

AMENDING SUBMERGED LANDS ACT

MAY 12, 1953.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. REED of Illinois, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5134]

The Committee on the Judiciary, to whom was referred the bill (H. R. 5134) to amend the Submerged Lands Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

LEGISLATIVE HISTORY OF H. R. 5134

The provisions contained in H. R. 5134 are substantially identical with the provisions of title III in the bill H. R. 4198 as it originally passed the House on April 1, 1953. These provisions had been considered by the Committee on the Judiciary during the course of its hearings and executive sessions on over 40 bills dealing with the overall question of the submerged lands.

When the bill, H. R. 4198, was considered by the Senate, it was amended by striking out all after the enacting clause and inserting new provisions which were similar to those contained in titles I and II of the House version. The Senate amendment, however, omitted title III.

H. R. 4198 is cited as the Submerged Lands Act and contains two titles. Title I contains the basic definitions of various terms used throughout the bill. Title II deals with the rights and claims by the States to the lands and resources beneath navigable waters within State boundaries.

Title III as contained in the bill, H. R. 4198, as it passed the House, dealt with the seabed and the natural resources therein of the outer Continental Shelf seaward and beyond State boundaries and recognizes that that area and the resources therein appertain to the United

States and are subject to its jurisdiction and control. These same provisions are now contained in this bill, H. R. 5134.

PURPOSE OF THE BILL

The purpose of H. R. 5134 is to amend the Submerged Lands Act in order that the area in the outer Continental Shelf beyond boundaries of the States may be leased and developed by the Federal Government. At the present time the Submerged Lands Act merely established that the seabed and subsoil in the outer Continental Shelf beyond State boundaries appertained in the United States and was subject to its jurisdiction and control.

There are no provisions for the leasing and development of the area by the Federal Government nor are provisions made for the exchange of State leases for Federal leases in the same area.

This bill contains provisions to accomplish those very objectives.

OUTER CONTINENTAL SHELF OUTSIDE STATE BOUNDARIES

What is the Continental Shelf?

Continental shelves have been defined as those slightly submerged portions of the continents that surround all the continental areas of the earth. They are a part of the same continental mass that forms the lands above water. They are that part of the continent temporarily (measured in geological time) overlapped by the oceans. The outer boundary of each shelf is marked by a sharp increase in the slope of the sea floor. It is the point where the continental mass drops off steeply toward the ocean deeps. Generally, this abrupt drop occurs where the water reaches a depth of 100 fathoms or 600 feet, and, for convenience, this depth is used as a rule of thumb in defining the outer limits of the shelf.

Along the Atlantic coast, the maximum distance from the shore to the outer edge of the shelf is 250 miles and the average distance is about 70 miles. In the Gulf of Mexico, the maximum distance is 200 miles and the average is about 93 miles. The total area of the shelf off the United States is estimated to contain about 290,000 square miles, or an area larger than New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, and Kentucky combined. The area of the shelf off Alaska is estimated to contain 600,000 square miles, an area almost as large as Alaska itself.

That part of the shelf which lies within historic State boundaries, or 3 miles in most cases, is estimated to contain about 27,000 square miles or less than 10 percent of the total area of the shelf. The principal purpose of title III is to authorize the leasing by the Federal Government of the remaining 90 percent of the shelf.

Necessity for legislation

Representatives of the Federal departments, the States, and the off-shore operators all urged the importance and necessity for the enactment of legislation enabling the Federal Government to lease for oil and gas operations the vast areas of the Continental Shelf outside of State boundaries. They were unanimously of the opinion, in which this committee agrees, that no law now exists whereby the Federal Government can lease those submerged lands, the development and operation of which are vital to our national economy and security. It

is, therefore, the duty of the Congress to enact promptly a leasing policy for the purpose of encouraging the discovery and development of the oil potential of the Continental Shelf.

The committee is also of the opinion that legislative action is necessary in order to confirm and give validity to Presidential Proclamation 2667 of September 8, 1945, wherein the President, by Executive declaration asserted, in behalf of the United States, jurisdiction, control, and power of disposition over the natural resources of the subsoil and seabed of the Continental Shelf. Many other nations have made assertions to a similar effect with respect to their continental shelves, and the committee believes it proper and necessary that the Congress make such an assertion in behalf of the United States.

H. R. 5134 does not vest in the States the power to take or dispose of the natural resources of the parts of the Continental Shelf outside the original boundaries of the States. That power is vested by H. R. 4198 in the Secretary of the Interior even though some States have extended their boundaries as far as the outer edge of the shelf. Section 9 (a) of H. R. 5134 asserts as against the other nations of the world the claim of the United States to the natural resources in the Continental Shelf. This Nation's claim to the natural resources was strengthened by the earlier action of some of the States in leasing, and consequently bringing about the actual use and occupancy of the Continental Shelf. The benefits flowing to the United States from such State action was recognized by the Supreme Court in the Louisiana case, for it said:

So far as the issues presented here are concerned, Louisiana's enlargement of her boundary emphasizes the strength of the claim of the United States to this part of the ocean and the resources of the soil under that area, including oil.

Under the provisions of section 9 (a), the Secretary of the Interior is given discretionary power to administer the provisions of this title and to adopt such regulations as are not inconsistent with Federal law for the entire area.

ANALYSIS OF THE BILL

Section 1 of the bill, H. R. 5134, amends section 2 of the Submerged Lands Act by adding thereto four new paragraphs. Subsection (i) defines the term "outer Continental Shelf" as those submerged lands which lie outside of seaward of lands beneath navigable waters as defined in section 2 of that act, and of which the subsoil and natural resources appertain to the United States. The term "Secretary" is defined as the Secretary of the Interior. The term "lease" is also defined, as is also the term "Mineral Leasing Act."

The above terms are added to section 2 of the Submerged Lands Act since they refer exclusively to the area in the outer Continental Shelf beyond State boundaries.

Section 2 of the bill further amends the Submerged Lands Act by striking out therefrom sections 9, 10, and 11. Section 9 of the Submerged Lands Act constitutes a legislative confirmation of jurisdiction over the natural resources of the seabed and subsoil of the Continental Shelf seaward of the original State boundaries, which was asserted in the Presidential proclamation of 1945. The need for this section is obviated by the addition of title III which deals specifically with the same area, particularly with regard to the new matter set forth in section 9 (a) of the bill H. R. 5134. Section 10

of the Submerged Lands Act is also made unnecessary by the new matter being added to the act as specifically contained in section 19.

The provisions of section 11 which is stricken from the Submerged Lands Act by this bill are exactly the same as contained in section 21 of H. R. 5134. In this regard the bill merely transposes the section from one title to another title and is a clarifying amendment to that extent.

Title III relates solely to the outer Continental Shelf outside of State boundaries.

Section 9 (a) constitutes a legislative confirmation of the jurisdiction of the United States over the natural resources of the subsoil and seabed of the outer Continental Shelf outside State boundaries. It makes applicable to that area Federal laws and authorizes the Secretary of the Interior to administer the provisions of this title and to adopt such rules and regulations as are not inconsistent with Federal laws to apply therein.

The Secretary of the Interior is also given the discretionary power to adopt the laws of coastal States, if the State so provides, to be applicable to that portion of the area which would be within the boundaries of the State should such boundaries be extended seaward to the outer margin of the Continental Shelf. In this regard, the Secretary determines and publishes the lines limiting each such area.

Provision is made, however, that State taxation laws cannot apply in these areas. But provision is made for reimbursement of abutting States for the reasonable cost of the administration of such laws.

The further provision is made that this act should be construed so that the character of these waters above the shelf as high seas and the right of free navigation and navigational servitude shall not be affected. Under subsection (b), provision is made that the oil and gas deposits in the area should be controlled and disposed of in accordance with the provisions of this act.

Section 10 provides for the leasing of the outer Continental Shelf area. Under subsection (a) the Secretary of the Interior may, when there is a demand for the purchase of leases, offer for sale on competitive sealed bidding oil and gas leases on the unleased areas of the outer Continental Shelf. The sale of the leases are to be made to the responsible and qualified bidder bidding the highest cash bonuses per leasing unit. Thirty-day notice of sale is to be given by the Secretary which shall describe the tract to be leased, the minimum bonus per acre acceptable for each leasing unit, the amount of royalty, the rental per acre per annum, and the time and place for opening the bids in public.

Subsection (b) requires the leasing units to be reasonably compact in form and to contain not more than 640 acres if located within the known geologic structure of a producing oil or gas field, and not more than 2,560 acres if outside a known geologic structure of a producing oil or gas field.

Subsection (c) fixes the term of the lease as a primary term of 5 years which shall continue so long thereafter as oil or gas is produced in paying quantities therefrom. Further provision is made that each lease shall contain a provision requiring the exercise of reasonable diligence in the operation of the lease and to conduct his operations in a sound and efficient oilfield practice so as to prevent waste therein.

Subsection (d) provides that on or after the discovery of gas or oil, the royalty shall be fixed at a minimum at 12½ percent in the amount

or value of the production saved, removed, or sold from the leasing unit, and in any event a minimum of \$1 per acre per annum in lieu of rental for each lease year commencing after discovery, in addition to any taxes imposed by Congress. It further imposes conditions for operations under the lease with regard to the renewal of drilling operations and the payments due thereunder.

Subsection (e) provides that if at the end of the primary term oil or gas is not being produced in paying quantities on the leasing unit and drilling operations are started not less than 180 days before the end of the primary term, and such operations have been and are being diligently prosecuted, and all other obligations have been performed by the lessee, the lease shall remain in force so long as these conditions are continued.

Under subsection (f) provision is made for the cancellation of any lease for the failure to comply with the provisions of this title. It requires the Secretary to give the lessee 20 days notice by registered mail at his last known address of the claim defaults. If, at the end of that period, the defaults are not cured, the Secretary may proceed to cancel the lease, and the person complaining may have such action reviewed in the United States District Court for the District of Columbia. These provisions would cover a situation where the lease or any interest therein is owned or controlled directly or indirectly in violation of any of the provisions of this act, and a person so owning or controlling can be compelled to dispose of such interest in appropriate court or proceeding.

Under subsection (g) nine provisions of the Federal Mineral Leasing Act are made applicable insofar as they are not inconsistent with the terms of this act.

Under subsection (h) the Secretary of the Interior is authorized to use his discretion regarding the use of facilities available in adjacent States and their leasing agencies. It is further provided that a lease may contain such of the terms and provisions as are consistent with the provisions of the act which the Secretary may prescribe. The Secretary of the Interior is also empowered to delegate his authority herein to officers and employees of the Department of the Interior, and he may authorize subdelegation to the extent he deems proper.

Under subsection (i) the Secretary of the Interior may deny an application for a lease should it appear that any interest therein would be owned or controlled by the citizen of another country wherein a similar privilege is denied to citizens or corporations of this country. If such a condition arises after the granting of a lease, it may be canceled, but in no event can it be held for more than 2 years should such interest have been acquired by design, will, judgment, or decree. Provision is also made that such lands cannot be leased in any way that violates the antitrust laws.

Subsection (j) permits the Secretary to invalidate any lease obtained by fraud or misrepresentation subject to the right of judicial review.

Section 11 of this title deals with the exchange of existing State leases in the outer Continental Shelf for Federal leases. The committee is of the opinion that the holders of these State leases are entitled as a matter of equity and right to the issuance by the Federal Government of exchange leases for the State leases in accordance with the provisions set forth herein.

Under subsection (a), the Secretary is authorized and directed to issue a lease in exchange for a lease covering lands in these areas which,

was issued prior to December 21, 1948, and would have been in force and effect on June 5, 1950, had the issuing State such paramount rights and dominion over the areas as it had assumed when it issued the lease. Such an exchange lease shall be from the effective date thereof for a term equal to the unexpired term. Provision is made that the leases shall be in accordance with the terms and provisions except as modified in regard to the payment of additional royalties as later set forth. Provision is made that if oil and gas was not being produced under the old lease on or before December 11, 1950, the new lease shall be for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the terms and conditions of the old lease and it shall cover the same resources and same portion of the area as the old lease and shall provide for payment to the United States of the same rentals, royalties, and other payments as set forth in the old lease. However, a sum may be charged as an additional royalty equal to any severance tax charged by an abutting State in addition to any taxes imposed by Congress. These leases may also contain such other terms and provisions as the Secretary may prescribe so long as they are consistent with the terms of this act. If fraud or misrepresentation was involved in a lease it shall not be accepted for exchange. Refusal on the part of the Secretary to so exchange the lease is subject to judicial review in the United States District Court for the District of Columbia.

Subsection (b) provides that no exchange lease shall issue unless (1) the application, accompanied by a copy of the old lease, is filed with the Secretary of the Interior within 6 months from the effective date of this act or as later provided in section 18 hereof or as the Secretary may fix from time to time; (2) the applicant must state that the lease applied for shall be subject to the same royalty obligations as the lease issued by the State in addition to any taxes imposed by Congress; (3) the applicant pays the United States all rentals, royalties, and other sums payable after June 5, 1950, which have not been paid to the lessor or to the Secretary of the Interior under the old lease; (4) furnishes surety bond as the Secretary may require and complies with such reasonable requirements as the Secretary deems necessary to protect the interest of the United States; and (5) files with the Secretary a certificate issued by the State official or agency having jurisdiction which shows that the old lease was in force and effect in accordance with its terms and provisions in the laws of the issuing State on the applicable date as set forth in subsection (a) of this section. In the absence of such certificate the applicant may file other evidence setting forth such facts.

Subsection (c) provides that where a lease overlaps the areas under State control and those in the outer Continental Shelf beyond State boundaries, the provisions of this section shall be applicable only to the lease insofar as it covers the lands of the outer Continental Shelf.

Section 12 provides that all rentals, royalties, and other sums payable under any lease on the outer Continental Shelf from the period of June 5, 1950, to date and thereafter shall be deposited in the Treasury of the United States.

Section 13 merely provides for the jurisdiction and venue in a United States district court in legal proceedings involving a lease or the rights thereunder in the outer Continental Shelf.

Section 14 authorizes refunds to be paid when the Secretary determines that an excess of the amount lawfully required to be paid

has been paid. Such request for repayments must be filed within 2 years after the issuance of the lease or the making of the payment.

Section 15 provides a waiver of liability for a State or its political subdivision for past operations in the outer Continental Shelf prior to June 5, 1950. It is the opinion of the committee that under this section the waiver is limited to proprietary claims of the United States in these areas, but in no case shall the waivers be effective if it is determined that fraud has been practiced in obtaining or operating under the lease.

Section 16 deals with the powers reserved to the United States. Subsection (a) provides that in time of war or for necessary national defense, or when so prescribed by Congress or the President, the United States retains in addition to all other rights it may have under the law, the right of first refusal to buy any of the oil or gas being produced from the area, to terminate any lease or to suspend operations under any lease, in which event the United States shall become the owner of the wells, fixtures, and improvements located in the area for which it shall pay just compensation. In the event operations are suspended under any lease, the United States shall be liable for such compensation as it must pay under the Constitution of the United States. Also, the payment of rentals and royalties, shall likewise be suspended during any period wherein operations are suspended and the term of the suspended lease shall be extended by adding to it any suspension period. Subsection (b) provides that the Secretary of Defense, with the approval of the President, shall have the power to prohibit any operations in those areas of the shelf which are needed for navigational purposes, or for the purpose of national defense. Subsection (c) provides for the retention of the ownership and the right to extract helium from all gas produced on the outer Continental Shelf under such rules and regulations as prescribed by the Secretary.

Section 17 relates to the exploration of the area and recognizes the right of any person, subject to applicable provisions of law, as well as any agency of the United States to conduct geological or geophysical explorations in the outer Continental Shelf area so long as they do not interfere with or endanger any lease issued pursuant to this act.

Section 18 sets forth in detail the interpleader and interim arrangements involving legal determinations regarding leases and actions filed in the United States District Court for the District of Columbia.

Title IV contains three general provisions which are set forth as a separate title for perfecting and clarifying purposes only.

Section 19 revokes the Executive Order No. 10426, dated January 16, 1953, which set aside the submerged lands of the Continental Shelf as a petroleum reserve. That order had been revoked insofar as applied to those lands located within the State boundaries and therefore, should be revoked with regard to the lands in the outer Continental Shelf beyond State boundaries.

Section 20 is merely an authorization for necessary appropriations to effectuate provisions of the act.

Section 21 is a detailed and elaborate separability clause which is designed to preserve the validity of the entire remainder of the act if any particular section should be held to be invalid. This section transposes the identical separability clause which was section 11 of the Submerged Lands Act.

CHANGES IN EXISTING LAW

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

SUBMERGED LANDS ACT

TITLE I

DEFINITION

SEC. 2. When used in this Act—

(i) The term "outer continental shelf" means all submerged lands (1) which lie outside and seaward of lands beneath navigable waters as defined hereinabove in section 2, and (2) of which the subsoil and natural resources appertain to the United States and are subject to its jurisdiction and control;

(j) The term "Secretary" means the Secretary of the Interior;

(k) The term "lease" whenever used with reference to action by a State or its political subdivision or grantee shall be regarded as including any form of authorization for the use, development, or production from lands beneath navigable waters or lands of the outer continental shelf and the natural resources therein and thereunder, and the term "lessee" whenever used in such connection shall be regarded as including any person having the right to develop or produce natural resources and any person having the right to use or develop lands beneath navigable waters or lands of the outer continental shelf under any such form of authorization;

(l) The term "Mineral Leasing Act" means the Act of February 25, 1920 (41 Stat. 437), and all Acts amendatory thereof or supplementary thereto.

TITLE II

LANDS BENEATH NAVIGABLE WATERS WITHIN STATE BOUNDARIES

SEC. 3. Rights of the States:

[SEC. 9. Nothing in this Act shall be deemed to affect in anywise the rights of the United States to the natural resources of that portion of the subsoil and seabed of the Continental Shelf lying seaward and outside of the area of lands beneath navigable waters, as defined in section 2 hereof, all of which natural resources appertain to the United States, and the jurisdiction and control of which by the United States is hereby confirmed.]

[SEC. 10. Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve", is hereby revoked insofar as it applies to any lands beneath navigable waters as defined in section 2 hereof.]

[SEC. 11. SEPARABILITY.—If any provision of this Act, or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby; without limiting the generality of the foregoing, if subsection 3 (a) 1, 3 (a) 2, 3 (b) 1, 3 (b) 2, 3 (b) 3, or 3 (c) or any provision of any of those subsections is held invalid, such subsection or provision shall be held separable and the remaining subsections and provisions shall not be affected thereby.]

TITLE III

OUTER CONTINENTAL SHELF OUTSIDE STATE BOUNDARIES

SEC. 9. JURISDICTION OVER OUTER CONTINENTAL SHELF.—(a) It is hereby declared to be the policy of the United States that the natural resources of the subsoil and seabed of the outer continental shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act. Federal laws now in effect or hereafter adopted shall apply to the entire area of the outer continental shelf. The Secretary is hereby empowered and authorized to administer the

provisions of this title, and to adopt rules and regulations not inconsistent with Federal laws to apply to the area.

Except to the extent that they are inconsistent with applicable Federal laws now in effect or hereafter enacted, or such regulations as the Secretary may adopt, the laws of each coastal State which so provides shall be applicable to that portion of the outer continental shelf which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer continental shelf, and the Secretary shall determine and publish lines defining each such area of State jurisdiction: Provided, however, That State taxation laws shall not apply in such areas of the outer continental shelf. The Secretary shall reimburse the abutting States in the amount of the reasonable costs of the administration of such laws.

This Act shall be construed in such manner that the character as high seas of the waters above the outer continental shelf and the right to their free and unimpeded navigation and navigational servitude shall not be affected.

(b) Oil and gas deposits in the outer Continental Shelf shall be subject to control and disposal only in accordance with the provisions of this Act and no rights in or claims to such deposits, whether based upon applications filed or other action taken heretofore or hereafter, shall be recognized except in accordance with the provisions of this Act.

SEC. 10. PROVISIONS FOR LEASING OUTER CONTINENTAL SHELF.—(a) When in the Secretary's opinion there is a demand for the purchase of such leases, the Secretary may in his discretion offer for sale, on competitive sealed bidding, oil and gas leases on any area of the outer continental shelf. Subject to the other terms and provisions hereof, sales of leases shall be made to the responsible and qualified bidder bidding the highest cash bonus per leasing unit. Notice of sale of oil and gas leases shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary, which publication shall contain (i) a description of the tracts into which the area to be leased has been subdivided by the Secretary for leasing purposes, such tracts being herein called "leasing units"; (ii) the minimum bonus per acre which will be accepted by the Secretary on each leasing unit; (iii) the amount of royalty as specified hereinafter in section 10 (d); (iv) the amount of rental per acre per annum on each leasing unit as specified hereinafter in section 10 (d); and (v) the time and place at which all bids shall be opened in public.

(b) The leasing units shall be in reasonably compact form of such area and dimensions as may be determined by the Secretary, but shall not be more than six hundred and forty acres if within the known geologic structure of a producing oil or gas field and shall not be more than two thousand five hundred and sixty acres if not within any known geologic structure of a producing oil or gas field.

(c) Oil and gas leases sold under the provisions of this section shall be for the primary terms of five years and shall continue so long thereafter as oil or gas is produced therefrom in paying quantities. Each lease shall contain provisions requiring the exercise of reasonable diligence, skill, and care in the operation of the lease, and requiring the lessee to conduct his operations thereon in accordance with sound and efficient oilfield practices to prevent waste of oil or gas discovered under said lease or the entrance of water through wells drilled by him to the oil or gas sands or oil and gas bearing strata or the injury or destruction of the oil and gas deposits.

(d) Each lease shall provide that, on or after the discovery of oil or gas, the lessee shall pay a royalty of not less than 12½ per centum in amount or value of the production saved, removed, or sold from the leasing unit and, in any event, not less than \$1 per acre per annum in lieu of rental for each lease year commencing after discovery in addition to any taxes imposed by Congress. If after discovery of oil or gas the production thereof should cease from any cause, the lease shall not terminate if the lessee commences additional drilling or reworking operations within ninety days thereafter or, if it be within the primary term, commences or resumes the payment or tender of rentals or commences operations for drilling or reworking on or before the rental paying date next ensuing after the expiration of ninety days from date of cessation of production. All leases issued hereunder shall be conditioned upon the payment by the lessee of a rental of \$1 per acre per annum for the second and every lease year thereafter during the primary term and in lieu of drilling operations on or production from the leasing unit in addition to any taxes imposed by Congress, all such rentals to be payable on or before the beginning of each lease year.

(e) If, at the expiration of the primary term of any lease, oil or gas is not being produced in paying quantities on a leasing unit, but drilling operations are commenced not less than one hundred eighty days prior to the end of the primary term and such drilling operations or other drilling operations have been and are being diligently prosecuted and the lessee has otherwise performed his obligations under the lease, the lease shall remain in force so long as drilling operations are prosecuted with reasonable diligence and in a good and workmanlike manner, and rental paid, and if

they result in the production of oil or gas so long thereafter as oil or gas is produced therefrom in paying quantities.

(f) Should a lessee in a lease issued under the provisions of title III of this Act fail to comply with any of the provisions of this Act or of the lease, such lease may be canceled by the Secretary because of such failure; but before such a cancellation the Secretary shall give the lessee twenty days' notice by registered mail at his last known address of the claimed defaults. If the defaults are not cured by the end of said period the Secretary may proceed to cancel the lease. Any person complaining of such cancellation may have such action reviewed in the United States District Court for the District of Columbia. If a lease or any interest therein is owned or controlled, directly or indirectly, in violation of any of the provisions of this Act, the lease may be canceled, or the interest so owned or controlled may be forfeited by the Secretary as provided in this paragraph, or the person so owning or controlling the interest may be compelled to dispose of the interest in an appropriate court proceeding.

(g) The provisions of sections 17, 17 (b), 28, 30, 30 (a), 30 (b), 32, 36, and 39 of the Mineral Leasing Act to the extent that such provisions are not inconsistent with the terms of this Act, are made applicable to lands leased or subject to lease by the Secretary under title III of this Act.

(h) In the interest of economy and of cooperation between Federal and State leasing agencies within their respective jurisdiction, the Secretary may, but only to the extent he deems feasible, make use of facilities available to him from the adjacent States and their leasing agencies. Each lease shall contain such other terms and provisions consistent with the provisions of this Act as may be prescribed by the Secretary. The Secretary may delegate his authority under this Act to officers or employees of the Department of the Interior and may authorize subdelegation to the extent that he may deem proper.

(i) The Secretary may deny any application for a lease, as to which it appears that the lease, if issued, or any interest therein, would be owned or controlled, directly or by stock ownership, stockholding, stock control, trusteeship, or otherwise, by any citizen of another country, the laws, customs or regulations of which deny similar or like privileges to citizens or corporations of this country. Where such ownership or control arises after a lease is granted the Secretary may then cancel the lease because thereof. Any ownership or interest described in this section which may be acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition. No lands leased under the provisions of this section shall be subleased, trustee, possessed, or controlled by any device or in any manner whatsoever so that they form a part of or are in anywise controlled by any combination in the form of an unlawful trust or form the subject in whole or in part of any contract, agreement, understanding, or conspiracy, to restrain trade or commerce in the production or sale of oil or gas or to control the price of oil or gas.

(j) Any lease obtained through the exercise of fraud or misrepresentation, or which is not performed in accordance with its terms or with this law, may by the Secretary be invalidated subject to the right of review as otherwise provided for herein.

SEC. 11. EXCHANGE OF EXISTING STATE LEASES IN OUTER CONTINENTAL SHELF FOR FEDERAL LEASES.—(a) The Secretary is authorized and directed to issue a lease to any person in exchange for a lease covering lands in the outer continental shelf which was issued by any State prior to December 21, 1948, and which would have been in force and effect on June 5, 1950, in accordance with its terms and provisions except as modified as to additional royalties provided later in this section and the laws of the State issuing such lease had the State issuing such lease had such paramount rights in and dominion over the outer continental shelf as it assumed it had when it issued the lease. Any lease issued pursuant to this section shall be for a term from the effective date hereof equal to the unexpired term of the old lease, or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued, the same; Provided, however, that if oil or gas was not being produced from such old lease on and before December 11, 1950, or if the primary term of such lease has expired since December 11, 1950, then any such new lease shall be for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of the old lease or any extensions, renewals or replacements authorized therein or heretofore authorized by the laws of the State issuing or whose grantee issued such lease, shall cover the same natural resources and the same portion of the continental shelf as the old lease, shall provide for payment to the United States of the same rentals, royalties, and other payments as are provided for in the old lease, together with a sum as additional royalty equal to any severance tax charged by an abutting State, in addition to any taxes imposed by Congress, and shall include such other terms and provisions, consistent with the provisions of this Act, as may be prescribed by the Secretary. Operations under

such old lease may be conducted as therein provided until the issuance of an exchange lease hereunder or until it is determined that no such exchange lease shall be issued. No lease which has been determined by the Secretary to have been obtained by fraud or misrepresentation shall be accepted for exchange under this section. Any persons complaining of a refusal by the Secretary so to exchange a lease as herein provided may have such action reviewed in the United States District Court for the District of Columbia.

(b) No such exchange lease shall be issued unless, (i) an application therefor, accompanied by a copy of the lease from the State or its political subdivision or grantee offered in exchange, is filed with the Secretary within six months from the effective date of this Act, or within such further period as provided in section 18 hereof, or as may be fixed from time to time by the Secretary; (ii) the applicant states in his application that the lease applied for shall be subject to the same overriding royalty obligations as the lease issued by the State or its political subdivision or grantee in addition to any taxes imposed by Congress; (iii) the applicant pays to the United States all rentals, royalties, and other sums due to the lessor under the old lease which have or may become payable after June 5, 1950, and which have not been paid to the lessor or to the Secretary under the old lease; (iv) the applicant furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States; and (v) the applicant files with the Secretary a certificate issued by the State official or agency having jurisdiction showing that the old lease was in force and effect in accordance with its terms and provisions and the laws of the State issuing it on the applicable date provided for in subsection (a) of this section; or in the absence of such certificate, evidence in the form of affidavit, receipts, canceled checks, and other documents showing such facts.

(c) In the event any lease covers, as well as other lands, lands of the outer continental shelf, the provisions of this section shall apply to such lease insofar only as it covers lands of the outer continental shelf.

SEC. 12. INCOME FROM OUTER CONTINENTAL SHELF.—All rentals, royalties, and other sums payable under any lease on the outer continental shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States.

SEC. 13. ACTIONS INVOLVING OUTER CONTINENTAL SHELF.—Any court proceeding involving a lease or rights under a lease of a portion of the outer continental shelf may be instituted in the United States district court for the district in which any defendant may be found or for the district in which the leased property, or some part thereof, is located; or, if no part of the leased property is within any district, for the district nearest to the property involved.

SEC. 14. REFUNDS.—When it appears to the satisfaction of the Secretary that any person has made a payment to the United States in connection with any lease under this Act in excess of the amount he was lawfully required to pay, such excess shall be repaid to such person, his assignees, or his legal representative, if a request for repayment of such excess is filed with the Secretary within two years after the issuance of the lease or the making of the payment.

SEC. 15. WAIVER OF LIABILITY FOR PAST OPERATIONS.—(a) No State, or political subdivision, grantee or lessee shall be liable to or required to account to the United States in any way for entering upon, using, exploring for, developing, producing, or disposing of natural resources from lands of the outer continental shelf prior to June 5, 1950.

(b) If it shall be determined by appropriate court action that fraud has been practiced in the obtaining of any lease referred to herein or in the operations thereunder, the waivers provided in this section shall not be effective.

SEC. 16. POWERS RESERVED TO THE UNITED STATES.—The United States reserves and retains—

(a) in time of war or when necessary for national defense, and when so prescribed by the Congress or the President, in addition to any and all other rights it may have under the law, the right (i) of first refusal to purchase all or any portion of the oil or gas that may be produced from the outer continental shelf; (ii) to terminate any lease issued or authorized pursuant to or validated by title III of this Act, in which event the United States shall become the owner of wells, fixtures, and improvements located on the area of such lease and shall be liable to the lessee for just compensation for such leaseholds, wells, fixtures, and improvements, to be determined as in the case of condemnations; (iii) to suspend operations under any lease issued or authorized pursuant to or validated by title III of this Act, in which event the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United

States; and payment of rentals, minimum royalty, and royalty prescribed by such lease shall likewise be suspended during any period of suspension of operations, and the term of any suspended lease shall be extended by adding thereto any suspension period;

(b) the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from the exploration and operation that part of the continental shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area, shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States; and

(c) the ownership of and the right to extract helium from all gas produced from the outer continental shelf, subject to any lease issued pursuant to or validated by this Act under such general rules and regulations as shall be prescribed by the Secretary, but in the extraction of helium from such gas it shall be so extracted as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

SEC. 17. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—The right of any person, subject to applicable provisions of law, and of any agency of the United States to conduct geological and geophysical explorations in the outer continental shelf, which do not interfere with or endanger actual operations under any lease issued pursuant to this Act, is hereby recognized.

SEC. 18. INTERPLEADER AND INTERIM ARRANGEMENTS.—(a) Notwithstanding the other provisions of this Act, if any lessee under any lease of submerged lands granted by any State, its political subdivisions, or grantees, prior to the effective date of this Act, shall file with the Secretary a certificate executed by such lessee under oath and stating that doubt exists (i) as to whether an area covered by such lease lies within the outer continental shelf, or (ii) as to whom the rentals, royalties, or other sums payable under such lease are lawfully payable, or (iii) as to the validity of the claims of the State which issued, or whose political subdivision or grantee issued, such lease to the area covered by the lease and that such claims have not been determined by a final judgment of a court of competent jurisdiction—

(1) the lessee may interplead the United States and, with their consent, the State or States concerned, in an action filed in the United States District Court for the District of Columbia, and, in the event of State consent to be interpleaded, deposit with the clerk of that court all rentals, royalties, and other sums payable under such lease after filing of such certificate, and such deposit shall be full performance of the lessee's obligation under such lease to make such payments, or

(2) the lessee may continue to pay all rentals, royalties, and other sums payable under such lease to the State, its political subdivisions, or grantees, as in the lease provided, until it is determined by final judgment of a court of competent jurisdiction that such rentals, royalties, and other sums should be paid otherwise, and thereafter such rentals, royalties, and other sums shall be paid by said lessee in accordance with the determination of such final judgment. In the event it shall be determined by such final judgment that the United States is entitled to any moneys theretofore paid to any State or political subdivision, or grantee thereof, such State, its political subdivision, or grantee as the case may be, shall promptly account to the United States therefor; and

(3) the lessee of any such lease may file application for an exchange lease under section 11 hereof at any time prior to the expiration of six months after it is determined by final judgment of a court of competent jurisdiction that the claims of the State which issued, or whose political subdivision or grantee issued, such lease to the area covered by the lease are invalid as against the United States and that the lands covered by such lease are within the outer continental shelf.

(b) If any area of the outer continental shelf or other lands covered by this Act included in any lease issued by a State or its political subdivision or grantee is involved in litigation between the United States and such State, its political subdivision, or grantee, the lessee in such lease shall have the right to intervene in such action and deposit with the clerk of the court in which such case is pending any rentals, royalties, and other sums payable under the lease subsequent to the effective date of this Act, and such deposit shall be full discharge and acquittance of the lessee for any payment so made.

TITLE IV

GENERAL PROVISIONS

SEC. 19. Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve", is hereby revoked.

SEC. 20. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 21. SEPARABILITY.—If any provision of this Act, or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby; without limiting the generality of the foregoing, if subsection 3 (a) 1, 3 (a) 2, 3 (b) 1, 3 (b) 2, 3 (b) 3 or 3 (c) or any provision of any of those subsections is held invalid, such subsection or provision shall be held separable and the remaining subsections and provisions shall not be affected thereby.

