) 2½ percent of the employee’s average pay
17 by so much of such service as does not exceed 20
18 years; plus

19 “(B) 2 percent of the employee’s average pay
20 multiplied by so much of such service as exceeds 20
21 years.

22 “(o) The annuity computed under subsection (n) of this
23 section for an employee who was employed as a law enforce-
24 ment officer or firefighter shall be increased by \$8 for each
25 full month of such service in the Republic of Panama after

1 the entry into force of the Panama Canal Treaty of 1977.
2 This increase in annuity shall not be paid with respect to
3 service performed after completion of 20 years as a law en-
4 forcement officer or firefighter.

5 “(p) The annuity computed under this subchapter for an
6 employee who was employed as a law enforcement officer or
7 firefighter by the Panama Canal Company or the Canal Zone
8 Government immediately prior to the effective date of ex-
9 change of instruments of ratification or entry into force of the
10 Panama Canal Treaty of 1977, who does not qualify for re-
11 tirement under section 8336(c) of this title, shall be increased
12 by \$12 for each full month of such service prior to the entry
13 into force of the Panama Canal Treaty of 1977. This increase
14 in annuity shall not be paid with respect to service performed
15 after completion of 20 years as a law enforcement officer or
16 firefighter.”.

17 SEC. 327. LAW ENFORCEMENT, CANAL ZONE CIVIL-
18 IAN PERSONNEL POLICY COORDINATING BOARD, AND RE-
19 LATED EMPLOYEES.—(a) For the purposes of sections 202,
20 203, and 204 of title 2 of the Panama Canal Code, as amend-
21 ed by sections 321, 322, and 323 of this Act, and sections
22 325 and 326 of this Act, the United States Attorney for the
23 District of the Canal Zone and the Assistant United States
24 Attorneys and their clerical assistants, and the United States
25 Marshal for the District of the Canal Zone and his deputies

1 and clerical assistants, shall be treated the same as employ-
2 ees of the Panama Canal Commission.

3 (b) For the purposes of this Act, the Executive Director
4 of the Canal Zone Civilian Personnel Policy Coordinating
5 Board, the Manager, Central Examining Office, and their
6 staffs shall be considered employees of the Panama Canal
7 Company for service prior to the entry into force of the
8 Panama Canal Treaty of 1977 and as employees of the
9 Panama Canal Commission for service on or after that date.

10 SEC. 328. (a) Chapters 81 (Compensation for Work In-
11 juries), 83 (Retirement), 87 (Life Insurance), and 89 (Health
12 Insurance) of title 5 of the United States Code are inapplica-
13 ble to persons who are not citizens of the United States, who
14 are hired by the Panama Canal Commission after the effec-
15 tive date and who are covered by the Social Security System
16 of the Republic of Panama pursuant to the Panama Canal
17 Treaty of 1977 and related agreements.

18 (b) In section 8701 of title 5 of the United States Code,
19 the definition of "employee" in subsection (a) is amended by
20 revising paragraph (B) to read as follows:

21 "(B) an employee who is not a citizen or national
22 of the United States and whose permanent duty station
23 is outside the United States, unless such person was an
24 employee for the purpose of this chapter on the day
25 before the effective date by virtue of service with a

1 Federal agency in the Canal Zone, or the Smithsonian
2 Institution.”.

3 (c) In section 8901 of title 5 of the United States Code,
4 the definition of employee in subsection (1) is amended by
5 revising paragraph (ii) to read as follows:

6 “(ii) an employee who is not a citizen or national
7 of the United States and whose permanent duty station
8 is outside the United States unless such person was an
9 employee for the purpose of this chapter on the day
10 before the effective date by virtue of service with a
11 Federal agency in the Canal Zone, or the Smithsonian
12 Institution.”.

13 SEC. 329. NON-UNITED STATES CITIZEN RETIRE-
14 MENT UNDER SPECIAL TREATY PROVISIONS.—(a) Under
15 such regulations as the President may prescribe, there shall
16 be paid to the Social Security System of the Republic of
17 Panama, out of funds deposited in the Treasury of the United
18 States to the credit of the Civil Service Retirement Fund
19 under section 8334(a)(2) of title 5 of the United States Code,
20 such sums of money as may be necessary to aid in the pur-
21 chase of a retirement equity in that System for each person
22 who is separated from employment with the Panama Canal
23 Company, the Canal Zone Government, or the Panama
24 Canal Commission, as the result of the implementation of the
25 Panama Canal Treaty of 1977 or related agreements, and

1 becomes employed under the Social Security System of the
2 Republic of Panama through the transfer of a function or
3 activity to the Republic of Panama from the United States or
4 through a job placement assistance program, provided such
5 person—

6 (1) has been credited with at least five years of
7 Federal service under the United States Civil Service
8 Retirement System;

9 (2) is not eligible for an immediate retirement an-
10 nuity, and does not elect a deferred annuity under the
11 United States Civil Service Retirement System; and

12 (3) elects to withdraw the entire amount of his
13 contributions to the United States Civil Service Retire-
14 ment System and transfer it to the Social Security
15 System of the Republic of Panama pursuant to the
16 special regime referred to in paragraph 3 of Article
17 VIII of the Agreement in Implementation of Article
18 III of the Panama Canal Treaty of 1977.

19 (b) The sums of money made available under subsection
20 (a) shall not exceed, in any case, the amount of the employee
21 contribution withdrawn from the fund and paid over to the
22 Panamanian Social Security System.

23 (c)(1) Pursuant to paragraph 2(b) of Annex C to the
24 Agreement in Implementation of Article IV of the Panama
25 Canal Treaty of 1977, there are authorized to be appropri-

1 ated such sums of money as may be necessary to purchase a
2 nontransferable deferred annuity for the benefit of each em-
3 ployee of the United States Forces, including employees of
4 all nonappropriated fund activities of the Department of De-
5 fense, in the Republic of Panama—

6 (A) who is not a citizen of the United States of
7 America;

8 (B) who was employed prior to and is employed
9 upon the effective date by an instrumentality of the
10 United States Government in the Republic of Panama
11 (including, in the case of employment prior to such
12 date, the former Canal Zone);

13 (C) who, for any period of his or her employment
14 with that instrumentality of the United States Govern-
15 ment prior to the effective date was not covered by a
16 retirement program for the full period of employment;

17 (D) who, on the effective date is under a retire-
18 ment system provided by the United States or an in-
19 strumentality of the United States Government, or
20 would have been eligible to be under a retirement
21 system of such instrumentality had one been available
22 during previous creditable service; and

23 (E) who, on the effective date has at least five
24 years of creditable service.

1 (2) The President of the United States, or his designee,
2 shall pay out of the general funds of the United States Treas-
3 ury such sums as are appropriated pursuant to subsection
4 (c)(1) of this section in accordance with such regulations as
5 the President or his designee may prescribe.

6 (3) The annuity referred to in subparagraph (c)(1) above
7 will cover retroactively, from the effective date, all periods of
8 creditable service of such persons with United States Gov-
9 ernment instrumentalities in the Republic of Panama (includ-
10 ing the former Canal Zone) during which such persons were
11 not covered by an appropriate retirement program.

12 (4) Neither the United States Government nor its in-
13 strumentalities is required to furnish or to pay for retirement
14 coverage for the individuals referred to in subparagraph (c)(1)
15 above in the Social Security System of the Republic of
16 Panama for periods of employment with the United States
17 Government or its instrumentalities prior to the effective
18 date.

19 SEC. 330. (a) Section 5316(87) of title 5 of the United
20 States Code is amended by striking out "Governor of the
21 Canal Zone" and substituting in lieu thereof "Administrator
22 of the Panama Canal Commission".

23 (b) Section 6322(a) of title 5 of the United States Code
24 is amended by deleting the words "the Canal Zone, or", by
25 inserting a comma in place of the period after "the Trust

1 Territory of the Pacific Islands” at the end of the same sen-
2 tence, and by adding thereafter “or the Republic of
3 Panama.”.

4 (c) Subchapter III of chapter 59 of title 5 of the United
5 States Code, pertaining to Overseas Differentials and
6 Allowances, is inapplicable to employees assigned to work in
7 the Republic of Panama for the Panama Canal Commission
8 or an executive agency which makes an election under sec-
9 tion 142(b) of title 2 of the Panama Canal Code.

10 (d) References to the Canal Zone in the following sec-
11 tions of title 5 of the United States Code shall be deemed to
12 refer to areas in the Republic of Panama used or regulated by
13 the United States pursuant to the Panama Canal Treaty of
14 1977 and related agreements:

15 (1) section 5595(a)(2)(iii);

16 (2) section 5724a(a); and

17 (3) section 8102(b).

18 (e) Section 1(b) of the Act of April 14, 1966 (20 U.S.C.
19 903(c)) and section 6(a) of the Act of July 17, 1959 (20
20 U.S.C. 904(a)(2)) are inapplicable to teachers who are em-
21 ployed by the Canal Zone Government school system imme-
22 diately prior to the effective date and are transferred to the
23 Department of Defense Overseas Dependent School System.

24 (f) Section 5102(c)(12) of title 5 of the United States
25 Code is amended to read as follows: “Federal employees

1 whose pay is fixed under authority and regulations of the
2 Panama Canal Employment System.”.

3 CHAPTER 3—POSTAL MATTERS

4 SEC. 341. POSTAL SERVICE.—(a) The postal service
5 established and governed by chapter 73 of title 2 of the
6 Panama Canal Code shall be discontinued upon the effective
7 date.

8 (b) The provisions of chapter 73 relating to postal-sav-
9 ings deposits, postal-savings certificates, postal money
10 orders, and the accounting for funds shall continue to apply
11 for the purpose of meeting the obligations of the United
12 States concerning outstanding postal savings and money
13 orders and disposition of funds.

14 (c) The Panama Canal Commission shall take posses-
15 sion of and administer the funds of the postal service and
16 shall assume its obligations. The Commission and the United
17 States Postal Service are authorized to enter into agreements
18 for the transfer of funds or property and the assumption of
19 administrative rights or responsibilities, with respect to the
20 outstanding obligations of the postal service.

21 (d) Mail addressed to the Canal Zone from or through
22 the continental United States may be routed by the United
23 States Postal Service to the military post offices of the
24 United States Forces in the Republic of Panama. Such mili-
25 tary post offices shall provide the required directory services

1 and shall accept such mail to the extent permitted under the
2 Panama Canal Treaty of 1977 and related agreements. The
3 Panama Canal Commission is authorized and directed to fur-
4 nish personnel, records, and other services to said military
5 post offices to assure wherever appropriate the proper distri-
6 bution, rerouting, or return of said mail.

7 (e)(1) The words "Except as provided in the Canal Zone
8 Code, the" in the second sentence of section 403(a) of title
9 39 of the United States Code are revised to read "The".

10 (2) The words "each post office in the Canal Zone
11 postal service," in section 3402(a) of title 39 of the United
12 States Code are revised to read "each military post office of
13 the United States Forces in the Republic of Panama" and
14 section 3402(b) of title 39 of the United States Code is de-
15 leted.

16 (3) Section 3682(b)(5) of title 39 of the United States
17 Code is amended by striking the words "the Canal Zone
18 and".

19 (4) Section 3401(b) of title 39 of the United States Code
20 is amended by inserting the word "or" before the words "the
21 Virgin Islands" and by striking the words "or the Canal
22 Zone".

23 TITLE IV—COURTS AND RELATED FUNCTIONS

24 SEC. 401. CONTINUATION OF CODE AND OTHER
25 LAWS.—(a) Except as otherwise provided in this Act, the

1 provisions of the Panama Canal Code, as amended, and other
2 laws applicable in the Canal Zone prior to the entry into
3 force of the Panama Canal Treaty of 1977 by virtue of the
4 territorial jurisdiction of the United States in the Canal Zone
5 shall continue in force only for the purpose of the exercise of
6 the authority vested in the United States by that Treaty and
7 related agreements.

8 (b) None of the provisions or laws referred to in subsec-
9 tion (a) shall be construed as regulating, or providing authori-
10 ty to regulate, any matter as to which the United States may
11 not exercise jurisdiction under the Panama Canal Treaty of
12 1977 and related agreements.

13 SEC. 402. JURISDICTION DURING TREATY TRANSI-
14 TION PERIOD.—(a) The Congress of the United States finds
15 that Article XI of the Panama Canal Treaty of 1977 pre-
16 scribes certain special provisions governing the jurisdiction of
17 the United States in the Republic of Panama during a transi-
18 tion period of thirty months beginning upon the date the
19 Panama Canal Treaty of 1977 enters into force.

20 (b) Notwithstanding inconsistent provisions of the
21 Panama Canal Code or any other law, the jurisdiction of the
22 district court and magistrates' courts established pursuant to
23 title 3 of the Panama Canal Code shall be limited as provided
24 by Article XI of the Panama Canal Treaty of 1977.

1 (c) For the purposes of the exercise of the jurisdiction
2 described in subsection (b), the terms "United States citizen
3 employees", "members of the United States Forces", "civil-
4 ian component", and "dependents" shall be construed as
5 they are defined in the Panama Canal Treaty of 1977 and
6 related agreements. Similarly, the term "areas and installa-
7 tions made available for the use of the United States" shall
8 be construed to mean (1) the Canal operating areas and hous-
9 ing areas described in Annex A to the Agreement in Imple-
10 mentation of Article III of that Treaty, (2) the Ports of
11 Balboa and Cristobal described in Annex B to that Agree-
12 ment, and (3) the Defense Sites and Areas of Military Co-
13 ordination described in Annex A to the Agreement in Imple-
14 mentation of Article IV of that Treaty.

15 SEC. 403. DIVISIONS AND TERMS OF DISTRICT
16 COURT.—(a) The United States District Court for the Dis-
17 trict of the Canal Zone is authorized to conduct its affairs at
18 such places within the areas made available for the use of the
19 United States under the Panama Canal Treaty of 1977 and
20 related agreements, and at such times, as the district judge
21 may designate by rule or order.

22 (b) Sections 2 and 3 of title 3 of the Panama Canal
23 Code are repealed.

24 SEC. 404. TERM OF CERTAIN OFFICES.—Notwith-
25 standing the provisions of sections 5, 41, 45, and 82 of title 3

1 of the Panama Canal Code, the term of office of the district
 2 judge, magistrate, United States attorney or United States
 3 marshal appointed after the date of enactment of this Act
 4 shall extend for a period of thirty months beyond the date the
 5 Panama Canal Treaty of 1977 enters into force, and be sub-
 6 ject to such extension of time as may be provided for disposi-
 7 tion of pending cases by agreement between the United
 8 States and the Republic of Panama pursuant to the last sen-
 9 tence of paragraph 7 of Article XI of the Panama Canal
 10 Treaty of 1977.

11 SEC. 405. RESIDENCE REQUIREMENTS.—Sections
 12 5(d), 7(d), 41(d), and 45(d) of title 3 of the Panama Canal
 13 Code, the second sentence of section 42 of that title, and the
 14 second sentence of section 82(c) of that title, which require
 15 that certain court officials reside in the Canal Zone, are re-
 16 pealed.

17 SEC. 406. (a) Section 6 of title 3 of the Panama Canal
 18 Code is amended to read as follows:

19 “SEC. 6. SPECIAL DISTRICT JUDGE.—The chief judge
 20 of the judicial circuit of which the district court is a part may
 21 designate and assign a special district judge to act when nec-
 22 essary:

23 “(1) during the absence of the district judge;

1 “(2) during the district judge’s disability or dis-
2 qualification, because of sickness or otherwise, to dis-
3 charge his duties; or

4 “(3) when the office of district judge is vacant.”.

5 (b) Each such designation and assignment by the chief
6 judge shall be made in accordance with chapter 13 of title 28
7 of the United States Code, which shall be deemed to apply
8 for such purposes.

9 SEC. 407. MAGISTRATES’ COURTS.—(a) The two mag-
10 istrates’ courts established pursuant to section 81 of title 3 of
11 the Panama Canal Code and existing immediately preceding
12 the date upon which the Panama Canal Treaty of 1977
13 enters into force shall continue in operation for thirty months
14 from that date unless discontinued during that period as oth-
15 erwise provided by this section.

16 (b) During the period referred to in subsection (a), one
17 or both magistrates’ courts, together with the positions of
18 magistrate and constable corresponding thereto, may be abol-
19 ished by the President or his designee if in his judgement the
20 workload is insufficient to warrant continuance of either or
21 both courts. If one of the courts is so abolished, the remain-
22 ing magistrate’s court shall exercise the jurisdiction that oth-
23 erwise would have been exercised by the abolished court and
24 shall take custody of and administer all its records.

1 (c) If both magistrates' courts are abolished pursuant to
2 subsection (b), the following provisions shall thereafter apply:

3 (1) The district court shall exercise the jurisdic-
4 tion of the magistrates' courts.

5 (2) All records of the magistrates' courts shall be
6 deemed records of the district court.

7 (3) A criminal action that otherwise would have
8 come within the original jurisdiction of the magistrates'
9 courts shall be instituted in the district court by a com-
10 plaint executed pursuant to section 3701 of title 6 of
11 the Panama Canal Code, and the law and rules appli-
12 cable in the district court shall thereafter apply. All
13 other criminal actions shall be instituted in the district
14 court by the filing in each case of an information pur-
15 suant to chapter 213 of title 6 of the Panama Canal
16 Code.

17 (4) The requirement of and procedures for prelimi-
18 nary examinations under section 172 of title 3 and sec-
19 tions 3801 through 3806 of title 6 of the Panama
20 Canal Code shall not apply.

21 SEC. 408. Section 543 of title 3 of the Panama Canal
22 Code is amended to read as follows:

23 "SEC. 543. OATH.—Before receiving a certificate the
24 applicant shall take and subscribe in court an appropriate
25 oath prescribed by the district judge."

1 SEC. 409. TRANSITION AUTHORITY.—Except as ex-
2 pressly provided to the contrary in this Act, in any other
3 statute, in the Panama Canal Treaty of 1977 and related
4 agreements, or by Executive order, any authority necessary
5 to the exercise during the transition period of the rights and
6 responsibilities of the United States specified in Article XI of
7 the Panama Canal Treaty of 1977 shall be vested in the
8 Panama Canal Commission.

9 SEC. 410. SPECIAL IMMIGRANTS.—(a) Section
10 101(a)(27) of the Immigration and Nationality Act (8 U.S.C.
11 1101(a)(27)) relating to the definition of special immigrant, is
12 amended—

13 (1) by striking out “or” at the end of subpara-
14 graph (C);

15 (2) by striking out the period at the end of sub-
16 paragraph (d) and inserting in lieu thereof a semicolon;
17 and

18 (3) by inserting after subparagraph (D) new sub-
19 paragraphs (E) and (F) to read as follows:

20 “(E) an immigrant who is an employee of the
21 Panama Canal Company or Canal Zone Government,
22 who is resident in the Canal Zone on the effective date
23 of the exchange of instruments or ratification of the
24 Panama Canal Treaty of 1977, and who has performed

1 faithful service for one year, or more, and his spouse
2 and children who accompany or follow to join him; or
3 “(F) an immigrant, and his spouse and children
4 who accompany or follow to join him, who is a Pana-
5 manian national and (i) who, prior to the date of entry
6 into force of the Panama Canal Treaty of 1977, has
7 been honorably retired from United States Government
8 employment in the Canal Zone (or former Canal Zone)
9 with a total of fifteen years, or more, of faithful service
10 or (ii) who, on the date of entry into force of the
11 Panama Canal Treaty of 1977, has been a faithful em-
12 ployee of the United States Government in the Canal
13 Zone (or former Canal Zone) for fifteen years or more
14 and who subsequently is honorably retired from such
15 employment.”.

16 (b) Section 212(d) of such Act (8 U.S.C. 1182(d)), relat-
17 ing to waivers of conditions of inadmissibility to the United
18 States, is amended by adding after paragraph (8) new para-
19 graphs (9) and (10) to read as follows:

20 “(9) The provisions of paragraph (7) of subsection (a)
21 shall not be applicable to any alien who is seeking to enter
22 the United States as a special immigrant under subparagraph
23 (E) or (F) of section 101(a)(27).

24 “(10) The provisions of paragraph (15) of subsection (a)
25 shall not be applicable to any alien who is seeking to enter

1 the United States as a special immigrant under subparagraph
2 (E) or (F) of section 101(a)(27) and who applies for immigra-
3 tion no later than thirty calendar months after the date the
4 Panama Canal Treaty of 1977 enters into force.”.

5 SEC. 411. PRISONS; PAROLE; PARDON.—(a) Subsec-
6 tion (c) of section 6503 of title 6 of the Panama Canal Code
7 is amended to read as follows:

8 “(c) Pursuant to the provisions of section 5003 of title
9 18 of the United States Code, the Governor shall contract
10 with the Attorney General for the transfer to the custody of
11 the Attorney General of prisoners sentenced by the United
12 States District Court for the District of the Canal Zone to
13 terms of imprisonment in excess of one year.”.

14 (b) Upon entry into force of the Panama Canal Treaty of
15 1977—

16 (1) all prisoners then imprisoned in United States
17 prisons pursuant to contracts entered into under sub-
18 section (c) of section 6503 of title 6 of the Panama
19 Canal Code shall be committed to the custody of the
20 Attorney General as if committed in accordance with
21 part III of title 18 of the United States Code;

22 (2) all persons convicted of offenses in the United
23 States District Court for the District of the Canal
24 Zone, and sentenced to terms of imprisonment of one

1 year or less, shall be committed to the custody of the
2 Panama Canal Commission;

3 (3) the Panama Canal Commission shall prescribe,
4 and from time to time may amend, regulations provid-
5 ing for the management of prisoners in the jails located
6 in the areas and installations made available for the
7 use of the United States pursuant to the Treaty, in-
8 cluding provisions for treatment, care, assignment for
9 work, discipline, and welfare;

10 (4) sections 6501 through 6505 of title 6 of the
11 Panama Canal Code are repealed; and

12 (5) chapter 355 of title 6 of the Panama Canal
13 Code is repealed.

14 (c) After entry into force of the Panama Canal Treaty of
15 1977, all persons convicted of offenses in the United States
16 District Court for the District of the Canal Zone, and sen-
17 tenced to terms of imprisonment in excess of one year, shall
18 be committed to the custody of the Attorney General pursu-
19 ant to parts III and IV of title 18 of the United States Code.

20 TITLE V—MISCELLANEOUS PROVISIONS

21 SEC. 501. HEALTH DIRECTOR; HOSPITALS.—(a) In
22 chapter 57 of title 5 of the Panama Canal Code, references to
23 “hospitals”, to the “Health Bureau”, and to the “health di-
24 rector”, shall be deemed to be, respectively, to the hospitals
25 operated by the United States in the Republic of Panama

1 after the effective date, to the organizational unit operating
2 such hospitals, and to the senior official in charge of such
3 hospitals.

4 (b) In section 4784 of title 6, section 2 of title 7, and
5 sections 32, 35 through 38 of title 8 of the Panama Canal
6 Code, references to the health director shall be deemed to be
7 to the senior official in charge of the hospitals operated by
8 the United States in the Republic of Panama after the effec-
9 tive date.

10 SEC. 502. DISINTERMENT, TRANSPORTATION, AND
11 REINTERMENT OF REMAINS.—(a) There are hereby author-
12 ized to be appropriated such sums as may be necessary to
13 carry out the purposes and provisions of reservation 3 to the
14 Resolution of Ratification of the Treaty Concerning the Per-
15 manent Neutrality and Operation of the Panama Canal,
16 adopted by the United States Senate on March 16, 1978,
17 said sums to be made available to those agencies that are
18 directed and empowered by the President of the United
19 States to carry out such purposes and provisions.

20 (b) With regard to remains that are to be reinterred in
21 the United States, the United States will not bear the cost of
22 funeral home services, vaults, plots, or crypts unless other-
23 wise provided for by law.

24 SEC. 503. EFFECTIVE DATE.—(a) Except as otherwise
25 provided in subsection (b) of this section, the provisions of

1 this Act shall take effect on the effective date of the Panama

2 Canal Treaty of 1977.

3 (b) Sections 231, 321, 322, 325, 326, 404, 410, 411,

4 and 502 of this Act shall become effective upon the date of

5 enactment of this Act.

Ms. HOLTZMAN. The witnesses before us today are the U.S. Ambassador to the Republic of Panama, Hon. Ambler H. Moss, Jr.; and the Special Representative of the Secretary of State for Panama Treaty Affairs, Hon. David H. Popper.

We will begin by hearing from Mr. Popper.

**TESTIMONY OF HON. DAVID H. POPPER, SPECIAL REPRESENTATIVE
OF THE SECRETARY OF STATE FOR PANAMA TREATY AFFAIRS**

Ambassador POPPER. Thank you, Madam Chairman.

May I ask that Ambassador Moss sit at the table with me so we can both testify seriatim?

Ms. HOLTZMAN. Very good. In order to expedite this hearing, unless there is objection I will ask for the inclusion of your entire testimony in the record at this point. Perhaps it would be best if you summarized it. Mr. Popper, you may begin, and then Mr. Moss.

Ambassador POPPER. Thank you. I do appreciate the opportunity, Madam Chairwoman, to appear here today before this subcommittee to express the views of the Department of State with respect to the Panama Canal Treaty, the implementing legislation which enables us to execute those parts of the treaty which are not self-executing, and various sections of the proposed legislation of interest to the Judiciary Committee and to the subcommittee.

As suggested by the chairwoman, I will not read in detail the earlier and more general parts of my statement. I do appreciate their being submitted for the record.

I would like, if I may, to save the committee's time, simply to go directly to the subject of special immigration which is of particular interest to this subcommittee.

The business under consideration, principally the administration's proposal, H.R. 1716 and the proposal of Chairman Murphy in the House Merchant Marine and Fisheries Committee, H.R. 111, include measures to facilitate the immigration into the United States of certain employees of the Panama Canal Company and Canal Zone Government and their families.

As you know, present law provides that U.S. Government employees in any foreign country who are retired or have 15 years or more of faithful service may enter the United States as immigrants upon a recommendation, limited to exceptional circumstances, by the head of a U.S. diplomatic mission and a determination by the Secretary of State that the proposed action is in the national interest.

Persons entering as special immigrants under this provision are exempt from numerical restrictions and from the requirement for labor certification. The proposed legislation goes beyond this limiting provision. In order to respond to the needs of a particular group of present and past canal employees who will undergo a unique and profound transition when the treaty goes into effect.

While the canal was being constructed, a part of the work force was recruited from West Indian islands. Some of the descendants of those early workers are still serving with the canal organization. They have lived and worked for generations under American jurisdiction.

They have not assimilated with the Panamanians, and their cultural background and allegiance lies rather with the United States yet, as a

matter of law, these individuals are Panamanians and not Americans.

While the implementing legislation is not and could not be framed to apply to them alone, our intention is to enable them, if they desire, to settle in the United States. In brief, under the administration's proposal, an employee now resident in the Canal Zone who has performed faithful service for 1 year or more, or one residing in Panama who has honorably retired or in the future retires from U.S. Government employment with 15 or more years of faithful service prior to October of this year, may enter the United States as a special immigrant.

These persons are exempted for a period of 30 months from the public charge and certain health requirements of present law. Spouses and children are included in this authorization. We expect that the bulk of those who take advantage of these provisions will be retired persons receiving U.S. Government pensions.

Should they wish to come we believe their admission to the United States is called for as a mark of recognition of their devoted service.

Chairman Murphy's bill, H.R. 111, would extend special immigration benefits to all canal employees of 1 year's standing or more as of October 1, but would apply the public charge exemption with restrictions generally similar to those in the administration's proposals. In addition, it drops the 30-months limitation. We prefer the administration's version.

Madam Chairwoman, I hope these remarks will be helpful in the subcommittee's consideration of this important legislation and I would suggest, if you agree, that the subcommittee now hear Ambassador Moss.

[Complete statement of Ambassador Popper follows:]

STATEMENT ON PANAMA CANAL TREATY IMPLEMENTATION BY AMBASSADOR DAVID H. POPPER, SPECIAL REPRESENTATIVE OF THE SECRETARY FOR PANAMA TREATY AFFAIRS

I am happy to participate in this Subcommittee's hearings on legislation to implement the Panama Canal Treaty of 1977.

The Subcommittee is I know interested in those portions of the Panama Canal Treaty implementing legislation which involve immigration problems, and those bearing upon our commitments and responsibilities under international law. The full Committee will also wish to take into account the substance of Title IV of the Administration's bill (H.R. 1716) which includes items with respect to the law applicable during and after the Treaty transition period and the court structure for enforcing those laws.

If I may, I should like to begin with some general remarks on the significance of the implementing legislation, in terms of our broader international interests.

The Panama Canal Treaties of 1977 were the result of 13 years of arduous negotiations, under four American Presidents. Those negotiations began because the vexing difficulties we had encountered in managing the Canal led us to the conclusion that the arrangements under which it had been built and operated were no longer appropriate to the circumstances of the times. The world had changed. The morality and the feasibility of exercising jurisdiction in the territory of another country, over its opposition, had been called into question. While we continued to have the naked power to maintain the 1903 Treaty arrangements, the price of doing so had become inordinately high.

That price had to be measured in two ways. First, we had to consider the resources required to keep the Canal open in the hostile environment of a resentful and unhappy Panama. Four of our Presidents and their military advisers reached the conclusion that it was not necessary or desirable to pay that price.

From a broader point of view, standing pat on the then existing arrangements was similarly unpalatable. For years, in every international forum discussing the Panama Canal problem, the United States had been condemned for what was

termed its colonial policy. The subject constantly embittered our Hemisphere relations. It stood in the way of our friendships with Latin American and Caribbean countries and hampered our efforts to encourage self-determination and independence in the post-World War II system of nations.

The negotiations started against this background were beset with difficulties. Our country has had a special attachment to the Panama Canal, and the thought of parting with it was—and remains—a wrenching concept to many patriotic Americans. On the Panamanian side, it was just as difficult to admit that the American presence which had cut their country in two since its origin should remain in place any longer.

As you know, mutually acceptable solutions for the problems of transferring the Canal were eventually worked out. In brief, under the Treaties the United States continues to operate and defend the Canal until the year 2000, in association with Panama.

After the year 2000, the United States retains indefinitely the right to protect the Canal against any threat or act of aggression.

Thus we have arranged for a carefully phased transition to Panamanian management of the Canal in the 21st century, while protecting our ability to ensure that we can always use the waterway for commercial or defense purposes.

The agreements reached in 1977 have already demonstrated their potentialities and their promise. Where the Treaty of 1903 had long been resisted by Panama, the new Treaties were decisively accepted in a national referendum, and the Government of Panama is giving first priority to preparations for the new Treaty arrangements. Relationships between Panamanian and American officials have improved very substantially. These developments have coincided with, and undoubtedly reinforced, Panama's substantial progress toward greater respect for human rights and a more representative system of government.

From the American standpoint, conclusion of the Treaties has removed a divisive issue in our relations with other Hemisphere countries. The Treaties are supported not only in Latin America, but throughout the world. They stand as an example of how a large nation and a small nation, approaching a complex problem in a spirit of fairness and on a basis of sovereign equality, can reach an accord which is mutually advantageous.

The exchange of ratifications of the Panama Canal Treaties became effective on April 1. Accordingly, the Panama Treaties are now a part of the law of the land. Both domestically and internationally, they are binding upon us. The specific provisions of the Treaty will by their terms come into force six months from the effective date of ratification—that is, on October 1 next. Every day of this period is needed to prepare adequately for the steps which must be taken before the new Treaty system can be put into effect.

The implementing legislation must be viewed in this perspective. Since the Panama Canal Treaty is not entirely self-executing, legislation is required to fill the gaps. In many respects the Treaty tells us what must be done, but not how it is to be done under American law. The bills before the Subcommittee address themselves to this situation.

The legislation establishes the Panama Canal Commission, the new Canal operating agency, as an instrumentality of the United States Government operating under United States law. It prescribes the personnel system for the Canal operation; establishes the basis for determining tolls and making the necessary payments to Panama from Canal revenues; sets forth the law enforcement arrangements to prevail during the life of the Treaty; and covers a number of other important matters.

The complexity of the legislation is indicated by the fact that four Committees of the House of Representatives are considering its various Titles. We expect that four Senate Committees will do likewise. A fruitful discussion has been under way with a view to producing a statute which will best reflect the views of Congress and the Executive Branch. The Administration has stressed the urgency of the legislation. I believe all parties understand the need for adequate lead time if the transition is not to be inefficient, costly, and in the extremity even crippling to the continued operation of the Canal.

Treaty implementation legislation must be judicious as well as timely. As eventually adopted, it should be fully consistent with the letter and spirit of the Panama Treaties. Otherwise the good faith of the United States will be questioned, and the spirit of cooperation and trust engendered during the negotiations will not be fully preserved.

The United States can protect its own interests in the Canal without abandoning that spirit or unilaterally departing from the cooperative posture which characterized the Treaty negotiations and our subsequent planning for Treaty implementation. We can assure the attainment of our fundamental objectives without injustice to our Panamanian partners. But to do so requires a constructive rather than a vindictive approach.

Given its concern for international law, this Subcommittee will wish to ensure that the implementing legislation is framed in terms consonant with the Panama Canal Treaty. Any attempt to use the legislative process to alter the Treaty terms would call our credibility into question and would probably violate specific Treaty commitments. This is not a role our country has played or one which we could defend.

We have raised this point in the course of consideration of the implementing legislation introduced by Congressman John Murphy, Chairman of the House Merchant Marine and Fisheries Committee, together with other Representatives. Chairman Murphy's bill (H.R. 111) presents an alternative to the Administration proposals. In many respects, the two bills are similar; in some, they differ quite substantially.

The administration has challenged certain provisions of H.R. 111 on the ground that they are not consistent with the letter or the spirit of the Treaty by which we are bound. We believe that the bill is faulty in the following particulars:

It contains provisions which would reduce to zero the possibility that Panama might receive some or all of a \$10 million contingent annuity to which under the Treaty it is entitled if the Canal should have a surplus in any given year.

It requires that Treaty payments to which Panama is entitled be withheld while entirely unrelated expropriation claims (virtually regardless of their merits) remain unresolved.

It would require Congressional assent for each transfer of property to Panama after the initial turnover next October, thus creating a doubt that the Treaty provisions for such turnovers phased over time will be honored.

It puts the Panama Canal Commission and its Board of Directors "under the direction" of the Secretary of Defense, reducing the role of Panamanian directors to a nullity.

It gives the President power to put the entire Canal operation under the control of a U.S. military officer in the case of war or imminent war—in effect, setting the Treaty aside. Under the Treaty the President already has ample authority to defend the Canal.

All of these provisions seem to us to contravene the intent or the spirit if not the letter of the Panama Canal Treaty. They will not, if adopted into law, serve our national interest. If Panama should become convinced that we mean to disturb the delicate balance of rights and obligations contained in the Canal Treaty by our own unilateral action and in ways disadvantageous to it, Canal operations will inevitably be affected. The spirit of cooperation and partnership which underlies the Treaties will be impaired, and Panama might react accordingly.

We hope that before the implementing legislation reaches the floor of the House of Representatives, it will be purged of such provisions. This Committee, we believe, should have an interest in this matter, given its interest in international law.

I should like to make comments on two other elements of the proposed legislation.

First, the Panama Canal Treaty and the accompanying agreements provide in some detail for the way in which the criminal and civil laws of the United States should be phased out and Panamanian jurisdiction should be phased in during the Treaty's life. In a word, during the two and one-half year transition period beginning in October, the United States will retain the primary right to exercise criminal jurisdiction over Americans in the Canal Commission component and the Defense forces, for offenses committed within the areas we retain and in cases involving offenses committed prior to October 1. We will retain police authority in retained areas and installations, and U.S. courts will continue to function to try Americans under applicable United States law. Civil cases pending on the effective date of the Treaty will be disposed of by the existing courts. These courts will have no jurisdiction over new civil cases.

After 1982, Panamanian law will be applicable, but numerous safeguards are

provided to protect the interests of American natural or juridical persons in the present Canal Zone. Panama is pledged to give favorable consideration to requests that it waive its jurisdiction in our favor as regards offenses committed by Americans. When jurisdiction is waived, these persons would be tried in the United States. Where American defendants are tried in the courts of Panama, an annex to the Treaty implementation agreement lists a wide-ranging group of procedural guarantees which will be applied. In this connection, we have negotiated a Treaty with Panama which when ratified will entitle American citizens convicted of offenses in Panama to serve their sentences in prisons in the United States.

The implementing legislation provides for continuation of the present court system for the purpose of exercising U.S. jurisdiction during the transition period. The legislation also transfers responsibility for the incarceration of persons convicted of felony offenses from the Canal Zone Government, which will go out of existence, to the Department of Justice. There are no important substantive differences between the alternative bills under consideration. We would have no problem with a provision in Chairman Murphy's bill establishing an Office of Ombudsman, with power to make recommendations to the Commission or other U.S. agencies regarding the problems of employees.

Finally, let me touch on one additional matter: The subject of special immigrants.

The bills under consideration include measures to facilitate the immigration into the United States of certain Canal employees and their families.

As you know, present law provides that U.S. Government employees in any foreign country who are retired or have 15 years or more of faithful service may enter the United States as special immigrants upon a recommendation, limited to exceptional circumstances, by the head of a U.S. diplomatic mission, and a determination by the Secretary of State that the proposed action is in the national interest. Persons entering as special immigrants under this provision are exempt from numerical restrictions and from the requirement for labor certification. The proposed legislation goes beyond this limited provision in order to respond to the needs of a particular group of present or past Canal Company employees who will undergo a unique and profound transition when the Treaty goes into effect.

While the Canal was being constructed, a part of the work force was recruited from West Indian Islands. Some of the descendants of those early workers are still serving the Canal Company. They have lived and worked for generations under American jurisdiction. They have not completely assimilated with Panamanians, and their cultural allegiance is to the United States.

As a matter of law, these individuals are Panamanians and not Americans. While the implementing legislation is not and cannot be framed to apply to them alone, the intention is to enable them—if they desire—to settle in the United States.

In brief, under the Administration proposal an employee now resident in the Canal Zone who has performed faithful service for a year or more, or one who has honorably retired or in the future retires from U.S. Government employment with 15 or more years of faithful Government service prior to October 1, may enter the United States as a special immigrant. These persons are exempted for a period of 30 months from the public charge and certain health requirements of present law. Spouses and children are included in this authorization.

We expect that the bulk of those who take advantage of these provisions will be retired persons receiving U.S. Government pensions. We believe their admission to the United States is called for should they wish to come, as a mark of recognition of their devoted service.

Chairman Murphy's bill would extend special immigration benefits to all Canal employees of one year's standing or more as of October 1, but would apply the public charge exemption with restrictions generally similar to those in the Administration proposal. In addition, it drops the thirty-month limitation. We prefer the Administration version.

Mr. Chairman, I hope that these remarks will be helpful in the Subcommittee's consideration of this important legislation.

Thank you.

Ms. HOLTZMAN. Thank you very much.

We appreciate your appearance here and your testimony.

Ambassador Moss, we will include your full statement in the record. To expedite matters, we would appreciate your summarizing it.

TESTIMONY OF AMBLER H. MOSS, JR., U.S. AMBASSADOR TO THE REPUBLIC OF PANAMA

Ambassador Moss. Thank you.

I would only want to add from our point of view the Treaty date is rapidly approaching, October 1 of this year. It's very important that Congress act early to pass implementing legislation which will define the rules under which many of the employees will be determining their own futures.

We will be setting up the Panama Canal Commission, the U.S. Government agency which will be operating in the Canal until the end of the century, and we will be spelling out those provisions of the Treaty which do need further elaboration by legislation.

I would only want to add as a comment to what the Ambassador said that I think that the special immigration provisions under consideration by this subcommittee are very consistent with the provisions of the treaty, particularly the employee provisions.

They are important for two reasons. For faithful employees they fill a certain human need, and second, because it transmits a very important psychological signal to all the employees down there, whether Americans or Panamanians. The signal is that "Washington" meaning the executive and legislative branches—does care about them, and recognizes their service and importance in years to come.

That is an important signal to transmit at this time since it's a time of severe psychological adaptation to new conditions.

They do need reassurance that the U.S. Government cares about them. Even though this particular set of provisions applies only to a limited number of employees and not to American citizens, it's a useful signal for our citizens as well as the Panamanian employees continuing to work on the Canal.

I would end my remarks there in the interest of brevity.

[The full statement follows:]

STATEMENT OF AMBASSADOR AMBLER H. MOSS, JR.

My name is Ambler H. Moss, Jr., and I am the United States Ambassador to the Republic of Panama. I am pleased to meet with you and the members of the Subcommittee to discuss the proposed implementing legislation for the Panama Canal Treaty.

We are rapidly approaching the date of entry into force of the Treaty, October 1, 1979. In anticipation of that date, considerable effort in planning for Treaty implementation has been made by responsible elements of the United States Government as well as by agencies of the Panamanian Government. This planning activity is necessarily a complex procedure, involving not only the coordination of the Washington agencies with each other and with the field, but on the Isthmus it involves the need for a closely-coordinated approach between the American Embassy, the Panama Canal Company/Canal Zone Government, and the U.S. Southern Command.

It is of great importance to our planning effort that the Congress act early to pass implementing legislation which not only supports the letter and spirit of the Panama Canal Treaty but which enables the planning for Treaty day to go ahead by completing the legislative framework within which the Panama Canal will operate.

The Treaty contains mutual obligations to which both sides are committed.

and the work being done by both countries' planners represents an honest effort to be prepared for the new Treaty arrangements. The Panamanian Government, as well as our own, is well aware of the need for the smoothest possible transition in order to keep the operation of the Canal as efficient in the future as it has been in the past, for their own country's benefit and that of world commerce.

We are fortunate in that many of the leaders of the Panamanian Government today were personally involved in the Treaty process over the last few years and are therefore extremely knowledgeable. President Aristides Royo, a young lawyer who became President of Panama last October 11, was a chief Treaty negotiator for Panama. He has shown a particular sensitivity toward the needs and concerns of the U.S. citizens who live in the Canal Zone and who work on the Canal. President Royo has visited both the Atlantic and Pacific sides of the Canal Zone where he has met with American and Panamanian citizens who live and work there. As a gesture of goodwill, he recorded a television message in English to the American residents of the Canal Zone which was broadcast on the local Armed Forces television stations on New Year's Day this year.

Numerous subcommittees made up of representatives from our two countries have been working together since mid-1978 to plan for the implementation of the Treaty on a wide range of subjects from operational transfers, such as the ports and railroads, to areas of employee and community interests, including personnel, housing, social security, utilities, the environment, and police and fire protection. Similar bi-national committees are working in areas of concern to our Southern Command and the Panamanian National Guard.

Certain portions of our work have been dispatched in a very timely manner. In January we signed three agreements with Panama which were called for under the new Treaty relationship. These are:

A new civil aviation agreement which provides for the phasing over of our present air traffic control in Panama's air space to Panama over a five-year period, which represents a considerable cost saving to the United States;

An agreement providing for a permanent United States cemetery at the present Corozal Cemetery in the Canal Zone, over which our flag will fly and which will be administered by the American Battle Monuments Commission;

A prisoner exchange Treaty which provides procedures whereby American citizens convicted of a crime in Panama can serve their sentences in the United States and Panamanians convicted of a crime by a United States court may serve their sentences in their homeland.

It is apparent that we are already beginning to realize the benefits of our new partnership with Panama in the military field. In January and February of this year, conventional warfare exercises were held by our 193rd Infantry Brigade at the Rio Hato Military Base in cooperation with the Panamanian National Guard. This military area, large in size and ideal in terrain for such exercises, is deep in Panama's interior and would not have been made available to us except under the new Treaty relationship. On February 16, I accompanied President Royo on a visit to the U.S. Army School of the Americans. Given full military honors upon his arrival, he stated in a press conference at the School that he wished it to continue in operation after the expiration of the five-year agreement which will come into effect October 1, and he encouraged the beginning of talks between the United States and Panamanian representatives for that purpose. He has remarked to me that he is proud of the fact that there have been numerous Panamanian graduates of the School, and he hopes for greater Panamanian participation in it.

There are several elements I consider to be critical in the role of the United States Government in discharging its responsibilities under the new Treaty:

First, we must operate, maintain and defend the Panama Canal in the most efficient manner possible. Implementing legislation will be crucial in this respect, particularly in the manner in which it establishes the new Panama Canal Commission and the basis for setting tolls. Here it is important to continue the concepts that the Canal be run as a self-sustaining enterprise, with the requisite managerial flexibility and tolls set at as low as possible a level to provide the greatest benefit to our shipping and that of the world.

Second, we must build a genuine working partnership with Panama, although that country will be a minority partner until the end of the century. Working in a spirit of collegiality is the essence of the Treaty scheme—to share decision-making responsibility and to impart to Panamanians the knowledge we have gained through the years in the intricate business of maintaining the Canal and in modernizing it to keep it competitive.

Third, and no less important, we must safeguard the interest of the United States citizens and the Canal employees, recognizing their loyal service in the past and the tremendous need for them to continue to devote their best work to the enterprise in the future. Both the Administration bill (H.R. 1716) and the bill introduced by the Chairman of the House Merchant Marine and Fisheries Committee (H.R. 111) would accomplish this purpose.

Closely related to this last point are the special immigration provisions under consideration by this Subcommittee. These provisions are important for two reasons: First, because they fill a human need and help certain Canal employees and retired employees to cope with the changes in their lives which are inevitable under the Treaty; and second, because they transmit a signal to all employees that "Washington", meaning both the Executive and Legislative Branches of our Government, is sensitive to employee concerns. The efficiency of the Canal operation will depend to a large degree upon the perception of the employees that they will be treated generously and equitably.

In conclusion, let me just say that I believe there is every reason to be optimistic about the success of our new treaty relationship. A new government in Panama took office last October which is composed of young, energetic, highly-educated people who are determined to make their country an economic and social success. They have expressed a policy of vigorous stimulation of the private sector and have extended an open invitation to private foreign investment. An important part of their program is continued cooperation with the United States. They have demonstrated sensitivity to the concerns of American citizens who live in the present Canal Zone. If we are able to implement both the spirit and letter of the Treaties both with respect to Panama and to our own employees, and if we can help, through the coordinated efforts of our Government agencies, to maintain a true spirit of collegiality between both countries, the important service to our country and to world shipping provided by the Panama Canal will be assured well into the future.

Ms. HOLTZMAN. Thank you very much.

Let me start off by saying that I want to question you closely about this. It seems we are going to be changing our immigration provisions and it ought to be for very good reasons. I am not sure that just psychological signals are adequate justification. Let me ask you first: Is it true that the legislation the administration proposes would in essence permit 48,000 persons to come to this country? Is that correct?

Ambassador POPPER. That is the number who would be eligible for admission under these provisions.

Ms. HOLTZMAN. Isn't it a fact that all but 400 of those 48,000 would be eligible for admission to the United States under existing law?

Ambassador POPPER. All but 400? I had not heard that. If I might, could I ask if Colonel Rhode, who represents the Department of the Army here today, might join us at the table.

Ms. HOLTZMAN. Four hundred workers plus dependents. Approximately 2,800 persons would not be covered under the existing section 101(a)27(D) of the immigration law.

Is that correct?

[The text of Section 101(a) (27) (D) follows:]

"(27) The term "special immigrant" means—* * *

"(D) an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: *Provided*, That the principal officer of a Foreign Service establishment, in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status."

**TESTIMONY OF COL. MICHAEL RHODE, JR., MILITARY ASSISTANT
TO THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)**

Colonel RHODE. I would have to check those figures. For those of West Indian-descent living in the Canal Zone alone, we have approximately 800 who, along with their dependents, would not be eligible under current authority.

Three hundred sixty are below the 15-year service requirement. I don't have the figures as to how many who have less than 15 years' service live outside the Canal Zone, but they would not be eligible under the proposed provisions.

Ms. HOLTZMAN. Would you identify yourself for the record?

Colonel RHODE. I am Colonel Rhode, Military Assistant to the Assistant Secretary to the Army (Civil Works).

Ms. HOLTZMAN. Thank you very much.

It would be very useful to the subcommittee to have the exact number of people who would not be covered under present law.

It seems to me when you come to Congress asking for new legislation to help a situation, we need to know the extent to which there is need for it.

Twenty-eight hundred people is considerably different from 48,000. That is a figure that our staff came up with.

We very much appreciate you providing us with that information as quickly as possible.

Colonel RHODE. Yes, we will.

[Information was not submitted.]

Ms. HOLTZMAN. Have you done a survey to determine whether the proposed beneficiaries of this special immigration legislation would take advantage of it?

Colonel RHODE. The Company has done a partial survey and has reported to us that an estimated 10 to 20 percent would take advantage of the special immigration provisions.

Ms. HOLTZMAN. Not more than 20 percent. You don't know whether these are persons who have worked for 15 years or not.

Colonel RHODE. I don't, but I assume it is 20 percent of all those eligible.

Ms. HOLTZMAN. Would you be able to get that breakdown for us?

Colonel RHODE. We will attempt to get that for you.

[Information was not submitted.]

Ms. HOLTZMAN. In fact, if none of the persons who have served 15 years would even want to come to the United States, there may not be a need for this legislation at all.

With respect to why the Department of State and the administration are asking for this legislation, it is my understanding there is some concern that these persons will lose their jobs once the treaty takes effect.

What is the basis for this concern? Isn't it a fact that the supervisory board of the Panama Canal Commission will consist of five U.S. representatives and only four Panamanian nationals?

What is the basis for the claim that these people's jobs are in jeopardy?

Ambassador POPPER. Madam Chairwoman, I don't think it's a question of their jobs being in jeopardy as much as the question of many of them having for the first time to live outside of U.S. jurisdiction.

Under the treaty, those now working for the Panama Canal Company and the Canal Zone Government are guaranteed, to the maximum extent feasible, the retention of their working positions and conditions of work.

But it's not necessarily true that they would feel well-adjusted to a situation which exists once Panama assumes full jurisdiction over the former Canal Zone.

These are people, as I said, whose cultural orientation runs towards the United States.

Ms. HOLTZMAN. Isn't it a fact that only 1,000 of these persons at the present time live within the Canal Zone and 10,000 live in Panama?

Ambassador POPPER. That's correct.

Ms. HOLTZMAN. What about the cultural orientation of those people already living in Panama?

Ambassador Moss. First, I think there is some fear on the part of some of them they would lose their jobs. I am talking not about the employees who remain with the Panama Canal Commission but some of the employees whose jobs will be transferred along with certain functions, to Panama. This includes functions such as the ports and railroads, which we are now performing but which Panama would perform in the future.

Panama has a treaty obligation to retain these people to the maximum extent possible.

However they are of a different cultural background. They often do not speak Spanish. They feel they may be discriminated against and that conditions of life would be such that they would either leave their jobs or lose them.

We have no reason to believe these fears are well-founded, but the fears are there. These individuals are worried about this problem simply because they haven't assimilated.

Ms. HOLTZMAN. Is it true the 10,000 employees who live in Panama have not assimilated?

Ambassador Moss. A number of them haven't. If you go to the city of Colon, you find people of the same ethnic background but families speak only English and other families speak Spanish.

The assimilation is uneven. Up until a few years ago, those who lived in the Canal Zone only had access to English-speaking schools so their children didn't grow up speaking Spanish.

Today, because of family and community ties, many still continue to speak English as their Caribbean ancestors did, they have not assimilated into the Panamanian society.

Ms. HOLTZMAN. As I understand it, in the treaty you provide employment assurances for the U.S. citizens. In other words, all U.S. citizens who used to work for the Panama Canal have been guaranteed jobs but no such assurances have been given to the West Indians.

Instead, the solution to their problem seems to be through special immigration laws.

Can you tell us why you want to solve the problems of U.S. citizens

through employment guarantees but solve the problems of the West Indians by increasing immigration to the United States?

Ambassador POPPER. As a general rule under the treaty employment assurances are for people regardless of their nationality. It's not correct that no one will lose his job. However, in the treaty and the legislation there are measures to insure that there will be protection for those who choose to retire or who, for one reason or another in the shuffle of responsibilities from one agency to another, don't have positions.

Protection is afforded for American citizens through priority placement in other U.S. Federal positions and through advantageous retirement benefits.

Protection would have to be applied to Panamanians in a different way, but there are job protection guarantees throughout the treaty for both groups.

Ms. HOLTZMAN. Thank you.

The gentleman from Texas.

Mr. HALL. Ambassador Moss, I notice on page 5 of your statement, in the third position, you indicate third and no less important, we must safeguard the interest of U.S. citizens who are canal employees. Recognizing their loyal service in the past and the tremendous need for them to continue to devote their best work to the enterprise in the future—do I understand that is one of the paramount reasons why you think the United States should have 48,000 people eligible to come to this country?

Ambassador Moss. No, sir. The section that I was referring to concerned other provisions of the implementing legislation, such as the optional early retirement program.

Nevertheless, I think of the legislation which this subcommittee is considering as being in the nature of a safety net or escape valve just as the optional early retirement program is the kind of things that give people the assurance they need to be happy with their situation and not simply to want to pick up and leave precipitously or not be able to put out their best efforts. I think this is a kind of a safety net for people who may need it.

Mr. HALL. None of these people are citizens of the United States, I take it?

Ambassador Moss. No, sir.

Mr. HALL. A lot of them that live in the Panama area have lived there the bulk of their lives.

Ambassador Moss. That is right.

Mr. HALL. You say they have not become a part of the culture of Panama during all those years.

Ambassador Moss. That is right. By and large they were the descendants of West Indians who came to help construct the canal. Their lives, work and ties were more to the United States than to the Republic of Panama, even though they have never been here.

Mr. HALL. I didn't get an answer a moment ago. Do the bulk of these people live in the immediate area of the Panama or do they live in the entire area?

Ambassador Moss. It is my understanding that the bulk of them live across the Canal Zone boundary line in the Republic of Panama,

but they live in the vicinity of the canal and close to the canal where their place of work is.

Mr. HALL. When this treaty was signed, was there direct language in the treaty that said that the people that we are speaking of here today would have the right to come into the United States?

Ambassador Moss. No, sir. The treaty doesn't give them that right. We only made a promise to them to make our best effort to obtain such legislation.

Mr. HALL. Who made the promise?

Ambassador Moss. The administration. I am not sure where the promise was first enunciated. Probably the treaty negotiators.

Mr. HALL. Is it in writing anywhere between the two countries that these people have the right to settle in the United States?

Ambassador Moss. No, sir. There is no agreement between the two countries to that effect.

Mr. HALL. Who initiated this idea that they come?

Ambassador Moss. The idea was initiated by the administration after hearing the petitions of these people when they came to see the negotiators, and their employers. They pleaded that they deserved special treatment and needed special treatment simply because the treaties would change their lives in ways they felt might harm them.

It was out of humanitarian concern and concern for good management that these provisions were put in the administration's implementing legislation for the treaties.

Mr. HALL. Is this request for admission based more on "humanitarian concerns" rather than any justification that would be to the best interests of the United States.

Ambassador Moss. I would justify it on two grounds. First, humanitarian. Also, I would say it is good management practice in that it does show employer concern for the employee. It shows employer recognition of valuable employee services.

In some cases, of course, it provides a direct benefit to family members of employees who are still there, thus directly affecting their morale. I think it is good management as well as humanitarian. I would not put it in the same category as refugees from a war-torn country or something which the United States had no part or interest in.

Mr. HALL. If you examine the sentence on page 5, "recognizing their loyal service in the past and the tremendous need for them to continue to devote their best work to the enterprise in the future," that would also apply to an illegal alien from Mexico, wouldn't it?

Ambassador Moss. It might apply to—

Mr. HALL. Wouldn't it?

Ambassador Moss. I don't believe so. I think it might apply to the need to provide legislation to bring in aliens to perform work in the United States, something like that. We are not talking about illegal immigration at all. There was no movement I know of among these people to immigrate illegally into the United States.

Mr. HALL. The same language would apply in both cases. We need for them to continue their best work in this country to the enterprise in the future.

I have serious reservations about this, Madam Chairman. I yield back the balance of my time.

Ms. HOLTZMAN. Thank you.

The gentleman from Virginia.

Mr. HARRIS. Thank you, Madam Chairman. I am pleased to be with you all again.

As we attempt to understand all the provisions here, the bulk of those that this law would apply to have not lived in Canal Zone; is that correct?

Ambassador POPPER. That is true.

Mr. HARRIS. The reference was made that this would be in recognition of service. Yet, this special immigration classification would apply to those who have just worked for the Panama Canal Company for 1 year.

Ambassador POPPER. If they are resident in the Canal Zone, yes, sir.

Mr. HARRIS. It would not apply to those who were outside the Canal Zone?

Ambassador POPPER. Those outside the Canal Zone, residing outside the zone, would have to have had 15 years of service by October 1 next. They would need to have retired or to be retired subsequently to be eligible.

Mr. HARRIS. It would not apply to them until they are retired if they lived outside the Canal Zone?

Ambassador POPPER. They would need at least 15 years service.

Ambassador MOSS. I would like to make one observation. Retirees wouldn't be able to find housing in the Canal Zone because the housing is all owned by various U.S. Government organizations which leases it, makes it available to current employees. That is the reason most of these retirees would be living outside the Panama Canal zone.

Mr. HARRIS. You are saying the special immigration does not apply to the current employees of the Panama Canal Company, those who are not retired, who live outside the Canal Zone, and who have served less than 15 years?

Ambassador POPPER. That is correct.

Mr. HARRIS. I just wanted to be sure that is correct on the record. That is correct?

Ambassador POPPER. Yes, sir.

Mr. HARRIS. Both the administration and Mr. Murphy's bill would waive the public health requirements with respect to this special classification of immigrants. What exactly is being waived?

Ambassador POPPER. I would ask Colonel Rhode if he would respond to that question.

Colonel RHODE. Subparagraph 7 says:

Aliens not comprehended within any of the foregoing classes who are certified by the examining surgeon as having a physical defect, disease or disability when interpreted by the consul or immigration officer to be of such a nature that it might affect the ability of the alien to earn a living unless the alien affirmatively establishes that he would not have to earn a living.

Mr. HARRIS. So that regardless of any disease that the person affected might have, this would in no way interfere with his or her right to immigrate under these special provisions; is that correct?

Colonel RHODE. There are still other things that apply to him. If he is mentally retarded, insane, have any type of mental defect, an alcoholic, other things listed here are not waived.

Mr. HARRIS. For the purposes of the record, we better list those that are not waived. Alcoholics would still be barred from entry.

Colonel RHODE. They are not waived, that is right.

Mr. HARRIS. Both bills also waive the requirement that the immigrant provide some proof that he or she will not become a public charge. Does this mean you anticipate that a number of these will not be able to present such proof and that we will in fact be permitting immigration of a number of people that will become public charges?

Colonel RHODE. There are probably some who would want to immigrate to the United States that would not have an income, I would suppose. The monthly average annuity for those retirees of the Panama Canal Company is \$400. So if a former employee or an employee with that amount of money had more than one dependent, then the waiver of public charge would be required.

Mr. HARRIS. It would be anticipated then that a number of these would become public charges when they come to the United States?

Colonel RHODE. These are current employees or retirees. Retirees have an income and current employees have various skills ranging from linehandler to physician. I would have to provide that information for the record as to the exact number.

Mr. HARRIS. If I have any time left, I would like to ask one final question. This is a question I suspect may be gnawing at an awful lot of members of the subcommittee. I know it gnaws at me. Is it anticipated that Panama will actively violate human rights and discriminate against the people whose special immigration protection we are trying to achieve in this act?

Ambassador POPPER. No, sir. The provision is not motivated by any expectation that Panama will violate the human rights of these people.

It is rather a question of cultural affinity, cultural tranquility, if I can use that word, for these people. It is their own fears and apprehensions which led them to request special treatment and which led us to propose it.

Mr. HARRIS. Are these fears you feel largely unfounded?

Ambassador POPPER. I feel that Panama's record is one of recent and very appreciable improvement in the area of human rights. It offers a good argument for further development of improved human rights practices. I would be optimistic about that. But even so this is, in a sense, an alien group culturally within the Panamanian population.

Ms. HOLTZMAN. Your time has expired.

The gentleman from Maryland.

Mr. BARNES. Thank you.

Could you just let me know—I am a new member of the subcommittee—whether there are recent precedents for this action with respect to other employees of the U.S. Government? Is what we are asked to approve fairly common? What are some of the precedents?

Ambassador POPPER. I mentioned in my remarks that embassy employees and other long-time employees of the United States with 15 years or more of service can, in special circumstances, under recent law, be permitted to immigrate to the United States as a matter of special consideration. That is the closest and the only precedent I know for what is being proposed here.

The grounds for the proposal here will reside in the unique characteristics flowing from the authority we have exercised in operating the Panama Canal.

Mr. BARNES. I am confused at the rationale for the distinction. As I understand your explanation, employees who have worked for 1 year and lived within the zone would come within the ambit of the new legislation.

But if you happened to live outside the zone, you would have had to work for 15 years. If what we are talking about is the humanitarian response to reward employees for their service, what is the rationale for distinction?

Colonel RHODE. The 1,000 or so we have living in the zone are generally the direct descendants of the West Indian employees that came over to help dig the Canal many years ago and are either second or third generation Canal Zone residents. As Ambassador Moss mentioned, many of them at this time don't speak any Spanish. They have been going to schools in the Canal Zone where only English is taught.

I am told a number of them have never been to Panama outside the Canal Zone which is a 10-mile strip across the isthmus. For that group, we want to insure that they have the right to immigrate to the U.S.

Mr. BARNES. Just so I understand, you are going to provide the subcommittee the numbers that the Chair read earlier.

You are not sure whether those are accurate or not.

Colonel RHODE. I have not done a survey as to how many could come under current law. We will do that. I will provide that for the record.

Mr. BARNES. Thank you very much.

Ms. HOLTZMAN. The gentleman from California.

Mr. LUNGREN. Thank you, Madam Chairman.

I apologize for not having been here for the whole testimony. I hope I won't go over things that have already been said. If I do, I hope you will bear with me.

I would have to say at the outset that hearing about this particular aspect of the Panama Canal Treaty is another manifestation, to me, of a treaty that was supposed to give us no problems whatsoever financially or in any other way.

Every time I turn around, we in the Congress are looking at another aspect. With respect to this particularly, I am very concerned because we are dealing in this subcommittee with an extremely difficult problem, and that is of the refugees from Southeast Asia, many who have been in camps for as long as 4 years.

We are trying to increase the numbers that can be allowed into this country. It brings to me the question of priorities. What are we doing with this legislation?

Aren't we jumping the gun with this? I heard someone say there is no evidence that they will have their human rights violated.

I hope that is true, although I have serious doubts about it. You gentlemen know more about it than I.

If that is the case, is this the type of legislation we need in terms of priorities when dealing with refugees from Southeast Asia?

Which in and of itself will be a complex problem and one we have to address immediately.

Ambassador POPPER. I won't for a minute dispute the priorities you attribute to Southeast Asian refugees. We are aware of their problems and needs and commend the Congress for the things it's doing in response to those needs.

This is obviously an entirely different sort of situation. It's a unique situation in which it is, we think, important from the humanitarian and managerial standpoint to protect the rights of a group which served the United States well by its labor and devotion over generations. It's on that basis we come to the Congress with these provisions.

Mr. LUNGREN. I thought the administration's position was the Government in Panama represents the interests of the people there, and it is better for us to turn the canal over to them and not have to worry about some of these questions that some of us brought up earlier.

Now, you are telling me we have to worry about those things.

Ambassador POPPER. I don't think we ever thought the treaty would solve all the problems involved in this complex matter.

Mr. LUNGREN. I have yet to see a problem it has solved.

Ambassador POPPER. We do believe that the legislation should include this special immigration element, in consideration of this particular problem of a special character which is not duplicated anywhere else.

Ambassador MOSS. As I stated before, we also have management interests apart from the humanitarian interests. These individuals have been U.S. employees. In addition, a number of family members as well as families of some of the people who immigrate here may still be U.S. employees.

The special immigration provision is important as a signal. It reflects employer concern for the welfare of their employees and for the motivating factor in their future work. We have an interest which puts this apart from your usual humanitarian considerations concerning immigration for refugees.

Mr. LUNGREN. I heard what you said. But I do not quite understand the management interest. When someone is employed by the United States in a foreign country, do we have an obligation to bring him to the United States to show him we are good employers?

Ambassador MOSS. I meant as an incentive to good employee relations in a particular situation. It certainly is not an obligation. I would never say that. In this particular situation, with this group of people, and with this particular set of concerns, I would advocate the principle. It's not only supportable on humanitarian grounds, but also on good management grounds.

Mr. LUNGREN. No further questions, Madam Chairman.

I yield back my time.

Ms. HOLTZMAN. Thank you very much.

Let me go over some other questions. With regard to the management problem here, we don't know of those 20 percent who indicated they wanted to come to the United States or might want to come, how many of them are present employees and how many are retirees, do we?

Colonel RHODE. No; I don't, but I believe that it is fair to assume that we are talking about 20 percent across the board.

Ms. HOLTZMAN. Could you get that information for the record?

Colonel RHODE. Yes.

Ms. HOLTZMAN. Second, there is nothing to prevent the new company which will take over the management of the canal from using its best efforts to provide employees with jobs; is that correct?

Ambassador MOSS. They are required to do so in the case of em-

employees whose jobs will be retained by U.S. organizations such as the Panama Canal Commission. They would be kept on the payroll.

Ms. HOLTZMAN. What harm do you see if this committee were to recommend no action on such a provision at this time on the grounds, first, that most of the people would qualify in any case under the existing law, second, that there is no indication in the record that these people would suffer any discrimination, and, third, that it may well be their employment problems can be solved under the implementing legislation with regard to the treaty?

What specific harm would you see?

Ambassador Moss. I would see specific harm in employee morale, particularly since a number of these employees have families who would feel affected and would feel Washington had abandoned them. They have worked for the U.S. Government for generations.

Ms. HOLTZMAN. We established that those people would qualify under existing law.

Ambassador Moss. It might be more difficult and time-consuming to qualify.

Ms. HOLTZMAN. But they could. The State Department has the authority to make a finding of "exceptional circumstances" in order for them to immigrate.

Ambassador Moss. I am not an expert in immigration law but I am not sure emergency conditions could be said to apply to their situation.

What we are asking for here is legislation which would provide entry to the United States on more flexible terms than the present law would allow and make it easier for them.

Ms. HOLTZMAN. Do you think that "exceptional circumstances," warranting a recommendation to confer special immigrant status under current law, exist with respect to the non-U.S. citizen employees in Panama?

Ambassador Moss. That would be a question of judgment as to how exceptional they would be in light of precedents. I am not expert in the application of that statute.

Ms. HOLTZMAN. Do any of my colleagues have any further questions?

Well, let me say that we very much appreciate your coming before the subcommittee. I am sorry things had to be as rushed as they were, but I think we got the full benefit of your testimony. We would appreciate seeing the additional information for the record.

Thank you very much.

[Discussion off the record.]

Ms. HOLTZMAN. On the record.

I would like to ask unanimous consent to proceed to consideration of H.R. 1716.

Is there objection?

The Chair hears none. Clerk will commence to read.

Mr. ENDRES. H.R. 1716, a bill to implement the Panama Canal Treaty of 1977 and related agreements and for other purposes. Be it enacted by the Senate and House of Representatives of America in Congress assembly, that it is the purpose of this act to provide legislation necessary to or desirable for—

Mr. HALL. I ask unanimous consent further reading of H.R. 1716 be dispensed with.

Ms. HOLTZMAN. Is there objection?

Hearing none, the further reading will be dispensed with.

Members of the subcommittee, let me say first that I appreciate your attendance at this meeting.

Second, I also appreciate the fact that you are willing to do the markup quickly. Since most of the members were here to hear the testimony, I think we can act responsibly on this legislation.

My recommendation would be that we report unfavorably on the special immigration section on the ground basically that no immediate need was shown for this legislation.

We can always act on this matter should an emergency develop or should there be a serious problem with regard to these people.

We could do so in the ordinary course. According to the testimony, there is nothing in the treaty itself that requires any action on the special immigration provisions. I would say for that reason we ought to report unfavorably on the legislation at this time.

In fact, I will make that motion so we can have debate on the issue.

Anyone else wish to be heard?

The gentleman from Virginia.

Mr. HARRIS. Madam Chairman, as we have gotten to these various aspects of the legislation, I have been privileged to have responsibility for various aspects of the legislation.

It's extremely complicated. It seems to me the chairperson's notion of reporting out the judicial aspects of this bill has a great deal of merit.

The immigration aspects seem to be so broad and difficult to give proper consideration to—I realize we are under a time constraint.

I don't think the subcommittee can give proper consideration today to the immigration provision.

I suppose that adds up in my mind to supporting the chairperson's recommendation that we go ahead and report out the judicial aspects of the bill favorably, and it seems to me the subcommittee should continue to consider the other aspect perhaps with the notion that we can handle that at a later date.

Ms. HOLTZMAN. The gentleman from Texas.

Mr. HALL. So I understand what we are doing, are we omitting section 410 in its entirety beginning on page 56?

Ms. HOLTZMAN. That's bill 1716.

Mr. ENDRES. That's correct. I think your motion is to report unfavorably on section 410 and favorably on the other sections in title IV.

Mr. HALL. The special immigration area. We are talking about section 410, are we not, in its entirety?

Mr. ENDRES. Yes.

Ms. HOLTZMAN. That's correct. I would also like to introduce in the record at this point a letter from the gentleman from Wisconsin, the chairman of the Subcommittee on Courts, saying in essence that he has no objection to the sections dealing with the court's in this legislation.

The gentleman from Virginia.

Mr. BUTLER. That is very nice, but I suspect he does not know much more about it than we do. I think your suggestion with reference to section 410 is well taken but I am not sure that there is any great urgency in the judicial provisions either.

It seems to me that if Mr. Kastenmeier's subcommittee will abdicate

their responsibility in this area, then we have a real responsibility to go into it.

I do confess that I was late but I understand we did not take any evidence on the judicials' provisions today. I simply would prefer that we at least make a record on it; it's the appropriate thing to do.

A letter from Mr. Kastenmeier does not satisfy my curiosity in this regard.

If the chairwoman insists on her position, I would like to separate the motion.

Ms. HOLTZMAN. I would say frankly to the gentleman from Virginia, I would not object to a separation of the question. In fact, if it's the concern of the members of this subcommittee, we could make no recommendation with regard to the court's legislation. But staff has analyzed the court's provision and could briefly enlighten the gentleman from Virginia if you would like.

Mr. BUTLER. I read the memorandum. It enlightened me to the degree that I think we ought to think about it.

Ms. HOLTZMAN. Is there any further discussion on the motion?

The gentleman from California.

Mr. LUNGREN. Madam Chairman, with respect to section 410, I would like to support the motion and reiterate and echo what was said, which is that we have absolutely no testimony here, no evidence here, nothing to support the need for such legislation at the present time. I think the question of priorities is extremely important when we are dealing with the question of admitting aliens into this country from a section of the world in Southeast Asia which will undoubtedly bring up a series of questions as to the numbers and those who will be allowed in. I think we will cloud the issue if, at the same time, we report legislation out of subcommittee which could conceivably have as many as 48,000 aliens entering this country when there does not appear to be any need whatsoever for additional legislation.

Ms. HOLTZMAN. Does anybody else wish to be heard?

Since the gentleman from Virginia asked for a division of the question, why don't we vote on the first part of the motion?

This is to report unfavorably on section 410 of H.R. 1716.

All in favor, say "aye." [Chorus of ayes.]

Opposed no. [No response.]

The motion is unanimously agreed to.

The second question occurs on the balance of the motion which is to report favorably on section 2 in title V and the remainder of title IV.

Mr. BUTLER. Section 2 in Title V—502.

Ms. HOLTZMAN. 502?

Mr. D'UVA. These are the general provisions amending the United States Code and Canal Zone Code to conform with the treaty. Section 2 begins on page 4. Page 4 of H.R. 1716.

Ms. HOLTZMAN. And goes through where?

Mr. D'UVA. Through line 14 of page 6.

Ms. HOLTZMAN. Why are we required to act on this? What does this have to do with the court system?

Mr. ENDRES. The parliamentary system is such this was referred to four committees. Those sections of the bill refer to the Judiciary Committee and required to be acted upon by April 10 are section 2 dealing with definitions and title V dealing with miscellaneous other provisions of the bill.

Mr. BUTLER. If I may inquire of counsel, what is the urgency that we do this today?

Mr. ENDRES. This administration bill, H.R. 1716, has been divided and the various titles referred to four separate committees. The referral deadline to this committee is April 10. We are required to report on these sections I mentioned by April 10. That means it must be reported by the committee, and the committee report must be filed by April 10, or else the committee will be discharged from consideration of the bill.

Mr. BUTLER. That is blackmail. That is fine if they have set up a schedule. I am perfectly willing to let them go forward without me, rather than say I have looked into this, and I approve it.

If we do not meet the deadlines, other than having incurred the wrath of several other committee chairmen and things like that, what about the great world of relations between the people this is concerned with and the people in Panama and things of that nature?

Are we jeopardizing their rights or anything else by not meeting this deadline?

Mr. ENDRES. As I said, if the committee does not act, the committee will simply be discharged from consideration, and it will go to the floor with the recommendations of other committees who do report on the legislation.

Mr. HARRIS. Does the gentleman yield on that point?

Mr. BUTLER. My pleasure.

Mr. HARRIS. I have worked on this legislation in other committees. If the committee didn't act on this, it would go to the floor the way the bill was introduced with the committee's recommendations on it. So our failure to act under this sequential referral would simply mean the bill and titles we had jurisdiction over would go to the floor without our recommendation—410, for example, would continue to be on the floor, if we failed to act today.

This is a point I thought my colleague would want to take cognizance of.

Mr. BUTLER. I thank the gentleman. I think I was aware of that. Just the same, I do not think we are prepared to give our blessing to this legislation without going into it more thoroughly. Maybe we owe it to the other committees to take some evidence on this and go into it, in order to meet that deadline, but if there is no urgency about it, I would just as soon let it happen as to say I think it is sound.

That is my reason for saying that we ought to go into it rather than just passing it out with such speed.

Ms. HOLTZMAN. Any other discussion on this? The gentleman from California.

Mr. LUNGREN. The only thing I would like to say is that I, too, do not feel I am really prepared to vote on these other sections of the bill. I had a bit of background on this. We took some testimony on the section we already voted on, but I feel I would be voting in the dark on this.

I think that is the complaint Mr. Butler registered, and I would like to say that is the complaint I would register at this time. It's hard to vote on something you do not know much about, and I would not want to mistakenly vote to approve it, if it turns out that is not what I want to do, nor would I like to hold it up if, upon reflection, I would be able to vote for it.

Mr. HARRIS. Really, if the vote carries, it will mean that this title will be in the bill. If the vote fails, it will mean this title will be in the bill. [Laughter.]

I wanted to explain it that way, because it might set—my colleague grasps these sorts of points awfully quickly. The provision in the bill with regard to the courts is a sound provision. I feel it's important that we go ahead and vote on it. But even if the vote failed to carry, the provision would still be in the bill. So I would say we go ahead and vote on it one way or the other.

Ms. HOLTZMAN. I would say to my colleagues that I do share concern with respect to section 2 with regard to the definitions. The subcommittee hasn't taken any testimony about the significance of those definitions.

Second, with regard to the health sections, miscellaneous provisions in title V. I can't tell you I understand the implications of those. But I have read the balance of the provisions in title IV regarding courts and related functions and have no objection to them and am prepared to support them.

If the gentleman from Virginia wants to separate the question, we can vote as he wishes.

Mr. BUTLER. Obviously, the entire committee hasn't fallen under the spell of my logic here. I would like to suggest for a moment that I am not clear as to what the effect of this is on the right of private civil actions during the transition period.

I am not smart enough to know what the rights are now. But I understand the U.S. courts do not have jurisdiction to hear new private civil actions after entry into force of this treaty.

I would like to know what happens now, and what are the civil and criminal rights of the people.

Ms. HOLTZMAN. Do you want staff to respond briefly?

Mr. BUTLER. Yes.

Mr. D'UVA. The treaty provides that the United States will not have jurisdiction over civil cases which arise after its entry into force. The implementing legislation cannot provide jurisdiction where the treaty does not.

Mr. BUTLER. The in-force date of the treaty for those purposes is what? We are talking about the date the treaty goes into force.

Mr. D'UVA. October 1, 1979.

Mr. BUTLER. October 1. When does the 30-month transition period start?

Mr. D'UVA. October 1, 1979.

Mr. BUTLER. Where did I get the idea it was April 1? Well, I must have been mistaken about that. With regard to the time prior to the effective date, would citizens of the United States residing in this area have civil rights in the existing territorial courts for any cause of action which arise between them?

Mr. D'UVA. In the U.S. District Court for the District of the Canal Zone.

Mr. BUTLER. Is that what we call a territorial court?

Mr. D'UVA. It's not a territorial court, because the Canal Zone is not a territory of the United States.

Mr. BUTLER. Is it an article 3 court?

Mr. D'UVA. It's a legislative court.

Mr. BUTLER. An article 1 court?

Mr. D'UVA. Yes.

Mr. BUTLER. You mean a provision of the United States Code?

Mr. D'UVA. The 1903 treaty between the United States and the Republic of Panama gave the United States jurisdiction over areas within the Canal Zone. I wonder if I could get some advice on this.

Mr. BUTLER. I am not going to be hard to get along with. I would not vote for it and do what you want; you understand why I am doing it, and I understand why you are doing it. I would like to know the answer to the question.

Ms. HOLTZMAN. Can you identify yourself for the record?

Mr. FORTUNE. I am Terrence Fortune. I am an attorney-adviser with the Office of the Legal Advisor, Department of State.

Mr. BUTLER. We have an existing court system which is an article 1 court in Panama. That adjudicates, among other things, the rights between citizens of the United States in Panama and the right of those people to litigate their actions for causes of action arising after the effective date of the treaty even during the transition period for civil actions is terminated; is that true?

Mr. FORTUNE. That is true. Civil actions which are pending upon the effective date of the treaty will be adjudicated by the existing court systems during the 30-month transition period, but those courts will have no jurisdiction to hear any civil cases arising after the effective date of the treaty.

Mr. HARRIS. I think I can help the colleague and the subcommittee if my colleague will yield on this.

We have taken action by the previous motion to report unfavorably on the immigration section. It seems to me with the—it's a real dilemma. I listened to my colleague from Virginia. The committees could report out the other section without recommendation and that way clear the subcommittee and let it go at that.

I would move we amend the motion to report these sections out without recommendation. The remaining sections, section 2, balance of title IV and title V.

Mr. HARRIS. Yes.

Ms. HOLTZMAN. Except for the section 503(b) reference to section 410.

Mr. HARRIS. Right.

Ms. HOLTZMAN. The question occurs on the motion of the gentleman from Virginia.

Those in favor say "aye."

[Chorus of ayes.]

Those opposed?

[No response.]

The motion is carried.

The question occurs on the original motion as amended.

Those in favor say "aye."

[Chorus of ayes.]

Those opposed?

[No response.]

Motion carried unanimously.

Our consideration of H.R. 1716 is concluded.

[Whereupon, at 2:33 p.m., the meeting of the subcommittee was adjourned.]

APPENDIXES

APPENDIX 1—Statements submitted for the record in support of H.R. 1716

STATEMENT OF HON. JOHN M. MURPHY, CHAIRMAN, COMMITTEE ON MERCHANT
MARINE AND FISHERIES—APRIL 3, 1979

I appreciate the opportunity to appear here today to discuss with you the provisions of title IV of H.R. 1716, the bill to implement the Panama Canal Treaty of 1977 introduced by me, Chairman Rodino, and other chairmen on January 31 based on the draft submitted by the Executive branch. As you know on January 15 I had previously introduced H.R. 111, a bill to provide for operation of the Panama Canal under the provisions of the 1977 treaty which bill embraces the same subject matter as the administration bill, but H.R. 111 differs from the provisions of title IV of H.R. 1716 in certain important respects, and I would like to point out these differences and commend the provisions of H.R. 111 to your consideration as amendment of H.R. 1716.

Section 1516 of H.R. 111 originally followed closely the language of section 407 of H.R. 1716, and authorized the President to abolish one or both of the two magistrates courts now established in the canal zone. As a result of hearings in the canal zone by the subcommittee, however, the section was amended to limit the authority of the President to the elimination of only one of such courts. If both courts are abolished, preliminary hearings in the magistrates courts would be eliminated and all criminal proceedings would commence by complaint in the district court.

The subcommittee considered the right to a preliminary hearing to be of such basic importance that it should be preserved and so amended the bill. The amendment similarly preserves the right of appeal to a local district court on conviction in a court of limited jurisdiction of charges of insufficient gravity to be heard in the district court under the present law.

Section 409 of H.R. 1716 vests any authority necessary to the exercise of the rights of the United States during the transition period in the Panama Canal Commission. Section 1516 of H.R. 111 vests this authority in the President, an assignment more appropriate to the importance of the power in view of the treaty provisions making the rights and responsibilities involved those of the United States Government as a whole.

Section 1532 of H.R. 111 establishes an Office of Ombudsman in the Panama Canal Commission to receive complaints, grievance requests and suggestions from employees of the Commission and their dependents. The function of the ombudsman is advisory only, but on the basis of facts developed at hearings in the Canal Zone, the Panama Canal Subcommittee of the Merchant Marine and Fisheries Committee was convinced that such an Office would well serve the interests of the United States in the difficult circumstances that will confront employees engaged in the operation of the canal during the transition period and thereafter. I urge you to consider the inclusion of a similar provision in H.R. 1716.

Finally, section 1611 of H.R. 111 follows generally the provisions of section 410 of H.R. 1716. However, the Panama Canal Subcommittee has amended that section by adding a new subsection subparagraph "G" in section 101(a)(27) of the Immigration and Nationality Act. This subparagraph includes in the definition of "special immigrant" an immigrant from Panama who has been an employee of the Panama Canal Company or Canal Zone Government Act who is not a resident in the Canal Zone on the effective date of the exchange of ratifications of the 1977 treaty. This provision would of course substantially enlarge the number of immigrants eligible to enter as special immigrants. However, the contribution of noncitizen employees in the construction and operation of the canal has been so significant, and the privilege of immigration to the United States by such former employees is held in such high esteem, that I

consider the extension of the privilege in the manner to be definitely in the interest of the United States.

As this subcommittee knows, a large percentage of the non-United States citizens who have been employed by the Canal Authority since 1914 were original builders of the Panama Canal or descendants of those builders. Many of the canal builders were of Caribbean origin. In the period since their residence on the Isthmus of Panama, they have been an ethnic group which maintained in considerable degree their antecedent social mores, and many have retained English as a primary language. I need not go on at great length to discuss the dangers and hardships and even discrimination in Panama to which Panamanian and West Indian employees of the Canal Organization have been exposed. Their contributions have been documented in such volumes as David McCullough's *Path Between the Seas*, as well as several other works.

The affinity of the non-U.S. employees for United States Customs, the allegiance of the non-U.S. citizen employees to the United States in time of peace and war, and the plight of these persons who have worked and in many cases lived under United States law for a lifetime but are now without that framework, demands special attention. The United States has opened its doors in recent years to persons from several countries who have been thrown under suppressive rule. The circumstances of canal employees are quite different than those of the Vietnamese or Cambodian people, but neither of these peoples have served the United States so long or so intensely as have the canal employees who are non-United States citizens. Providing special immigration privileges for these employees is fair and in accordance with our interests in Panama.

Before concluding let me emphasize the importance of the transition period and the transition period authority contained in title IV of H.R. 1716. In the two visits which members of the committee have made to the Isthmus of Panama in the last two months, it has become clear that the 30-month transition period will be the acid test of the real strength of the new treaty arrangement. The treatment of U.S. citizens by the Government of Panama and the efficiency of canal operations during that period will set the tone for the remaining years of the twenty-year relationship. By the end of the transition period we will know whether an adequate number of U.S. citizens remain on the isthmus in order to efficiently operate the canal. My comments, then are directed toward this subcommittee in order to make you aware of the criticality of the period for which you are providing legislation.

I thank the subcommittee for the opportunity to present my views.

STATEMENT OF HON. MICHAEL BLUMENFELD, DEPUTY UNDER SECRETARY
OF THE ARMY

I regret that I am unable to testify today before this Committee on the Administration's proposed legislation to implement the Panama Canal Treaty of 1977; however, I appreciate the opportunity to make a statement on the immigration issue this Committee has before it.

As you know, there are three categories of employees or former employees addressed in the proposed legislation. The first category, non-U.S. employees of the Panama Canal Company or Canal Zone Government residing in the Canal Zone with one year or more of service, would number approximately 1,000. With their 6,000 dependents, who also would be eligible for immigration, the total would be approximately 7,000.

The second category, Panamanian nationals who have been honorably retired from United States Government employment in the Canal Zone after having had 15 years or more of service, would total about 4,500. With their estimated 9,000 dependents, this category totals about 13,500.

Lastly, the third category is comprised of Panamanian nationals employed by the Canal Zone (or former Canal Zone) who have 15 years of service as of the treaty date, and later retire. We estimate that there are 5,500 such employees. With their 22,000 dependents, the category would total about 27,500 people.

The grand total, therefore, would be 11,000 employees who, with their 37,000 dependents, would make for a grand total of 48,000 eligible immigrants under the proposal.

We have no way of estimating what proportion of that 48,000 people would in fact end up immigrating. As a guess, I would think that somewhere between 10 and 20 percent would exercise eligibility rights.

These employees represent diverse skills ranging from unskilled linehandler, helper and boatman occupations to skilled professionals. Included in this group

are 37 non-U.S. citizen physicians. Of these, 14 reside in the Zone and two, although not residing in the Zone, have fifteen or more years service; thus, some 43 percent of the physicians presently employed could become eligible for special immigrant status.

As indicated, many of our dedicated employees reside outside the Canal Zone, not by virtue of their own decisions but because of the Canal Enterprise's lack of housing. The location of the residence of our employees is not, in our view, a valid indicator of service, and thus should not be the criterion upon which to waive the public charge provision. Likewise, retirees may have resided within the Zone for long and dedicated careers. Their prior retirement and forced departure from Canal Enterprise housing within the Zone again should have no bearing upon the public charge waiver. We have proposed, and employees have been informed through the required labor consultation process, that the waiver of public charge would apply to all three categories.

The proposed legislation on immigration was very carefully developed in order to balance our obligations to dedicated employees with our need to minimize the number of individuals eligible to immigrate. The concern and the need for special immigration is focused on the West Indians; but it is difficult, if not impossible, to write legislation which will apply only to employees of specified ethnic descent. What we really want to do is ease problems of people who are least assimilated into the Panamanian culture and society.

If the public charge portion of the Immigration and Nationality Act is not waived, this would effectively preclude approximately half of our current retirees, and many of our current employees with more than 15 years of service who later retire, from exercising the special immigrant option at all. This would contravene the spirit and basic intent that generated the inclusion of the special immigrant status in the implementing legislation. The approval of this provision with its recommended limitation to the transition period would constitute an appropriate expression of appreciation by the U.S. Government for the contribution made by these loyal employees, many of whose ancestors participated in the construction of the waterway. Therefore, I urge the Committee's support in including the provisions of the immigration portion in the implementing legislation.

Thank you.

APPENDIX 2

PANAMA CANAL TREATY

The United States of America and the Republic of Panama,

Acting in the spirit of the Joint Declaration of April 3, 1964, by the Representatives of the Government of the United States of America and the Republic of Panama, and of the Joint Statement of Principles of February 7, 1974, initialed by the Secretary of State of the United States of America and the Foreign Minister of the Republic of Panama, and

Acknowledging the Republic of Panama's sovereignty over its territory,

Have decided to terminate the prior Treaties pertaining to the Panama Canal and to conclude a new Treaty to serve as the basis for a new relationship between them and, accordingly, have agreed upon the following:

ARTICLE I

ABROGATION OF PRIOR TREATIES AND ESTABLISHMENT OF A NEW RELATIONSHIP

1. Upon its entry into force, this Treaty terminates and supersedes:

(a) The Isthmian Canal Convention between the United States of America and the Republic of Panama, signed at Washington, November 18, 1903;

(b) The Treaty of Friendship and Cooperation signed at Washington, March 2, 1936, and the Treaty of Mutual Understanding and Cooperation and the related Memorandum of Understandings Reached, signed at Panama, January 25, 1955, between the United States of America and the Republic of Panama;

(c) All other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama concerning the Panama Canal which were in force prior to the entry into force of this Treaty; and

(d) Provisions concerning the Panama Canal which appear in other treaties, conventions, agreements and exchanges of notes between the United States of

America and the Republic of Panama which were in force prior to the entry into force of this Treaty.

2. In accordance with the terms of this Treaty and related agreements, the Republic of Panama, as territorial sovereign, grants to the United States of America, for the duration of this Treaty, the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the Canal. The Republic of Panama guarantees to the United States of America the peaceful use of the land and water areas which it has been granted the rights to use for such purposes pursuant to this Treaty and related agreements.

3. The Republic of Panama shall participate increasingly in the management and protection and defense of the Canal, as provided in this Treaty.

4. In view of the special relationship established by this Treaty, the United States of America and the Republic of Panama shall cooperate to assure the uninterrupted and efficient operation of the Panama Canal.

ARTICLE II

RATIFICATION, ENTRY INTO FORCE, AND TERMINATION

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, six calendar months from the date of the exchange of the instruments of ratification.

2. This Treaty shall terminate at noon, Panama time, December 31, 1999.

ARTICLE III

CANAL OPERATION AND MANAGEMENT

1. The Republic of Panama, as territorial sovereign, grants to the United States of America the rights to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal. The United States of America accepts the grant of such rights and undertakes to exercise them in accordance with this Treaty and related agreements.

2. In carrying out the foregoing responsibilities, the United States of America may:

(a) Use for the aforementioned purposes, without cost except as provided in this Treaty, the various installations and areas (including the Panama Canal) and waters, described in the Agreement in Implementation of this Article, signed this date, as well as such other areas and installations as are made available to the United States of America under this Treaty and related agreements, and take the measures necessary to ensure sanitation of such areas;

(b) Make such improvements and alterations to the aforesaid installations and areas as it deems appropriate, consistent with the terms of this Treaty;

(c) Make and enforce all rules pertaining to the passage of vessels through the Canal and other rules with respect to navigation and maritime matters, in accordance with this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules;

(d) Establish, modify, collect and retain tolls for the use of the Panama Canal, and other charges, and establish and modify methods of their assessment;

(e) Regulate relations with employees of the United States Government;

(f) Provide supporting services to facilitate the performance of its responsibilities under this Article;

(g) Issue and enforce regulations for the effective exercise of the rights and responsibilities of the United States of America under this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules; and

(h) Exercise any other right granted under this Treaty, or otherwise agreed upon between the two Parties.

3. Pursuant to the foregoing grant of rights, the United States of America shall, in accordance with the terms of this Treaty and the provisions of United

States law, carry out its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America.

(a) The Panama Canal Commission shall be supervised by a Board composed of nine members, five of whom shall be nationals of the United States of America, and four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely manner.

(b) Should the Republic of Panama request the United States of America to remove a Panamanian national from membership on the Board, the United States of America shall agree to such request. In that event, the Republic of Panama shall propose another Panamanian national for appointment by the United States of America to such position in a timely manner. In case of removal of a Panamanian member of the Board at the initiative of the United States of America, both Parties will consult in advance in order to reach agreement concerning such removal, and the Republic of Panama shall propose another Panamanian national for appointment by the United States of America in his stead.

(c) The United States of America shall employ a national of the United States of America as Administrator of the Panama Canal Commission, and a Panamanian national as Deputy Administrator, through December 31, 1989. Beginning January 1, 1990, a Panamanian national shall be employed as the Administrator and a national of the United States of America shall occupy the position of Deputy Administrator. Such Panamanian nationals shall be proposed to the United States of America by the Republic of Panama for appointment to such positions by the United States of America.

(d) Should the United States of America remove the Panamanian national from his position as Deputy Administrator, or Administrator, the Republic of Panama shall propose another Panamanian national for appointment to such position by the United States of America.

4. An illustrative description of the activities the Panama Canal Commission will perform in carrying out the responsibilities and rights of the United States of America under this Article is set forth at the Annex. Also set forth in the Annex are procedures for the discontinuance or transfer of those activities performed prior to the entry into force of this Treaty by the Panama Canal Company or the Canal Zone Government which are not to be carried out by the Panama Canal Commission.

5. The Panama Canal Commission shall reimburse the Republic of Panama for the costs incurred by the Republic of Panama in providing the following public services in the Canal operating areas and in housing areas set forth in the Agreement in Implementation of Article III of this Treaty and occupied by both United States and Panamanian citizen employees of the Panama Canal Commission: police, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection. The Panama Canal Commission shall pay the Republic of Panama the sum of ten million United States dollars (\$10,000,000) per annum for the foregoing services. It is agreed that every three years from the date that this Treaty enters into force, the costs involved in furnishing said services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting the cost of such services.

6. The Republic of Panama shall be responsible for providing, in all areas comprising the former Canal Zone, services of a general jurisdictional nature such as customs and immigration, postal services, courts and licensing, in accordance with this Treaty and related agreements.

7. The United States of America and the Republic of Panama shall establish a Panama Canal Consultative Committee, composed of an equal number of high-level representatives of the United States of America and the Republic of Panama, and which may appoint such subcommittees as it may deem appropriate. This Committee shall advise the United States of America and the Republic of Panama on matters of policy affecting the Canal's operation. In view of both Parties' special interest in the continuity and efficiency of the Canal operation in the future, the Committee shall advise on matters such as general tolls policy, employment and training policies to increase the participation of Panamanian nationals in the operation of the Canal, and international policies on matters concerning the Canal. The Committee's recommendations shall be transmitted to the two Governments, which shall give such recommendations full consideration in the formulation of such policy decisions.

8. In addition to the participation of Panamanian nationals at high management levels of the Panama Canal Commission, as provided for in paragraph 3 of this Article, there shall be growing participation of Panamanian nationals at all other levels and areas of employment in the aforesaid commission, with the objective of preparing, in an orderly and efficient fashion, for the assumption by the Republic of Panama of full responsibility for the management, operation and maintenance of the Canal upon the termination of this Treaty.

9. The use of the areas, waters and installations with respect to which the United States of America is granted rights pursuant to this Article, and the rights and legal status of United States Government agencies and employees operating in the Republic of Panama pursuant to this Article, shall be governed by the Agreement in Implementation of this Article, signed this date.

10. Upon entry into force of this Treaty the United States Government agencies known as the Panama Canal Company and the Canal Zone Government shall cease to operate within the territory of the Republic of Panama that formerly constituted the Canal Zone.

ARTICLE IV

PROTECTION AND DEFENSE

1. The United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Each Party shall act, in accordance with its constitutional processess, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it.

2. For the duration of this Treaty, the United States of America shall have primary responsibility to protect and defend the canal. The rights of the United States of America to station, train, and move military forces within the Republic of Panama are described in the Agreement in Implementation of this Article, signed this date. The use of areas and installations and the legal status of the armed forces of the United States of America in the Republic of Panama shall be governed by the aforesaid Agreement.

3. In order to facilitate the participation and cooperation of the armed forces of both Parties in the protection and defense of the Canal, the United States of America and the Republic of Panama shall establish a Combined Board comprised of an equal number of senior military representatives of each Party. These representatives shall be charged by their respective governments with consulting and cooperating on all matters pertaining to the protection and defense of the Canal, and with planning for actions to be taken in concert for that purpose. Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the armed forces of the United States of America or the Republic of Panama. The Combined Board shall provide for coordination and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal based upon the cooperative efforts of the armed forces of both Parties;

(b) The planning and conduct combined military exercises; and

(c) The conduct of United States and Panamanian military operations with respect to the protection and defense of the Canal.

4. The Combined Board shall, at five-year intervals throughout the duration of this Treaty, review the resources being made available by the two Parties for the protection and defense of the Canal. Also, the Combined Board shall make appropriate recommendations to the two Governments respecting projected requirements, the efficient utilization of available resources of the two Parties, and other matters of mutual interest with respect to the protection and defense of the Canal.

5. To the extent possible consistent with its primary responsibility for the protection and defense of the Panama Canal, the United States of America will endeavor to maintain its armed forces in the Republic of Panama in normal times at a level not in excess of that of the armed forces of the United States of America in the territory of the former Canal Zone immediately prior to the entry into force of this Treaty.

ARTICLE V

PRINCIPLE OF NON-INTERVENTION

Employees of the Panama Canal Commission, their dependents and designated contractors of the Panama Canal Commission, who are nationals of the

United States of America, shall respect the laws of the Republic of Panama and shall abstain from any activity incompatible with the spirit of this Treaty. Accordingly, they shall abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama. The United States of America shall take all measures within its authority to ensure that the provisions of this Article are fulfilled.

ARTICLE VI

PROTECTION OF THE ENVIRONMENT

1. The United States of America and the Republic of Panama commit themselves to implement this Treaty in a manner consistent with the protection of the natural environment of the Republic of Panama. To this end, they shall consult and cooperate with each other in all appropriate ways to ensure that they shall give due regard to the protection and conservation of the environment.

2. A Joint Commission on the Environment shall be established with equal representation from the United States of America and the Republic of Panama, which shall periodically review the implementation of this Treaty and shall recommend as appropriate to the two Governments ways to avoid or, should this not be possible, to mitigate the adverse environmental impacts which might result from their respective actions pursuant to the Treaty.

3. The United States of America and the Republic of Panama shall furnish the Joint Commission on the Environment complete information on any action taken in accordance with this Treaty which, in the judgment of both, might have a significant effect on the environment. Such information shall be made available to the Commission as far in advance of the contemplated action as possible to facilitate the study by the Commission of any potential environmental problems and to allow for consideration of the recommendation of the Commission before the contemplated action is carried out.

ARTICLE VII

FLAGS

1. The entire territory of the Republic of Panama, including the areas the use of which the Republic of Panama makes available to the United States of America pursuant to this Treaty and related agreements, shall be under the flag of the Republic of Panama, and consequently such flag always shall occupy the position of honor.

2. The flag of the United States of America may be displayed, together with the flag of the Republic of Panama, at the headquarters of the Panama Canal Commission, at the site of the Combined Board, and as provided in the Agreement in Implementation of Article IV of this Treaty.

3. The flag of the United States of America also may be displayed at other places and on some occasions, as agreed by both Parties.

ARTICLE VIII

PRIVILEGES AND IMMUNITIES

1. The installations owned or used by the agencies or instrumentalities of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements, and their official archives and documents, shall be inviolable. The two Parties shall agree on procedures to be followed in the conduct of any criminal investigation at such locations by the Republic of Panama.

2. Agencies and instrumentalities of the Government of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements shall be immune from the jurisdiction of the Republic of Panama.

3. In addition to such other privileges and immunities as are afforded to employees of the United States Government and their dependents pursuant to this Treaty, the United States of America may designate up to twenty officials of the Panama Canal Commission who, along with their dependents, shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice. The United States of America shall furnish to the Republic of Panama a list of the names of said officials and their de-

pendents, identifying the positions they occupy in the Government of the United States of America, and shall keep such list current at all times.

ARTICLE IX

APPLICABLE LAWS AND LAW ENFORCEMENT

1. In accordance with the provisions of this Treaty and related agreements, the law of the Republic of Panama shall apply in the areas made available for the use of the United States of America pursuant to this Treaty. The law of the Republic of Panama shall be applied to matters or events which occurred in the former Canal Zone prior to the entry into force of this Treaty only to the extent specifically provided in prior treaties and agreements.

2. Natural or judicial persons who, on the date of entry into force of this Treaty, are engaged in business or non-profit activities at locations in the former Canal Zone may continue such business or activities at those locations under the same terms and conditions prevailing prior to the entry into force of this Treaty for a thirty-month transition period from its entry into force. The Republic of Panama shall maintain the same operating conditions as those applicable to the aforementioned enterprises prior to the entry into force of this Treaty in order that they may receive licenses to do business in the Republic of Panama subject to their compliance with the requirements of its law. Thereafter, such persons shall receive the same treatment under the law of the Republic of Panama as similar enterprises already established in the rest of the territory of the Republic of Panama without discrimination.

3. The rights of ownership, as recognized by the United States of America, enjoyed by natural or juridical private persons in buildings and other improvements to real property located in the former Canal Zone shall be recognized by the Republic of Panama in conformity with its laws.

4. With respect to buildings and other improvements to real property located in the Canal operating areas, housing areas or other areas subject to the licensing procedure established in Article IV of the Agreement in Implementation of Article III of this Treaty, the owners shall be authorized to continue using the land upon which their property is located in accordance with the procedures established in that Article.

5. With respect to buildings and other improvements to real property located in areas of the former Canal Zone to which the aforesaid licensing procedure is not applicable, or may cease to be applicable during the lifetime or upon termination of this Treaty, the owners may continue to use the land upon which their property is located, subject to the payment of a reasonable charge to the Republic of Panama. Should the Republic of Panama decide to sell such land, the owners of the buildings or other improvements located thereon shall be offered a first option to purchase such land at a reasonable cost. In the case of non-profit enterprises, such as churches and fraternal organizations, the cost of purchase will be nominal in accordance with the prevailing practice in the rest of the territory of the Republic of Panama.

6. If any of the aforementioned persons are required by the Republic of Panama to discontinue their activities or vacate their property for public purposes, they shall be compensated at fair market value by the Republic of Panama.

7. The provisions of paragraphs 2-6 above shall apply to natural or judicial persons who have been engaged in business or non-profit activities at locations in the former Canal Zone for at least six months prior to the date of signature of this Treaty.

8. The Republic of Panama shall not issue, adopt or enforce any law, decree, regulation, or international agreement or take any other action which purports to regulate or would otherwise interfere with the exercise on the part of the United States of America of any right granted under this Treaty or related agreements.

9. Vessels transiting the Canal, and cargo, passengers and crews carried on such vessels shall be exempt from any taxes, fees, or other charges by the Republic of Panama. However, in the event such vessels call at a Panamanian port, they may be assessed charges incident thereto, such as charges for services provided to the vessel. The Republic of Panama may also require the passengers and crew disembarking from such vessels to pay such taxes, fees and charges as are established under Panamanian law for persons entering its territory. Such taxes, fees and charges shall be assessed on a nondiscriminatory basis.

10. The United States of America and the Republic of Panama will cooperate in taking such steps as may from time to time be necessary to guarantee the security of the Panama Canal Commission, its property, its employees and their dependents, and their property, the Forces of the United States of America and the members thereof, the civilian component of the United States Forces, the dependents of members of the Forces and the civilian component, and their property, and the contractors of the Panama Canal Commission and of the United States Forces, their dependents, and their property. The Republic of Panama will seek from its legislative Branch such legislation as may be needed to carry out the foregoing purposes and to punish any offenders.

11. The Parties shall conclude an agreement whereby nationals of either State, who are sentenced by the courts of the other State, and who are not domiciled therein, may elect to serve their sentences in their State of nationality.

ARTICLE X

EMPLOYMENT WITH THE PANAMA CANAL COMMISSION

1. In exercising its rights and fulfilling its responsibilities as the employer, the United States of America shall establish employment and labor regulations which shall contain the terms, conditions and prerequisites for all categories of employees of the Panama Canal Commission. These regulations shall be provided to the Republic of Panama prior to their entry into force.

2. (a) The regulations shall establish a system of preference when hiring employees, for Panamanian applicants possessing the skills and qualifications required for employment by the Panama Canal Commission. The United States of America shall endeavor to ensure that the number of Panamanian nationals employed by the Panama Canal Commission in relation to the total number of its employees will conform to the proportion established for foreign enterprises under the law of the Republic of Panama.

(b) The terms and conditions of employment to be established will in general be no less favorable to persons already employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, than those in effect immediately prior to that date.

3. (a) The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

(b) The United States of America will establish training programs for Panamanian employees and apprentices in order to increase the number of Panamanian nationals qualified to assume positions with the Panama Canal Commission, as positions become available.

(c) Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

(d) The United States of America shall periodically inform the Republic of Panama, through the Coordinating Committee, established pursuant to the Agreement in Implementation of Article III of this Treaty, of available positions within the Panama Canal Commission. The Republic of Panama shall similarly provide the United States of America any information it may have as to the availability of Panamanian nationals claiming to have skills and qualifications that might be required by the Panama Canal Commission, in order that the United States of America may take this information into account.

4. The United States of America will establish qualification standards for skills, training and experience required by the Panama Canal Commission. In establishing such standards, to the extent they include a requirement for a professional license, the United States of America, without prejudice to its right to require additional professional skills and qualifications, shall recognize the professional licenses issued by the Republic of Panama.

5. The United States of America shall establish a policy for the periodic rotation, at a maximum of every five years, of United States citizen employees and other non-Panamanian employees, hired after the entry into force of this Treaty. It is recognized that certain exceptions to the said policy of rotation may be

made for sound administrative reasons, such as in the case of employees holding positions requiring certain non-transferable or non-recruitable skills.

6. With regard to wages and fringe benefits, there shall be no discrimination on the basis of nationality, sex, or race. Payments by the Panama Canal Commission of additional remuneration, or the provision of other benefits, such as home leave benefits, to United States nationals employed prior to entry into force of this Treaty, or to persons of any nationality, including Panamanian nationals who are thereafter recruited outside of the Republic of Panama and who change their place of residence, shall not be considered to be discrimination for the purpose of this paragraph.

7. Persons employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pursuant to this Treaty, will be placed by the United States of America, to the maximum extent feasible, in other appropriate jobs with the Government of the United States in accordance with United States Civil Service regulations. For such persons who are not United States nationals, placement efforts will be confined to United States Government activities located within the Republic of Panama. Likewise, persons previously employed in activities for which the Republic of Panama assumes responsibility as a result of this Treaty will be continued in their employment to the maximum extent feasible by the Republic of Panama. The Republic of Panama shall, to the maximum extent feasible, ensure that the terms and conditions of employment applicable to personnel employed in the activities for which it assumes responsibility are no less favorable than those in effect immediately prior to the entry into force of this Treaty. Non-United States nationals employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty who are involuntarily separated from their positions because of the discontinuance of an activity by reason of this Treaty, who are not entitled to an immediate annuity under the United States Civil Service Retirement System, and for whom continued employment in the Republic of Panama by the Government of the United States of America is not practicable, will be provided special job placement assistance by the Republic of Panama for employment in positions for which they may be qualified by experience and training.

8. The Parties agree to establish a system whereby the Panama Canal Commission may, if deemed mutually convenient or desirable by the two Parties, assign certain employees of the Panama Canal Commission, for a limited period of time, to assist in the operation of activities transferred to the responsibility of the Republic of Panama as a result of this Treaty or related agreements. The salaries and other costs of employment of any such persons assigned to provide such assistance shall be reimbursed to the United States of America by the Republic of Panama.

9. (a) The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions.

(b) Employee unions shall have the right to affiliate with international labor organizations.

10. The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty. In this regard, taking into account the unique circumstances created by the provisions of this Treaty, including its duration, and their effect upon such employees, the United States of America shall, with respect to them:

(a) determine that conditions exist which invoke applicable United States law permitting early retirement annuities and apply such law for a substantial period of the duration of the Treaty;

(b) seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

ARTICLE XI

PROVISIONS FOR THE TRANSITION PERIOD

1. The Republic of Panama shall reassume plenary jurisdiction over the former Canal Zone upon entry into force of this Treaty and in accordance with its terms.

In order to provide for an orderly transition of the full application of the jurisdiction arrangements established by this Treaty and related agreements, the provisions of this Article shall become applicable upon the date this Treaty enters into force, and shall remain in effect for thirty calendar months. The authority granted in this Article to the United States of America for this transition period shall supplement, and is not intended to limit, the full application and effect of the rights and authority granted to the United States of America elsewhere in this Treaty and in related agreements.

2. During this transition period, the criminal and civil laws of the United States of America shall apply concurrently with those of the Republic of Panama in certain of the areas and installations made available for the use of the United States of America pursuant to this Treaty, in accordance with the following provisions:

(a) The Republic of Panama permits the authorities of the United States of America to have the primary right to exercise criminal jurisdiction over United States citizen employees of the Panama Canal Commission and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:

(i) for any offense committed during the transition period within such areas and installations, and

(ii) for any offense committed prior to that period in the former Canal Zone.

The Republic of Panama shall have the primary right to exercise jurisdiction over all other offenses committed by such persons, except as otherwise provided in this Treaty and related agreements or as may be otherwise agreed.

(b) Either Party may waive its primary right to exercise jurisdiction in a specific case or category of cases.

3. The United States of America shall retain the right to exercise jurisdiction in criminal cases relating to offenses committed prior to the entry into force of this Treaty in violation of the laws applicable in the former Canal Zone.

4. For the transition period, the United States of America shall retain police authority and maintain a police force in the aforementioned areas and installations. In such areas, the police authorities of the United States of America may take into custody any person not subject to their primary jurisdiction if such person is believed to have committed or to be committing an offense against applicable laws or regulations, and shall promptly transfer custody to the police authorities of the Republic of Panama. The United States of America and the Republic of Panama shall establish joint police patrols in agreed areas. Any arrests conducted by a joint patrol shall be the responsibility of the patrol member or members representing the Party having primary jurisdiction over the person or persons arrested.

5. The courts of the United States of America and related personnel, functioning in the former Canal Zone immediately prior to the entry into force of this Treaty, may continue to function during the transition period for the judicial enforcement of the jurisdiction to be exercised by the United States of America in accordance with this Article.

6. In civil cases, the civilian courts of the United States of America in the Republic of Panama shall have no jurisdiction over new cases of a private civil nature, but shall retain full jurisdiction during the transition period to dispose of any civil cases, including admiralty cases, already instituted and pending before the courts prior to the entry into force of this Treaty.

7. The laws, regulations, and administrative authority of the United States of America applicable in the former Canal Zone immediately prior to the entry into force of this Treaty shall, to the extent not inconsistent with this Treaty and related agreements, continue in force for the purpose of the exercise by the United States of America of law enforcement and judicial jurisdiction only during the transition period. The United States of America may amend, repeal or otherwise change such laws, regulations and administrative authority. The two Parties shall consult concerning procedural and substantive matters relative to the implementation of this Article, including the disposition of cases pending at the end of the transition period and, in this respect, may enter into appropriate agreements by an exchange of notes or other instrument.

8. During this transition period, the United States of America may continue to incarcerate individuals in the areas and installations made available for the use of the United States of America by the Republic of Panama pursuant to this Treaty and related agreements, or to transfer them to penal facilities in the United States of America to serve their sentences.

ARTICLE XII

A SEA-LEVEL CANAL OR A THIRD LANE OF LOCKS

1. The United States of America and the Republic of Panama recognize that a sea-level canal may be important for international navigation in the future. Consequently, during the duration of this Treaty, both Parties commit themselves to study jointly the feasibility of a sea-level canal in the Republic of Panama, and in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction.

2. The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree; and

(b) During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

3. The Republic of Panama grants to the United States of America the right to add a third lane of locks to the existing Panama Canal. This right may be exercised at any time during the duration of this Treaty, provided that the United States of America has delivered to the Republic of Panama copies of the plans for such construction.

4. In the event the United States of America exercises the right granted in paragraph 3 above, it may use for that purpose, in addition to the areas otherwise made available to the United States of America pursuant to this Treaty, such other areas as the two Parties may agree upon. The terms and conditions applicable to Canal operating areas made available by the Republic of Panama for the use of the United States of America pursuant to Article III of this Treaty shall apply in a similar manner to such additional areas.

5. In the construction of the aforesaid works, the United States of America shall not use nuclear excavation techniques without the previous consent of the Republic of Panama.

ARTICLE XIII

PROPERTY TRANSFER AND ECONOMIC PARTICIPATION BY THE REPUBLIC OF PANAMA

1. Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for the management operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree.

2. The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including non-removable improvements thereon, as set forth below:

(a) Upon the entry into force of this Treaty, the Panama Railroad and such property that was located in the former Canal Zone but that is not within the land and water areas the use of which is made available to the United States of America pursuant to this Treaty. However, it is agreed that the transfer on such date shall not include buildings and other facilities, except housing, the use of which is retained by the United States of America pursuant to this Treaty and related agreements, outside such areas;

(b) Such property located in an area or a portion thereof at such time as the use by the United States of America of such area or portion thereof ceases pursuant to agreement between the two Parties.

(c) Housing units made available for occupancy by members of the Armed Forces of the Republic of Panama in accordance with paragraph 5(b) of Annex B to the Agreement in Implementation of Article IV of this Treaty at such time as such units are made available to the Republic of Panama.

(d) Upon termination of this Treaty, all real property and non-removable improvements that were used by the United States of America for the purposes of this Treaty and related agreements and equipment related to the management, operation and maintenance of the Canal remaining in the Republic of Panama.

3. The Republic of Panama agrees to hold the United States of America harmless with respect to any claims which may be made by third parties relating to rights, title and interest in such property.

4. The Republic of Panama shall receive, in addition, from the Panama Canal Commission a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal, in accordance with the following:

(a) An annual amount to be paid out of Canal operating revenues computed at a rate of thirty hundredths of a United States dollar (\$.30) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal after the entry into force of this Treaty, for which tolls are charged. The rate of thirty hundredths of a United States dollar (\$.40) per Panama Canal net ton, or its equivalency, will be adjusted to reflect changes in the United States wholesale price index for total manufactured goods during biennial periods. The first adjustment shall take place five years after entry into force of this Treaty, taking into account the changes that occurred in such price index during the preceding two years. Thereafter, successive adjustments shall take place at the end of each biennial period. If the United States of America should decide that another indexing method is preferable, such method shall be proposed to the Republic of Panama and applied if mutually agreed.

(b) A fixed annuity of ten million United States dollars (\$10,000,000) to be paid out of Canal operating revenues. This amount shall constitute a fixed expense of the Panama Canal Commission.

(c) An annual amount of up to ten million United States dollars (\$10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

ARTICLE XIV

SETTLEMENT OF DISPUTES

In the event that any question should arise between the Parties concerning the interpretation of this Treaty or related agreements, they shall make every effort to resolve the matter through consultation in the appropriate committees established pursuant to this Treaty and related agreements, or, if appropriate, through diplomatic channels. In the event the Parties are unable to resolve a particular matter through such means, they may, in appropriate cases, agree to submit the matter to conciliation, mediation, arbitration, or such other procedure for the peaceful settlement of the dispute as they may mutually deem appropriate.

DONE at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

APPENDIX 3

(1) Exchange of correspondence between Hon. Elizabeth Holtzman and Department of the Army. Re: Scope of section 1611 of H.R. 111 as reported by Committee on Merchant Marine and Fisheries; and

(2) Text of section 1611 (Special Immigrants) of H.R. 111 as reported by Committee on Merchant Marine and Fisheries.

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND
INTERNATIONAL LAW OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C., May 10, 1979.

HON. CLIFFORD L. ALEXANDER, Jr.,
Secretary of Army,
Washington, D.C.

DEAR MR. SECRETARY: On April 3, 1979 the Subcommittee on Immigration, Refugees, and International Law held a hearing to consider H.R. 1716, the Administration's proposal to implement the Panama Canal Treaty. At that hearing, the Subcommittee received information relating to the number of persons who would be eligible for special immigrant status under section 410 of that bill.

As you know, the Committee unanimously recommended an amendment deleting that provision of the bill.

H.R. 111, the bill that will be considered by the House, as reported by the House Committee on Merchant Marine and Fisheries, contains a greatly expanded "special immigrant" provision. It is my understanding that the revised version covers upwards of 250,000 persons.

Since that is the proposal which will be before the House when this legislation is considered, and since the Judiciary Committee will be offering its amendment to delete that provision, it is of the utmost importance that this Committee have all available relevant information relating to the scope of the revised provision.

Formalizing a request already made by my staff of the staff of your department, I would therefore appreciate your providing this Committee with a detailed breakdown of persons covered by the H.R. 111 provision, in terms of their exact number, their years of service, the agency for whom they are or were employed, their nationality and cultural background and any other information which is available and which is relevant to consideration of this legislation.

In light of the time constraints present, I would appreciate your providing this material as soon as possible.

Sincerely,

ELIZABETH HOLTZMAN,
Chairwoman.

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., May 17, 1979.

HON. ELIZABETH HOLTZMAN,
*Chairwoman, Subcommittee on Immigration, Refugees and International Law,
House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRWOMAN: This is in response to your letter of May 10, 1979, to Secretary Alexander in which you requested a detailed breakdown of persons covered by the special immigration provisions of H.R. 111.

As you are aware, the Administration's proposed legislation on immigration was very carefully developed in order to balance out obligations to dedicated employees with our need to minimize the number of individuals eligible to immigrate. The concern and the need for special immigration is focused on West Indians; but it is difficult, if not impossible, to write legislation which will apply to employees of specified ethnic descent. What is wanted is to ease problems of people who are least assimilated into the Panamanian culture and society by virtue of their close historic association with the United States through the Canal Enterprise. H.R. 111 generally parallels H.R. 1716, but does expand the base of eligible immigrants beyond what the Administration proposed.

There are four categories of employees or former employees addressed in H.R. 111, versus three in the Administration's proposal. The first category, non-U.S. employees of the Panama Canal Company or Canal Zone Government residing in the Canal Zone with one year or more of service, but less than 15 years, would number approximately 1,000. With their 6,000 dependents, who also would be eligible for immigration, the total would be approximately 7,000.

The second category, Panamanian nationals who have been honorably retired from United States Government employment in the Canal Zone after having had 15 years or more of service, would total about 7,035. With their estimated 12,209 dependents, this category totals 19,244.

The third category is comprised of non-US citizens employed by the United States Government in the Canal Zone (or former Canal Zone) who have 15 years of service as of the treaty date, and later retire. We estimate that there are 6,985 such employees. With their 28,419 dependents, the category would total 35,404 people.

Thus, H.R. 1716 would, make an estimated 61,648 people eligible for special immigrant status. We have estimated that perhaps 10-20% of eligible employees retirees might exercise that option.

The estimate of the additional number of persons who would benefit under the expanded "special immigrant" provisions of H.R. 111 is based on an approximation of the number of records forwarded to the National Personnel Records Center in St. Louis, Missouri, for employees with at least one year of service who have retired or separated from the service of the Panama Canal Company or Canal

Zone Government since 1951, multiplied by the factor of 3 for dependents. Given this method of arriving at the number of persons who might benefit from the provision in question, it is impossible to provide the Committee with the requested exact breakdown. However, the following information is provided for your consideration:

1. Those employees who have retired will have had about 25–30 years of federal service. The service of others who have not retired will vary widely.

2. All of the employees concerned will have worked for the Panama Canal Company or Canal Zone Government.

3. Most of the employees will be Panamanian citizens with a minority of other nationalities represented. Almost all of the dependents of the employees concerned will be Panamanian citizens.

4. The cultural background will be predominantly West Indian and Hispanic.

5. 61,000 former employees with 164,000 dependents are in this category.

I would also like to point out that of the estimated number of eligibles in the above category which, again, is based on a review of personnel records, an indeterminable number of persons have either passed away, have already immigrated to the United States or have no desire to immigrate. The final number of persons who might exercise this special immigration option, therefore, would be considerably less than the estimate of possible eligibles.

In summation then, H.R. 111 includes approximately 76,000 employees/retirees and 210,000 dependents for a grand total of 280,000 eligible for immigration.

Sincerely,

MICHAEL BLUMENFELD,
Assistant Secretary of the Army.

H.R. 111 (SEC. 1611—MERCHANT MARINE AND FISHERIES AMENDMENT)

CHAPTER 2—IMMIGRATION

SEC. 1611. SPECIAL IMMIGRANTS.—(a) Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), relating to the definition of special immigrants, is amended—

(1) by striking out “or” at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(3) by adding after subparagraph (D) the following new subparagraphs:

“(E) an immigrant who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 enters into force, who is resident in the Canal Zone on the effective date of the exchange of instruments of ratification of the Panama Canal Treaty of 1977, and who has performed faithful service for one year or more, and his accompanying spouse and children;

“(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which the Panama Canal Treaty of 1977 enters into force, has been honorably retired from United States Government employment in the Canal Zone with a total of fifteen years or more of faithful service or (ii) who, on the date on which the Panama Canal Treaty of 1977 enters into force, has been faithfully employed by the United States Government in the Canal Zone (or former Canal Zone) for fifteen years or more and who subsequently is honorably retired from such employment; or

“(G) an immigrant from the Republic of Panama who has been an employee of the Panama Canal Company or Canal Zone Government under subparagraph (E) of this section but who is not a resident in the Canal Zone on the effective date of the exchange of instruments of ratification of the Panama Canal Treaty of 1977.”.

(b) Section 212(d) of such Act (8 U.S.C. § 1182(d)), relating to waivers of conditions of inadmissibility to the United States, is amended by adding after paragraph (8) the following new paragraph:

“(9) The provisions of paragraphs (7) and (15) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101(a)(27).”.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.



APPENDIX 4

Letter of Hume Horan, Acting Assistant Secretary for Consular Affairs, Department of State re: statistical breakdown of admissions of special immigrants under existing section 101(a)(27)(D) of the Immigration and Nationality Act for the period 1969-1977.

DEPARTMENT OF STATE,
ASSISTANT SECRETARY FOR CONSULAR AFFAIRS,
Washington, D.C., May 7, 1979.

Hon. ELIZABETH HOLTZMAN,
Subcommittee on Immigration, Refugees and International Law, Committee on
the Judiciary, House of Representatives, Washington, D.C.

DEAR MS. HOLTZMAN: In response to your staff's request to our Bureau of Consular Affairs, I am pleased to furnish you the following data regarding ex-government employee special immigrants:

Fiscal years	SE-1	SE-2	SE-3	Total
1977-----	134	78	207	419
Transition quarter-----	39	20	47	106
1976-----	104	59	180	343
1975-----	379	250	715	1,344
1974-----	397	263	695	1,355
1973-----	209	92	262	563
1972-----	179	66	179	424
1971-----	129	48	94	271
1970-----	129	49	120	298
1969-----	131	40	94	265
Average:				
7 yr ¹ -----	145	62	162	369
9 yr-----	199	105	283	587
Range:				
7 yr ¹ -----	104-209	40-92	94-262	265-563
9 yr-----	104-397	40-263	94-715	265-1,355

¹ Years 1969-73 and 1976-77.

Although the figures have not been tabulated for Fiscal Year 1978, the Visa Office doubts there was any appreciable difference from the fairly standard pattern in the years 1969-73 and 1976-77.

I hope these data are suitable for your purpose.

Sincerely yours,

HUME HORAN,
Acting Assistant Secretary.