OUTER CONTINENTAL SHELF

HEARINGS

BEFORE THE

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE

EIGHTY-THIRD CONGRESS

FIRST SESSION

ON

S. 1901

A BILL TO PROVIDE FOR THE JURISDICTION OF THE UNITED STATES OVER THE SUBMERGED LANDS OF THE OUTER CONTINENTAL SHELF, AND TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO LEASE SUCH LANDS FOR CERTAIN PURPOSES

S. 1901 Amendment

TO PROVIDE THAT THE REVENUES SHALL BE USED ONLY FOR NATIONAL DEFENSE, NATIONAL SECURITY, AND AS GRANTS-IN-AID OF PRIMARY, SECONDARY, AND HIGHER EDUCATION

MAY 16, 18, 19, 20, 21, 22, 23, 25, 28, AND JUNE 1, 1953

Printed for the use of the Committee on Interior and Insular Affairs

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OUTER CONTINENTAL SHELF

SATURDAY, MAY 16, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met, pursuant to call, at 10:15 a. m., in the committee room, 224 Senate Office Building, Washington, D. C., Senator Guy Cordon (acting chairman) presiding.

Present: Senators Eugene D. Millikin, Colorado; Guy Cordon, Oregon; Arthur V. Watkins, Utah; Henry C. Dworshak, Idaho; Frank A. Barrett, Wyoming; Clinton P. Anderson, New Mexico; Russell B. Long, Louisiana; and Price Daniel, Texas.

Also present: Kirkley S. Coulter, chief clerk; Stewart French, staff counsel; and N. D. McSherry, assistant chief clerk.

Senator CORDON. The committee will please come to order.

In accordance with the request of members of the committee at the last meeting, there has been prepared a memorandum with respect to the sections of the bill S. 1901 dealing with the application of existing Federal law to the outer Continental Shelf. I will place in the record at this point the text of S. 1901.

(S. 1901 follows:)

[S. 1901, 83d Cong., 1st sess.]

A BILL To provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act".

SEC. 2. DEFINITIONS.—When used in this Act—

(a) The term "outer Continental Shelf" means all submerged lands (1) which lie outside and seaward of lands beneath navigable waters as defined in the Submerged Lands Act, and (2) of which the subsoil and natural resources appertain to the United States and are subject to its jurisdiction and control;

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

(c) The term "minal lease" means any form of authorization for the exploration for, or development or production of deposits of, oil, gas, or other minerals; and

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

SEC. 3. 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.

(b) 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 naviagtion and the navigational servitude shall not be affected.

SEC. 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—(a) All acts occuring and all offenses committed on any structure (other than a vessel), which is located on the outer Continental Shelf or on the waters above the outer Continental Shelf for the purpose of exploring for, developing, or removing the natural resources of the subsoil or seabed of such outer Continental Shelf, shall be deemed to have occurred or been committed aboard a vessel of the United States on the high seas and shall be adjudicated and determined or adjudged and punished according to the laws relating to such acts or offenses occurring on vessels of the United States on the high seas.

(b) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, or removing the natural resources, or involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district nearest the place where the cause of action arose.

(c) With respect to disability or death of an employee resulting from an injury occurring as the result of operations described in subsection (b), compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act if recovery for such disability or death through workmen's compensation proceedings is not provided by State law. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

(1) the term "employee" does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations: and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and the waters above the outer Continental Shelf.

(d) (1) The provisions of the Ship Mortgage Act shall be applicable to any structure referred to in subsection (a) in the same manner as if such structure were a "vessel of the United States" within the terms of such Act. For the purpose of the extension of the provisions of such Act under this subsection, every such structure shall be registered in accordance with regulations established by the Secretary of Commerce, and the term "documented" means registered in accordance with this paragraph.

(2) The Secretary of Commerce shall establish such regulations as he deems necessary to the efficient execution of this subsection.

(e) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any structure referred to in subsection (a) shall be deemed to have occurred within the judicial district nearest the place of location of such structure.

(f) For the purposes of the Fair Labor Standards Act of 1938, goods produced upon or at any structure referred to in subsection (a) shall be deemed to have been produced within a State.

(g) (1) No alien shall be employed on any structure referred to in subsection (a) for any period unless the Attorney General shall have certified—

(A) that such alien has been lawfully admitted to the United States for permanent residence within the meaning of the Immigration and Nationality Act, or

(B) that such alien has been lawfully admitted to the United States as a nonimmigrant, within the meaning of such Act, and that such alien would not violate any provision of such Act or lose his status as a nonimmigrant by remaining in, and being similarly employed in, the United States during such period.

(2) The Attorney General shall, by regulations, prescribe the conditions under which an alien, other than an alien employed on any structure referred to in subsection (a), may be permitted to be on any such structure, and the period during which any such alien may remain thereon.

(3) Any person who—

(A) knowingly employs an alien on a structure referred to in subsection (a) in violation of paragraph (1) of this subsection, or

(B) having authority to exclude an alien from any such structure, knowingly permits such alien to be on such structure in violation of the regulations prescribed by the Attorney General under paragraph (2) of this subsection, or knowingly permits such alien to remain on any such structure for a period longer than prescribed by such regulations,

shall be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or both.

(h) (1) No merchandise of foreign growth or manufacture shall be brought upon any structure referred to in subsection (a) from any foreign port or place unless it shall have been entered for consumption in the United States in accordance with the customs laws and regulations.

(2) If any person fraudulently or knowingly brings or assists in bringing any merchandise upon any such structure in violation of the provisions of this subsection, or in any manner facilitates the transportation, concealment, or sale of such merchandise after it has been brought upon such structure, knowing the same to have been brought thereon in violation of the provisions of this subsection, the offender shall be punished by a fine not to exceed $5,000 or by imprisonment for not to exceed two years, or both.

Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this subsection.

Merchandise brought upon any such structure in violation of the provisions of this subsection shall be forfeited to the United States in the same manner as in the case of merchandise introduced into the United States in violation of secion 545 of title 18 of the United States Code.

(i) All provisions of law applicable with respect to the exportation of any commodity, article, material, or supply from a place in a State of the United States shall be applicable with respect to the exportation of any such commodity, article, material, or supply from any structure referred to in subsection (a).

(j) The Coast Guard shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the structures referred to in subsection (a) or on the waters adjacent thereto, as it may deem necessary.

(k) The specific application by this section of certain provisions of law to structures referred to in subsection (a) or to acts or offenses occurring or committed on such structures shall not give rise to any inference that the application to such structures, acts, or offenses of any other provision of law is not intended.

SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may prescribe such rules and regulations as he determines to be necessary and proper in order to provide for the conservation of the natural resources of the outer Continental Shelf. The continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, maintained or granted under the provisions of this Act, may be conditioned upon campliance with the regulations prescribed by the Secretary under the provisions of this section.

SEC. 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.—(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State or political subdivision or grantee thereof (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods as may be fixed from time to time by the Secretary;

(2) such lease was issued (A) prior to December 21, 1948, and was on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it or whose political subdivision or grantee issued it, or (B) with the approval of the Secretary and was on the effective

date of this Act in force and effect in accordance with its terms and provisions and the law of such State;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it was in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease was so in force and effect;

(4) except as otherwise provided in section 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof, and all rents, royalties, and other sums payable under such lease after the effective date of this Act, are paid to the Secretary, who shall deposit them in the Treasury in accordance with section 9 of this Act;

(5) the holder of such lease certified that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor of not less than 12½ per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) such lease will terminate within a period of not more than five years from the effective date of this Act in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(10) the holder of such lease 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.

(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with its provisions, for the full term thereof and of any extension, renewal or replacement authorized therein or heretofore authorized by the law of the State issuing or whose subdivision or grantee issued such lease, or, if oil or gas was not being produced from such lease on or before December 11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State.

(c) The Secretary shall exercise such powers of supervision and control with respect to any mineral lease that meets the requirements of subsection (a) of this section as may be vested in the lessor by law or the terms and provisions of the lease.

(d) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to the effective date of this Act.

(e) Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determnation reviewed by the United States District Court for the District of Columbia.

SEC. 7. CONTROVERSY OVER JURISDICTION.—In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this Act, the Secretary is authorized, notwithsanding the provisions of subsections (a) and (c) of section 6 of this Act, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee

thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this Act. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 6 (a) (4) hereof. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this Act, the lessee, if he has not already done so, shall comply with the requirements of section 6 (a), and thereupon the provisions of section 6 (b) shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950, (15 F. R. 8835), as amended by the notice dated January 26, 1951 (16 F. R. 953), and as supplemented by the notices dated February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6404), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), and December 21, 1951 (17 F. R. 43), respectively, is hereby approved and confirmed.

SEC. 8. LEASING OF OUTER CONTINENTAL SHELF.— (a) In order to meet the urgent need during the present emergency for further exploration and development of the oil and gas deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest bonuses on a basis of competitive bidding oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act.

(b) A lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12½ per centum, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe in advance of offering the area for lease.

(c) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

(d) The issuance of any lease by the Secretary pursuant to this section 8 of this Act, or the refusal of the Secretary to certify that the United States does not claim any interest in any submerged lands pursuant to section 7 of this Act, shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is outer Continental Shelf.

SEC. 9. DISPOSITION OF REVENUES.—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 paid into the Treasury of the United States and credited to miscellaneous receipts.

SEC. 10. NATIONAL EMERGENCY RESERVATIONS.—(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf and reserve them for the use of the United States in the interest of national security.

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of the oil and gas produced from the outer Continental Shelf.

(c) All leases issued under this Act, and leases, the maintenance and operation of which are authorized under this Act, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after the effective date of this Act, to suspend operations under, or to terminate any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended or whose lease is thus terminated.

SEC. 11. NAVAL PETROLEUM RESERVE EXECUTIVE ORDER REPEALED.—Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Sub-

merged Lands of the Continental Shelf as a Naval Petroleum Reserve", is hereby revoked.

SEC. 12. 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.

Senator CORDON. As stated before, the Chair requested the Senate legislative counsel to make studies as to what existing Federal law might be made applicable to operations on the outer Continental Shelf made possible through the presidential proclamation in 1945 and its confirmation by the Congress.

As a result of those studies, the Legislative counsel prepared the paragraphs of section 4 of S. 1901. Representatives of the counsel are here.

The counsel also prepared the memorandum which has been sent to each member of the committee and it was the thought of the Chair now that Mr. LeRoux, speaking for the legislative counsel, will orally add a further explanation to the memorandum, and of course will be glad to answer any questions that he can in this field.

The Chair wants to again emphasize that to a very great extent it is the consensus of those who have studied this matter that we are in a somewhat new and unexplored field. The peculiar legal status of the area that is sought to be explored and utilized is one that has no precedent. Consequently, any views presented here are the views of the individual who presents them.

We have what the Chair believes to be competent counsel and counsel who have studied the matter quite extensively. But the Chair does desire to suggest that this is more or less a matter in the realm of pure legal reasoning and there are few precedents, if any, that can be relied upon.

Senator ANDERSON. We are wildcatting?

Senator CORDON. We are wildcatting in the field of law.

Senator WATKINS. That grows out of the situation where we take on some of the high seas.

Senator CORDON. We hope we take on something under the high seas.

Mr. Peter W. LeRoux, and Mr. Dwight J. Pinion, both of the office of the legislative counsel, are here, and we will hear from them.

Now you men divide the discussion as you desire, and, without objection, we will turn the matter over to the counsel for a further explanation at this time.

STATEMENTS OF PETER W. LEROUX AND DWIGHT J. PINION, OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

Mr. LEROUX. Mr. Chairman and members of the committee, I believe that my memorandum presents at least a summary explanation. I would like to defer to your questions for any expansion that you may feel that you desire on it.

Senator WATKINS. Mr. Chairman, may I interrupt to say here that this memorandum was handed to me as I left the office this morning and I barely read the pink slip attached to it, so I am not prepared at this time to ask him any questions.

Senator ANDERSON. Mine was handed to me about 5 minutes to 9, along with another manuscript which I had to have finished by 9 o'clock.

Senator CORDON. I was rather afraid that there would not be many members of the committee that had an opportunity to read it, much less study it. Perhaps if you will just read it through and interpolate any additional explanatory matter you desire, it will be most helpful.

I know you will not mind being interrupted and the Chair may interrupt you once in awhile.

Mr. LEROUX. The memorandum was prepared to present an explanation of section 4 of S. 1901 or laws applicable to the outer Continental Shelf. The remainder of S. 1901 is substantially the provisions of S. 107, 83d Congress, as introduced by Senator Anderson, applied to the outer Continental Shelf with authority granted to the Secretary of the Interior in section 5 to prescribe necessary rules and regulations to carry out such provisions and to provide for the conservation of the natural resources of the outer Continental Shelf.

Senator CORDON. May I interrupt you there for a moment, Mr. LeRoux, to interpolate this statement?

The staff is engaged at the present time in a careful comparison between the leasing and other provisions, of S. 1901 as they appeared in the Anderson bill, with provisions that appear in the Daniel bill, and others that were presented in the form of a suggestion from the Department of Justice, to determine the extent to which the three have the same legal effect. It is also desired to distinguish wherein the three are different so that the committee may have that additional information before it in connection with the study of the bill with respect to implementation of the proclamation with respect to practical operation on the outer Continental Shelf.

Senator DANIEL. Mr. Chairman, could we include the House bill in that, the bill twice passed by the House? I think really as far as comparisons are concerned it would be more helpful to the committee to include the House bill rather than my own bill. They are similar, but the House has made changes which we should consider.

Senator CORDON. Frankly, Senator Daniel, the Chair was of the opinion that the Senator's bill and the House bill were substantially the same.

Senator DANIEL. They were substantially the same, but some changes have been made by the House. I believe that it would be more helpful to have the House bill compared for us, since one body has already acted on it, you know.

Senator CORDON. In the end we would have had to do that anyway because we have the House bill in before us.

Senator ANDERSON. I did not want to get up and protest I did not understand the significance of it, but why is the House bill on the calendar, why is it not referred to this committee?

Senator CORDON. I cannot answer the question. I assume that the situation is that the committee having knowledge of it would go ahead with the consideration of it and would probably report its version which could then be substituted. I do not know whether that is correct or not.

Senator ANDERSON. The majority leader asked that it be left on the calendar, specifically stating it was not to go to the committee.

It is a new one on me. I do not want to start a controversy, but I did want to suggest that the Chair ask that the bill be referred to the committee since we are studying this matter.

Senator CORDON. As far as the Chair is concerned, he sees no reason why it should not be done.

Senator DANIEL. Anyway, we can start considering it along with the bills that are now before us.

Senator CORDON. Yes. And whether it is before us officially or not, we are going to consider it.

Senator ANDERSON. They asked me the question, can the majority leader bring up the bill any time he wants and ask concurrence of the Senate Committee on Interior and Insular Affairs. I said I did not think the Senate could do it, and never did it in the history of the Senate, as far as I can tell. That would be a most violent slap at every member of the committee. I could not see why it could be done. But it is possible.

Senator BARRETT. It probably would take unanimous consent to do it.

Senator ANDERSON. No.

Senator DANIEL. A motion to concur would certainly not be in order.

Senator ANDERSON. Why not? I am told by some people that have checked it, it is in order. He can move and bring it up right now.

Senator DANIEL. You mean pass it?

Senator ANDERSON. Yes, passage would be concurrence.

Senator BARRETT. I think in the House it was done a time or two when the committee came in and asked to take up a Senate bill without a hearing whenever the matter had been explored.

Senator ANDERSON. Not while the committee was studying it. I think it ought to be taken off the calendar and referred to this committee.

Senator WATKINS. Is it possible if he asked for unanimous consent?

Senator CORDON. The committee can go ahead with the matter. It cannot be done in any event until Monday, because the Senate does not meet until Monday. We will include the provisions of that bill, and that can best be done by comparison with the Daniel bill, to find out where they are different, and one comparison will take care of both.

Mr. LEROUX. Subsection 4 (a) of the bill provides that all acts occurring and all offenses committed on any structure, other than a vessel, which is located on the outer Continental Shelf or the waters above the outer Continenal Shelf for the purpose of exploring for, developing or removing the natural resources of the subsoil or seabed, shall be deemed to have occurred or been committed aboard a vessel of the United States on the high seas and shall be adjudicated and determined or adjudged and punished according to the laws relating to such acts or offenses occurring on vessels of the United States on the high seas.

The purpose of this subsection is to make the laws relating to civil acts and criminal offenses on vessels of the United States applicable to such acts and offenses occuring on platforms constructed on pilings set into the submerged land of the shelf or on floating platforms if such platforms are not considered to be vessels. Vessels are excepted here since these laws are already applicable to vessels.

Senator WATKINS. May I ask a question?

Mr. LEROUX. Yes, sir.

Senator WATKINS. When you draft the language as you have done to make the maritime law applicable if the offense is not committed on the vessels, do you not weaken the position in respect to those committed on a vessel? Why could you not have said it includes vessels? Why rely on the fact you say it is already applicable to vessels?

Senator CORDON. May the Chairman present the first answer to your proposition?

The philosophy of the bill is this, that the proclamation of the President excepts from its effect the high seas and the freedom of the high seas with the result that it is believed that it is necessary at all points in any legislation to make a clear line of demarcation between maritime law which exists with respect to the high seas, and such law as may be made applicable to this peculiar type of semi-sovereignty that exists only with respect to the land under the high seas.

This language, it would appear, at least to the chairman, does, as it was intended to do, clearly differentiate between that particular portion of the surface of the earth that is subject to maritime law and that portion which appertains to the United States, but which is not subject to maritime law because maritime law applies to the high seas and the high seas are excepted from this particular jurisdictional matter. Therefore, this curious language of saying that all offenses and so forth committed on any structure other than a vessel, the first question that will arise in any trained legal mind will be why do you provide that the offenses on a structure other than a vessel shall be under the law that applies to a vessel. The reason is, as stated, that the peculiar situation that arises here requires clear differentiation and demarcation between maritime law, which would exist on the waters above the Continental Shelf, and law that will apply to the Continental Shelf. That makes it necessary to distinguish between maritime law on the waters above the seabed and law with respect to the land of the ocean bottom below these waters. By this language, we make the law applicable to the waters above also applicable to land below and the structures attached to that land in connection with the development of its natural resources.

Senator WATKINS. I can see probably the theory under which you acted. Suppose an alien ship came alongside one of these structures on which they are drilling and the platform should be boarded by a group from the ship, would the criminal laws of the United States be enforced there or would the maritime laws be enforced?

Senator CORDON. It is the view of the chairman that when these individuals leave their vessels and board this structure, they are subject to the law that operates on the structure, which in this instance is the same law that operates on board a ship, but becomes that only because of this act.

Senator WATKINS. Then it provides, as I recall, just glancing over this in a hurry, that the United States district court, the nearest one to it or anywhere the defendant resides, might have jurisdiction for the purposes of the trial?

Senator CORDON. That is right.

Senator WATKINS. Then the theory would be, or the practice would be, that these aliens would be taken before the nearest United States district court and tried according to the maritime law, which in this case would be the same for the platform as for the vessel.

Senator CORDON. To the extent the maritime law would apply with respect to the ship, it will apply with respect to the structure.

Senator WATKINS. I am wondering if the other nations would have any cause for complaint, and say that since they left their ship they were on this area, that they could not be made subject to the maritime law.

Senator CORDON. The chairman will not even attempt to say what the views will be. He will say that this particular section or subsection was drawn to meet that very contingency. The legal effect of this language is exactly the same as though all provisions of the maritime law made applicable were written into a separate code and adopted as separate law applicable only to this area of the Continental Shelf on these structures.

Senator WATKINS. And the ship, the vessel itself, was left out because you did not want it to appear that you were attempting to modify in any way, shape, or form the maritime law?

Senator CORDON. The Senator is exactly right.

Senator BARRETT. Since we are dealing here with offenses created on the high seas or something akin to it, anyway, would all of the maritime law not be applicable? A man could not be out there unless he was on a vessel or on one of these platforms, could he?

Senator CORDON. That is correct.

Mr. LEROUX. That is correct, Senator.

Senator BARRETT. So that the maritime law would apply to practically every offense that could be committed out there. A man could not be standing on the seabed if there was a hundred feet of water below him. If you say here that the maritime law applies to the platforms, it also applies to all vessels, I assume, consequently it applies to everybody.

Senator CORDON. That is correct. The differentiation is made here because it is desired that notice will be given to those very foreign countries that the United States does not consider maritime law applicable to this seabed operation unless the United States through its Congress makes it applicable.

Senator BARRETT. I understand that. Now, the question that occurs to me is this: Why do we not then make the distinction the same as in the maritime law instead of trying to differentiate and saying that it goes to the place of residence of the defendants? Why not let it be the same as in maritime law?

Mr. LEROUX. That question comes up a little later in the memorandum, Senator. I might add that we attempt not to change it. We do believe that the regular jurisdiction of the maritime law will still apply and that this provision in subsection (b) is only an additional provision that will take care of cases and controversies that might arise because of, say, leases on the land below where there is no specific jurisdiction, at least created under present law, that we have been able to find to take care of problems that might arise in that land itself.

Senator BARRETT. As I understand you, as far as crimes and offenses and such as that, the whole body of the maritime law as to the jurisdiction of the court applies in all cases out there.

Mr. LEROUX. Yes, sir.

Senator WATKINS. Does it apply in civil cases as well?

Mr. LEROUX. Yes, sir, the civil jurisdiction applies also.

Senator WATKINS. Is the reason why you make special provisions for this area out there because you do not want to admit in any way, shape, or form that it is part of the high seas, in other words, we have taken it over as American land; is that right?

Mr. LEROUX. That is part of it, Senator. Although, there is this additional part, that we felt there was a void there with respect to some cases and controversies that we had to provide jurisdiction for.

Senator WATKINS. A vacuum, in other words, into which we have moved?

Mr. LEROUX. Yes, sir.

Senator WATKINS. I am perfectly agreeable to do it. It has created an entirely new situation, the discovery of oil and other things below the seabed, and it is apt to upset a lot of so-called international laws and customs. I can see it is done to avoid any appearance that we are admitting at all that maritime law applies to this area.

Senator CORDON. That is what we have sought to indicate and spell out.

Senator WATKINS. I am agreeable.

Senator LONG. What experience have you had in maritime law prior to this?

Mr. LEROUX. I have had very little experience, practically none.

Senator LONG. Have you ever plead a case in admiralty?

Mr. LEROUX. No, sir, it is not my specialty. We have with us this morning Mr. Colby from the Department of Justice, Admiralty, and Shipping Section, and I am hoping if you care to ask questions with respect to maritime law, that he can help us out on those.

Senator LONG. The difficulty we have in placing people under admiralty law is that nobody knows anything about it. At a time some Frenchman has some problem out there he will go to a courthouse lawyer who has never plead a case in admiralty and has no idea what admiralty law is. I just wondered whether you had more experience on this than our people have because we have no conception of what it is about.

I was a Louisiana attorney and had no case in admiralty. My best guess is out of 2,000 lawyers there are 50 who know anything about admiralty.

Senator CORDON. How many ships come and go from the port of New Orleans which are entirely under admiralty law?

Senator LONG. Many of those people have never been in the city of New Orleans. Most of them are working in places like Berwick or Cameron, Grand Isle, Cut Off, places up and down the bayous. As far as the attorneys are concerned, they will be the local attorneys who never have had any experience with this kind of law. They understand the domestic law. I would like to know why you thought it not wise to apply the domestic law.

Senator CORDON. He was directed to prepare this.

Senator LONG. Whose idea is this?

Senator CORDON. This was the chairman's idea.

Senator WATKINS. I just wanted to say, Senator Long, there will be a wonderful opportunity for 3,000 lawyers out there, at least a considerable portion of them, to take on a little study and become specialists in admiralty law, and it will expand the opportunities for the profession.

Senator CORDON. The chairman is glad to have that kind of observation made by the Senator from Louisiana. This is not a closed problem. This is wide open. The members of this committee ought to have every viewpoint on it before they reach their conclusion as to what should be done.

Senator BARRETT. There is one more thing that occurs to me in addition to this other discussion. Does this relate now to the property law? Is there some field of property law in the admiralty, too?

Senator CORDON. There are provisions in the bill with respect to certain portions of property law, but the measure would not provide as complete legal coverage as that provided inside of the limits of the State.

Senator WATKINS, Section (a) has only to do with criminal offenses. That is right, is it not?

Mr. LEROUX. Civil acts as well, I believe, Senator. All acts occurring and all offenses committed.

Senator DANIEL. Mr. Chairman, let me make this observation: As we go along, keep it in mind that there are two ways that these operations can be conducted without touching the overlying waters. I think we ought to keep that in mind. That is one of the many reasons I think land law and domestic law would apply here and we should not be applying maritime law. We want to make it clear that the seas are free and that maritime law does not now apply to the seabed and subsoil. Yet if we go now and apply maritime law, we are failing to separate, failing to make the big differentiation that we want to make, if this Nation is going to have exclusive jurisdiction of the subsoil. That differentiation is sovereignty over that seabed and subsoil as distinguished from the overlying waters owned by that family of nations and free to all people. Our Nation can claim the seabed and subsoil outside historic boundaries only so long as we keep it separate from the high seas.

Along that line, there are two ways you can produce these minerals without touching the waters. One is by tunneling, which Wallace Pratt, one of the outstanding geologists of the country, says ultimately will be the way to get out into deep waters; that if they find sufficient resources to justify it—and he thinks they will—it will justify the building of tunnels by which you go from the shore on out just like you are producing coal today beyond 3 miles off some of our South American countries. If you find coal or hard mineral like that, it is going to be a tunneling operation.

Throughout the world we find these tunnels built from the shore out to get those minerals.

The other way of doing it which we must keep in mind when we go to fixing the law on this subject is the slant drilling operation. If you go out off Texas, say, within our 3-league limit but close to the line so that you find a good shallow shoal where you can set your

rig and tie to the bottom, even though that rig and the platform are within our Texas boundary and the drilling commences there, you can slant that pipe on out across the State line and produce your minerals from beneath the outer Continental Shelf.

So I think we should keep in mind that it is not necessary always to be operating or having your entrance into the soil in the waters above the outer shelf.

Senator CORDON. Is that slant drilling, or what is known as whipstocking?

Senator DANIEL. Yes, sir.

Senator ANDERSON. That could not possibly run out more than 2 or 3 miles beyond the 10½ mile limit, and you have to figure a hundred miles out. So that all of this will have to be done from towers.

Senator DANIEL. You could not possibly slant drill today more than 2 miles out. However, that area along the line for 2 miles would be a considerable area in which you would have no law if you follow simply maritime law to govern this thing.

Senator CORDON. I think the Senator has made a point that needs to be taken care of.

Senator ANDERSON. Will it be all right to express an idea and let us talk about it as we go along?

Senator WATKINS. Just a minute. If we did that, it would be within the State and the lease would be a State lease.

Senator DANIEL. No, the minerals you would be developing would be on the Federal side of the line and belong to the Federal Government.

Senator BARRETT. The jurisdiction would be within the State though. The people are going to be operating within the State boundaries.

Senator DANIEL. Within the State, but the law as to how much you could produce per day, as to what kinds of pipe you had to use, and the kind of completion to make, all those laws relating to conservation would be beyond the line because that is where you would be taking the mineral. The persons would be operating within State boundaries but taking minerals from the outer shelf.

Senator BARRETT. I agree with you.

Senator DANIEL. And it would require a lease from the Federal Government.

Senator BARRETT. Yes.

Senator WATKINS. Even though the rig was operating within State boundaries.

Senator CORDON. That would be comparable to a situation that would arise if a well were spudded in Texas on privately owned land, or land owned by the State of Texas, and was whipstocked across the land into Federal land owned on the New Mexico side.

Senator DANIEL. Right.

Senator LONG. Here is one phase of that problem: Looking to the State of California, when you get beyond the 3-mile limit, you are in such deep water it is completely impractical to erect a drilling rig anyhow. If I recall correctly, the information given by the Geological Survey was that it was estimated that half of the oil that would be found would be beyond the 3-mile limit as the Geological Survey themselves proposed to fix the line.

With regard to all of those resources it would be necessary that the resources be recovered by rigs located on the highlands of California because it would be totally impractical off California to go out beyond the 3-mile limit and erect the rig if I understand correctly. The water is very deep by the time you get out to 3 miles.

Senator DANIEL. That is right.

Senator LONG. The water is so deep it would be impractical to do it that way and it would be more sensible to simply slant drill out 3 miles or elsè to tunnel, one way or the other. In that instance the State law would undoubtedly be applicable so far as the domestic body of law is concerned.

Senator CORDON. Go ahead. I think we have a record of a situation that needs careful consideration.

Mr. LEROUX. I might add here that there are several precedents for this sort of approach of extending maritime law to land. The precedents are provisions that extend maritime law to the islands of Midway and Wake and several smaller islands, as well as another provision that extends these laws to the Guano Islands that may appertain to the United States.

Senator LONG. Would you mind explaining what the situation is on the Guano Islands?

Senator CORDON. Mr. Colby? Mr. Colby is from the admiralty section of the Department of Justice. He is a career lawyer of many years' experience and he can probably be most helpful. I want to say that the legislative counsel, none of whom have specialized in admiralty or maritime law, requested assistance in that field and Mr. Colby was assigned to give them such additional help as they needed.

STATEMENT OF LEVENWORTH COLBY, ADMIRALTY SECTION, DEPARTMENT OF JUSTICE

Mr. COLBY. Gentlemen, I would like to say that I have only examined this draft one or twice. I only got into this a matter of hours ago, a day or so. So, I do not know very much about really the details of it.

Now, as regards why you apply to the Guano Islands the regime of the maritime law, I think the principal reasons are administrative. You would not want to try to set up a United States marshal with jurisdiction over small parcels of land like that. Even if you did, you would probably have to put him on Guam, which would prove to be a thousand miles away or something. So, there are various administrative reasons for treating the Guano Islands like a ship. In other words, as a practical matter, that means that the Coast Guard takes over the law enforcement on such an area. They have the people who have the boats to get out there. If you do not do it that way, you have to have the United States marshal and other people located there.

The problem, of course, is the same in respect to any kind of floating or attached structures that may be in the high seas off the Continental Shelf. If you do not apply the maritime law, you would probably have to create some special kind of administrative regime. Now, none of these problems that the Senator envisages in connection with drilling from the shore or from tidewaters probably come into opera-

tion, because if there is nothing on the surface of the high seas at that point there is no place where any man can make a contract, get married, commit a rape, or thefts, or other matters. Consequently, there is no question of any necessity for applying law.

Senator ANDERSON. There is as to production. You get into the conservation—how many barrels the well should be allowed to produce and things of that nature. I think that could be handled easily. It removes the question of compensation, probates and wills, and so forth.

Mr. COLBY. I take it that the bill will have to make specific provision with respect to questions of conservation and so forth.

Senator WATKINS. Would not the Federal law apply if they have any on it.

Mr. COLBY. I would think in general. I had assumed that in this bill you were going to make such provisions and they would thereby be applicable.

Senator ANDERSON. There is a provision that allows the Secretary of the Interior to make regulations and he could unquestionably handle that.

Senator CORDON. There is no question about that, and I address this question to both Mr. Colby and Mr. LeRoux for the benefit of the committee. There could be no question, could there, of the applicability of the law, if law were enacted, or of rules and regulations promulgated by the Secretary of the Interior under authority of law, to the handling of the exploitation of the seabed? That is, assuming that that handling had its beginnings inside a State boundary but its production outside a State boundary.

Mr. COLBY. That is right.

Senator CORDON. That would appear to the chairman to be without any legal question.

Senator ANDERSON. The State compensation law would apply to the workers because they are on land. If they were seeking to be married, they would be married under the laws of that State because they are on land.

Senator BARRETT. Wait a minute. I think you are getting into pretty deep water if you are going to apply the State laws as to compensation for the production of minerals on Federal lands.

Senator ANDERSON. No; not as long as the well is situated, the hole starts on State land. If the drilling operation starts on State land and whipstocks out to sea, the workers are bound to be——

Senator BARRETT. Has the State of Louisiana, the State of Texas, got to pay compensation for employees producing oil beyond the State boundaries?

Senator ANDERSON. The State does not pay it; the State collects from it. The State gets a benefit every time a policy is written.

Senator DANIEL. Senator, I challenge that statement. What benefit does the State get in administering the workmen's compensation law?

It is all right to talk about the States getting something when we talk about administrative law, but sometimes the States are giving something. I told you long ago I am not trying again in this bill to get any percentage of the revenues from this land. I know the attitude of the committee and the Congress on that, but let us not have prejudice against the States in every way. Sometimes States actually

are performing services that under our dual system of sovereignties have proved very beneficial to the Nation. Why anyone wants to abandon this for a new system of sovereignty on this area of contiguous land, I do not understand.

Senator CORDON. I refer to Mr. LeRoux for confirmation or denial, but I think under existing law today the States, as a result of the decision of the Supreme Court indicating that they might do it, have applied their unemployment law to seamen who are residents in those States, although seamen perform their duties on the high seas. Is that not correct?

Mr. LEROUX. That is correct, Senator.

Senator CORDON. So, while one may say there may be a service performed by a State there, and one that is valuable, and one that perhaps does not make any addition to or make a subtraction from the treasury of that State, at least there is precedent for it with respect to seamen who are resident in the State.

Senator DANIEL. The only thing I wanted to make clear is that the States do not profit financially by operating their workmen's compensation laws. It costs us money appropriated every year to render that service to employers and employees.

Senator ANDERSON. Does it cost you more than the premium tax?

Senator BARRETT. Yes, in a lot of cases.

Senator ANDERSON. Does it really? You have a filing fee. I did not intend to get in this; I do not think it has a bearing at all. I merely said when a workman is engaged in work which is based inside the shoreline he naturally is under the workmen's compensation law of that State even though he is producing oil that is out to sea.

Senator WATKINS. The work actually takes place in the State.

Senator DANIEL. Some policies are written where if you are outside the jurisdiction of the State the policy does not cover you.

Senator ANDERSON. When you are standing on shore, you are not outside the jurisdiction of the State.

Senator DANIEL. I am talking of cases where you have your rig beyond State boundaries.

Senator ANDERSON. I am not mentioning that. This has to do only with the rig located on shore and slanted out to sea. That is the only comment I was making.

Senator DANIEL. Then you would be absolutely right except for your statement about the States getting something out of it.

Senator ANDERSON. That would be a long, long argument, on which we could be here for days, because the Workmen's Compensation Insurance Council has figures. I have been a member of that council a long time. They do have feelings whether this is a great drain upon a State to handle workmen's compensation law. I do not believe it is.

Senator LONG. Let me ask you how the law is going to be enforced? I particularly have in mind domestic law. It seems to me that if we have a drilling platform 4 miles off Grand Isle, and a man there who refuses to support his wife and children, the sheriff should go out and arrest him and bring him in for nonpayment of alimony. How would you enforce his domestic obligations with regard to your proposal to use maritime law? Who would have jurisdiction and enforcement powers out there?

Senator CORDON. Who would have it if he were a seaman on board ship?

Senator LONG. That is the question I am asking.

Senator CORDON. That is the one I am asking. The answer to one will be the answer to both.

Senator LONG. It is important to us to know the answer.

Senator WATKINS. It might become a haven for wife deserters.

Senator ANDERSON. The question I started to raise a minute ago, Mr. Chairman, is this: I think there are two approaches to this question, that it is possible to set up maritime law out there and that may be the most desirable one. On the other hand, it did seem to me that there were many advantages in allowing the State workman's compensation law to be applicable in the area to allow the very point that Senator Long now raised, domestic matters, to have them settled by the courts in the area rather than by the United States district court. All I was going to suggest was that as we went through this we look at the alternate approach to this as well as this approach which sets up maritime law. I think there are probably some decided advantages if the State could assume some of these responsibilities. There may be some handicaps also.

Senator WATKINS. Did the House consider these matters? We might get some light from the House.

Senator CORDON. I can only answer the Senator this way: Title III to the original House submerged-lands bill was almost identical with one of the Senate committee prints in the nature of a worksheet that was prepared by this committee. That title, with some minor changes and the addition of the field of mineral sulfur, was substantially the House measure, H. R. 5134, that was passed the other day.

Now, I cannot answer as to the extent of the study by the House committee of the problem. It would appear from the use of those particular drafts that the House had to a great extent accepted the efforts done by this committee but I do no know what the facts are.

Senator WATKINS. On section 4, is there a similar provision in the House bill?

Senator CORDON. No. The House provision and our original committee print, which was the basis for the House bill, provided in substance for the extension by reference of the law of the abutting State to the outer Continental Shelf immediately opposite that State with the boundary line to be fixed by the Secretary of the Interior and the description of it published in the Federal Register.

The provision was that the laws of any such abutting State, with the consent of that State, should be applicable and for the administration of the laws by the officials and courts of that State with the costs thereof to be met by reimbursement by the Secretary of the Interior. That is the provision in the bill passed by the House. It is very short and I will read it into the record.

Senator WATKINS. In other words, you have this contrast in theories, under the proposal in section 4 of the present bill, the maritime law shall apply and in the House version the domestic laws of the States abutting shall apply.

Senator CORDON. Yes. Let me read the provisions out of the House bill, so that we will have a fair picture at least of the philosophy of that bill. It is on page 3 of H. R. 5134 and it begins on page 14 of

Confidential Committee Print No. 3 of Senate Joint Resolution 13 heretofore considered by this committee.

The language is:

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 such coastal State which so provide 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.

That is the provision in the present House bill and was taken bodily from Confidential Committee Print No. 3 of this committee.

Senator WATKINS. On page 14 there is slightly different wording from what you read.

Senator CORDON. We had different wordings in different bills that we considered. You see, we had three different prints made, different language, giving consideration to different approaches.

Senator BARRETT. Mr. Chairman, I would like to know what is the objection of the departments downtown to that provision. As I understand, there was some serious objection raised by the departments to that House provision. I am correct in that, am I not?

Senator CORDON. When the Attorney General appeared before the committee on Senate Joint Resolution 13, he took the position, and I must assume speaking for the administration, that there should be law implementing the Presidential proclamation on the outer Continental Shelf, that area to be wholly under the jurisdiction of the United States Government as distinguished from the States.

Senator LONG. Does anyone know a good reason why the structures erected out in the sea should not be treated just as though they were a part of the United States of America, just as though they were an island, comparable to Catalina Island, for example, and the domestic law completely applicable in all respects? As I understand, our historic concept of Government has been that the boundary of the States and the boundary of the United States was identical. Why should we not simply regard those structures out there as a part of America, as an island that is off the shores of America over which the jurisdiction of this Nation extended in the traditional sense?

Senator WATKINS. Would you call it a Territory or would it be an extension, for instance, of Louisiana?

Senator LONG. Why should it not be treated as you treat the islands that appear and disappear off the Louisiana coast? There were a lot of islands at one time, the sea just scoured them out and washed them away. When they were gone, we no longer had jurisdiction over them as an island but there have been islands created in that area.

Senator CORDON. You have jurisdiction of the sea above them, that is the difference we have sought here because of the international aspects of this matter, to legislate in a half zone of sovereignty.

Senator LONG. Why can we not treat a drilling platform erected out there in the sea just as though that were an island belonging to the United States of America and a part of this Nation?

Senator CORDON. Were we to do that we would still have to apply law to it.

Senator LONG. That is the point I have in mind and the traditional concept of this Nation as I understand it is if we take a State like California, we say Catalina Island, is a part of California and let California work out what county Catalina Island falls into and where people vote. Why should we not treat this as part of America? Why are we afraid to claim it as part of the United States of America?

Senator ANDERSON. If you start to apply the law, it is a clear extension of your national sovereignty and you tempt other nations to do the same thing.

Senator LONG. I do not understand how you expect this Government to apply conservation laws and leasing laws to something it does not own. The Government has to claim these resources in order to apply these laws to them.

Senator WATKINS. Sure, you are making an American lake out of it. You are not going to sail on it, but you claim the bottom.

Senator DANIEL. I think the Attorney General's Office of the United States had the best concept of this thing of any agency of our Government. I disagreed with them about their claims within the historic boundaries, but outside they sued the States for the fee simple title and for paramount rights over this land of the outer Continental Shelf the same as to the seabed within the historic boundaries. The Court applied its decree to the entire area of the subsoil and seabed. That is all they sued for, claiming the paramount rights over the subsoil and seabed out to the edge of the Continental Shelf. The Attorney General and the Court's decree followed the State boundaries out there. They did not make any issue as to the boundaries, but they clearly separated the waters from the seabed and subsoil. The only claim they asserted was to the seabed and subsoil and that was to the entire Continental Shelf both within the historic State boundaries and outside of those boundaries. The legal and political status of seabed and subsoil were treated the same in both areas.

Senator CORDON. There is one sharp and distinctive difference that has to be met by the Congress, and that is that we are dealing here with a proclamation by the President, ratified and confirmed by Senate Joint Resolution 13, of a peculiarity, a right of dominion and control of the natural resources in the subsoil and seabed. That is all that this committee can deal with because that is all that the United States of America as of now has asserted over which it has dominion and control.

Senator DANIEL. You have Supreme Court decisions going a little further, saying that America has a little more than that.

Senator CORDON. Those Supreme Court decisions have to do with the area within the United States.

Senator DANIEL. I beg your pardon, sir. Those Supreme Court decisions applied in the case of Texas clear to the edge of the Continental Shelf and in the case of Louisiana to the 27-mile limit.

Senator ANDERSON. Only because Texas had claimed to the edge of the Continental Shelf. Only because Louisiana had gone out 27 miles.

Senator DANIEL. How could the United States claim it if our Nation through Presidential proclamation had not asserted the claim? You do not mean to tell me that the Attorney General was suing for something the United States did not claim?

Senator ANDERSON. He was sueing for injunctive relief. He was trying to stop these States from being trespassers on the area.

Senator WATKINS. From trespassing on the high seas.

Senator CORDON. I do not think that we need to take too much time now. I would like to go through this situation and try to keep within what seems to be an orderly approach.

As far as the Chairman is concerned, this suggestion incorporated in this bill may be thrown into the wastebasket if the committee desires to do it. The committee has taken the other view of it and this at least is an opportunity for the committee to understand one approach predicated upon the application of Federal law to the area. If we can go through and understand what was done here, then it is altogether proper that we determine policy as to whether the suggestion is a good one or a bad one. The views of the Senators from the abutting States I think could properly be urged at that time rather than in the midst of an attempt to understand the approach from the viewpoint of Federal administration.

That is all the Chair seeks to do and that is the suggestion he makes.

Senator DANIEL. So it may be clear at this point as to the statment of the Supreme Court, may we read from the decree of the Court?

I am reading from the decree in the case of *United States* v. *Louisiana*, the first numbered paragraph:

> The United States is now and has been at all times appurtenant hereto possessed of paramount rights in and full dominion and power over the land, minerals, and other things underlying the Gulf of Mexico, lying seaward of the low water mark on the coast of Louisiana and outside the inland waters extending seaward 27 marine miles and bounded on the east and west, respectively, by the eastern and western boundaries of the State of Louisiana.

Then from numbered paragraph 1 of the decree in *U. S.* v. *Texas:*

> The United States of America is now and has been at all times appurtenant hereto possessed of paramount rights in and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, lying seaward of the ordinary low water mark on the coast of Texas and outside the inland waters extending seaward to the outer edge of the Continental Shelf and, bounded on the east and southwest respectively by the eastern boundary of the State of Texas and boundary of the United States and Mexico.

Senator ANDERSON. I think there is more in this House provision than just meets the eye. It says that the State taxation laws shall not apply. That leaves severance taxes wide open. I do hope the Senator from Louisiana will check again on this severance-tax situation. I took the trouble to check with an oil company and it thinks it is paying severance tax to Louisiana outside its State boundaries to this very day.

Senator DANIEL. How do you mean it leaves the State tax wide open?

Senator ANDERSON. Do you not collect the severance tax out there?

Senator DANIEL. That is a State taxation law.

Senator BARRETT. I am very confused about this whole matter. I would like to submit a question. Somebody can answer it, I do not care who.

Under the proclamation of the President, under the Supreme Court decision, I would like to know what authority we would have to apply any body of law except the maritime law out in this area except

perhaps on a platform that is built out there. I might exclude that. But beyond the platform, I would like to know, we never have claimed any jurisdiction over the seas out there except in maritime law.

Senator CORDON. The claim that is before us is that arising, as the chair understands it, from the Presidential proclamation. The claims that were litigated in the Supreme Court were claims as between the United States and the State of Texas in that case, the State of Louisiana in that case, the State of California in that case; the decree answered the situation presented which in each instance was an adjudication within the areas claimed by the States.

Now, whether the decree is unhappily worded as to language is a question that can be argued both ways. But the issue was claims of the States versus claims of the United States.

The Chair has taken the view that what we are doing is implementing the Presidential proclamation of 1945 and its confirmation in Senate Joint Res. 13, or in the House bill which was amended by substitution of Senate Joint Res. 13 and as it passed the Senate.

The whole question, so far as the Senator from Oregon has ever heard it discussed, has been predicated upon the implementation of that proclamation, and it is that proclamation that gives to the United States, so far as the Presidential proclamation can give to it, and so far as the confirmation of the proclamation by the Congress can give it, sole dominion and control of the natural resources in the seabed and subsoil of the outer Continental Shelf.

That is the problem. As I suggested in the beginning, it is a new problem, it is a new concept, we are in the field of reasoning the law by analogy. It is pure legal reasoning.

Senator BARRETT. Let me ask the Senator from Texas and the Senator from Louisiana this question: The fact that we claim the minerals, the soil and the minerals under the soil and exclude the sea, does that give us the authority to say that we can apply State laws to offenses committed on the seas over the seabed in that area?

Senator DANIEL. I think so. As Mr. Tate testified here, as to the seabed and the subsoil, from there on down, the United States claims a limited sovereignty or rights of jurisdiction and control which means sovereignty. You have to look on it as a certain amount of sovereignty from the seabed down. It is not complete sovereignty because we make no claim from there up into the waters or the air space.

Now, as to that area over which the United States claims a limited sovereignty, as Mr. Tate testified, domestic law will control. We can divide up the areas of the State law and Federal law as we divide it up where you have the other Federal lands within a State's boundaries. As long as you will keep in mind the separation of the waters above from the land below, I think that we can legislate without any trouble. However, any time you try to control the land by the rules applicable to those overlying waters, you are going to get in trouble and can weaken our Nation's claim I think instead of strengthening it.

Now, as to fixed structures tied in the soil below supporting a platform above the waters I think you can apply land law. Some people object to calling them islands, but I think Senator Long has a pretty good analogy there. At least they are tied to the soil below. They

are there for the purpose of producing oil from the soil below, so I think domestic law could apply so long as it does not conflict with any international rights in waters.

Senator BARRETT. I agree. I think I can follow you all the way through. Let me give you this question: You leave the Texas shoreline here; a number of fellows get in a boat that is going out here; 15 or 20 fellows. They get beyond the State boundaries. They are headed for that platform. One of them kills somebody out there before he gets to the platform. Who has jurisdiction?

Senator DANIEL. The Federal Government under the maritime law in existence.

Senator BARRETT. I agree. I do not think you can change that.

Senator DANIEL. Not at all.

Senator BARRETT. There is nothing we can do. We have no authority under the proclamation or the Supreme Court decision to say we are going to apply any other body of law to that particular case except the maritime law.

Senator DANIEL. On the waters, I agree to that. Now, the fixed platforms out there do not even touch the waters except for the supporting pipes or "legs" which go through the water down into the ground. I think you can treat those platforms as connected with the soil and development of the soil rather than treating them as vessels.

Senator BARRETT. We could not give the State any jurisdiction to apply, to take jurisdiction over the inheritance laws or anything else; they would have to go back to the State of their residence then.

Senator DANIEL. Yes, except if a man made a will out there on that derrick platform on a fixed installation.

Senator BARRETT. On a fixed installation I agree. Otherwise, if on a vessel he would have to go back to the State of Wyoming. The laws of Wyoming would apply.

Senator DANIEL. If on a vessel, he is the same as a seaman sailing from California to Catalina Island. There is a space beginning 3 miles off the California shore and ending at the 3-mile limit of Catalina Island where he would be on the high seas for part of his journey.

Senator BARRETT. I do not think we can apply the workman's compensation laws.

Senator DANIEL. On the high seas? I think there are laws already written by the States that do apply to the seas. It all depends on the policy and the State law whether or not it is required that an employer have the insurance for men engaged in activities on the high seas.

Senator CORDON. Now may we continue with the statement of Mr. LeRoux to see what, at least, is presented in the bill?

Mr. LEROUX. I might insert at this point that the Coast Guard under existing law enforces all applicable Federal laws on the high seas and waters subject to the jurisdiction of the United States.

Senator WATKINS. The theory you are proceeding on in section 4, as I understand it, is that this maritime law will be applied on the structures, extensions of the land under the sea, and this maritime law will apply everywhere outside the actual State boundaries, historical boundaries, as the present bill defines.

Mr. LEROUX. We have applied it to the structures, Senator. As far as the land underneath, we have not said anything about that since that is the seabed.

With respect to the leasing, however, and the various requirements in the mining, and so on, there is a provision in section 5 of the bill that gives the Secretary of the Interior authority to prescribe regulations with respect to that matter.

Senator WATKINS. I understand that, but I wanted to be certain. The entire theory of this draft is that the maritime law will apply; that is, by special provision in this act to distinguish it from the maritime law which will be in effect on the water itself.

Senator CORDON. That is right.

Senator WATKINS. You are going to apply it to the structure, or artificial island; you are going to apply the maritime law by making up a special act?

Mr. LEROUX. That is right.

Senator WATKINS. So the State law will not apply at all. That is the theory?

Mr. LEROUX. That is right.

Senator WATKINS. That is contrasted with the House theory which attempts to extend the State laws?

Mr. LEROUX. Yes, sir.

Senator WATKINS. We have a clean-cut decision to make there.

Mr. LEROUX. Subsection (a) does not provide that such structures shall be considered to be vessels for all purposes but rather relates to the treatment of acts and offenses occurring thereon.

The result is the application of a body of law to such acts and offenses which has developed to take care of maritime situations and therefore should be particularly appropriate for this purpose.

With respect to criminal offenses, such body of law consists for the most part of statutes passed by the Congress from time to time and made applicable to the special maritime and territorial jurisdiction of the United States as defined in section 7 of title 18 of the United States Code, since generally, the criminal laws of the United States are construed as being confined in their operation to offenses committed within the territory of the United States unless they specify otherwise.

Examples of crimes covered in such special maritime and territorial jurisdiction are arson (18 U. S. C. 81); assault (18 U. S. C. 113); maiming (18 U. S. C. 114); stealing (18 U. S. C. 661); receiving stolen property (18 U. S. C. 662); false pretenses (18 U. S. C. 1025); murder (18 U. S. C. 1111); manslaughter (18 U. S. C. 1112); attempted murder or manslaughter (18 U. S. C. 1113); malicious mischief (18 U. S. C. 1363); rape (18 U. S. C. 2031); statutory rape (18 U. S. C. 2032), and robbery (18 U. S. C. 2111).

Senator DANIEL. Did you find any others? Since getting your memorandum last night we have been looking to see if there are any others. Did you find any other offenses that are defined by Federal law in the area?

Mr. LEROUX. This is not really a complete list, Senator. We did not have time to make a thorough study of the Criminal Code to extract every one of the applicable provisions.

Senator DANIEL. Could you do that in time so that we will know what actions are offenses under State laws but not now covered by Federal law?

Mr. LEROUX. Which State law would you be referring to?

Senator DANIEL. I just would like a list of all the Federal crimes that are defined and punishable under Federal law. Then later we can show how many crimes are punishable under State law that are not covered by Federal law today.

Mr. LEROUX. Yes, sir.

In addition laws designed to protect interests of the Federal Government itself have been construed to apply to citizens on the high seas and therefore would be applicable to structures referred to in this subsection. Examples of such laws are 18 U. S. C. sections 286, 287, 1001, 1022, and 1023 relating to frauds against the United States. With respect to civil acts the body of law which would be applicable consists of rules evolved from the decisions of the admiralty courts. Under such rules, where no other law is applicable the law of the State where the owner of the vessel resides, or in the case of a corporation the law of the State in which it is chartered, is applied. Thus in *Crapo* v. *Kelly* (16 Wall. 610, 630) the Supreme Court said:

> The authorities from Kent, Story, and Wheaton, and the continental authorities, the civil law before cited, as well as the decisions in *Plestoro* v. *Abrahams*, make the ship itself, under such circumstances, a part of the territory of the State to which its owner belongs. If he resides in Boston his property in the remotest county of the State is under the protection of its laws, as being upon and within its territory. So his property on his ship, for the purpose we are considering, is legally and constructively within its territory. In each case it is true that the existence of an owner is necessary to call forth the exercise of the law and the duty and power of the State. In this sense, it is true, that the residence of the owner produces the result. It is produced, however, not only by the existence and residence of the owner, but by an extended State territory upon which his property remains, and where it is subject to State laws and entitled to the protection of the same laws.

To the same effect see *Wilson* v. *McNamee* (102 U. S. 572, 574).

Senator ANDERSON. Does that mean that out in this Continental Shelf if the owner of one derrick resided in Texas, and the owner of the next derrick resided in California, and the owner of the next derrick resided in Pennsylvania, there would be a difference in the applicability of law?

Mr. LEROUX. For the purpose of civil acts, I believe there would, Senator. That is the admiralty rule as it now is.

Senator DANIEL. In other words, if the lease under which the man is operating is owned by, we will say, the Texas Company, chartered in Delaware, then the laws of Delaware would apply to that lease on the seabed and the structure that is built there?

Mr. LEROUX. It would apply to the structure for the purposes of civil acts, Senator. I do not think it would extend down under this provision to the seabed.

Senator DANIEL. What about conflicts or suit as between claimants to the lease? Some claim they have an overriding royalty that they are entitled to. We will say the company denies it. Such civil actions as that. What law would control them?

Mr. LEROUX. On cases having to do with the seabed, the United States law would have to be applied, I believe, and with respect to

privileges under the lease, as far as we have in this bill, they are left to the Secretary to establish.

Senator DANIEL. But as to rights between third parties, like I just related there, where would the jurisdiction be fixed for the lawsuits? What body of Federal law do you have covering that?

Mr. LEROUX. I do not believe there is any body that I know of, especially with respect to mining privileges, that would cover it, Senator.

Senator ANDERSON. Did you understand the purpose of my question?

Senator DANIEL. Yes.

Senator ANDERSON. My business has been workmen's compensation. My point is this: Does the man working on one derrick find himself subject to the provisions of the Texas law, a man on the next derrick find himself subject to the provisions of the Delaware law, and the man on the third derrick find himself subject to the provisions of the Ohio law if it is the Humble, Texas, and Standard Oil of Ohio? Obviously, you would not want 4 or 5 different sets of workmen's compensation laws to apply and we would have to provide 1 set of laws and 1 only. Otherwise, the workman is subject to all sorts of misrepresentation.

Senator BARRETT. I do not think you can even do that without the consent of the State; can you?

Senator DANIEL. I do not know about that.

Senator BARRETT. You can not say the State of Texas will take over the obligations under the Workmen's Compensation Act beyond your historic boundaries, can you?

Senator CORDON. There is no question about that, you can not.

Senator DANIEL. I thing the State would have to voluntarily set up provisions requiring the employers to cover men working out in these waters. The State would have to do that. The Congress could not direct them to do it. There is a provision you will find for the Longshoremen's Compensation Act to apply to this particular area. What has been testified to by the witness applies only where you do not have any Federal laws applying to the area. All civil actions on these structures would be controlled by the laws of the residence of the owner of the vessel, talking about the structure as a vessel, unless you have some special law otherwise providing.

Mr. LEROUX. That is correct. Unless there is a special maritime law. I might defer to Mr. Colby here if he has anything to add on this situation.

Mr. COLBY. I would like to say for the benefit of the Senator that I would think it was possible for purposes of applying the internal law of the coastal State in those cases not provided for by Federal law that this type of provision that we have in the draft here could be slightly modified to provide in effect that the law should be that applied on a vessel on the high seas except first, that these structures are to be registered at the nearest registry port in the coastal State and, second, that the applicable law where there is no Federal law should be that of the port of registry.

Senator, for many years, despite the holding of the Supreme Court in *Crapo* v. *Kelly*, the authors of Law Review articles have always

supported the theory that the applicable law ought rather to be the law of the port of registry of vessels rather than the port of ownership. They have always considered the fact, for instance, that under the charter of the old Southern Pacific Co. the applicable law was the State of Kentucky and the Southern Pacific Co. could not take its vessels up to Kentucky and register them. Something of this sort could be done here as a compromise solution so as to apply as the applicable State law under the maritime rule the law of the adjacent coastal State rather than the law of the domicile of the owner of the structure which domicile might, as we have seen, prove to be that of Delaware. That, of course, is a state law concerning which the local bar along the Gulf probably knows far less than they do about the Federal maritime law.

Senator DANIEL. I appreciate your suggestion as to the possibility of application of State laws in certain instances. I feel as we go through this we are going to find why the Truman administration was perfectly willing for all State laws to be applicable over this seabed and subsoil so long as they did not interfere with Federal laws or rules and regulations of the Secretary of the Interior.

I think the further we go into this we are going to see that it is possible that other State laws should apply out here and that it will be good for our Nation and will strengthen our claim as against other nations. Whenever you start applying the law of the high seas to the land underneath, you are tying them together again instead of separating them.

Mr. LEROUX. Subsection 4 (b) provides that the United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations on the outer Continental Shelf for the purpose of exploring for, developing, or removing the natural resources, or involving rights to the natural resources of the subsoil and seabed thereof, and proceeding with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district nearest the place where the cause of action arose. This subsection provides jurisdiction and venue in the case of all "cases and controversies" (which of course is the broadest term that can be used) arising out of operations on the Continental Shelf, or involving rights in the subsoil and seabed, i. e., controversies arising out of the leases. The ordinary maritime jurisdiction and venue still applies of course as in the case of acts and offenses occurring on structures constructed on the Continental Shelf which under the provisions of subsection (a) are considered to be aboard vessels of the United States. Here section 1333 of title 28 of the United States Code applies with respect to jurisdiction in civil cases, and section 3238 of title 18 of the United States Code applies with respect to jurisdiction in criminal cases. Section 1333 provides—

> The district courts shall have original jurisdiction, exclusive of the courts of the States, of: (1) Any civil case of admiralty or maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled—

and section 3238 provides—

> The trial of all offenses begun or committed upon the high seas, or elsewhere out of the jurisdiction of any particular State or district, shall be in the district where the offender is found, or into which he is first brought.

It is apparent however, that many cases and controversies will arise out of operations on the Continental Shelf, especially with respect to the land itself and the application of Federal laws to the area, which are not maritime in character and therefore provision for jurisdiction and venue in these cases is needed and this subsection attempts to satisfy that need.

Senator DANIEL. May I ask a question there?

You have covered jurisdiction and venue. Now, what body of substantive law will apply as to the rights of persons engaged in controversey over these leases or operations on the structures?

Mr. LEROUX. As far as I know, with respect to the rights in the land itself out there, Senator, I do not know of any law that would apply to the rights in the land itself.

Senator ANDERSON. As to the leases, they are issued by the Secretary of the Interior at Washington, D. C. Would you have to go out in the ocean to settle a controversy over a lease?

Senator DANIEL. I agree on that as to the controversy between the Secretary of the Interior and his lessee this would provide law. I am talking now of third parties that might come in the picture, such as an original lessee who farms out his lease to another company and he claims they have not developed according to his farm-out, or controversies as to whether there has been proper development made by a lessee of the Federal Government with third parties. Is there any body of law that would apply to that?

Mr. LEROUX. None that I know of.

Senator BARRETT. What do you mean then by that language that you give the district courts jurisdiction? Would the distric court of Texas not have authority to apply its own body of law to these controversies?

Senator CORDON. I would like to hear from Mr. Colby on that subject.

Mr. COLBY. If you please, sir, the court that has the jurisdiction to adjudicate the controversy would not necessarily apply its own law. It would apply the law of the State where it was sitting only because the place where the acts involved took place had no law itself. It would apply whatever law under the established rules of conflict of laws would govern such acts. Such matters as I understand it that are raised here concern matters which involve the ocean bed. The only applicable law in such a case is the Federal law.

Now, since there is no statutory Federal law in respect of controversies between third parties in the ocean bed, the courts will have to make by decision, following the usual common law principles, their own rule. They will have to find a rule by examing the laws of the various States and the District of Columbia and so forth.

Now, that is what they have done with respect to similar questions of law arising within a State. It is only that when you have been doing that for many generations there is built up a body of so-called case law, or jurisprudence of the court on the points to which you can look to for guidance. It may be, Senator, that the result of this situation is to a certain extent to make any statute a lawyer's relief act. It will provide lawyers with nice litigating questions for a generation, but I do not know that there is any way you can avoid that. To treat the structures as part of the shore of the littoral State would lead to even more litigation.

Senator DANIEL. There again do you not have a wonderful opportunity to apply the case law that has been built up by the adjacent State?

Mr. COLBY. I would suspect, Senator, that whatever court, wherever sitting, which was called on to decide the question would probably be very apt to beguided by the law of the littoral State.

Senator DANIEL. So that when people are making contracts, would it not be better to say that the law of the adjacent State should apply?

Mr. COLBY. I would suggest, Senator, that any careful draftsman in drawing such a contract would provide in the contract what law the parties had in mind. They may do that under our law and they could very easily provide that the question should be adjudicated according to the law of Texas or Louisiana as the case might be

Senator ANDERSON. I make an application for a lease to the Secretary of the Interior in Washington. He issues that lease in Washington. If I make an assignment to somebody else, it is recorded in the Land Office of wherever it is, and if it is specified that I sell part of the override to somebody else, that is recorded wherever it is. Why do you have to go out to the bed of the ocean to settle that controversy?

Mr. COLBY. If you please, Senator, I do not suppose you have to go out to the bed of the ocean to execute the contract or to decide the controversy.

Senator ANDERSON. Is there not plenty of law dealing with Federal leases?

Mr. COLBY. Well, that law dealing with Federal leases is decisional law. That is jurisprudence of the courts that has been manufactured by the courts in dealing with land leases over many years.

Senator ANDERSON. Keep it down to where a layman can understand it, if you can. What is the difference between us?

Mr. COLBY. What I think the difference between us is that you think of this in terms that because leases are recorded and issued in the District of Columbia, that it is governed by some special law that would apply here in the District. I am suggesting to you the concept is not special, it is universal. It would apply equally to Federal interests wherever situated.

Senator ANDERSON. We were trying to dispose of the question here as to what happened to a lease that was out there, miles out into the ocean. The same law that relates to contracts would have to relate to that. It is not something that is different. It is still a contract, is it not? I sell something to somebody else. It does not matter if what I sell is a thousand miles away. It is the contract I make that is important.

Mr. COLBY. Some elements of it may be governed by the situs of where the operation takes place. To the extent that the applicable law would be that of where the contract was made, I suggested that I thought a wise draftsman of such a contract would state in the contract what law the parties had in mind, whether it was to be construed according to the law of Louisiana or the law of Texas or whatever.

Senator BARRETT. You could take care of that in that way.

Mr. COLBY. I would be very doubtful if any careful lawyer would, in view of the novelty of the subject matter, permit his client to proceed otherwise.

Senator BARRETT. I think the Senator from New Mexico is confusing the regulations in administerial acts of the Secretary of the Interior with the jurisdiction of the parties. The people in Wyoming might enter in a contract. They might all be residents of Wyoming. The papers might be filed down here in Washington or copies of it or something of that character, but the jurisdiction is in Wyoming. You can not take that away from Wyoming and say, "Come down to Washington and litigate your differences."

Senator ANDERSON. I started, frankly, with the assumption I may be off on this, because this is way out of my field. I could not see why the fact that the lease covered ground out there would have too much significance when we know that that type of litigation is entered into every day with leases up in Alaska and everywhere else.

Senator BARRETT. If you could have a court sitting out there in the Continental Shelf, I think your point would be well taken. I was trying to find out which court is going to be sitting. It is not going out there, that is a certainty. So you have to either say it is going to be the body of law of an abutting state—and I think perhaps that would be the proper way to do it, I do not know.

Mr. COLBY. The other thing, of course, Senator, while we are discussing subsection (b) here, this (b) is a provision for additional venue and jurisdiction to which the parties may resort, and it is not declared in subsection (b) to be exclusive. In other words, the parties are not prevented from resorting to the parish court for the parish of Orleans, if that is where they want to sue, and the plaintiff can get service of process on the defendant there. In other words, these provisions we have here for venue and jurisdiction are additional in order to make sure that there are no cases that might arise for which no forum has been provided. But nothing in the maritime law or anything in this text of (b) confines you to going into the United States district court in every civil controversy.

Senator LONG. One thing about defendants is that they do not want to accept jurisdiction anywhere, if they can help it, you know.

Mr. COLBY. No. But that is just a sound principle of legal delay.

Senator DANIEL. I am glad to get that interpretation. You say that (b) is not exclusive.

Mr. COLBY. When you give original jurisdiction to the United States district court of cases and controversies by the language that we are talking about, you must interpret (b) as not being exclusive since it is not so stated. We are not using the magic words "exclusive original jurisdiction."

Senator DANIEL. Of course, neither did the Constitution in the cases of suits between the States and United States, but somehow exclusive got into the court's interpretation later. But I am glad to get your interpretation of this.

Senator CORDON. Mr. LeRoux.

Mr. LEROUX. Subsection 4 (c) provides that with respect to disability or death of an employee, resulting from an injury occurring as the result of exploration for or development or removal of the natural resources from the Continental Shelf, compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act if recovery for such disability or death through workmen's compensation proceedings is not provided by

State law. Exception is made in the case of employees who may be working on such operations only temporarily as part of regular employment within a State and are still covered by State compensation law in order to avoid unnecessary overlapping in coverage. The Longshoremen's and Harbor Workers' Compensation Act is not ordinarily applicable to seamen, i. e., master or member of a crew of any vessel, and this exception is retained in the extension provided for here since recovery may be had for injury or death in the case of a seaman under the provisions of the Jones Act. Government employees are also excepted from the extension in this subsection just as they are under the provisions of the Longshoremen's and Harbor Workers' Compensation Act itself. The Longshoremen's and Harbor Workers' Compensation Act has already been extended to, and is now the applicable workmen's compensation law in, the District of Columbia. It has also been extended to certain employees employed on foreign military bases of the United States.

Senator DANIEL. Do you interpret this law as requiring that employers cover their employees with the Longshoremen's and Harbor Workers' Compensation Act if they are not covered by State compensation?

Mr. LEROUX. Yes, sir, I believe that would be the result.

Senator DANIEL. I have read that over a couple of times and I do not find anything in this wording that requires that and that would punish employers for failing to have compensation on their men.

Mr. LEROUX. I think you would have to go back to the terms of the Longshoremen's and Harbor Workers' Compensation Act and read that along with the changes in definitions that are provided for in the subsection itself.

Senator DANIEL. I understood you probably intended it to require employers to have their men covered by this insurance. That is the intention of the paragraph?

Mr. LEROUX. Yes, sir.

Senator DANIEL. Whether it does affect it or not is something we can consider later on, just so we have your intention there.

Mr. LEROUX. Yes, sir.

Senator DANIEL. Do you not think on that, that here is another instance in which it would be a lot better for your employers and employees both if the workmen's compensation law of the abutting State applied and they were required to have compensation under that State law?

Mr. LEROUX. I do not think that could be constitutionally done, Senator. The Jensen case, which dates back to about 1920 specifically held that that could not be done, holding that maritime law must be uniform under the Constitution.

Senator CORDON. However, Mr. LeRoux, were the act to provide not for the application of maritime law but for the application of other law, including State law, then that could be done, could it not?

Mr. LEROUX. I do not know, Senator. I think that since the situation is still maritime in character, that the Jensen case would probably still apply. The question in the Jensen case, as I recall it, arose out of a situation which was on land.

Senator CORDON. It was the result of an accident that occurred when a longshoreman was taking lumber from the hold of a ship to land?

Mr. LEROUX. Yes, sir, he was on the gangway.

Senator CORDON. And he put his machine in reverse and cracked his neck on the bar above the opening from the ship and broke his neck. So he was not actually on land, although I think the application of the law would have been the same had it been on land; he was engaged in that particular type of work because it was work that was maritime in character.

Senator DANIEL. Since you used the words "maritime in character" do you in your study of this matter consider that drilling out there on these fixed platforms for producing resources from the seabed or subsoil is maritime in character?

Mr. LEROUX. We have not run across any decisions that would indicate that, although the fact that the platform is above the sea, just as a dock is above or alongside the sea, would seem to indicate that.

Senator CORDON. There would be no question about the application of the holding in the Jensen Act were there, for instance, a ship anchored against or near the structure and there would be loading or unloading operations. The Jensen case could be determined exactly without question. But so far I have been unable to find any cases and the gentlemen here have been unable to find any cases that were predicated upon a fixed structure out in an area where otherwise maritime law would apply but where the operations have to do in no sense with the water but the land under the water, that is an open question.

Senator DANIEL. We are setting policy here and the question is whether we should base it on the concept that we are having here maritime operations or land operations.

Senator CORDON. That is exactly right.

Senator BARRETT. Would you say if the operations were carried on by a tunnel, entirely confined to the seabed and the minerals under that, that the maritime law would prevail because of the uniform provisions?

Mr. LEROUX. No, sir, I would not think offhand that it would there.

Senator BARRETT. You get above the soil and involved in water, you are getting into difficulties because you think the doctrine must be uniform and would require the application of the maritime law; is that right?

Mr. LEROUX. I think there is certainly a question raised in that situation.

Senator BARRETT. We would probably be dealing with an unconstitutional provision if we attempted to say this is a different situation and consequently the maritime law in certain cases does not apply.

Mr. LEROUX. Yes, sir, I think there is certainly a definite possibility there with respect to workmen's compensation acts.

Senator ANDERSON. The provisions of this Longshoremen's Act are at least comparable, if not more favorable, than the provisions of most States. Is that not correct, or did you check that?

Senator CORDON. It depends on whom it is favorable to.

Senator ANDERSON. I am thinking of the workman. I have just checked through the workmen's compensation. It is certainly as favorable to the workman as those of the average State. This is not an attempt to give the workmen a bad compensation law but gives them a very favorable one.

Mr. LEROUX. Yes. It is the one that applies in the District of Columbia right now.

Subsection 4 (d) makes the provisions of the Ship Mortgage Act applicable to any structure referred to in subsection (a) in the same manner as if such structure were a vessel of the United States within the terms of the Ship Mortgage Act.

Senator LONG. Would you mind explaining to me what the effect of that is? Are you familiar with the Ship Mortgage Act? I assume you have read it in this connection?

Mr. LEROUX. Yes.

Senator LONG. Where would you file the mortgage?

Mr. LEROUX. The subsection provides for the filing of the mortgage with the Bureau of Customs office where the structure is registered. The subsection also provides for registration of these structures for that purpose.

Senator LONG. Where do you provide for the registration? At what point?

Mr. LEROUX. We have left that up to the Secretary to provide for in regulations. I believe the bill authorizes the Secretary of Commerce to provide such regulations. However, Mr. Colby informed me this morning that that should be the Secretary of the Treasury. It seemed to us in view of the Department's knowledge of the workings of the act, that it would be better to authorize the Secretary to settle that matter in regulations.

Senator LONG. In other words, you propose in this act not to settle it but to leave it as a matter of regulation for the Secretary of Commerce, is that correct, or somebody else, to settle it by regulations?

Mr. LEROUX. The Secretary of the Treasury in his regulations would establish which is the port of registry for the purpose of this registration.

Senator LONG. In other words, if I were an attorney drawing up a mortgage on one of these structures, I would write the Secretary of the Treasury and ask him where I should file it? I take it then he should tell me where to go file the mortgage; is that the idea?

Mr. LEROUX. The Federal Regulations would also give the information, Senator.

Senator CORDON. You would find it in the Federal Register.

Mr. LEROUX. Yes, sir.

Senator DANIEL. If we should adopt such a provision in here and apply maritime law to the land and structures, could we not write in here where they should be registered? You know there are a lot of lawyers that do not have all these regulations and sometimes you need to get the pipe in a hurry and you need to get your mortgage filed. Could we not put right here in some convenient place where to register these mortgages?

Mr. LEROUX. I think you could. I think there is room all through our draft for improvement. We have not had time to consult with the departments on any of these matters.

Senator DANIEL. Do you not think it would be well for those to be registered in the State where the company has its headquarters and where all its people live and people dealing with them could readily find out where to file mortgages?

Mr. LEROUX. Yes, that certainly would seem to be a very good suggestion.

Senator LONG. I take it any foreclosure proceedings should be instituted at the point where the mortgage is registered?

Mr. LEROUX. I cannot say for certain how that would work under the Ship Mortgage Act. Can you say, Mr. Colby?

Mr. COLBY. No, I think it would have to be under the jurisdiction of the United States district court for the nearest Federal judicial district. That is one of the things that is cleared up by subsection (b) here and I think in view of the language of the Ship Mortgage Act that that would probably be the only applicable venue. My thought, Senator, was that many problems might be solved by having such structures registered at the nearest registry port of whatever State was nearest. You have to take care of the problem of course that there are overlaps out there in the sea and the nearest registry port may not be situated in the nearest State. If that were done, it would make any controversy a local matter. If you registered such structures in the State of incorporation of the interested organization, you would be having many of them registered up in Maine and Delaware which would perhaps not be so handy in respect to the matters which are likely to arise and be litigated in the gulf area.

Mr. LEROUX. The purpose of this subsection is to provide a method of and a place for filing of liens which may be created on any such structure, and to provide a definite and favorable standing for any such lien with respect to any other liens which may arise under maritime law. Of course this subsection will not solve the problem of providing filing and notice of liens on personal property brought upon any such structure, but this problem has always existed with respect to property brought upon ships and the only method of solution would seem to be the provision of a complete Federal system for the filing of liens with respect to such property.

Subsection 4 (e) provides that, for purposes of the National Labor Relations Act, unfair labor practices occurring upon structures on the Continental Shelf shall be deemed to have occurred within the judicial district nearest the place of location of such structure. Under that act enforcement proceedings may be brought in the district where the unfair labor practice occurred or where the person guilty of the unfair labor practice resides or transacts business. Likewise, proceedings for review of the Board orders may be brought in the district where the unfair labor practice occurred or where the person resides or transacts business. It is recognized that in most cases unfair labor practices affecting employees employed on structures on the outer Continental Shelf would actually occur on shore, and that even where unfair labor practices do occur on such a structure actions could be brought in the judicial districts in which the persons guilty of such practices reside or transact business. It is likely that the National Labor Relations Act would be held applicable to employment relations on the outer Continental Shelf even in the absence of this subsection. In order to resolve all possible doubts, however, it would seem desirable to include in the bill some indication of the intent of Congress with respect to the applicability of this act. This subsection contains such an indication.

Subsection 4 (f) provides that, for the purposes of the Fair Labor Standards Act of 1938, goods produced upon or at any structure referred to in subsection (a) shall be deemed to have been produced within a State. The minimum-wage and maximum-hour provisions of such act are applicable to employees engaged in commerce or in the production of goods for commerce. Any employee is deemed to have been engaged in the production of goods only if he was employed in "producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State." Accordingly, assuming it is desirable to extend the provisions of the Fair Labor Standards Act to these employees, this subsection appears to be necessary.

Senator BARRETT. Mr. Chairman, I wonder if I might ask Mr. LeRoux, How can you justify those two suggestion there with the unformity clause in the maritime law? There is no other act that attempts to apply them in the maritime body of law, is there?

Mr. LEROUX. Mr. Pinion informs me that the National Labor Relations Act does apply to seamen. Also, of course they are Federal laws. So it would seem to me that they could be safely applied to the maritime situation whenever it is necessary.

Senator BARRETT. It could be uniform in all respects if it applied everywhere. If it is true that the National Labor Relations Act itself applies to employees, it is uniform then.

Senator CORDON. The matter would be wholly handled, would it not, first, if subsection 4 (a) would contain a provision that—

For the purposes of this act and except as otherwise provided herein—

and so on.

That ought to be in here.

Secondly, "As otherwise excepted in the act" would give express right to include such provisions as the one suggested, because the philosophy of the application to this area of maritime law is that operations on the outer shelf are not subject to the maritime law unless we make it subject thereto by law.

If we do make it subject thereto, we may make it subject to it, subject to other provisions. That would cover it I think.

Senator BARRETT. The Chairman might be right about that.

Senator DANIEL. Is there anything in the Fair Labor Standards Act that varies according to the particular State in which the goods are produced or worked on?

Mr. LEROUX. I don't believe so, Senator. It relates mostly to minimum wages and maximum hours.

Senator DANIEL. However, it is based on certain localities, is it not? Does it not vary from locality to locality?

Mr. LEROUX. Not to my knowledge.

Senator CORDON. Mr. LeRoux, we will make an investigation to determine whether there is any regional application where different rules or yardsticks are used in the act or may be used.

Mr. PINION. There are special provisions with respect to Puerto Rico. I am quite sure those are the only provisions.

Senator CORDON. Very well, Mr. LeRoux.

Mr. LEROUX. Subsection 4 (g) establishes certain requirements with respect to the employment of aliens upon a structure erected on the

Continental Shelf. The effect of these requirements is to allow the employment of an alien only in case such alien has been properly admitted to the United States and would be able to be employed therein without violating the provisions of the Immigration and Nationality Act.

The Attorney General has been authorized to prescribe regulations governing the case of aliens temporarily upon any such structure for purposes other than employment.

The provisions of this subsection are written so as to obviate the administrative difficulty of making each such structure a port of entry to the United States. The penalty provisions in this subsection are similar to those provided by existing law for similar offenses.

Senator LONG. Let me try to get this straight in my mind. How would you enforce these immigration provisions on these structures? I take it that you don't want to use the port of embarkation principle there. How do you enforce the law with regard to immigration?

Mr. LEROUX. First of all, Senator, the requirements themselves are phrased in terms of the alien's status within the United States itself, and then with respect to the penalty, for example, on page 6, starting in line 6:

> Any person who knowingly employs an alien on a structure, or having authority to exclude an alien from any such structure, knowingly permits such alien to be on such structure, in violation of the regulations prescribed by the Attorney General, or knowingly permits such alien to remain on any structure for a period longer than prescribed by such regulations, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

Senator CORDON. What authority of the United States would have authority to inquire into a possible violation, or, finding what he deemed to be one, to complain and bring the matter into court, and into what court?

Mr. LEROUX. The Attorney General would, I believe, Senator.

Senator CORDON. The United States marshal would not have authority out there, would he? Would it be the Coast Guard?

Mr. LEROUX. The Coast Guard has general authority to enforce all laws of the United States on the high seas. So it certainly would come under that language also, I believe.

Senator DANIEL. Which relates to citizens of the United States, though; is not that true?

Mr. LEROUX. I have an exact quote of that section on the last page of the memorandum, third line from the top:

> The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws upon the high seas, and waters subject to the jurisdiction of the United States; * * *

Senator DANIEL. Does the United States have any jurisdiction over an alien on the high seas unless we fix that jurisdiction by this act?

Mr. LEROUX. I think that the theory we are proceeding under here, Senator, is that the United States has jurisdiction over the platform, and, therefore, could make requirements with respect to aliens thereon.

Senator DANIEL. I would agree with you fully if you treated the platform as land, and I would like to see it so treated. But if you treat it as a vessel, does the United States have jurisdiction over aliens riding on vessels on the high seas?

Senator CORDON. That may be met by an appropriate amendment perhaps, if it is necessary, either to section 2, title XIV of the Code, or by an express provision in here giving the Coast Guard that authority, in addition to the authority it has, if we are going to consider that these platforms are not the high seas, and if we are going to consider that the application of maritime law is not sufficient to carry with it this authority of the Coast Guard.

Senator BARRETT. What would the Coast Guard do with the fellow? Would they bring him down here to the Attorney General's office in Washington?

Senator CORDON. I assume it would go to the nearest district court.

Senator BARRETT. There is not anything in the law that requires that, is there, in the maritime law?

Mr. LEROUX. I think that under the jurisdiction provisions in subsection (b) and the application of these provisions to the law, that it would work as the chairman has mentioned.

Senator LONG. You would have to fix jurisdiction in a court in order for it to take jurisdiction of the case, would you not? This bill would require an amendment, would it not, to fix jurisdiction in a district court, if the district court is to exercise jurisdiction.

Senator CORDON. Certainly. And unless it does, it needs amendment to that effect.

Mr. LEROUX. I might mention here that, of course, the situation with respect to aliens would be just as it is aboard a ship, without any express provision as we have here. I think that result would be reached just by saying nothing about it.

Senator DANIEL. Let me ask you about the case of extradition. Is there anything that we have in the bill now, any extradition laws that would apply to this area?

In other words, if a person has committed a crime within the State, and he goes out to work here on the platforms and he stays in a houseboat out there, is there any way that we can get him back into the State for punishment? Can anybody go out and arrest him and bring him back in?

Mr. LEROUX. I think it would work the same as in the case where a man has escaped onto a vessel in the same area.

Senator DANIEL. In such cases, what is the extradition process? Whom do the State officials have to contact?

Mr. LEROUX. I am not certain what the maritime law is with respect to extradition. May I refer that to Mr. Colby?

Senator CORDON. Can you tell us about that, Mr. Colby?

Mr. COLBY. Since it is not a territorial jurisdiction, I suppose no question of extradition is involved. In other words, just like aboard ship, the Coast Guard would go out, arrest the offender and haul him in, and he would arrive at the district where the Coast Guard also had its headquarters, which would very likely be the nearest port, Coast Guard operating economies being what they are. There he would be, and the problem of extraditing the man would be addressed to the authorities of that territorial jurisdiction and not addressed to the arrest which took place on the high seas.

I think this, Senator, is one of the difficulties you get into if you try to declare these platforms to be dry land and territory. The Coast Guard could not act if the platform were territory. This

question of extradition, the question of whether there will be a 3-mile limit around each one of these platforms and other things of that sort, are explanatory of why the idea of making the platforms into islands is not as feasible as might be thought at first blush.

Senator DANIEL. Yes. I said that a minute ago, that there are many reasons that you cannot treat them as islands; one of them being what you said, international objection to any 3-mile limit around them.

But there are other reasons, and for certain limited purposes I think you could very well treat them as though they were land structures, or artificial islands.

On this extradition matter, I just wanted to know what is the procedure now if you have the vessel out there. Can you get hold of a wanted person?

Mr. COLBY. The Coast Guard, as Mr. LeRoux said, is charged with the enforcement of the law on the high seas on American vessels. So just like the marshal could catch the man anywhere within the State, so the Coast Guard can get the man on any American vessel on the high seas. If the man were on a foreign vessel, a different situation is presented with international complexity. But we are in the drafting of this bill apparently saying that these structures are to be treated as vessels for all such purposes. Now, it may be that further drafting amendments are required.

Senator DANIEL. Is it true that today if the State officers want a fugitive, that the Coast Guard and the marshals will arrest him on a vessel and bring him to them?

Mr. COLBY. I believe that the Coast Guard has in some cases lent its good offices. I am not familiar with the legal rights there. I imagine that some of the people from the Coast Guard can tell the technical staff just what the story is.

Mr. LEROUX. Subsection 4 (h) provides that no merchandise of foreign growth or manufacture shall be brought upon any structure referred to in subsection (a) from any foreign port or place unless it shall have been entered for consumption in the United States in accordance with the customs laws and regulations.

Just as in the case of subsection 4 (g) supra the provisions of this section obviate the administrative difficulty of making each such structure a port of entry to the United States. The penalty provisions in this subsection are also similar to existing law for similar offenses.

Subsection 4 (i) provides that all provisions of law applicable with respect to the exportation of any commodity, article, material, or supply from a place in a State of the United States shall be applicable with respect to the exportation of any such commodity, article, material, or supply from any structure referred to in subsection (a). This provision would prevent the exportation from the structure of any such equipment, goods, or supplies if such exportation from the United States would be illegal.

It also, of course, would apply to the exportation from such structures of any oil, gas, or other minerals extracted from the Continental Shelf.

Subsection 4 (j) provides that the Coast Guard shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other

matters relating to the promotion of safety of life and property on the structures referred to in subsection (a) or on the waters adjacent thereto, as it may deem necessary.

The Coast Guard under existing law has the duty under section 2 of title XIV of the United States Code to—

> enforce or assist in the enforcement of all applicable Federal laws upon the high seas and waters subject to the jurisdiction of the United States—

and has additional authority under such section 2 which is broad enough to cover most of the authority granted in this subsection.

The subsection makes the authorization clear, however, and covers such matters which are probably beyond existing authority as prescribing regulations with respect to the promotion of safety of life and property on such structures.

Finally subsection 4 (k) provides that the specific application by section 4 of certain provisions of law to structures referred to in subsection (a) or to acts or offenses occurring or committed on such structures shall not give rise to any inference that the application to such structures, acts, or offenses of any other provision of law is not intended.

Senator CORDON. Gentlemen, that is the extent of the efforts that have been put forward in this field as of the present moment. As stated earlier in the meeting, this offering of the bill, as a bill, was solely for the purpose of providing adequate topics for study. There is no contention that this was either a complete job or a good job. It has been a job that these gentlemen have worked mighty hard on, and it has been a most difficult one.

Senator ANDERSON. It is a very interesting result.

Senator BARRETT. You have done a very good job.

Senator CORDON. It is hoped that the members of the committee interested will, after careful study, make any and all suggestions that will aid in more fully and clearly covering this subject.

The chairman of this committee, and I am sure the other members, are going to be interested in the views of those who feel that it is more practicable, more satisfactory, and more fully answers the needs of this new legal relationship, to apply the existing law of the abutting State.

The Chair again wants to say that he has an open mind on that matter. As heretofore mentioned, he believes that the temper of the Senate at the moment is, by a heavy majority, that this whole administration should be Federal in character, and he has attempted at least to plow the first furrow in achieving that result.

And that is where we are as of now.

Thank you very much, Mr. LeRoux, for your presentation.

Mr. LEROUX. Thank you.

Senator CORDON. What is the pleasure of the committee? These gentlemen came before us for purposes of consultation and not for purposes of making any statement, I believe. You have heard from Mr. Colby. We have Mr. George Swarth, of the Solicitor General's Office, who did a very considerable amount of the research upon which these housekeeping provisions were predicated.

We have Mr. Harold Duncan, of the United States Geological Survey, and Mr. Lewis Hoffman, of the Bureau of Land Manage-

ment, who have been in charge of the administration of oil and gas leases on the public domain.

We also have Mr. Harry Edelstein, Assistant Solicitor of the Department of the Interior.

There was no suggestion that any presentation be made by any of those gentlemen. They were here for the purposes of consultation.

Senator ANDERSON. Is not Mr. Duncan going to testify? I would be very happy to have somebody from the Geological Survey tell us something about what the Federal Government does in the field of conservation.

Senator CORDON. We will be happy to have him for that purpose.

Senator LONG. Might I ask a question or two about the bill itself before we get to that, Mr. Chairman?

Senator CORDON. Certainly.

Senator LONG. In drafting this bill, did you give any thought to the protection of navigation and the regulations on any structures that might be erected out there in order to protect the navigation interests and protect the shipping interests from injury? Did you have a provision in there relating to that?

Mr. LEROUX. Yes, sir; on the bottom of page 7, subsection (j) gives the Coast Guard authority to promulgate and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the structures and on the waters adjacent thereto.

Senator LONG. Do not the Army engineers have jurisdiction over obstruction of navigation and that type of thing?

In other words, ordinarily, if within this Nation's territorial waters some structure is to be built on navigable waters, you get a permit from the Army engineers, and the Army engineers study the question of whether this unduly impedes navigation or conflicts with proper navigational interests. Is there anything in here about that?

Senator CORDON. By the way, before you answer the question, in order that we will have a clear background, let me ask, Senator, what is the practice now with respect to getting permits for the erection of a platform in doing that sort of work in the areas of the Gulf?

Senator LONG. I am sorry that I do not know for sure what the situation is beyond our 3-mile limit. But I believe that to erect any of those platforms or to attempt to construct a pipeline under the sea or anything of that sort, the Army engineers issue a permit.

I have seen a lot of mimeographed notices of applications going across my desk from those producing gas out there, applying for permits to the Army engineers to lay pipelines right through the sea and to shore and for other purposes.

From what I understand, the Army engineers are exercising authority out there. I do not know whether they have it, but they are exercising it in some respects.

Senator CORDON. There is a provision of law placing in the Corps of Engineers that authority with respect to any obstruction in navigation.

Senator ANDERSON. It goes back to 1890.

Senator CORDON. Yes. It is one of the earliest enactments in the code.

Senator LONG. In other words, I assume that in some respects the authority of the Army engineers, who are doing this work and who study and have had all the experience in this field, should be extended beyond the 3-mile limit insofar as such undertakings are attempted.

I assume that we will have, as time goes by, pipelines running perhaps 20 or 30 miles out into the sea.

Senator DANIEL. They will be on the bed of the sea.

Senator LONG. Yes. But, of course, they will be a considerable hazard to navigation while they are being constructed, I assume.

Senator CORDON. I am not at all certain that the Corps of Engineers authority goes into the high seas. That is a question I have never considered.

Senator LONG. Certainly, if we are to undertake such operations as that, we should be solicitous of the fishing interests out there and try to protect the navigation.

Senator ANDERSON. Should not we ask the engineers what they did on the shores of Louisiana, where they are already out into the high seas?

If they have been exercising this authority and succeeding in exercising it without too much grant of power, maybe we can confirm what they have heretofore been doing and giving some validity to it.

Senator LONG. As a practical matter, Louisiana granted leases out there and that was probably part of the State of Louisiana.

And anyone that took those leases proceeded on the assumption that the State had the right to issue those leases, on the ground that it was in the territorial waters of the State. That is where the drilling had occurred up to now.

So a person proceeding out there would proceed according to State law, and I assume he would apply for a permit from the Army engineers, just as though the State had the right to give him permission to erect the drilling platform out there.

Senator ANDERSON. I am sure the Senator is right. I am just trying to say that perhaps we can do something now to back up and support it.

Senator LONG. If Louisiana were to be hold that we have no authority to issue the leases, I think maybe the engineers ought to see if they have the right to do what they have been doing.

I am sure they must have been issuing permits out there to erect those structures.

Senator MILLIKIN. Mr. Chairman, is there anyone here who could tell us who has jurisdiction in matters of safety in connection with laying transocean cables? There are anchorages and obstructions to navigation in connection with laying these transocean cables. Who has that jurisdiction at the present time?

Senator CORDON. Can you answer that, Mr. Colby?

Mr. COLBY. So far as there is any national authority, over acts on the high seas, that is in the Coast Guard. And I imagine the draftsmen had it in mind here.

Senator ANDERSON. Are you sure? I do not think so.

Mr. COLBY. It is true that with respect to these platforms and so forth within territorial waters, I am sure that the Army engineers

would exercise control *de facto* on the ground that it affected navigation.

Senator COBDON. That is by law.

Senator ANDERSON. The Army Corps of Engineers, I am quite sure, would exercise control, because I was connected with a project out in California one time when we were trying to do some things.

Senator CORDON. That control is over the navigable waters within the United States, and that would go to the boundary lines of the several States. There is nothing in the law, as I read it, that indicates any intention that the law should apply to the high seas.

Senator MILLIKIN. What is the precedent or practice that you can derive from the laying of transoceanic cables? What about buoys? Who controls buoys that are outside the boundaries of the State?

Mr. COLBY. The Coast Guard is in charge of all of those things.

Senator MILLIKIN. Do they do this under a code of law, or is it just practice?

Mr. COLBY. Yes; I think they do under various sections of title XIV. On the other hand, the landing of the ends of cables is regulated by the Army engineers, as I understand it.

Senator CORDON. Section 2 of title XVI is pertinent, and I think I had better read it.

Senator MILLIKIN. What about these lightships that are anchored?

Mr. COLBY. The Coast Guard handles them.

Senator CORDON. The basic authority of the Coast Guard is found in section 2, which I quote:

> The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws upon the high seas and waters subject to the jurisdiction of the United States; shall administer laws and promulgate and enforce regulations for the promotion of safety of life and property on the high seas and on waters subject to the jurisdiction of the United States covering all matters not specifically delegated by law to some other executive department, shall develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, ice breaking facilities, and rescue facilities for the promotion of safety on and over the high seas and waters subject to the jurisdiction of the United States; and shall maintain a state of readiness to function as a specialized service in the Navy of time of war.

We seem to have something here directly in point, Senator Millikin.

In title 47, "Telegraphs, Telephones, and Radio Telegraphs", section 21 has to do with injuries to cables, and section 24 has to do with vessels laying cables. I will read that section and see what we have with reference to it:

> The master of any vessel, which, while engaged in laying or repairing submarine cables, shall fail to observe the rules concerning signals that have been or shall be adopted by the parties to the convention described in section 30 of this title with a view to preventing collision at sea, or the master of any vessel proceeds or being able to proceed when said signal is displayed upon a telegraph ship engaged in repairing a cable, shall withdraw or keep at a distance of at least one nautical mile. * * *

That would indicate that we have a Federal law or a convention, an international convention, on the subject, Senator. I have read you all I know about it, and I did not know that until I read it.

Senator LONG. Something of that sort will have to be applied to the laying of pipelines under the sea.

Senator DANIEL. And in getting a permit to fix your installation at a certain place. The way it has been done, as I understand it, is

that they can get these permits from the United States Engineers the same way as they get them within our State boundaries.

Senator CORDON. And I assume that that action on the part of the Corps of Engineers was predicated, as suggested by the Senator from Louisiana, upon the proposition that the States had extended their boundaries, as in the case of Louisiana, 27 miles, and in the case of Texas, to the edge of the Continental Shelf.

Senator LONG. I believe that one of the permits that came across my desk awhile back related to an area that is definitely beyond the State's boundary. That is related to an area that the Federal Government definitely claims to be high seas, about 7 miles from land.

Senator CORDON. It is clear that this committee is going to have to have some advice from the State Department, among others, before we reach a point of decision in this matter.

I am advised by the staff member here that the oil companies do, in fact, obtain that permission from the Corps of Engineers—that is, platforms beyond State boundaries—and consult the Coast Guard as to lights and safety.

We cannot be certain whether or not that permission granted was not granted on the belief that the lands were inside State boundaries. I am afraid the law does not give the Corps of Engineers authority outside the United States boundaries.

Senator LONG. I submit, Mr. Chairman, that, based on what up to this point the United States has taken to be its boundaries, speaking as an administrative matter, the Corps of Engineers definitely has undertaken to issue permits to lay pipelines and build structures beyond the marginal belt of the United States.

Of course, I believe some of those are areas where the States contended that they are inland waters and the United States contended they were high seas.

Senator CORDON. Senator Millikin, if you desire to engage in a pastime of pure legal reasoning, here is an opportunity to do it.

Senator MILLIKIN. I should think, Mr. Chairman, that if these officials had concerned themselves in these matters, together with the operators, to sit down and make a close analysis of what their problems are, just make a list of all the problems, from that I think there should be no difficulty at all in evolving a proper code of law to control the situation.

Senator CORDON. Of course, the matter that the Senator suggested—that is, laying of a cable beneath the high seas—impresses the chairman, at least, as being very much to the point as a comparable proposition to the creation of a structure that rises above the high seas. There we are going to be in deep water.

Senator MILLIKIN. You may have some law on what they call lightships. These ships are anchored out at sea. I should think there probably would be some law or regulation, on that, that might have some analogy to the platforms.

Senator CORDON. We also have weather ships that stand out at sea as permanent as they can in areas where they cannot be anchored.

By the way, Senator, I happen to know about those, having been on the Appropriations Committee, where we have inquired into them somewhat. Those weather ships are stationed by virtue of inter-

national conventions, and the high seas have been divided and the number of ships and their locations specified.

Senator MILLIKIN. We have other types of ships. Senator Anderson is familiar with them. We have other types that have more or less a permanent anchorage out at sea.

Senator ANDERSON. I thought the best illustration was the one that the Senator from Colorado used when he referred to the laying of the cables, because the laying of the pipelines must follow something of the same general theory. Did I understand the chairman to say that the Corps of Engineers did not have jurisdiction in that matter?

Senator CORDON. That is the chairman's view.

Senator MILLIKIN. I should not think they would, outside of the boundaries.

Senator CORDON. I think I can give that to you, beginning in section 401. Section 401 of title III, which is "Navigation in Navigable Waters", is the beginning of the provisions with respect to the authority of the Chief of Engineers.

Section 401 provides that—

> It shall not be lawful to construct or commence construction of any bridge, dam, dike, or causeway, over any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States.

I do not need to read any more of that because that last is the deciding factor.

Then we have the general provision in section 403 that—

> The creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States. * * *

Senator ANDERSON. Without what?

Senator CORDON. Without the permission of the Corps of Engineers. But in each instance it is limited to water of the United States.

Senator LONG. I believe that the situation there, Mr. Chairman, is that these companies had been trying to comply with any laws that might be applicable, and, accordingly, have applied to the Army engineers on the theory that if such statute was applicable to their structures, that they wanted to comply; although I doubt that the Army engineers have had the authority to compel them to comply.

In other words, it is a matter of wishing to comply in the event that the Army engineers should have the authority.

Senator CORDON. If it is satisfactory to the committee, the chair will undertake to contact both the Chief of Engineers and his Solicitor, and the State Department and its Solicitor, with reference to these matters, calling particular attention to the specific matter under consideration by the committee.

Senator DANIEL. And the Coast Guard.

Senator CORDON. And the Coast Guard, that is right.

If we may turn aside now for a moment from the law, the Senator from New Mexico suggests that we might hear at this time from Mr. Duncan, of the Geological Survey, with respect to the nature of the rules and regulations governing leasing under the mineral-leasing law of the United States.

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Will you come forward, Mr. Duncan?

Senator MILLIKIN. Mr. Chairman, I would like to say that before I came to the Senate, I had many years of experience with Mr. Duncan in connection with the rules and regulations of the United States Government on oil and gas. He is a very fine citizen and highly experienced and efficient man in his business. We are lucky to have him here to tell us.

I did not always feel that way when I was under his restrictions and regulations, but he was always fair and effective and efficient.

Senator CORDON. The Chair suggests that from the fact that the Senator felt that way under those circumstances, that is all the corroboration that is needed.

Senator MILLIKIN. It is a very good compliment.

Senator CORDON. In fairness to Mr. Duncan, gentlemen, I might state that it is now noon. Do we want to continue through the noon hour, or would you like to get a little bite to eat and return?

Senator LONG. Before Mr. Colby leaves, I would like to interrupt, if I may.

Senator CORDON. Yes.

Senator LONG. Since he is an expert to advise us with regard to maritime matters, I wonder if the Chair would request Mr. Colby to submit a memorandum of the problems that would be involved and the difficulties that he believes he would encounter by treating these fixed structures as though they were islands within State boundaries, in making the State law applicable.

In other words, I take it that Mr. Colby visualizes several problems and several difficulties that would arise, and I would like to be apprised of them. I would request that he give us a memorandum on it.

Senator CORDON. Does the Senator refer to legal difficulties?

It would be difficult, indeed, for Mr. Colby to attempt to anticipate the practical aspects of the matter from the standpoint of the legal problems. I do not think he could aid us very much.

Senator LONG. I think this problem has been explored more than both the chairman and the Senator from Louisiana realize at this moment as to the suggestion and the objections to this concept from one international body or another.

Mr. Colby mentioned one of the first objections that occur, and that is that there is objection to using the traditional three-mile territorial water concept.

Of course, my answer to that would be that if the 3-mile jurisdictional concept is too broad—which I think it would be—then perhaps we should restrict ourselves to a thousand yards, or to 500 yards of jurisdiction around such a platform if we apply the traditional concept of the laws of the State applying on islands that adjoin the State or islands along the coast of a State.

I would like very much to know what other objections occur and what other problems are involved. If Mr. Colby would give us a statement of his views on that subject, I am sure it would be helpful.

Mr. COLBY. I am afraid, Mr. Chairman, that to enter into such a discussion would involve questions of policy, so that we will get involved with the question of clearances with the Department of Justice, because this is a problem of great complexity.

I would be very happy to talk with the Senator and discuss with him at his convenience the consideration there, but I think that it would probably get to be a project of too large proportions and involve too important questions of policy clearance, if I should start to try and write a memorandum of that sort.

Senator MILLIKIN. Mr. Chairman, I would like to suggest this again: I think if we could get the operators together with the State officials who have already been working on these things and have them get together in a skull session and list the navigational and the safety factors, and everything else that we are interested in, that we would get the benefit of their experience here. This is not a virgin subject. We have already been dealing with it.

If they should get together, as I say, and have a skull session and list the things that ought to be protected by the law, then you would have something for the lawyers to operate with.

Senator CORDON. We had in mind, Senator, calling in representatives of the operators. I had one name, Mr. Clayton Orn, and he was requested to be here on Monday.

My thought was that when he sat through a session of this committee, he would probably be in better position as to the information we need than we could ever tell him in a letter.

Senator DANIEL. Mr. Chairman, I would like to expand on Senator Long's request there, also.

The operations that have been going on out there, under which 10 oil fields and 10 gas fields have been discovered and much production obtained beyond historic boundaries off Louisiana, have been under extension of State laws over the area.

And it is my understanding that in the House, when it provided that State laws should apply, insofar as not in conflict with Federal laws, they had this checked with the Justice Department and that no objection was raised, at least before their committee. And I certainly do not know of any objection raised before our committee to the wording that the House now has in the bill. It excludes taxation laws.

So I would like to request Mr. Colby to obtain for us an expression from the Justice Department of what objections, if any, the Department of Justice has to the application of State laws in the fields where we do not have specific federal laws or rules and regulations of the Secretary of the Interior.

Secretary McKay testified before our committee and said he saw no objection to extending State laws that were not in conflict with federal laws and rules and regulations of the Secretary of the Interior. If there are any objections to the kind of operation we have been having out there under the concept of dual sovereignties that we have in this country, if there are any objections to the States having concurrent jurisdiction in certain limited local fields, I think that we ought to hear them.

It certainly would surprise me if an administration which wants to take in Hawaii and make those islands part of a State, would object to bringing this area contiguous to existing States within the extended jurisdictions of the States in every practical way possible. The more definitely you bring the area into our Nation and make it a

part of the United States, even though it is a limited sovereignty over the subsoil and seabed alone, the more you take it away and out of the family of nations and out from under international law and international claims.

You know, there are some international lawyers who, at some of the meetings, argued that this property ought to belong to the family of nations and be administered by the United Nations.

The United Nations Commission on International Law takes a different position, but it bases its position of exclusive control and jurisdiction by the littoral nation, on the ground that the area is an extension of the continental land mass and that all operations will be from the shore and therefore should be attached to the shore.

With that being true, it would seem to me we ought to adopt domestic law that will better fix our position as against other nations.

And I would like an expression from any departments who are opposed to this concept of dual sovereignty and concurrent jurisdiction being extended over this area to give us those expressions before the committee.

Senator ANDERSON. Have you asked Mr. Colby?

Senator MILLIKIN. I have asked him.

Senator CORDON. I think the request ought to go to the Attorney General. The Chair will take care of it.

Mr. COLBY. Mr. Chairman, I would like to say, because of the question the Senator has raised here in stating there were certain objections, that I know nothing of the policy of the Department of Justice concerning this matter. I was only brought into it as a technical man within the last few days. The objections I had in mind were objections made by my professors at the time that I was sent by the Carnegie Foundation to the University of Paris to study maritime law in its international comparative aspects. That was a good many years ago, and certainly it has no bearing on any political question that may be at issue now.

So far as I know, if there is a Department of Justice policy on the matter, it is in the nature of the reply that was made, that they see no objection to whatever policy decision the Congress makes.

Senator ANDERSON. I do not think that was the reply of the Department of Justice.

Senator CORDON. I think the reference was to a statement made by the Secretary of the Interior, and he said himself he was in a field where he was not prepared to pass judgment. He had just arrived from being the Governor of Oregon to become the Secretary of the Interior.

Senator DANIEL. On those two questions, Mr. Chairman, I think he did not hedge at all. I have them before me. The Secretary of the Interior did not hedge at all on those. It was only on a tax inquiry where he said he was not in a position to express himself.

Senator CORDON. Whatever the Secretary of the Interior said or did not say, he had just become Secretary and clearly could not be fully advised in this particular field. Some of the members of this committee have been dealing with this matter for a number of years, and they are not yet fully advised. They are very happy the Senator from Texas is here, because he is probably more fully advised than anyone the Senator from Oregon has yet met on this subject.

Senator DANIEL. Thank you, Senator. And I am agreed that none of us is fully advised out there.

Senator CORDON. I will be very happy to request of the Attorney General a report not only with respect to this bill after advising him that it is intended to be nothing but a worksheet, but also with respect to the proposition that is set up in substance in the bill passed by the House. And that raises the question, I am sure, that the Senators are interested in.

Senator DANIEL. And let me say that I think that some of these Federal laws that should apply have been brought forth by our legislative assistant and should be as specifically set out in the bill as certain of the Federal laws which would have paramount standing over any State laws.

I think he has several here, such as the Coast Guard regulations, and others that we ought to enact in this legislation.

STATEMENT OF HAROLD J. DUNCAN, CHIEF, CONSERVATION DIVISION, UNITED STATES GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY HARRY EDELSTEIN, ASSISTANT SOLICITOR, AND LEWIS HOFFMAN, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Senator CORDON. Now, Mr. Duncan, the Committee would appreciate your giving us, in narrative form, a picture of what has developed in the United States in connection with the administration of the Mineral Leasing Act that would aid this committee in its consideration of what policy ought to be adopted in connection with the recovery, or the exploration for recovery of oil, gas, sulfur, and other minerals from the subsoil and seabed of the outer Continental Shelf.

I am going to leave it to you to approach it as you will.

Mr. DUNCAN. Mr. Chairman, for the record, I would like to have thanks noted to Senator Millikin, even though he is absent at this time, for his kind remarks.

Your subject assigned to me, Mr. Chairman, is slightly broad, and I would like to preface it by stating that conservation has had a varied and a slow growth.

Senator ANDERSON. Should you not state your responsibility and past history for the record?

Mr. DUNCAN. I am Chief of the Conservation Division, United States Geological Survey, of the Department of the Interior.

Senator CORDON. How long have you been with the Department, Mr. Duncan?

Mr. DUNCAN. I started with the Department in 1925, July 1, in Oklahoma, and went from there to Wyoming, and from there into Washington.

The Division that I am with has supervision of operations and development of the public and the Indian lands and has cooperative agreements with any agency that leases its lands and also has supervision of certain operations in connection with the naval reserve.

We, in our small group, act as the technical adviser to the Secretary on procedures in leasing matters and work with the Bureau of Land Management and any other department of government in leasing.

As you know, since the acquired lands have become leaseable, or even if they are not leaseable, such as military reserves, where there is drainage it has been necessary to provide for different methods of leasing.

Senator LONG. May I say, Mr. Duncan, that so far as I can see, where you people have had the opportunity to obtain competitive bids, you have done an extremely good job in obtaining every last nickel you could get. I am familiar with what you did in my State where you had competitive bidding awhile back, and I thought you succeeded in obtaining an extremely good return on the leases that you let around Barksdale Field when you leased that area.

I think that you probably outdid what the State had accomplished up to that point.

Mr. DUNCAN. We tried to provide a sale there that was fair to anyone and not to take all of the cash away from one small individual who might like to develop it. We hope to better that in the next few days if we can lease some more of that land.

Senator LONG. Is that the same area you had in mind?

Mr. DUNCAN. Yes.

Senator ANDERSON. I assume that sometime we are going to get some figures that show something about this Federal leasing policy, because I think when placed in comparison with what the States have done, it is not a bad record, but a very good one.

Senator LONG. As a matter of fact, much of the failure of the Federal Government to get a high return on its leases is based on the fact that under the law you are not permitted to ask for competitive bid; is not that the facts of life about that situation?

Mr. DUNCAN. The law provides that if Federal land is not known to be on a geological structure of a producing oil and gas field, it cannot be sold competitively.

Military lands, of course, can be sold because they are not subject to the Mineral Leasing Act. You take the average field that has been developed, there is very little public land left that is not under lease that we can offer competitively.

On Indian lands, it is all offered competitively, and we obtain some very high bonuses. I notice the Navajo Reservation just sold some land for oil and gas lease, and I believe they got $2 million in bonuses.

Senator ANDERSON. As a matter of fact, the Hickory Apaches, a small band of Indians with a small area, have already received some $3 million of money that you people have obtained for them for their leases; is that not right?

Mr. DUNCAN. That is right.

Senator LONG. You cannot do that on forest land, though, can you?

Mr. DUNCAN. No. It would be acquired lands and would come under the Mineral Leasing Act by the authority of the Acquired Lands Act.

Senator CORDON. The national forests are carved out of the public domain and will not come under the requirement; is that correct?

Mr. DUNCAN. Not any part that had been purchased by the United States. But the public land would be if the Forest Service had taken it over.

Senator CORDON. Does the Mineral Leasing Act apply to the reserved areas in the primary domain national forest; do you know?

Mr. DUNCAN. I think it applies.

Senator CORDON. It does apply?

Mr. DUNCAN. But we have the wilderness areas and many areas restricted, to which there is no leasing at this time.

But to carry a little further through on your question about income on Indian land in New Mexico, Colorado, and Utah: For the fiscal year ending June 30, 1952, 250,334 acres were sold competitively for $5,055,964. I have the various State totals here of the sales.

Senator CORDON. May I interrupt you to ask now whether, when you put a tract like that up for bidding, the bid comprehends a bonus in dollars in addition to the obligations to pay some small acreage rental?

Mr. DUNCAN. The bids are advertised for a period of time and are offered competitively at sealed bid. They provide for a minimum royalty of one-eighth. They can provide for any royalty we would wish to establish.

We consider whether the royalty increases should be above the minimum of 12½ percent, in considering the area to be leased. And under the present law, we have to establish a dollar an acre minimum rental on the Federal lands.

The Indians have a minimum—well, you can call it rental, of $1.25 an acre. The lands could be sold by auction or competitive bidding. Practically all of it is by competitive bidding. And the royalty, unless it is tribal land, is usually set at 12½ percent.

Senator CORDON. Then the bonus is a cash payment to be made by the bidder if he is successful, for the privilege of securing the lease?

Mr. DUNCAN. He secures the lease and then proceeds to spend his funds to develop it in accordance with the lease terms or——

Senator CORDON. But referring only to the bonus, that is what it is; is it not?

Mr. DUNCAN. That is a bonus. It is a cash payment of so much per acre.

Senator CORDON. And that amount is paid at the time he takes the lease; is it?

Mr. DUNCAN. He pays one-fifth of the bonus down with his bid, and if the lease is tendered to him and he meets the requirements of the Department, before the lease issues, he pays the balances of the bid and puts up his bond and obtains the lease.

Senator CORDON. And that payment is a completed act; is it not? In other words, does the Government or the Indian tribe, as the case may be, have that amount of money as a firm payment whether he thereafter locates oil or does not?

Mr. DUNCAN. That is correct.

Senator ANDERSON. Whether he even drills.

Senator CORDON. Yes.

Senator LONG. Mr. Duncan, I wish you would state for the record what your attitude is with regard to the series of articles that ran in the Louisiana newspapers, taking the Government to task for its failure to get more than 50 cents an acre on 1 section of the national forest in that State—not having in mind the Barksdale situation,

did get a good return—as against State leases where the bringing about a one-sixth royalty and getting an average of perhaps $10 an acre, getting a higher royalty and a higher bonus payment.

Mr. DUNCAN. Senator, I don't know exactly the area you are referring to, but for several years, through cooperative agreements with Agriculture, the Conservation Division worked with the Forest Service in devising rules and regulations and lease terms. They had no law that says that it had to be competitively offered in a known geological structure, or whether it could be a noncompetitive lease application.

So they were free to establish rules and regulations on whether land was offered competitively or otherwise, or whether any offers would have to meet the high bid.

For that reason, they did obtain a substantial cash bonus for every lease issued.

Immediately the Acquired Lands Act came in and it was made retroactive to all applications filed, all that land issued at 50 cents an acre, because we were required, by law, only to dispose of the lands that were proved productive or as defined in a known geological structure.

That is all we could sell competitively.

Senator LONG. In other words, by statute, you simply were not able to ask for the best terms you could get for the Government?

Mr. DUNCAN. That is right.

Senator LONG. Not only were you limited to 50 cents an acre, but you were limited to a one-eighth royalty; is that correct?

Mr. DUNCAN. We were limited to a one-eighth royalty on all noncompetitive leases, and we only obtained 50 cents an acre for the first year, obtained no rental for the second and third years, and 25 cents an acre, by regulation, for the fourth and fifth years.

Senator LONG. Let me ask you this: Can you understand any reason why we should not go ahead and get the money we can get for the Government on those federally owned lands?

Mr. DUNCAN. Speaking for myself, and not for the Secretary. I think we should follow a policy of competitive bidding. We should have the right to place a reasonable rental and a reasonable royalty in the lease.

I never have favored taking more than industry can stand, because I think they need money to develop the land.

Senator LONG. The question that occurs to me about this problem—and I am not trying to say what the problems are in Wyoming, but what they are in Louisiana—it is patently ridiculous that the Government does not go ahead and get the money they could get from the leases. I know in my State, where the Government is getting competitive bids, they are getting wonderful bids, and where they cannot bid competitively, it is pitiful how little they are getting by contrast.

Senator ANDERSON. You introduce your legislation and see what sort of a lobby you have.

Senator LONG. I will try it.

Mr. DUNCAN. Senator, I have testified on the Williams bill—Congressman Williams, of Mississippi—for competitive bidding on acquired lands, and I have not seen the bill passed. If you want the information, I can give you some facts.

The total acreage of Federal and Indian land competitively disposed of, ending June 30, 1952, amounted to 458,704 acres for $8,491,943.

I know Senator Anderson is interested in New Mexico. During the same year, the State of New Mexico sold 173,739 acres for $6,390,769.

Senator CORDON. Was that wildcatting land, or a known geologic structure?

Mr. DUNCAN. I believe they have three classifications of land. Thye have highly wildcat, and reasonably prospective, and they have the prospectively valuable areas—which they sell competitively.

Senator ANDERSON. But the areas where they got their money were in Lea County and areas of that nature that are well-developed.

Is it not true that the record of the Federal Government in the handling of these Indian leases and various other leases which the Federal Government had was in every way comparable with the results obtained by the State?

Mr. DUNCAN. Yes, I am sure that is true.

Senator ANDERSON. And you received some very good prices around the Dulce area, which probably were not justified by actual facts, at least as they then looked. They look like pretty good leases now, but you got very good prices it seems to me.

Senator DANIEL. How does that compare per acre with the New Mexico State leases? Are those New Mexico State leases?

Mr. DUNCAN. New Mexico State lands that were leased competitively.

Senator DANIEL. How does that compare per acre, in the average?

Mr. DUNCAN. The average bonus per acre for the Federal lands sold in New Mexico for the fiscal year ending June 30, 1952, was $43.70; for Indian, $20.00; and for State, $36.78.

Senator CORDON. Gentlemen of the committee, I think there is no necessity for having the gentleman from the Office of the Legislative Counsel here this afternoon. We will excuse Mr. LeRoux and also Mr. Edelstein, who is here from the Department of the Interior on legal matters. We thank you for being here.

Perhaps, Mr. Hoffman, of the Bureau of Land Management, had better remain.

Senator LONG. Mr. Chairman, might I request that when we complete Mr. Duncan's testimony, the committee stand in recess until whenever the Chair cares to call another session for next week. I had made plans for this afternoon. I did not know until about 2 days ago that we were going to hold a session today, and so I made some Saturday plans.

Of course, I could cancel them, because I will attend every word of this hearing if I possibly can. I wonder if we could recess after Mr. Duncan is through, and meet whenever the Chair thinks it necessary.

Senator CORDON. The Chair will do whatever the committee desires.

Senator LONG. Might I suggest, Mr. Chairman, that we carry on about a half-hour here and then recess.

Senator ANDERSON. I want to know whether the Federal Government has a conservation program, whether it is based on a desire to keep oil in the ground, to produce it and get the maximum from the sands, or whether it is based on the amount of oil that arrives in New York from foreign ports.

Senator CORDON. Perhaps it would be better to recess for lunch and then we will resume at 1:15.

(Thereupon, at 12:30 p. m., a recss was taken, to reconvene at 1:15 p. m. of the same day).

AFTERNOON SESSION

Senator CORDON. The committee will come to order.

I have here a letter dated May 15, 1953, received from the National Labor Relations Board, signed by Paul L. Styles, Acting Chairman, with respect to the problem involved in this matter, which reads as follows:

NATIONAL LABOR RELATIONS BOARD,
Washington 25, D. C., May 15, 1953.

Hon. GUY CORDON,
Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

DEAR SENATOR CORDON: By recent letter you informed the Board of the present plan of the Committee on Interior and Insular Affairs to report a bill relating to the jurisdiction of the United States over the outer Continental Shelf. You indicated that among other considerations confronting the committee is the necessity of determining which Federal laws should be applicable to individuals engaging in work in those areas and whether additional legislation is necessary to make such laws applicable.

This Board and its General Counsel administer the provisions of the National Labor Relations Act, as amended by title I of the Labor-Management Relations Act, 1947 (61 Stat. 136). This act, commonly known as the Taft-Hartley Act, generally provides the statutory guaranty of the right of employees to engage in union or other concerted activities for their mutual aid or benefit, to bargain collectively with their employer respecting wages, hours, and working conditions, or to refrain from such activities. Specific forms of interference with these rights by employers or labor organizations are proscribed, and procedures, including final court review, are provided for the redress of injury. The act also provides election procedures for the peaceful selection of collective bargaining agents by employees and for the resolution of questions concerning their representation.

You have indicated the committee assumes that the work to be performed in the areas "will be done from structures built on or mored to the Continental Shelf which could not be considered to be 'vessels'." If this work is to be performed by the Federal Government, this Board would have no jurisdiction because the term "employer" as defined by section 2 (2) of the amended act, does not include the United States. But if we may add our assumption that such work would be performed under appropriate arrangements by private employers, it seems to us that whether such work were performed on stationary structures or vessels, it would be the type of business enterprise respecting which Congress intended the National Labor Relations Act, as amended, to apply, and we have normally applied it.

Part of the declared policy of Congress in section 1 of that act is "to eliminate the causes of certain substantial obstructions to the free flow of commerce and to investigate and eliminate these obstructions when they have occurred." The term "commerce" is defined in section 2 (6) to mean "trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country."

It seems to us that this definition of the scope of our jurisdiction would not include within its ambit either private employers or their employees engaged in work on installations restricted to the "outer Continental Shelf." Moreover, it is clear that the act would be applicable to such employers and employees respecting any of their operations otherwise falling within the present definition of the commerce in section 2 (6). Thus, it is probable that the act would apply to their mainland operations, and to the transporting of personnel, supplies, or products, to and from the mainland.

Because the nature of the work to be performed on the "Continental Shelf" would seem to be the type of operation otherwise included within its coverage, it is our impression that the provisions of the National Labor Relations Act, as amended, ought to be made applicable to the same extent as elsewhere in our national economy. If the Congress concurs in this judgment, it appears to us that additional appropriate legislation providing for that statutory coverage will be necessary.

We have recited these brief observations in the hope they will be of immediate assistance to your committee in its deliberations. Time has not permitted this agency to obtain the advice of the Bureau of the Budget on this legislation. Understandably this Board itself has no opinion regarding the policy and legal issues that may be involved in the legislation under consideration. Our observations are only to be taken as a reply to the specific question submitted by your letter "as they relate to the law(s) administered" by the Board.

If we can be of further assistance, please call upon us.

Very sincerely yours,

PAUL L. STYLES,
Acting Chairman.

I have also a letter dated May 15, 1953, signed by H. Chapman Rose, Acting Secretary of the Treasury, in reply to my letter of May 11, concerning the applicability of present Federal income, employment, and excise taxes, customs laws, narcotics tax and registration requirements, and aids-to-navigation laws to the area of the outer Continental Shelf, and to individuals employed therein, which reads as follows:

MY DEAR SENATOR: Reference is made to your letter of May 11, 1953, requesting recommendations from this Department concerning Federal legislation which should be made applicable to the outer Continental Shelf.

The proposed legislation raises a number of questions concerning the applicability of present Federal income, employment, and excise taxes, customs laws, narcotics tax and registration requirements, and aids-to-navigation laws to the area of the outer Continental Shelf and to individuals employed therein. There is enclosed a memorandum which indicates the nature of these questions, the most fundamental of which would appear to be whether the Continental Shelf may be considered a part of the United States within the intendment of existing tax, customs and narcotics laws, or whether existing definitions of the area contemplated by the term "United States" should be amended to specifically include the outer Continental Shelf. In addition, it would appear that extending Federal jurisdiction to the outer Continental Shelf and structures attached thereto without claiming jurisdiction over the water above, invites a question as to the applicability to such structures of Federal laws which require the markings or lighting of obstructions endangering navigation, since existing laws require the marking of obstructions only upon the navigable waters of the United States.

Because of time limitations, it has not been possible for the Treasury Department to prepare specific legislative proposals designed to clarify the situation with respect to the application of Federal laws to the Continental Shelf, nor to obtain clearance from the Bureau of the Budget with respect to the matters contained in this letter and the enclosed memorandum.

Very truly yours,

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

MEMORANDUM

Re Applicability of Tax, Customs, Narcotics, and Navigation Laws to the Continental Shelf

1. Income taxes.

The problem with respect to income taxes seems not to be very serious, since a citizens and resident of the United States and a domestic corporation are subject to income tax on their income from all sources.

In the area of nonresident aliens and foreign corporations, however, there may be some problems, referred to hereafter, but these would seem to be relatively insignificant.

(*a*) *Nonresident alien individuals.*—A nonresident alien individual, engaged in trade or business with the United States at any time during the taxable year, is taxable only on his income from sources within the United States. Under the Internal Revenue Code a nonresident alien individual is deemed to be engaged in trade or business within the United States if he performs personal services within the United States at any time within the taxable year. The United States is defined in the code so as to include the States, the Territories of Alaska and Hawaii, and the District of Columbia. This definition may exclude the outer Continental Shelf if the theory is followed that the United States properly includes the mainland and the waters surrounding the mainland within a 3-mile limit. Thus, unless the definition of the United States includes the Continental Shelf, it could be contended that a nonresident alien individual is not taxable on income derived from personal services on the Continental Shelf.

(*b*) *Foreign corporations.*—Foreign corporations doing business in the United States are likewise taxable only on their income from sources in the United States. Although in the usual case, it can hardly be anticipated that there will be many occasions for a foreign corporation to have income from sources on the Continental Shelf, so as to create any problem with respect to whether income derived from operations on the Continental Shelf may be considered to be income from sources in the United States, some occasions may arise in the case of income earned by foreign shipping and aircraft companies which may ply between the United States and the Continental Shelf. Under present law, income earned by foreign shipping and aircraft companies from transportation or other services rendered partly within and without the United States is treated as derived partly from sources within and partly from sources without the United States. The amount allocated to sources within the United States is determined in part by prorating the deductible expenses either on a time basis or on mileage basis, depending upon the nature of the expenses. For these purposes, the United States includes only the 3-mile limit from the mainland. For the purpose of the bill it may be worth considering whether to expand the United States so as to make it clear that it includes the area of the Continental Shelf.

2. Employment taxes

At the present time, for the purpose of determining whether services performed for an employer is covered by the Federal Insurance Contributions Act, the term "employment" is defined so as to include services within the United States, or outside the United States by a United States citizen working for an American employer. If it is desirable to clearly cover a resident of the United States who is not a citizen, it may be necessary to expand the definition of the United States so as to include the Continental Shelf.

A different problem is presented with respect to coverage under the Federal Unemployment Tax Act of services performed on the Continental Shelf. The definition of "employment" for this purpose now includes services performed within the United States but does not include services outside the United States except services on or in connection with an American vessel under certain conditions. If services performed on the Continental Shelf is intended to be considered equivalent to services within the United States, it may be necessary to amend the definition of "employment" accordingly.

3. Excise taxes

(*a*) *Manufacturers' and retailers' excise taxes.*—At the present time there is exempt from the manufacturers' and retailers' excise taxes, and the alcohol and tobacco taxes, articles sold or leased for export, if such articles are so exported in due course. Since the concept of export includes the concept that the goods shipped to a foreign country, there would seem to be no export in cases of shipment of goods to the Continental Shelf. If there is any doubt on this point and it is deemed desirable to collect such excise taxes, the term "export" should be made to expressly exclude shipments of goods to the Continental Shelf.

(*b*) *Transportation and communication taxes.*—The taxes imposed with respect to transportation of persons or property is tied to the United States. Thus, the tax on transportation of persons is imposed upon the amount paid without the United States for the transportation of persons by water or air which begins and ends in the United States. The tax on transportation of property is imposed upon the amount paid within or without the United States for transportation of property by water or air from one point in the United States to another. If it is deemed desirable to assure the collection of taxes for transportation of

persons and property to and from the Continental Shelf, it may be necessary for the bill to make clear that the United States includes the Continental Shelf.

4. Customs laws

Unless the legislation provides otherwise, it would appear that the minerals and other products of the subsoil and seabed of the outer Continental Shelf would not be considered subject to customs duty when brought ashore, because they would not be considered as imported from any foreign country within the meaning of the Tariff Act.

A number of questions may arise with respect to whether articles brought directly from abroad to the Continental Shelf would be dutiable, and, if not dutiable, whether they would be if they were subsequently brought into customs territory after having been combined with United States products or products of the subsoil or seabed. In this connection attention is invited to present laws regarding the status of articles brought into the continental United States from the Virgin Islands (48 U. S. C., supp. V, 1934).

A number of problems suggest themselves which would have to be worked out either by legislation or by administrative interpretations of existing law; for example, whether foreign vessels engaged in the transportation of merchandise between United States ports and locations on the outer Continental Shelf would be considered to be engaged in coastwise trade within the meaning of the navigation laws, and whether vessels trading between United States ports and places on the outer Continental Shelf could obtain vessel supplies free of duty or tax under sections 309 and 317 of the Tariff Act (19 U. S. C. 1309, 1317).

5. Narcotics laws

The Federal laws relating to the importation, exportation, manufacture, purchase, sale, possession, prescribing, administering and dispensing of narcotic drugs are the Harrison Narcotic Act, as amended (26 U. S. C. 2550–2565; 3220–3228); the Narcotic Drugs Import and Export Act, as amended (21 U. S. C. 171–184); the Opium Poppy Control Act (21 U. S. C. 188–188n); the act of August 9, 1939, as amended (49 U. S. C. 781–788), relating to the seizure and forfeiture of vessels, vehicles and aircraft; the Opium Smoking Act (26 U. S. C. 2567–2571); and the Marihuana Tax Act of 1937 (26 U. S. C. 2590–2599; 3230–3238).

The Harrison Act regulates and controls the internal manufacture and distribution of narcotic drugs, those drugs being opium, coca leaves, isonipecaine, opiate, any compound, salt, derivative, or preparation thereof. A tax of 1 cent per ounce or fraction thereof is assessed and collected. Any person dealing in any manner in such drugs is required to register with the director of internal revenue for the district in which the activity is carried on and pay an occupational tax at a rate prescribed for the various types of activities. A prerequisite for such registration is qualification under State law to engage in such activity. For example, a physician in order to register and pay the $1 per year occupational tax entitling him to secure narcotic drugs for use in his practice, or to prescribe such drugs, must first be qualified to use narcotic drugs in this practice under the law of the State in which he engages in practice. The question arises as to how a physician who might be employed on a construction or oil drilling project in the outer Continental Shelf area could qualify or be recognized as being entitled to secure and use narcotic drugs in his practice in that area. The same question arises with reference to stocking a first-aid room with narcotic drugs where no physician is employed on the project.

The Narcotic Drugs Import and Export Act prohibits the importation or exportation with certain exceptions, or narcotic drugs into or from the United States, its Territories, or possessions. Whether the outer Continental Shelf and structures attached thereto may be construed as being within the purview of the act in the event Federal laws were made applicable to the outer Continental Shelf would appear to depend upon whether the outer Continental Shelf is considered to be a part of the United States, its Territories.

6. Navigation and related laws

Structures used in the exploitation and exploration of natural resources of the subsoil and seabed of the outer Continental Shelf may under some circumstances constitute obstructions dangerous to navigation. Currently there is no national legislation which provides for the marking, lighting, or installation of danger

signals of any type on structures of this nature on the high seas. Accordingly, legislation would appear desirable which would specifically permit the Coast Guard to prescribe lighting, and warning signals of any type on structures (other than bridges and dams) in and over the navigable waters of the United States and within the Special Maritime and Territorial Jurisdiction of the United States, as defined in 18 United States Code 7, with the amendment proposed below. Provision should be made that such aids to navigation be considered private aids to navigation to be erected, operated and maintained at the expense of the owner.

It is suggested that the definition of "Special Maritime and Territorial Jurisdiction of the United States" as found in 18 United States Code 7 might well be amended to make it clear that it includes any structure erected to exploit or explore the natural resources of the subsoil and seabed of the Continental Shelf beyond the boundaries of the United States as established by the Submerged Lands Act of May 5, 1953. This would permit the extension to such structures of the criminal laws of the United States.

Other provisions of law to which consideration might be given in connection with the proposed legislation include 33 United States Code 1 and 403, authorizing the Secretary of the Army to issue permits with respect to the use of the navigable waters of the United States; and the Oil Pollution Act of 1924 (33 U. S. C. 431, et. seq.), which now applies to "all portion of the sea within the Territorial Jurisdiction of the United States."

The Chair states to the committee that request for earlier reports on the pending bill will also be made to the several agencies that appear to have some interest in it.

Go ahead, please, Mr. Duncan.

STATEMENT OF HAROLD J. DUNCAN, CHIEF, CONSERVATION DIVISION, UNITED STATES GEOLOGICAL SURVEY, ACCOMPANIED BY HARRY M. EDELSTEIN, ASSISTANT SOLICITOR IN CHARGE OF PUBLIC LANDS, AND LEWIS E. HOFFMAN, DIRECTOR, DIVISION OF MINERALS, DEPARTMENT OF THE INTERIOR—Resumed

Mr. DUNCAN. The application of conservation on Government and Indian lands of course is governed by law and applicable regulation. We can put nothing in general effect that would be contrary to applicable legislation or authority.

Senator CORDON. Is that authority specific, in that it has definite yardsticks both as to the subject matter and as to what must be done with the subject matter as a general law providing authority for rules and regulations within the framework of the act?

Mr. DUNCAN. It provides certain guides and then it provides the rules and regulations. We have them written for every leasing act for all minerals, rules and regulations that are the basis for the conservation principle, and they are usually written with industry so that they know what is written in them and I think we can say that industry accepts conservation and wants to do it.

Senator ANDERSON. It welcomes conservation?

Mr. DUNCAN. I don't think there is any question about it. They are interested in conservation.

Senator CORDON. Now, to what extent do your regulations provide conservation? In the engineering field, or the mechanics of oil well drilling and recovery. I can understand there can be a body of regulations. Then with respect to conserving oil, say, in a given field, or proration of production among wells, and that sort of thing, do your regulations go into that subject matter?

Mr. DUNCAN. Our control of production and reservoir energy in the field relates primarily to the unitization agreements that have been used since 1931 because in that condition you have, you hope, all of the land committed to the agreement with the authority vested in the Secretary to establish the rate of prospecting and development and the right to control the rate of production. But in the drilling of the well we try to use the best engineering principles in approving notices or a plan for development of a field that will protect the fresh water zone, coal, or any mineral zone and in addition provide for adequate control of the well.

Senator CORDON. Now, are those regulations enforceable regulations?

Mr. DUNCAN. They are all enforceable regulations.

Senator CORDON. Do they carry any criminal penalty?

Mr. DUNCAN. There is always the right to cancel the lease by court action.

Senator CORDON. I understand, that is civil.

Mr. DUNCAN. We do have a set of fines. We do not like to use them.

Senator CORDON. You do have the legal right for prosecution?

Mr. EDELSTEIN. There is no criminal penalty. It is the equivalent of liquidated damages, and the right of cancellation of the lease.

Senator CORDON. Have there been any instances in your experience where you felt that the additional right of prosecution or, in other words, the additional law providing that certain actions or failures to act should have criminal characteristics and be subject to criminal penalties?

Mr. DUNCAN. Speaking individually, I do not believe we need it because of the conservation acceptance by the companies. It is just well taken by everybody and we do have the right to require suspension of operation.

Senator ANDERSON. Do you not work in connection with conservation authorities of every State where you have public areas?

Mr. DUNCAN. We work very closely with them.

Senator ANDERSON. Let me take a specific example in my own State of New Mexico. It has an oil conservation commission. You have Federal lands that are interspersed with State-owned lands. Is there a different conservation policy on the Federal land from that on the State-owned land, or the privately-owned lands?

Mr. DUNCAN. As far as I know, in New Mexico we have gone along with State practices and have worked closely with the State. We have agreed on spacing plans, the State authorities have called us in to any hearings for a well spacing program and they give us the right to object. If we agree with them, there has not been any question. I do not believe we ever had any difficulty with the proration of wells. If we wanted a lower rate of production under a proration law, we would go to the State and try to argue our case.

Senator ANDERSON. Now, the Senator from Louisiana, Mr. Long, spoke a few minutes ago about some leases you had sold in the State of Louisiana. If there was production in the State of Louisiana on lands which you control and there was also production on lands which were generally under the oil conservation commission of Louisiana, has there been or would there be or could there be any conflict between

your operations and theirs? Do you not actually in practice work these things out so there is no conflict?

Mr. DUNCAN. We try to work everything out without conflict if possible. Now, there might be some degree of difference in how the well is drilled. There might be a degree of difference in whether we wanted dual completions of each sand by a well or how many wells, but in this area he is talking about, Barksdale, we accepted the State spacing in there without question.

Senator ANDERSON. You generally then agree with the States on whether it should be a 20-, 40-, or 80-acre space?

Mr. DUNCAN. Yes. We are trying to work with the State of Louisiana now to institute a spacing for another producing horizon.

Senator ANDERSON. In the case of the commission having dual producers, if the State policy is to allow dual production in the extreme exceptional cases where the sand can be clearly defined and they are clearly separated, do you try to follow that practice with them?

Mr. DUNCAN. If there is no reason evident why it should not be adopted, we would not object.

Senator ANDERSON. Have you, yourself, been the originators of any of these conservation practices or do you just follow the States?

Mr. DUNCAN. I would say we have originated many conservation practices.

Senator ANDERSON. What did you do in the State of Wyoming, for example, where maybe your production was ahead of the State production? In the State of Wyoming when you were there were you not instituting conservation practices before there was a conservation commission?

Mr. DUNCAN. That is true, and the State of Wyoming accepted the Federal regulations and the principles of the Federal Government out in Wyoming for many years and do now as to regulation. We have out there, of course, unitized most of the producing fields and there have been fields shut in for the lack of market or where there has been waste. The State has not objected in any instance.

Senator ANDERSON. I am trying to find out who was the leader in this conservation work in the State of Wyoming.

Mr. DUNCAN. I think that the Federal Government was the leader in conservation in the Western States. I do not include California in that because they have had their organization for many years and our public lands are relatively small.

Senator DANIEL. You do not include Texas in that either?

Mr. DUNCAN. No, so far as I know, we have had no disagreement with State authorities in Texas.

Senator DANIEL. I mean as to originating conservation practices,

Mr. DUNCAN. No, I think conservation has grown. It has been part Government, it has been part industry. I think industry has furthered it just as far as it possibly can.

Senator ANDERSON. I am trying to find out if you went out to this area and tried to administer it as a Federal area. Are you in a position to establish conservation out there?

Mr. DUNCAN. Yes, sir.

Senator ANDERSON. Have you a body of rules and regulations that you have heretofore used and could be used?

Mr. DUNCAN. We have all the rules and regulations I think that are necessary.

Senator ANDERSON. You are in effect then a "going concern" in a manner of speaking, and could move into the field with perfect assurance that you could handle it?

Mr. DUNCAN. We can move into the field. I cannot say that we will have enough funds to have a going organization, but we can move right into the field.

Senator ANDERSON. That is understood if you expand an operation to 3 or 4 times what it has been heretofore. We do not want to commit you on the number of dollars you now have. I am trying to find out on the basis of experinec. I am not trying to talk about it on the basis of operations at all.

Senator CORDON. Senator, I wonder if this might not be another approach to what you are driving at. Are any of the States' conservation laws and regulations thereunder more extensive than are the conservation regulations enforced by the Interior Department?

Mr. DUNCAN. We have no regulation that I know of for determining a method of proration. We have never had to do it because we have accepted the State rules. We have all the rules and regulation of laws necessary for elimination of waste, both underground and above ground.

Senator CORDON. Then in the field of proration there would have to be additional regulations drawn up?

Mr. DUNCAN. No; there would be no additional law, but I say we have never practiced the proration and we could establish a formula for prorationing.

Senator CORDON. You would have to add to your regulations provisions governing the proration?

Mr. DUNCAN. We would add a formula because we have the right to restrict production.

Senator CORDON. It is in addition to what you now have in regulation; you call it a formula, but it is——

Mr. DUNCAN. No.

Senator CORDON. You have a formula now?

Mr. DUNCAN. No, sir.

Senator ANDERSON. With reference to this area it would be desirable, of course, that whatever proration program you followed, it would not do violence to the proration program of the State adjoining?

Mr. DUNCAN. That is correct.

Senator ANDERSON. But could there not be a difference, however, in the way you handle this particular area because of the spacing situation? When you are working on dry land you can space 20 acres, 40 acres, 80 acres, without much difficulty, but if you are working out 100 miles from the coastline you certainly would not have 20-acre spacing, would you? You probably are going to need something that is going to be very substantial.

Mr. DUNCAN. That is right.

Senator ANDERSON. Because the cost of the well out there could run $2 million.

Mr. DUNCAN. I think the spacing would be a matter of economics and subsurface study of the reservoir condition.

Senator ANDERSON. You would have to study to see whether or not you could adequately drain an area with the type of spacing you might develop, and while you would have to work with the general program of the adjoining State, because you would not want it to be at variance with it, you at the same time would have a different program of your own out in the area because of the greater spacing program that you might have to adopt.

Mr. DUNCAN. That would be correct. I think each field would have to be studied and then we would have a general outline for the area.

Senator ANDERSON. It would vary between the fields and vary across the area?

Mr. DUNCAN. Yes. I do not think you can put any rule in any area and say it is applicable in another area for spacing or the rate of production or control of that reservoir energy.

Senator LONG. Is another factor not involved there, too, in that all of this being Federal land and having no private interest of individuals in the land out there, it is up to whoever is administering this to stay right behind it and see that the proper number of offset wells are drilled and things of that sort so as to get the production? With private holdings out there the private individuals would be pressing the oil companies all the time to drill the offsets. Now, you would have to do that if you are given this uathority, would you not?

Mr. DUNCAN. If we can apply the same rules or regulations or the principles of them to the submerged lands on the outer shelf, I see no reason why we would not apply regular drilling or the time of drilling all the way through.

Now, in the Western States, as you know, Senator Anderson, we do not own very many fields 100 percent, so we work with private, State, fee and Indian lands and their lessors. As I understand the area here, there would be no other ownership and I would hope that the operators would probably unitize the field and develop as a unit.

Senator CORDON. You can require that, can you not?

Mr. DUNCAN. We hope we can under this law.

Senator CORDON. This act giving the Secretary of the Interior the power to promulgate such rules and regulations that are necessary for conservation, and so on, certainly would give you, through him, the power to add to your present rules and regulations any additional provisions or terms essential to the proper, orderly, and economical operation of the area and to effect complete conservation.

Mr. DUNCAN. I don't think there is any doubt but what it can be done. In this bill I should say anything. I would like to see a little stronger spelling-out of the right to include provisions for unitization.

Senator CORDON. Now, this bill will be referred to the Secretary of the Interior, and he will be requested to report on it in all its details. I assume that when it is referred to the Department, it will come to you people?

Mr. DUNCAN. Yes, sir.

Senator CORDON. And we certainly expect you to go over it with a fine-tooth comb and come back with all the recommendations that you feel are necessary to strengthen it so that it will do the job that we want to do.

Senator LONG. A lot of this oil you are going to find out there will be in the same deposit with gas. When you get the oil out, the gas comes up with it. Is that not correct, in many instances?

Mr. DUNCAN. Yes, I would say you deplete the gas reservoir unless you control it.

Senator ANDERSON. Unless you repressure.

Mr. DUNCAN. Yes, or resyphon.

Senator LONG. Resyphoning is expensive.

Mr. DUNCAN. It is expensive; you would have to know your reservoir content or sand condition or whether you would want to do it, or water flood.

Senator LONG. In many parts of my State for a long time there was a practice of flaring enormous quantities of gas. It seems to me there was one time when you could drive from about the central part of south Louisiana to Texas without ever getting out of the light of a gas flare at nighttime. We have pretty well stopped that now and prevented the waste of all that gas to where it is all going into pipelines for the most part now. There is just a little bit of flaring, not much.

Senator ANDERSON. There is a vast difference in the value of it. At the time a lot of it was being flared it was worth a cent and a half a thousand cubic feet. Now it is worth 12 or 15 cents. It makes a whole lot of difference as to whether a pipeline wants it when it has a firm market for it.

Senator LONG. One phase of that problem has been that pipelines have since been constructed. For the expense of laying pipe for a few miles you can reach someone's pipeline and if you can make a deal with him you can get him to take your gas where you had no pipelines before. Do you think it might be well for us to see if we could write in some sort of powers here with regard to the construction of pipelines to require them to take the gas if it is convenient or something of that sort as these pipelines are constructed?

Mr. DUNCAN. I do not think we need to.

Senator ANDERSON. Are you sure about that? Start remembering the problem you just have been through in New Mexico in which the carrier will not take the gas.

Mr. DUNCAN. I am thinking, Senator, where there is a demand for gas in Texas and demand for gas in Louisiana, that there is no prudent company that is going to want to flare any gas very long.

Senator ANDERSON. I do not think that is his point.

Senator DANIEL. I want to challenge you on that. I just finished my last term as attorney general winding up 17 lawsuits on 17 fields where the operators wanted to flare the gas and some of the best companies in the State were involved. I read now that there is another lawsuit pending on the same proposition where the Railroad Commissioners tried to stop the flaring and the companies are appealing from it and want to go on and flare it because they think it is the only way they can get their oil out.

Senator LONG. Let me show you what I have in mind. I just drew a diagram to illustrate my thought. Assuming that the Congress provides Federal leasing and Federal control of this property at the point where I put 3 X's there the Federal Government had 3 fields, 1 producing a lot of gas far out to sea and 2 others that were not pro-

ducing as much gas but still producing a considerable quantity, the Federal Government would obviously construct a pipeline to pick up the gas from all 3 fields. I submit, however, that unless we do something about it in this legislaiton that you will have 3 separate leases out there, which will entail the construction of 3 pipelines, at an unnecessary cost to the economy and a waste of funds.

Senator ANDERSON. He would agree on that.

Mr. DUNCAN. I agree on that.

Senator LONG. Might it not be well that we require that gas collection facilities should make some sense from an overall point of view rather than have each person constructing his own line without any coordination of effort at all?

Mr. DUNCAN. I think it would probably be good sense from a conservation standpoint and from the cost of construction of the line.

Senator ANDERSON. Does this legislation give you sufficient authority to control the construction of pipelines?

Mr. DUNCAN. I say "No."

Senator ANDERSON. You say "No." Then why should we not have some recommendations on that? I do not know who has the responsibility in that field, but it seems to me that one of the fields in which we are woefully negligent is in the field just outlined by Senator Long. It would be foolish in the extreme, it would be wasteful of our resources, to start laying parallel lines of steel out into that area to pick up gas from one place because some carrier will not take it from another well.

I think the point Senator Long has made is an extremely important point, that there ought to be some language in this bill that would make sure that licenses granted to go out in this area would immediately make these people common carriers and make it possible for them to pick up a great deal of gas that is out there rather than have it wasted. I am sure that what Senator Daniel has said is absolutely true. There are areas that want to flare their gas and I have seen some recommendations from engineers, not too long ago, recommending that gas be flared.

Now, the field was repressured but even after the repressuring equipment was on its way, people began to say it would be cheaper to do it some other way, we could get out our oil, we could just forget this gas. This country may want some of this gas some day.

Mr. DUNCAN. We are trying to save every foot of gas we can.

Senator ANDERSON. Do you know now in this area where there has been a great deal of development, is the gas being brought into the mainland from these ocean areas by pipeline?

Mr. DUNCAN. As far as I know, there is one line.

Senator ANDERSON. There is one line. Is that sufficient to bring any portion of the gas developed or is it rather small?

Mr. EDELSTEIN. I believe it goes to one field.

Mr. DUNCAN. I am just advised that there are three lines out now.

Senator LONG. I have heard reports of at least one enormous deposit of gas that has already been discovered in the Gulf of Mexico. If one company has that deposit and they build themselves a pipeline, it would seem to me that we should give some thought to the situation that occurs when perhaps some other fellow goes out there without near

the same economic resources and finds a gas field that is not nearly so rich or so productive of gas. If he is just a few miles away from this field that has already constructed a pipeline, it seems to me even under the terms of your lease, the terms of your contract, you could have certain stipulations that would give those who go out and discover these resources the opportunity to put their product into the other man's pipeline with him or make him—unitize is not the proper name for it, but that is the general theory in the oil and gas field of unitizing production, a case of making him share the use of the pipeline.

Senator DANIEL. May I suggest that this may be another area where simple application of State law would solve it? We have laws providing for ratable take. If you have your own pipeline in the field and there are other producers, under the State law you have to take from the others on a ratable basis and anybody who lays a line out there through the waters and gets a permit from the State is a common carrier under the law and he would have to take from those that are along the line even though they are in other fields.

Senator ANDERSON. That is not uniformly true of all the States.

Senator DANIEL. They have to hook onto your pipelines inside of State boundaries, do they not?

Senator LONG. In my State they are not common carriers.

Senator CORDON. The Chair would like to make a statement that there must be a careful survey by the officials of the Interior Department of their present rules and regulations, and of the probable necessity for additional rules and regulations for the administration of this new area. We expect recommendations to this committee with respect to any additional legislation needed to empower the Secretary of the Interior, to meet the greater responsibilities he will be called upon to assume. Certainly, if such recommendations do not come forth, it will indicate the advisability of our turning to existing law.

Mr. DUNCAN. I do not see why under general law that the Secretary provides rules and regulations that he cannot write into his lease and into his rules and regulations and into unit plans and field plans all of the restrictive measures necessary to obtain the end sought by the chairman.

Senator CORDON. Except that possibly you may find that production of oil is one thing and transportation of oil is another, and the same thing might be true with gas. A provision in law authorizing rules and regulations for production of gas might not be adequate to cover rules and regulations with respect to transportation of it.

Mr. EDELSTEIN. The bill should also include authorization to grant rights-of-way for the construction of pipelines in those areas.

Mr. HOFFMAN. The original Leasing Act has section 29, which provides for the granting of rights-of-way for pipelines. Under the law a pipeline, as Senator Daniel pointed out, is a common carrier similar to the State laws of Texas. This bill, however, omitted any references to rights-of-way for pipelines without any special provision for the building of pipelines as common carriers so that they would be forced to take the gas from all persons; the regulations giving general authority to the Secretary will not cover that phase of it. So I think another section ought to be added to the bill similar to section 29 of the Mineral Leasing Act.

Senator ANDERSON. The bill I am sure was an honest effort to get as far as we could go. If there is more language needed, write it up and send it to the committee so we can look at it.

Senator CORDON. I have a number of wires, 1 addressed to Senator Kuchel from H. F. Cary, American Tunaboat Association, and 3 addressed to the chairman, one from Edward W. Allen, Seattle, Wash.; 1 from W. L. Hardee, president, Brownsville Shrimp Producers Association, Brownsville, Tex.; 1 from Walter J. Godfrey, president, Texas Shrimp Association, Brownsville, Tex.; and W. M. Chapman, American Tunaboat Association, San Diego, Calif., requesting hearings and suggesting amendatory language for the present bill. The telegrams will be made a part of the record at this time.

(The telegrams follow:)

SAN DIEGO, CALIF., *May 15, 1953.*

Hon. THOMAS KUCHEL,
United States Senate, Washington, D. C.:

Request you ask Senator Cordon to give fishing industry hearing on S. 1901. Continental Shelf bill hearings starting tomorrow. We wish amendment on following lines: "This act shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and seaward of a line 3 geographic miles from the coastline of each State and the title to and ownership of their natural resources and to their free and unimpeded navigation and navigational servitude shall not be affected." This amendment in no way affects California on submerged lands and would free fishing industry of California and Nation from possible damage from misinterpretation of H. R. 4198. This request being sponsored by fishing industries of California, Oregon, Washington, Texas, Florida, Massachusetts.

H. F. CARY, *American Tunaboat Association.*

MAY 15, 1953.

Hon. GUY CORDON,
United States Senator,
Senate Office Building, Washington, D. C.:

Understand hearing being held this Saturday on H. R. 5134, including proposed California tuna people amendment.

Respectfully suggest language of both original draft and amendment be analyzed as to possibility of curtailing Federal Government's functions in ccarying our present international fishery treaties and more particularly new North Pacific Treaty between Japan, Canada, and United States. You are entirely conversant with situation and undoubtedly appreciate serious consequences to entire Northwest should these treaties be impaired. Thanking you.

EDWARD W. ALLEN.

MAY 15, 1953.

Hon. GUY CORDON,
United States Senator from Oregon,
United States Senate, Washington, D. C.:

Shrimp industry very fearful disastrous effects from improper construction tidelands legislation. Please advise immediately if shrimp industry representative can be heard at hearing covering additional legislation relating Continental Shelf believed Senate bill 1901.

W. L. HARDEE,
President, Brownsville Shrimp Producers Association.

MAY 15, 1953.

Hon. GUY CORDON,
United States Senator from Oregon,
United States Senate, Washington, D. C.:

Shrimp industry very fearful disastrous effects from improper construction tidelands legislation. Please advise immediately if shrimp industry representa-

tive can be heard at hearing covering additional legislation relating Continental Shelf believed Senate bill 1901.

WALTER J. GODFREY,
President, Texas Shrimp Association.

MAY 14, 1953.

Senator GUY CORDON
Senate Office Building, Washington, D. C.:

Recommend H. R. 4198 Graham bill section 9A, lines 20, 21, 22, and 23 be amended to read "This Act shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and seaward of a line 3 geographic miles from the coastline of each State and the title to and ownership of their natural resources and to their free and unimpeded navigation and navigational servitude shall not be affected." This amendment would free fishing industry from any possible damage under Holland bill. Will fishing industries of Oregon, Washington, California, Texas, Louisiana, Georgia, Florida, and Massachusetts and the Department of State be given opportunity to be heard on this subject before committee reports out bill.

W. M. CHAPMAN,
American Tunaboat Association.

Senator ANDERSON. I do want to go back to this question of proration. Are you real sure you always follow the States in this matter and never take an original jurisdiction yourself?

Mr. DUNCAN. On the land covered by this bill——

Senator ANDERSON. I am sorry. In your present practice when you deal with all these Western States that have large oil and gas resources, do you always follow the State's proration commission or do you participate in the formation of these proration policies.

Mr. DUNCAN. We have, so far as I know, no proration in Colorado, Montana, Wyoming. It is governed by outlet.

Senator ANDERSON. But the State of Colorado has no proration provision of any kind.

Mr. DUNCAN. In New Mexico, so far as I know, we have not gone against the State on proration.

Senator ANDERSON. Has the State had anything to say about it? Of the four corners where it is purely Government land, has it been telling you what to do up there?

Mr. DUNCAN. The State has established a spacing program up there. The State has entered into all of the development contracts. All of the unit agreements. The State has many leases up there and there is private land and they have all the authority retained in there for review and approval of acts that are done by the operators in the taking of gas and in the development. We have worked with them on spacing programs and everybody has arrived at a reasonable plan for the different gas horizons.

Senator ANDERSON. That is what I thought had happened. I thought you worked with them. I got the impression from what you said a minute ago you just sat back and whatever the State decided to do on proration, spacing and so forth, you took.

Mr. DUNCAN. No. We go up to Santa Fe, if we do not think it ought to be 80-acre spacing but 40-acre spacing, we go up and argue and make our points. We still could require 40-acre if we wanted to. But if it can be shown that that is the best method of development, why should the Government go off on its own?

Senator ANDERSON. I do not think it should. I think it should work with the State. I commend you for it. I just did not want the impression to be that you were not watching it carefully.

Mr. DUNCAN. We always try to cooperate with everybody, operators, and State authority.

Senator ANDERSON. Do you not go to the meetings of the Interstate Oil Compact Commission?

Mr. DUNCAN. I have not attended.

Senator ANDERSON. I mean your group.

Mr. DUNCAN. Our group goes.

Senator ANDERSON. You are always represented?

Mr. DUNCAN. Yes. We have a member of the Secondary Recovery Committee just returned from New Orleans on it.

Senator CORDON. Any other questions, gentlemen?

Senator LONG. Mr. Chairman, there are several questions I would like to ask this witness, but I would suggest that we recess and have the witness back to advise this committee after we are more positive of the points we want to explore. I think the witness has been very helpful. I believe we have made a lot of headway today with these hearings.

Senator CORDON. Unquestionably, the Interior Department having representatives here who sat through the hearing today will do everything possible, and I request that they do everything possible, to expedite a comprehensive report on this bill, and in making the request I again call attention to the fact that the bill was introduced as proposed legislation solely for the purpose of convenience in having adequate copies at hand. It was not intended to be presented as complete legislation. It is a work sheet. The committee will be pleased if suggestions be made not only as to matters that ought to be included, but even as to language to be included.

We seek here as comprehensive knowledge as we can get in a field where there is nobody today who can speak with absolute authority. It will be helpful to every member of the committee if you will expedite your consideration of the matter in the light of the questioning and colloquy here today.

Senator DANIEL. I will save my questions, too, but may I request that the witness bring us all the rules and regulations relating to oil and gas conservation now in effect issued by the Department of the Interior?

Senator CORDON. Will you furnish those for the use of the committee?

Mr. DUNCAN. Yes. I would have had them this morning but I thought all we were going to talk about were points in the bill.

Senator ANDERSON. Could we ask this also that whatever language is necessary to cover this pipeline question be submitted by Monday? It ought not be necessary to clear this all around the place. I mean to say if we get it 2 weeks from now, then we have to have a whole new set of witnesses look at it and ask, Do you think this pipeline language is any good?

Senator CORDON. We had requested representatives of the industry to be here Monday. Now, if it would be possible for language to be submitted informally and not as a part of a complete cleared report, the committee will be grateful if you will have it Monday.

Mr. EDELSTEIN. I should say the pipeline question is not as simple as meets the eye. We have now a provision in section 28 of the Minerals Leasing Act which imposes an obligation on every owner of a pipeline granted a right-of-way across public land to be a common carrier. We have had considerable difficulty in implementing our authority with respect to that obligation, particularly in those cases where a pipeline owner himself transports to the full capacity of his pipeline. We are right now finishing, probably, a piece of litigation with the El Paso Natural Gas Co., in which some of those complicated questions have been raised. I do not know how the present Secretary will feel about a common carrier obligation.

Senator CORDON. May I say we are asking here now for language, not for recommendations. I note here that in section 28 of Public Law No. 146, "An act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on public land"—I think it is in the section to which you refer—language which would appear to require the common usage, or permission for common usage of pipelines. I think that is what you speak of as being in litigation and to the extent that the matter is debatable and therefore in the courts, we cannot expect you to anticipate what the courts are going to do, because I have tried to do that a number of times and failed most of the time.

Senator ANDERSON. Is it not true, Mr. Edelstein, that part of the trouble in this El Paso natural gas situation is due to the fact that the leaseholder assumed that he had a permit to cross certain land but did not know he needed a special kind of permit to cross some Indian lands? Now, there will not be that difference with respect to non-Indian and Indian lands on the bed of the ocean.

I do not care to go into the matter now if it is any more complicated than I have outlined. But what I want to ask you is this: If we make it plain from the beginning in this bill that every time anyone plans a pipeline along the bed of the ocean, he understands that it would have to be a common carrier, then he could not come into court later with the defense that Mr. Kaiser has in the El Paso Natural Gas case.

Mr. EDELSTEIN. That is right, but the difficulties as a practical matter arise where companies want to put down the pipeline just for the transportation of their own gas and anticipate that they will fill the capacity of that pipeline. How to make that kind of company a common carrier presents very practical problems.

Senator ANDERSON. It presents administrative problems. It is like saying that if a certain bus travels down a certain highway, it should be a common carrier, but when you get down to my own private passenger car, the size alone limits how much of a common carrier it can be, and it may be that you have to have different sets of rules for those people who come into the Office of the Secretary of the Interior and show that they are going to need all the capacity of that pipeline themselves, it would be perfectly feasible for somebody else to develop it. It has been suggested to us that these fields do not always come along at the same time, that one develops after another one and develops in another area. It may be that when some other field develops that you will develop a pipeline a little bit differently.

All we are trying to suggest is that you give us some language that would give the Secretary of the Interior power to deal with this and let him in his own discretion work it out.

Mr. EDELSTEIN. I should say that the Mineral Leasing Act provisions do not provide the Secretary with any discretion. The statute categorically imposes the obligation to be a common carrier. It might make more sense to merely authorize the Secretary to impose as a condition of the granting of right-of-way that a particular pipeline be used as a common carrier.

Senator ANDERSEN. Might it make still more sense if we said that he had to have it a common carrier unless he held a hearing and determined that it was only necessary to serve this particular interest? Then you have had some public notice, would have some showing on it, and you would not have these problems arising.

Mr. EDELSTEIN. You put the burden on the particular pipeline applicant to show that he should not be a common carrier?

Senator ANDERSON. That is right. If you do that, and he then has been to the Commission, he is not going to be in court with you as is the El Paso Natural Gas line.

Senator LONG. I frankly feel that this field of exploration is already so limited to the large concerns that any failure on our part to make it possible for the smaller concerns to compete is just going further to assure that we will not have the competition of the independent and the smaller operators out there in the Continental Shelf. I think it is in the national interest that we get as much competition as possible. I think common carrier legislation adds to that. An independent who goes out there, and finds a gas field 5 or 10 miles from these pipelines, might not be in a position to sell his gas or transport it.

Senotor ANDERSON. I could not agree with the Senator more.

Senator CORDON. If there are no more questions at this time, the hearing will stand in recess until 10 o'clock Monday morning.

(Whereupon, at 2:15 p. m., a recess was taken until 10 a. m., Monday, May 18, 1953.)

OUTER CONTINENTAL SHELF

MONDAY, MAY 18, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met, pursuant to call, at 10:15 a. m., in the committee room, 224 Senate Office Building, Washington, D. C., Senator Guy Cordon (acting chairman) presiding.

Present: Senators Eugene D. Millikin, Colorado; Guy Cordon, Oregon; George W. Malone, Nevada; Arthur V. Watkins, Utah; Thomas H. Kuchel, California; Frank A. Barrett, Wyoming; Clinton P. Anderson, New Mexico; Russell B. Long, Louisiana; and Price Daniel, Texas.

Also present: Kirkley S. Coulter, chief clerk; Stewart French, staff counsel; and N. D. McSherry, assistant chief clerk.

Senator CORDON. The committee will come to order, please.

The committee requested Maj. James J. Cosgrove, chairman of the Board of Directors of the Continental Oil Co., one of the present lessees on the outer Continental Shelf, to appear before the committee to testify with respect to the practical problems incident to operation on the outer Continental Shelf. Major Cosgrove is busy at the moment, but will come on call. We have Mr. Mercer Parks, engineer for the Humble Oil & Refining Co. whose work concerns chiefly operations of that company in the Gulf, both within and without the State boundary line. Because of his knowledge in the engineering field, the committee requested him to appear and give the committee the benefit of his technical knowledge. Mr. Parks will you please come forward.

Then we have Mr. Fred Nelson, president of the Texas Gulf Sulphur Co., who desires to be heard with respect to inclusion within the legislation provisions for leases for sulfur. We will hear Mr. Nelson also during the day.

Mr. William Murray of the Conservation Commission of Texas, and formerly employed with the Petroleum Administration for War in World War II, is present and the committee will hear from him with particular reference to conservation problems and practices.

Mr. Parks, who has come at the request of the committee, advises me he does not have a statement. Certainly the chairman did not expect him to have a statement. He came for the purpose of answering questions that might be propounded to him by members of the committee. I am happy to see Senators Long and Daniel here because their States are abutting States to the major oil-producing areas of the Gulf, both within and without State boundaries. I expect them to take advantage of this opportunity in questioning to aid the committee in bringing out practical aspects of the problem.

We will now hear from Mr. Parks, the engineer of the Humble Oil Co.

STATEMENT OF MERCER PARKS, PETROLEUM ENGINEER, HUMBLE OIL & REFINING CO., HUMBLE BUILDING, HOUSTON, TEX.

Senator CORDON. As such engineer, how long have you been personally concerned with oil and gas exploration and production in the Gulf area, both within and without the statutory boundaries of the States?

Mr. PARKS. Since it became a problem of the industry along in 1946–47.

Senator CORDON. The committee, as you know, is engaged in drafting legislation to present to the Congress providing for the application of necessary law to the outer Continental Shelf beyond the statutory boundaries of the States. It is the committee's view that it is absolutely necessary either to pass legislation governing operations in that area, and taking care of all of the necessities of Government in the area, or taking care of those necessities by applying to the area existing applicable law.

In addition to that, the committee's legislation will, of course, provide for exploration for oil, gas, and perhaps other minerals in the outer Continental Shelf area.

The chairman prepared a worksheet at the request of members of the committee, introduced it, and it is now Senate bill 1901. The Chair desires to again state that the committee does not consider the bill a completed piece of legislation at all. It is simply a worksheet from which to move on toward what is sometimes termed a clean bill for report.

Are you familiar with the bill in question, Mr. Parks.

Mr. PARKS. Not in detail. I have had an opportunity to look over and discuss very briefly the heart of the bill.

Senator CORDON. Now, with respect to the provisions of S. 1901 providing for the acceptance by the Federal Government of leases issued by the abutting States, and with respect to the authority to be vested in the Secretary of the Interior for the execution of new leases, the provisions of this measure are substantially the same as in the Anderson bill. Are you familiar with that bill—S. 107?

Mr. PARKS. No, sir.

Senator CORDON. That bill was before the Senate last year and the year before. I thought perhaps for that reason you might have been familiar with it.

Mr. PARKS. In name only.

Senator CORDON. But you have given some consideration to S. 1901?

Mr. PARKS. Yes, sir.

Senator CORDON. The committee will (1) have a number of questions to ask you; (2), it will appreciate your careful study of the bill and suggestions for changes, or additions, or deletions. The same request, of course, will be made to the operators. It will go to the agencies of Government, and the committee will entertain the views of any informed persons with respect to that field.

Now, with that general explanation, the Chair would like to ask a few questions.

Mr. PARKS. On that statement you are asking, you understand I am no lawyer and it would be strictly from the viewpoint of technical matters and operating matters?

Senator CORDON. The Chair should have included that in his request. He understands you will not be able to present to the committee as your own any suggestion for language for the law, but after reading the provisions in the bill and, based upon your experience heretofore with leasing from the States and the problems incident thereto, you can certainly advise the committee with respect to the practical situations there.

Mr. PARKS. I shall be very glad to.

(Mr. Parks subsequently submitted the following information:)

HUMBLE BUILDING,
Houston, Tex., May 20, 1953.

The Honorable GUY CORDON,
Acting Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

DEAR SENATOR CORDON: On May 18, 1953, while I was appearing before the committee, you requested me to supply the committee a written statement regarding what in my opinion should be included in S. 1901 from the practical operating viewpoint.

In preparing to comply with that request, I have read the statement of Mr. Hines H. Baker on the leasing of submerged coastal lands which he made before the committee in its hearings on October 4, 5, 6, 7, 8, and 10, 1949.

Mr. Baker, in his testimony, suggests adequate provision to deal with the physical operations necessary in connection with developing and producing petroleum deposits underlying the area affected by S. 1901 and I cannot make any additional constructive suggestions from operating experience since Mr. Baker made his statement.

May I, therefore, respectfully suggest that Mr. Baker's statement as shown on pages 401 to 417, inclusive, of the committee's hearings of October 4, 5, 6, 7, 8, and 10, 1949, be accepted as the statement you requested of me May 18, 1953.

Sincerely,

MERCER H. PARKS.

Senator CORDON. You can advise the committee as to how, in your opinion, the provisions of the bill would operate, whether they are insufficient, whether they are in error anywhere, and so forth.

How many leases are held by the Humble Oil & Refining Co. in the Gulf area? Have you any idea?

Mr. PARKS. I would have to make a guess.

Senator CORDON. If you have a rough guess, that will help.

Mr. PARKS. I would guess probably 25 leases. Those are not structures. Those are separate leases.

Senator CORDON. Could you estimate the number of those leases that are within the statutory boundaries of the States as you understand these boundaries to be?

Mr. PARKS. I think there are very few, probably none of them completely within it.

Senator CORDON. There are some, as near as you know, that would be astride the boundary, partly in and partly out?

Mr. PARKS. Possibly so.

Senator CORDON. Generally speaking, what has been the practice in granting leases as to acreage within a given lease?

Mr. PARKS. I could not answer that specifically. I can say though that the leases have been large leases compared to what we might think of the size of a lease on land.

Senator CORDON. Are you familiar with leasing practices of the State of Texas?

Mr. PARKS. No, sir.

Senator CORDON. Or the State of Louisiana?

Mr. PARKS. Very, very casually.

Senator CORDON. Do you have any opinion as to the minimum acreage that the Government should provide for leases in the field for exploratory purposes in an area where there is not a known oil structure?

Mr. PARKS. By exploratory do you mean actual drilling operations or the geophysical geological preparation for it?

Senator LONG. For that matter up to now there has been no distinction, has there, Mr. Parks? The lease has been for exploration and development?

Mr. PARKS. I think that is correct.

Senator LONG. The reason I asked the question is because in some instances where large tracts of land are available for lease there is a type of lease for geophysical exploration only. The operator having that type of lease may come in and obtain a lease for actual drilling operations on a much smaller area.

Senator CORDON. My understanding was that generally there was no limit upon any operator, or anyone else, making geophysical examinations in the area. In other words, that work was not exclusive within any area.

Mr. PARKS. I think that is perfectly correct.

Senator CORDON. In that event, of course, my question would have to be limited to areas where there is exclusive right to develop.

Mr. PARKS. In that case I would say that probably in the nature of 10,000 acres.

Senator LONG. Are you suggesting that as a maximum or a minimum?

Mr. PARKS. I am saying if a man wants 10,000, why they ought to let him have it.

Senator CORDON. But not over that?

Mr. PARKS. No, I am saying that is the minimum.

Senator CORDON. Of course, if he wanted 5,000, you would not object to his getting only 5?

Mr. PARKS. Give him what he asks for.

Senator CORDON. All right. Let us go to the maximum. If you do not care to go into this matter, you do not need to, I understand you are an employ of the Humble Oil Co. and for that reason you may not be as free to express an individual opinion as you would be if you were disinterested, that is perfectly natural. But if you care to, the committee would like your view as to what is a reasonable acreage.

Now, this is for the exploratory, developmental work in an unproved area, in the nature of wildcatting to that extent. I would assume there had already been some geophysical or other general exploration and you think there is a chance.

Mr. PARKS. Senator, in view of the high cost of the initial work on that and on the great economies that can be made by a central operation, I do not think there should be any limit on that. If a company, or individual so far as that is concerned, through his geophysical, geological exploration lays out a tract and wishes to lease it under the

provisions that are set up for leasing, and believes he can operate economically within the obligations of that lease, I do not think there should be any limit on it.

Senator CORDON. With respect to your 10,000-acre figure, approaching it from a different way, in your opinion would a lease of 10,000 acres in an unproven, but geophysically attractive, area be adequate from the standpoint of the Government to get developmental work done in the outer Continental shelf?

Mr. PARKS. I am afraid I do not understand your question.

Senator CORDON. Would a company that is trying to minimize the chance involved in this type of work be justified in going forward with development in an unproven field with a lease of its own choosing as to location of 10,000 acres?

Mr. PARKS. I doubt that they would. I do not believe that there are many there now of that small size that have been taken with the idea that that is all that will be available.

Senator CORDON. Have there been any taken where that was all that was legally available, that is to say, do you know of any leases for developmental purposes where the acreage involved was not over 10,000 acres?

Mr. PARKS. No, sir; I can not say I do. Under the competitive bidding system like that which has been in existence, it would be entirely possible for people to bid on several parcels of land and only get one of the several that they had anticipated. That is the thinking that I had awhile ago when I said it might be possible that people would end up with something like that.

Senator CORDON. Of course, that would indicate that they would be willing to go ahead with the developmental work on 10,000 acres, would it not?

Mr. PARKS. On the basis like that where they would be successful in securing a lease on only part of what they thought was productive acreage, they would work out some sort of unitization program to go in with the other people of the area.

Senator CORDON. Let us turn aside for a minute and you tell us what a unitization program is.

Senator BARRETT. Mr. Chairman, might I ask the witness a question?

Senator CORDON. Go ahead, Senator.

Senator BARRETT. Do I understand that you object to a lease of 10,000 acres in a given area, or to the fact that that might be overall acreage that might bring a company in the area?

Mr. PARKS. I think the circumstances of the individual situation would have to govern that. I certainly have not meant to give the impression that the ideas I am expressing are ironclad. Everything that goes into an exploratory proposition would be considered by everyone concerned.

Senator BARRETT. As I understand the situation in Louisiana, there is a limit of 5,000 acres on a given lease but there is no limitation on the number of leases that might be held by any one company, is that right?

Mr. PARKS. I think that is possibly correct. Like I said in the beginning, I have not kept up with the details of these things.

Senator LONG. My understanding of the Louisiana situation is that—and we have the Secretary of the State mineral board here who

can give us the picture on the leasing end of it—in the year 1940 Louisiana passed a law limiting any lease to 5,000 acres. Since that time a large number of leases have been let and many of them for less than 5,000 acres. As I understand there have been many for less than 2,500 acres. There is nothing to prevent a company from bidding on several blocks that were put up for lease individually, but it is also possible for anyone to bid on one block without bidding on others in the same area. I assume that if a company believes it has located a geophysical structure it would probably bid on all the blocks on that structure, but that does not prevent someone who might not be bidding on enough to handle the whole structure from going in and bidding on one part of it which he estimates might be the best part.

Senator BARRETT. The reason I asked the question is that I supposed the witness would not be opposed to 10,000-acre limitation provided the company would not be restricted in making summary application for other leases in the area.

Mr. PARKS. That is correct. Actually, the problem concerns the question as to what the total leaseholding could be in a particular spot and as to whether you put a legal line across the thing and call it two leases or whether it all goes into one as one lease; I think of it in terms of a prospect for an oil-producing area.

Senator LONG. Generally speaking, do you not have this problem: When you go out and spend a lot of money trying to find a mineral prospect you still have no property interest in it and you have to bid in somehow so you can develop it? Now, you try to prevent yourself being in a position that you discover the minerals and someone else at a lesser cost can come right alongside of it and drain the production from the same pool?

Mr. PARKS. That is exactly right.

Senator CORDON. May I inquire, and the inquiry goes to the Senator from Louisiana and the Senator from Texas and the Senator from Wyoming, all of whom come from oil States, and to Mr. Parks. Assuming that A has done the geophysical and other exploratory work in an area where no such work has been done, and as a result of that is convinced that within an area there is a good liklihood of an oil pool of some considerable size, what is the practice with respect to the leasing of that area by the respective States or by the Government in the oil States?

What is the practice in such a case with respect to the owner of the land, State or Government, in granting a lease for development in that area? I would like to have that information, if I may, from the committee or from Mr. Parks.

Senator BARRETT. I would say as far as our State of Wyoming is concerned, there would be no limitation on the State leases. He could come in and take all of the State land within that area provided he is the first one to apply for the lands.

Senator CORDON. Then do I understand that when he makes application for a development lease, the leasing body, whether State or Government, proceeds to make its own general investigation and to plat areas within the supposed structure and offers those for competitive bidding. Is that the way it is handled?

Senator BARRETT. That is not true under the Mineral Leasing Act. As the Chairman knows, if the lands are within a known geological

structure, then of course they are put up and offered for sale by competitive bidding.

Senator CORDON. But there are limits in the Mineral Leasing Act as to acreage, are there not?

Senator BARRETT. That is right. There are limits of 2,560 acres for each individual lease, and a total of 15,360 in any State, and options of 100,000 acres in a given State over a 2-year period, as I remember. Those are the limitations that are under the leasing act.

Senator CORDON. Senator Daniel, what generally is the law and the practice of the State of Texas in that field.

Senator DANIEL. In the State of Texas all of your State-owned lands have been platted up into sections, 640 acres each, all of our submerged land clear out to the edge of the Continental Shelf at the time we were administering the whole area was platted up on the map, everything within 3 miles of shore. Our State leasing board put up for bid any area that was requested by those who had been out there and wanted to bid on it. Within 3 miles of shore we put it in 640-acre limits or blocks.

In other words, any lease that was put up for bid would not be over 640 acres per lease.

Senator CORDON. This is for developmental leases?

Senator DANIEL. Yes, developmental leases. As far as geophysical work is concerned, permission was issued by the State to anyone that wanted to go out there and live within certain regulations, to use not too much dynamite and injure the fish, the Land Commissioner would issue the permit for geophysical work to anyone who wanted it. You did not limit the geophysical work, they did not have exclusive permit. Others could go in and survey in the same areas. When you get farther away from shore, the land board put the limitation of the size of each lease at 1,440 acres. When you get to the outer Continental Shelf, it is entirely possible that is too small, that you ought to have a higher maximum per lease. In Louisiana, for instance, they have a maximum of 5,000 acres, as Senator Long said.

Now, that is per lease. We do not have any limitation as to how many leases that any one individual or company might buy.

Senator CORDON. The practical operation then would be that upon the request of some interested party the State would divide a total area in which the party was interested into tracts of not to exceed 640 acres if they were within the 3-mile limit or not to exceed 1,440 acres if they were without that limit.

Senator DANIEL. Yes.

Senator CORDON. And would then offer those several leases to bidders.

Senator DANIEL. That is right.

Senator CORDON. Now, was there any limit as to the amount of acreage that any given bidder might get if he was high?

Senator DANIEL. No, sir, all on a competitive basis. If one company happened to be high on every lease, they would get it. In many instances though there was some real competition. You know, you cannot with geophysics pinpoint those structures. They just have a pretty good guess where it might be. Therefore, we found in this competitive system more than one company in many

instances being high on their bids in the same structure, within the same area.

On the Gulf coast those structures would not run, I doubt that you would ever have anybody feel that they had a structure that covered 100,000 acres. It would be much less, certainly 5 to 10 thousand acres might be about the average. Some of the experts can tell us later on. But I just asked our railroad commissioner, Mr. Bill Murray, and he said along the coast from 5 to 10 thousand acres would be probably the area within which you would expect to find your production, although you may have to bid over a wider area than that because your geophysical instruments might indicate that the structure was here and another company's instruments might indicate it is over this way a little further. So it could cover quite an area of ground, maybe larger than 10,000 acres where the interest would be.

Let me ask our land commissioner about what is the usual area that the companies in wildcat acreage in water usually ask us to put up. What would be the usual amount of acreage they would ask to be put up in a certain area?

STATEMENT OF BASCOM GILES, COMMISSIONER, GENERAL LAND OFFICE, STATE OF TEXAS, AUSTIN, TEX.

Mr. GILES. Mr. Chairman and members of the committee, we usually receive requests from a company to place a certain area up for consideration or for bid. Those areas vary from 20,000 to 100,000 acres. Of course, they are not committed to bid on that except that we do require them to state that they will bid in that area a substantial amount.

Now, they are not limited. That does not give them any private bidding at all, in other words. They have to meet all competition even then, but we place up a large area following their request.

Senator DANIEL. Why is it that they always ask for a larger area than they expect to bid on?

Mr. GILES. The real reason for that of course is not to show their hand. If a company asks you to put up 10,000 acres, it would be very evident where they wanted to bid. So we might give them what you might term "some scenery," we give them some scenery for protection.

Senator LONG. In other words, they do not want to make it obvious where their geophysical information would indicate the best prospect might be in that area?

Mr. GILES. That is correct, Senator.

Senator KUCHEL. Are these questions designed to give the committee a background to enable it to specify what the Secretary would do?

Senator CORDON. Exactly.

Senator KUCHEL. Although your bill before us gives the Secretary complete latitude.

Senator CORDON. Unlimited discretion. The Chair feels that it is good practice to write into every law as many standards as may be done to direct the administration of the act, rather than delegating as much power as could be delegated. That is the reason for the question.

Now, Senator Long, is that generally the practice as you understand it, in Louisiana?

Senator LONG. As I understand it—and we have witnesses here who can testify much more accurately on this than I can—in Louisiana a geophysical permit can be issued by the Conservation Commission before the property is leased. That is similar to the Texas provision. The person who so explores has no property rights there. He only obtains information he wants to know about the property. Upon request, an area then can be put up for lease. I am not sure whether that is limited to 5,000-acre blocks. If a person bid on 1 block of 5,000 and another on another block of 5,000, the higher bidder in each case would get that particular block. Based on the maximum, of course, the State would then accept the bid which they thought was the most advantageous to the State.

I assume that Texas has a similar provision to Louisiana, that a bidder could offer a higher cash payment and another bidder could offer a higher royalty payment. In that instance, it would be up to the Mineral Board to determine which bid they felt was in the best interests of the State.

Senator CORDON. Is the 5,000-acre maximum a legal maximum or is it set in the discretion of some commission or board?

Senator LONG. That is set by the State law.

Senator CORDON. The law sets that maximum? Then that is a legal standard.

Senator LONG. Yes.

Senator CORDON. Senator Daniel, in your State of Texas is your limit of 640 acres within State boundaries and 1,440 acres without limits set by discretionary action of the Board or legal limit?

Senator DANIEL. They are set by discretionary action of the Board.

Senator CORDON. And the Board could change those figures, of course?

Senator DANIEL. Yes, the Board could make larger leases, grant leases on larger acreage. I do not know if there is any overall limitation or not. We are going to check that and find out. The Commissioner and I who administered the lands together for 6 years—and he has been at it for 20 or 30 years—we do not know of any statutory maximum. It is strictly an administratice maximum. But we will check to be sure on it.

As to this matter of bids, in Texas we say what the royalty is going to be. It cannot be less than 1 acre, 12.5 percent, then we let the bid on cash only. There is only one open end for bidding. If we put it up and say that the minimum cash we will receive is $5 an acre, which is what we follow along the coastal waters, that is the minimum bid we will receive, $5 an acre.

The fixed royalty will be 1 acre or 12.5 percent. Then that leaves the company or the individual to bid only on the cash bonus they pay. In some instances, close to production, we will set the cash figure that we will take, say $100 an acre will be the fixed cash that we will receive for the lease and we will let you bid on the royalty if you want to pay it. But in Texas practice, after trying it out and letting them bid on both cash and royalty, we found out it is difficult for the State leasing board to really determine which is the best bid. We found we were taking some pretty long gamble accepting

practically no cash but a pretty high royalty. Therefore, we have followed the practice now in Texas for quite a few years, ever since Mr. Giles went on as chairman of our State land board, we followed the practice of leaving only one end open. They can compete either on the cash to be paid or the amount of royalty to be paid.

Senator LONG. Of course, if you do not get a bid, if you fix your cash payment too high, let us say, if the $100 an acre was too much and you could not get anybody to bid on the royalty end, then there would be nothing to keep you from going out and offering the same thing over again with a smaller cash payment.

Senator DANIEL. That is correct, but as Mr. Giles indicated a moment ago, usually we know there are going to be bidders when we put this land up. Sometimes, on riverbeds particularly, we find it is mighty hard to lease some of them where there is production close by. There has to be production within 2 miles or we cannot put them up for lease on riverbeds. We find that sometimes we do set the cash or royalty too high and nobody bids on it. Then we can reduce it and put it up again and let them try again. I know several riverbeds with oil wells on each side where we never did lease them because the production was down so low and it would be so costly to offset and all that no operator would want to fool with it.

Senator CORDON. In the light of this additional information, Mr. Parks, I think the chairman can be a little bit more intelligent in asking questions. Your company has bid on leases offered by the State of Texas?

Mr. PARKS. Yes, sir.

Senator CORDON. Within and without the 3-mile limit?

Mr. PARKS. I could not say from memory on that. I do not think it would have made any difference.

Senator CORDON. Their limit there was 640 acres if within the 3-mile limit and 1,440 acres outside. So that those limits in size did not deter your company from bidding; is that right?

Mr. PARKS. I think so.

Senator LONG. At the time you bid on these offshore leases you never limit your bids to one 640-acre blocks?

Mr. PARKS. No.

Senator LONG. You would bid for the whole area, trying to be high on the whole area on each block.

Mr. PARKS. On the possible productive area.

Senator LONG. Would it not be possible for somebody to pinpoint 1 particular block and overbid you on that 1 block with that type of bidding?

Mr. PARKS. Yes.

Senator CORDON. When you suggest 10,000 acres or more, you are thinking rather in terms of the area to be offered, the total area to be offered, rather than the amount to be included as a maximum in any given lease; is that correct?

Mr. PARKS. I am thinking more in terms of the possibility of being able to operate profitably. I would say that the man who got 640 acres would have a very small chance of being able to operate that 640 acres profitably.

Senator CORDON. Yet, you did own 640.

Mr. PARKS. I do not believe we ever bid on a single 640.

Senator CORDON. But if you took a chance you might come out with only 640?

Mr. PARKS. That is a contingency that has to be faced in any business, that you might have a situation that you would not like.

Senator DANIEL. That is close to the shore where you bid that?

Mr. PARKS. That is right.

Senator CORDON. When you speak of unitization then, I take it you mean if there be five successful bidders within a structure unitization would mean agreement among those having been the successful bidders, and therefore having been awarded these maximum either 640- or 1,440-acre leases, for the purpose of joint operation?

Mr. PARKS. It might either be joint operation or joint ownership. It can go either way.

Senator CORDON. The purpose there would be to gather and consolidate a sufficient acreage for economical operation?

Mr. PARKS. Also for conservation.

Senator CORDON. What do you mean by that?

Mr. PARKS. The most efficient recovery quantitatively of the hydrocarbons in place.

Senator CORDON. Can you help the committee in this field? Your company unquestionably operates on land, too, so it has comparative figures. I am not seeking to secure information that the company is not willing to release, but it may be that you can aid us in this field.

Could you give us any statement with respect to comparative cost of oil operations on land and in the water, and then comparative cost at various water depths? We have to assume in this that the well depth is the same.

Mr. PARKS. The well depth is the same on land as offshore?

Senator CORDON. Yes, from the seabed down.

Mr. PARKS. That would depend to a considerable extent, that comparison in cost, on the amount of activity that would be carried on offshore because there is a certain minimum amount such as the establishment of shore bases and transportation facilities and construction facilities that are very near the same if you drill one well as if you go ahead and put on a several-year campaign.

In general, assuming that you had a substantial program of development, I think a good safe round figure would be in the neighborhood of 5 to 1. It could run several times that, though.

Senator CORDON. Several times as much to produce——

Mr. PARKS. Several times the 5 to 1 on cost offshore as compared to dry land.

Of course, you realize that we also have some marsh or swamp drilling which runs higher in many cases than the same well on inside where we do have solid land.

Senator LONG. Do I understand you to say that the cost is five times as much to drill in the sea as to drill on land?

Mr. PARKS. That is a round figure that we will just take as maybe characteristic. Under some circumstances it could be 10 to 1.

Senator LONG. I have a statement here prepared by Pure Oil Co. Pure Oil estimated, on a certain type well drilled at sea, an invest-

ment made before drilling at a minimum figure of $980,000 and a maximum figure of $4,050,000. Is it possible that before drilling at all, the investment could run that high?

Mr. PARKS. Yes, sir.

Senator LONG. Would you explain to us how that could be true?

Mr. PARKS. Well, a shore base can cost $2 million without too much imagination.

Senator LONG. Mind you, this is before drilling.

Mr. PARKS. Yes, sir.

Senator DANIEL. Tell us what you mean by shore base.

Mr. PARKS. That is the focal point for operations. Through it go all of the equipment, the men, and all the communications for the coordination of the thing, it includes among other things, living quarters for the men, some of the men who staff the base, for many of the men who operate the equipment offshore. It includes warehouse facilities, clerical staff, communications equipment.

Senator CORDON. Much of that, though, is needed when you have a well on shore. Men have to live, you have to communicate. You have to get your supplies there.

Mr. PARKS. Communications on shore are very simple, Senator.

Senator LONG. A man drives out there in an automobile and tells you what you want to know.

Mr. PARKS. That is the proposition.

Senator CORDON. Well, perhaps excluding communication, you could not properly charge the total investment represented by your shore installation as being wholly an addition to the total investment in offshore operations, can you?

Mr. PARKS. I would say that if you set up for drilling a wildcat on shore, you usually have an installation within operating range already.

Senator CORDON. Suppose you do not?

Mr. PARKS. It can be set up on shore, you see. We have supply houses readily available in practically any area, all of those things, we travel by automobile and truck and offshore we travel by ship. So I would say that what cost you would have to set up a similar wildcat on land might be a magnitude of $10,000.

Senator CORDON. I think in one instance you are assuming a wildcat in an area where you are operating on land, and in the other you are assuming you are not operating at all on land in the vicinity where you are operating on water. I think those are violent assumptions.

Mr. PARKS. I do not believe they are assumptions.

Senator DANIEL. You guys have been through this, have you not?

Mr. PARKS. Yes, sir.

Senator DANIEL. Do you find it necessary to set up a special shore base for your marine operations?

Mr. PARKS. Yes, sir, we have in all cases.

Senator DANIEL. Do you know of any operator that has not found it necessary to set up a special shore base from which he should carry on these operations in the gulf?

Mr. PARKS. No, sir.

Senator DANIEL. You have been through that, set them up, and know what it takes to do it.

Mr. PARKS. Yes, sir.

Senator DANIEL. May I suggest that you confine your talk about the expenses to the special shore bases you have to have to take care of the special equipment, communications, and all over and above what you would have to have if you were drilling a well right there where this base is set on shore.

Senator CORDON. Exactly.

Mr. PARKS. May I refer to my notes and outline?

Senator CORDON. Yes.

Senator LONG. It seems to me that for the committee to understand this, because after all some members have not had experience in oil and gas, I think it might be well first for the witness to indicate what you would ordinarily have to do to drill a wildcat well on dry land, and then by contrast what you have to do to drill a wildcat well in the sea. I think that would make it more understandable to the committee.

Mr. PARKS. On land in your operating territory the leasing and geophysical work goes on by people who billet themselves in the adjacent towns. When the drilling operation is to be started, you might say that the exploration, the geophysical people, the geological people move out and into those same quarters move our drilling personnel. The only office space required usually is the space above the small-town store, maybe 2,000 square feet is probably all that will be required, trucking facilities are available everywhere in there. If it is in the oil territory, it is only a few miles to a supply store of some kind.

When the location is made, several tons of that rig equipment are hauled out to the job and these people drive their own automobiles in a lot of cases, and in some cases being furnished automobile transportation, they simply go out and work.

Transportation, for instance, probably might cost us three or four thousand dollars to move a rig into the area. The largest trucks run $10 to $12 an hour whereas the transportation euqipment that we use offshore travels very much slower and it goes at very very high cost rates.

Senator LONG. To move into an area and drill a well on dry land, let us say, to a depth of 3,000 feet, if you had a showing that there might be oil or gas at that depth, could you give us some idea as to what the average cost to drill an exploratory well to 3,000 feet might be?

Mr. PARKS. I would say $30,000.

Senator ANDERSON. That would set casing on one, would it not?

Mr. PARKS. Yes.

Senator LONG. Now, that is $30,000, assuming a completed job?

Mr. PARKS. Yes.

Senator LONG. Assuming you got down there and found there was no oil or gas and decided to abandon it, could you estimate what your cost might have been?

Mr. PARKS. You would say the cost in casing may be $5,000, you would run $20,000 to $25,000.

Senator ANDERSON. On a 3,000 foot well?

Mr. PARKS. That is going into a new area now. If it was already in a developed area, certainly it would be less.

Senator LONG. How much would it be if the area were already developed, if you were drilling a wildcat well in an area where there

was all equipment in the area which could be immediately purchased and acquired, in an area where there is oil and gas production?

Mr. PARKS. There is not a great deal of difference in going out into an area two or three hundred miles from normal facilities and drilling them in——

Senator CORDON. In your back yard?

Mr. PARKS. Not exactly that, but in an area where you are accustomed to work. It does not cost very much more.

Now, if you were going into Alaska or some place like that, that was completely detached from all of your normal facilities, it would be higher.

Senator LONG. Your statement indicates there would be substantial economies where you are already developing that area. I take it you meant if you had an oil well nearby you could make substantial economies by drilling one close by?

Mr. PARKS. Yes, where the same personnel would handle it to a considerable extent.

Senator CORDON. How much would it cost to drill a well out to sea?

Mr. PARKS. The initial well?

Senator CORDON. Yes.

Mr. PARKS. That would depend very much on the circumstances. The way we drilled at Grand Isle, our first well was deeper than 3,000 feet, but depth did not make much difference after we got set up for it. We spent 2 million for shore base and spent a million and a quarter for a platform like that without putting a rig on it before we stuck the bit in the ground. That was $3,250,000, which I think is pretty well within the same ball park as this $4 million figure you mentioned.

Senator CORDON. Despite that disparity in cost, that additional 5 to 1, or 10 to 1, you bid as much for an oil lease out at sea as you do on land?

Mr. PARKS. Pardon?

Senator CORDON. You bid as much for an oil lease at sea as you do on land?

Mr. PARKS. I could not say as to that.

Senator CORDON. You do not know?

Mr. PARKS. I do not know.

Senator ANDERSON. How deep is this well you are talking about, how deep were you drilling?

Mr. PARKS. The initial well?

Senator ANDERSON. Yes, out at sea.

Mr. PARKS. It was originally 9,000 feet deep.

Senator DANIEL. How much did the shore base at Grand Isle cost you?

Mr. PARKS. It was about $2 million according to my recollection. I am speaking from memory.

Senator DANIEL. How much did you have to spend to build your platform out in the water?

Mr. PARKS. $1,250,000.

Senator DANIEL. How many wells can you drill from that platform out in the water by slant drilling?

Mr. PARKS. We provided for 7 holes on that platform. We did not drill that many, as I recall. I think we drilled 3 or 4.

Senator DANIEL. With that setup you could drill 1 hole straight down and then 6 more slanted out in different directions?

Mr. PARKS. Yes, sir, depending upon the depth of the objective.

Senator LONG. Here is a factor that particularly interests me in that problem. In one instance or in either instance if you found a good oil and gas field, assuming your title was all right, you are going to make money; is that not correct?

Mr. PARKS. That depends on what you call a good oilfield, Senator. It is pretty simple arithmetic. If it cost you 5 to 10 times as much to develop it offshore, it is going to have to be as much as 5 or 10 times as good to make any money out of it.

Senator LONG. That is the point I had in mind. With one field you are risking $30,000 to seek oil. When you have made about $30,000 back, at least you have had an even break on the risk you took. Now, based on the other one, you have risked about $3,250,000 trying to find oil, have you not?

Mr. PARKS. Yes, sir.

Senator LONG. So your risk at that point is about 100 times as great.

Mr. PARKS. At the point of that first well.

Senator LONG. Now, you do have some advantage in that you are able to acquire a large block so that if you find oil, you have enough locations to be able to make your money back, is that right?

Mr. PARKS. That is right, and of course under the circumstances of drilling that first well and building the first base, there was a good possibility of doing more than just that one well.

Senator CORDON. But only seven wells total from that particular sea structure?

Mr. PARKS. From that particular sea structure. More wells from that $2 million shore base, though.

Senator BARRETT. What would the drilling cost be after you start drilling compared with that on land?

Mr. PARKS. The actual cost of operating the rig, Senator, would not differ appreciably. When you talk about drilling cost, though, we have to include the cost of transportation, which is tremendously higher on water, and then of course we have to set up quarters for the men out there which are more expensive to maintain and our mess facilities are more expensive to maintain out there. So when you say the cost of drilling, if you are talking about that little cost of turning the drill pipe around, I would say that part of it does not vary greatly. But the whole ball of wax, the total cost of operating out there is very much higher.

Senator LONG. Can you give us some idea as to the difference?

Senator BARRETT. Let me get this question: Assuming you drilled the 7 holes you had in mind, now, the initial cost on the base was 2 million, the platform 1¼ million, would the cost then of drilling each of those 7 holes be 5 times as much as they would have been on land, the same depth?

Mr. PARKS. It is a matter of arithmetic there. Seven wells into $3,250,000 plus the actual drilling expense on the thing, we would cut that 3,250,000 down to 500,000 a well plus the actual drilling. I would say that might give us a cost of maybe a million dollars a well and those wells on land would not cost, I do not believe, over $100,000 apiece, 9,000-foot wells.

Senator BARRETT. How much would you charge against that operation for the base, $2 million?

Mr. PARKS. The best kind of accounting procedure that I know of is the simple arithmetic that I——

Senator BARRETT. Of course you could not charge the whole cost to each operation.

Mr. PARKS. No, but assuming that you had shut down at the end of 7 wells out there, we would have that $500,000 a well for the base, platform. That would be about $300,000 a well for the base. Now, as to the actual accounting procedures, I am not qualified to talk about those in detail. There are procedures set up within each organization that operates out there, I am positive, that seeks to apportion in some rational manner the initial cost of the base to each operation that is carried on from it.

Now, that base is not necessarily altogether for drilling. If you get production, you have production operations that go on out there and it is only fair in cost accounting to apportion finally some part of that base production operation. But up until the time you do go into that phase, you have to assume that your money is spent and that you cannot sell that thing to anybody else. It is gone, it is down there 50 or 75 miles in the marshes and it has no economic value whatsoever.

Senator BARRETT. Let me ask you one more question and I am through. We are running legislation now to cover the entire Continental Shelf beyond the historic boundaries. Is it fair to say that the figures that you are giving us are based on the ideal conditions that are available to the first operators out there in the water and that when you get out farther to seaward that the costs are going to increase proportionately as you go out?

Mr. PARKS. I think costs will increase. As to what the proportion actually is, in other words, to say it would cost twice as much to operate out 30 miles as it would 15 miles, I do not think we could say that, but I think it is very definite that we will have added time of transportation, for instance, to carry men and supplies out there, twice as long on those things.

Of course, on your fixed equipment, the equipment you take out there and use, I do not think that the time required should be a great deal more to make a 10,000-foot hole so far as the actual drilling operation is concerned than if it were inshore.

Senator BARRETT. The depth of the water would enter into it considerably?

Mr. PARKS. Yes, sir; I think it would. We are at present seeking to evaluate that effect of the depth of the water. It would on a platform have the effect of making you spread it out larger from a stability viewpoint and it would have the effect of making you build it higher. I would judge that so far as the platform is concerned, it would probably be as the square of the depth of the water. The other facilities, transportation, would probably run directly in proportion to the distance, maybe not from the distance out, because the proposition of running up and down the shoreline from your base is quite as time-consuming as going directly back and forth perpendicular to the shore.

Senator BARRETT. Would the leases that the Government make in that area not have to be more liberal in order to provide the incentive for an operator to go out much farther than anyone has at the present time, we will say, in order to bring in the production?

Mr. PARKS. I think that is entirely correct, just as we have to look at a proposition from actually finding better fields, the other factors that enter into it would likewise have to be more attractive.

Senator LONG. Might I get some thinking on this subject? On dry land, a marginal well would be a well producing something less than—depending on the depth of the well—would be perhaps a well producing perhaps at 2 or 3 thousand feet, would be a 1-barrel well. Would that be correct? Would that be a marginal well?

Mr. PARKS. I think probably by a strict definition it would be. Now, whether that individual well was right on the point of being abandoned, because it was no longer profitable or not, would depend entirely on the operating circumstances. You know, I am sure——

Senator BARRETT. By the time you get below about 10 barrels a day, you begin to get near the point where a well becomes marginal?

Mr. PARKS. You are watching its operating cost every month.

Senator BARRETT. If it gets down to four barrels a day, it is pretty questionable whether you can continue to operate a well of that sort.

Mr. PARKS. It depends on the setup that you have in the particular area. Of course, where you have a large number of other wells to operate also, and the abandonment of one well does not help you any in reducing your supervisory costs and overhead, and you have only the additional supplies, say, to keep that well going, you can operate it longer than you can a well that is where you have to keep a special organization on it to keep it operating.

Senator BARRETT. I am looking at the platform behind you that I assume would be typical of the platform that cost $1¼ million. Do you judge that is the kind of platform that cost that much money?

Mr. PARKS. That one did. Probably higher now.

Senator BARRETT. What sort of factors are in your mind when you discover oil there in determining whether or not you have a profit-making investment or whether you have a money-losing investment? What sort of considerations do you look to to see whether or not it pays you to go ahead and develop that, whether you are going to make a profit or whether you should abandon the well and forget about it?

Mr. PARKS. Probably the place and the program and how much money you have already spent would have as much to do with it as anything else on the initial well. Any favorable showings might be interpreted as incentives to go ahead and do some more work. But assuming it was the tenth well and you still had only favorable showings, why I think in this hypothetical instance we would assume that we would have spent enough money there and would be interested either in not spending any more money at all or finding a new place to spend it.

Senator BARRETT. Now, assuming you had pretty well developed the location to know what was there, about what type production would you need in order to make the operation pay out?

Mr. PARKS. One of our high costs of operating of course is the transportation, getting the product ashore. For the liquid type of carbons we can use ships or barges to haul the products ashore, but it is several times as expensive to do that as to carry them through a pipeline if you have an assured reserve, a reserve large enough to justify the initial high cost of that pipeline which may then be spread over a large number of barrels of production.

So I would say the first thing you want to make sure of is that you have an appreciable reserve. I am not qualified to say what the people and our management think is an adequate reserve, but if it costs 5 to 10 times as much to develop it, I would say it is reasonable to think that the reserve ought to be 5 or 10 times as great to feel very optimistic about it.

Senator BARRETT. If I were a stockholder in your company and I saw you had brought in a well there, about how many barrels a day would I need to see you producing to feel that that was going to be a profitable operation? Could you judge by that?

Mr. PARKS. I doubt that the average stockholder would have any particular feeling on that situation. Years ago, of course, the reported size of wells was somewhat indicative, but not now. I think I should expect the officials of the company in which I held stock to give me their reasoned opinion in their annual report, or interim report, as to what the prospects were there.

Senator CORDON. Senator Barrett, would you take the Chair at this time? I have to leave for another appointment.

Senator LONG. Based on your understanding of this problem, at what point would you feel you had a successful operation at sea? Taking your Grand Isle effort as perhaps typical or trying to judge by that, what type production would you need in order to feel that you had successfully undertaken a product-making operation?

Mr. PARKS. I think we should get wells capable of producing at several times the rate that comparable wells on shore were producing. In other words, if comparable wells, say depth, under the regulations, the State regulations produced 100 barrels day, I would say that if we got wells that produced four or five hundred or could produce four or five hundred or above, that we would feel we had some reasonable chances for success.

On the other hand, there have been many known instances on dry land where you got a well of like caliber and you could not pay out even there because it was such a small area that eventually proved productive.

Senator LONG. If the area going into the gulf had about the same general productivity for oil and gas that the area just north of the Gulf of Mexico had, would a high percentage of those fields be economically profitable or would it be a much lesser percentage?

Mr. PARKS. A much less percentage.

Senator LONG. Would you say there are a substantial number of fields from the gulf northward that would not be profitable to operate on from an oilman's point of view if you had to do it in the sea?

Mr. PARKS. Yes, sir.

Senator KUCHEL. I think in view of what the witness has indicated is the great disparity between production in the submerged land and on dry land and in view further of the suggestions that there are no

statutory guidelines for the administrative officials in either Texas or Louisiana, with possibly the single exception of a minimum leasing area in the case of Louisiana, I would like to ask the witness particularly if he would make any comment with respect to that part of the language which appears in Senator Cordon's bill on page 14 which reads as follows:

> A lease issued by the Secretary pursuant to this section shall, one, cover an area of such size and dimensions as the Secretary may determine,

and so forth. Now, with respect to that phrase, which of course gives to the administrative official the determination of the type of lease which he will accept, do you have any recommendations based on your experience as to restricting the Secretary in that area or would you say, based on your experience, from what you have just suggested that this Congress should give to the Secretary of the Interior the administrative discretion of determining what the size and dimensions of the area upon which he will accept leases should continue.

Mr. PARKS. I have seen it this morning only shortly and the chairman has asked me to submit a written opinion as to how this would work. I would much prefer not to answer that just on the spur of the moment because I have not given it any real consideration at all. But it would have to be covered in this statement that he has asked me to prepare.

Senator KUCHEL. You may then, upon reflection, make some suggestions of statutory provisions to guide him.

Mr. PARKS. That is possible.

Senator KUCHEL. Mr. Chairman, I have just one question. I wonder if we could have a synopsis of the restrictions which appear in the law of both Texas and Louisiana for our assistance. If those people could provide those, I think it would be helpful.

Senator LONG. Might I ask this question about development? In what depth of water do you believe it is possible to drill for oil and gas under known conditions, that is, based on existing engineering experience, how deep do you believe it is possible for you to drill for oil and gas?

Mr. PARKS. The answer I have always given my management is that it depends on how much money there is to spend. As an engineer, I hesitate to say that anything is impossible. So I would hate to start out to dig a well in 600 feet of water, now, but the oil industry as well as all American industry has faced its problems as they come to them and as incentives appear. We are always willing to stretch out a little bit in that situation and take a risk to see if we cannot make a go.

Senator LONG. What is the deepest water in which a well has been drilled at the present time? I am assuming the platform method. I am not thinking of the whipstocking from shore.

Mr. PARKS. I think it is within a few feet of 65 feet. Was that the question, the depth of water?

Senator LONG. Yes.

Mr. PARKS. In line with my previous thinking, for instance, I do not think we would hesitate to go into a hundred feet of water if it looked like we had a good run for our money. So far as the engineers are concerned, I am satisfied we would.

Senator DANIEL. You have gone that far in Lake Maracaibo where you have a still body of water?

Mr. PARKS. Yes, there are different conditions attached to the Maracaibo drilling from those in the Gulf of Mexico.

Senator DANIEL. Even there 100 feet is the deepest they have drilled?

Mr. PARKS. I think that is correct.

Senator LONG. You mentioned in technical terms something that is a little bit difficult for us to understand. You referred to the square of the depth of water in reference to the terms of the cost of platforms. Can you give us some idea as to how the engineer applies that principle in order to determine the cost of the platform at sea?

Mr. PARKS. It is a rough estimate. The reason I say "as the square" is because it is quite obvious the deeper the water, the higher the platform has to be. And when we get into the proposition of stability, whether it will stand up or not, it is the same proposition as having a low stool and high kitchen stool with the same horizontal force applied to tip them over. As we all know, the higher kitchen stool tips over more easily than the low. So, when we get into a greater depth of water, not only are we going to have to build a platform higher in order to reach the bottom, but we are going to have to build it wider so it will not turn over. So, in deeper water you are making it wider and you are making it taller.

Senator LONG. Thinking in terms of dollars instead of in terms of size, how would you apply your principle of looking to the square of the depth of the water? First, to your platform there off Grand Isle which you said cost a million and a quarter dollars, what is the depth of water there?

Mr. PARKS. Forty or fifty feet.

Senator LONG. Based on 100 feet of water, about what would your cost be?

Mr. PARKS. This platform here is large enough for stability. It is self-sufficient and the rule would not apply as it would to one of the smaller platforms. There, in order to cut down on the cost, we applied a technique that we had used inland on marsh locations. We put the equipment that could not tolerate ship movement on a small platform and carried the other equipment in a floating tender. Now, a platform of that sort, we will say, cost $250,000 in the same depth of water. If we moved it in about twice the same depth of water, the square of 2 is 4, so we would spend instead of $250,000, possibly a million dollars.

It might not still be the same physical dimensions as that platform. It would be spread out for stability; instead of being 50 by 125, it would probably be 125 feet square. So you would double cost there and then you would nearly double that by increasing its height to care for double water depth.

Senator LONG. That is simple. Now, when you save money on your platform in that respect, then again you find problems of increasing your cost of operation, do you not, or does it do that? I see you have to use that ship in connection with that platform to operate it; is that correct?

Mr. PARKS. Actually, when we take this thing here, we might say that that floating equipment plus the platform costs about the same thing as that larger platform. But we have the proposition of moving the equipment on the ship much more reasonably that we can tear

down a platform like this and rebuild it. So it does cut down the cost considerably when we can go that way.

Senator LONG. You mean platform cost?

Mr. PARKS. On the platform cost.

Senator LONG. Does it run up your cost in that you have to operate that ship over there?

Mr. PARKS. The cost of operating the ship is rather high. Of course, the objective in the ship is to save space on the platform. Now, if you go out in deeper water and have to build a larger platform anyhow to keep it from turning over, you would be right back to this larger platform on longer legs, you would have room on it to put in the facilities you need without using the ship.

Senator ANDERSON. Can we get into a discussion of cost a little bit? Did you say a 3,000-foot well ought to run about $30,000, and if you got a dry hole, you would only save the casing on it?

Mr. PARKS. That is about all.

Senator ANDERSON. In what area of the country would that be: Louisiana or Texas?

Mr. PARKS. I would say that would probably be in north Texas.

Senator ANDERSON. What would you be paying—$3 a foot to drill at that depth?

Mr. PARKS. I am not familiar with the going contract rates on wells.

Senator ANDERSON. How can you guess at the price if you are not?

Mr. PARKS. I know what our authorizations have run on wells like that, the total cost, what has come through from the accounting department.

Senator ANDERSON. All around Midland County, is it not about 6,000 feet?

Mr. PARKS. No; I think it is deeper than that in most cases.

Senator ANDERSON. What would you think a 6,000-foot well ought to cost?

Mr. PARKS. A 6,000-foot well would probably cost $75,000.

Senator ANDERSON. Now, when you start to drill at sea, how deep are these wells?

Mr. PARKS. They run all the way from 3,000 to, I think probably the deepest that has been drilled is something like 13,000 feet.

Senator ANDERSON. A 13,000-foot well on land would run how much?

Mr. PARKS. It would depend almost entirely on the area in which it was drilled.

Senator ANDERSON. Are you familiar with where Sid Richardson is drilling in east New Mexico?

Mr. PARKS. No.

Senator ANDERSON. Where are you familiar with a 13,000-foot hole on land?

Mr. PARKS. We drill 13,000-foot wells in Louisiana and we drilled some in west Texas. We have had wells at that depth. I think we have drilled them probably for as little as $250,000 or $300,000 and have spent as much as a million dollars or a million and a quarter on them.

Senator ANDERSON. On this if you get into trouble you can spend any amount you want to?

Mr. PARKS. That is true in some of the drilling where there has been very slow progress at the bottom.

Senator ANDERSON. If the casing does not collapse or anything of that nature, $300,000 for a 13,000-foot well?

Mr. PARKS. I suspect that ought to do it in some places.

Senator ANDERSON. You have a comparable cost at sea. Do you contract the drilling at sea?

Mr. PARKS. My company does not. We do it ourselves.

Senator ANDERSON. What is your per foot cost per thousand? Not counting casing, just drilling.

Mr. PARKS. You mean just the cost of turning the drill part?

Senator ANDERSON. Yes.

Mr. PARKS. It should be very little more there than on land.

Senator ANDERSON. The other things that go along with it, running mud and all the rest of it—do you have to run mud out there.

Mr. PARKS. Yes. The actual drilling part of the operation should cost very little more than on land, but it is the supporting operations, it is the transportation and the advanced preparation that run the costs up.

Senator ANDERSON. Do you make a core analysis as you go along?

Mr. PARKS. Yes.

Senator ANDERSON. Therefore the additional cost comes in the tower. That tower that you said runs $1 million, how much of that is just plain ordinary drilling equipment that any driller would own on land?

Mr. PARKS. None of it. That does not include the cost of the rig.

Senator ANDERSON. All the extra equipment, the stuff you use to pick up casing and all, that is extra?

Mr. PARKS. Yes.

Senator ANDERSON. Just the tower?

Mr. PARKS. That is right.

Senator ANDERSON. I got the impression that you said the whole tower would cost $1,200,000. You are going down through 45 feet of water there and how much depth in the earth, 4,000, 4,500?

Mr. PARKS. According to my recollection, the wells that have been drilled from that platform have run from 9,000 to 12,000.

Senator ANDERSON. What size casing do you start with?

Mr. PARKS. Various sizes. Usually we start with something about 20-inch. That is a conductor pipe that is set down through, maybe 300 or 400 feet of mud. You know the bottom is very, very mucky there. We cannot suspend casing from the top of the hole as we do in other operations because we have a structural problem there of the load on that 20-inch pipe, so we have to go down and hang the other casing below the mud line so that the load is properly transferred into the ocean bottom.

Senator ANDERSON. It becomes a pretty expensive operation?

Mr. PARKS. Yes.

Senator ANDERSON. You would drill seven off a tower of that nature. If you struck something the first time around you would feel justified going ahead?

Mr. PARKS. Possibly you would.

Senator ANDERSON. At 9,000-foot depth what sort of proration are you allowed?

Mr. PARKS. I am not familiar with the proration proceedings.

Senator ANDERSON. Who would be from your company?

Mr. PARKS. We have a proration department.

Senator ANDERSON. You have some production out there, have you not?

Mr. PARKS. Yes, sir.

Senator ANDERSON. Where do you have production?

Mr. PARKS. We have some production off Louisiana.

Senator ANDERSON. What is the potential of that well when it was brought in?

Mr. PARKS. We do not take potentials. You see, the wells are producing from very loose sands and it is suicidal operationally to produce them at maximum rates. I think that we have had as high as 400 barrels a day assigned as allowables.

Senator ANDERSON. 400 barrels a day alone?

Mr. PARKS. Yes, sir. We were talking about the petroleum industry. I cannot speak for our individual wells.

Senator ANDERSON. How deep was that 400 barrels?

Mr. PARKS. I am not familiar enough with the correlation of depth and allowables.

Senator ANDERSON. Does it not make a difference, a little?

Mr. PARKS. Certainly.

Senator ANDERSON. How deep would it be then? Who would be able to testify as to the depth of the well?

Mr. PARKS. As to the fact?

Senator ANDERSON. Yes. Have you no idea, as to this 400 allowable, how deep the wells were?

Mr. PARKS. 9,000- to 12,000-foot depth. I am sure of that. I thought you were asking for testimony on actual fact.

Senator ANDERSON. No; just trying to get a general idea as to what the proration is.

On land how would that proration agree with the Louisiana conservation practices?

Mr. PARKS. There again I am not familiar enough to say definitely, but it is my understanding that it would be considerably less than that for a well of that depth on land, possibly in the magnitude of 100 barrels a day.

Senator ANDERSON. Do you plan to have some testimony, Senator Long, as to what the practice has been on conservation down there?

Senator LONG. Yes; we have a witness from our mineral board who can testify on this.

Senator ANDERSON. After you have brought in the well and have put it on production, do you have to keep checking the ratio of gas and so forth in it as you would with a well on land?

Mr. PARKS. Yes, sir.

Senator ANDERSON. And use the ordinary conservation practices as you would on land?

Mr. PARKS. We have a practice in oilfields whether they are under water or on land of practicing conservation to the best of our knowledge and understanding of it.

Senator ANDERSON. How long have you produced from any one well?

Mr. PARKS. The latter part of 1948, I think, marks our first production out there.

Senator ANDERSON. What have you noticed about drop in pressures within that time?

Mr. PARKS. Certainly fields have declined in reservoir pressures there as they have in other areas. Actually, the amount of work that has been done in development is so small that we do not have adequate information as to really what occurs reservoirwise. One well in a reservoir is probably all we have.

Senator ANDERSON. Have you estimated the life of any of these wells?

Mr. PARKS. So far as I know, there has been no particular effort made to estimate the life of these wells.

Senator ANDERSON. Humble does that on land, does it not?

Mr. PARKS. Humble does that on land so far as a total producing area is concerned.

Senator ANDERSON. Anyone who builds a pipeline has to?

Mr. PARKS. That is based on reserve. As I brought out awhile ago, before it is feasible to put in a pipeline you must have some certainty that you have enough reserve to pay it out. Our development here has not reached the stage where we have been able to justify building a pipeline.

Senator ANDERSON. It all depends upon the primary recoveries down there, or will you have the same theories of repressuring, water flooding, that you may have on land?

Mr. PARKS. I think that full consideration will be given to all producing techniques there as on dry land, though the peculiar physical conditions of each field and each well will govern whether or not those measures are put into operation.

Senator ANDERSON. I came in after you started testifying. What is your position?

Mr. PARKS. Petroleum engineer of Humble Oil & Refining Co. in Houston. I have worked on the development and planning phases of the offshore operation since my company became interested and active in it.

Senator ANDERSON. When you mentioned $2 million on the shore installation, what does that consist of?

Mr. PARKS. That consists of all of the facilities that it takes to service these operations. In our particular case at Grand Isle it includes building a very considerable amount of wharfage. It consists of building areas for the storage of equipment and supplies to go out there. It consists of building offices. It consists of building living quarters and furnishing an area where employees may build their homes. It consists of building an automobile parking area out there. It consists of building boat pens for the boats that service the operation. It consists of building storage facilities for the oil that is produced out there and is brought in. Maybe it has to be treated or maybe it is staged there for transportation to refining facilities. It includes building fuel storage there for the operations out there. The site covers 10 acres in one spot and, I believe, 20 or 30 acres in another spot.

Senator ANDERSON. If you subsequently built a pipeline in from these structures, the rig on shore, then this shore operation that you

are talking about would be equally available to the next drilling operation, would it not?

Mr. PARKS. Yes, sir.

Senator ANDERSON. Because servicing personnel go off that derrick when you have production and bring it in, do they not?

Mr. PARKS. It would serve as a base for production operation.

Senator ANDERSON. Also for additional drilling.

Mr. PARKS. That is right. For that reason the more work you do out there the per well or per unit cost of those initial facilities tends to decrease with the amount of work.

Senator ANDERSON. That would have some bearing on the minimum size that would be economically possible for lease in proven territory as against the amount that would be needed in wildcat territory, would it not?

Mr. PARKS. Would you mind saying that again?

Senator ANDERSON. Maybe I did not say it very well.

Because of the greater cost of drilling you have to have a little larger minimum I would think than in a dry land operation.

Mr. PARKS. I would say considerably larger.

Senator ANDERSON. I would, too, from the figures you have given here.

Once, however, you got into proven territory, a minimum lease would not necessarily have to be so much greater because all these things you are talking about can be utilized in the next operation.

Mr. PARKS. Of course, you have operating expenses on those facilities, which are often as great as the initial expense to set them up.

Senator ANDERSON. If you have a well that is flowing 400 barrels a day, you do not have to have the same size crew out there as you do when you are drilling that well and putting in casing?

Mr. PARKS. No, sir.

Senator ANDERSON. One man will look after all seven of them out there with ease.

Mr. PARKS. I would suspect so.

Senator ANDERSON. You have not given any thought to the size of the minimum lease or maximum lease?

Senator BARRETT. He testified earlier on that.

Senator ANDERSON. I am sorry. If he has covered it, I will get it later. Could you review what you said about minimum and maximum?

Mr. PARKS. My thinking was from the viewpoint of this very thing, the necessity imposed from high operating costs. I was thinking in terms of 10,000-acre leases with operators having any number of either contiguous or scattered lease blocks, depending on the success the individual operator had in bidding for them. Senator Long brought out that 5,000-acre leases have been considered appropriate by Louisiana.

Senator ANDERSON. It might be all right close to shore, but dangerous out farther.

Mr. PARKS. The farther you go the chances are the worse trouble in general you might be in. Now, we cannot make any real fixed rules or fixed thinking on those things because there are circumstances, for instance, where you might be 30 miles straight out and not be

in any worse condition from a transportation viewpoint than if you were working 30 miles up the coast from your base.

Senator ANDERSON. Humble has more than 100,000 acres in the Gulf, has it not?

Mr. PARKS. I could not say, Senator. I do not keep up with that part of the business.

Senator ANDERSON. Who does?

Mr. PARKS. We have a land department that keeps up with those statistics.

Senator ANDERSON. Does Frame have anything to do with it?

Mr. PARKS. He is not the head of the land department, no, sir. He certainly has access to any and all of that information.

Senator ANDERSON. The size of Humble's holdings down there has been published, so I did not think it was a matter of secrecy.

Mr. PARKS. There is no secret about it. I do not happen to be informed.

Senator ANDERSON. But you are doing the planning on this down there. I am trying to figure out how you can plan if you do not know what you have got.

Mr. PARKS. They tell us where to drill wells. As far as engineers are concerned, we work out the details of what is necessary to do the job where wells are to be drilled.

Senator LONG. I would like to know if someone does know the answer to Senator Anderson's question, if someone here could volunteer that, just involving Humble, not to say that Humble is typical.

Senator ANDERSON. I will be happy to put in the record in another day of so, if nobody else will do it, how many Humble has, how much Phillips has, Kerr-McGee, and so forth.

STATEMENT OF DAVID GRAY, EXECUTIVE ASSISTANT, HUMBLE OIL & REFINING CO., HOUSTON, TEX.

Mr. GRAY. I have the figures in the hotel room, the accurate figures on how much acreage we hold.

Senator LONG. Do you know how much money has been spent by your company in leases and in development exploration in the Gulf of Mexico at the present time?

Mr. GRAY. A little more than $60 million in Louisiana and Texas.

Senator LONG. Can you tell how much your company has recovered out of that? How much you have made over the $60 million spent out there?

Mr. GRAY. We have received probably five or six million dollars from the sale of oil.

Senator ANDERSON. Do you regard your investment as a bad one?

Mr. GRAY. We do not know yet, Senator.

Senator ANDERSON. I was going to say there are a lot of people very much interested down there.

Mr. GRAY. We have not had an opportunity to explore the area and ascertain what possible profit we might make.

Senator BARRETT. Mr. Gray, will you give the reporter your full name and your position with Humble?

Mr. GRAY. David G. Gray, executive assistant, Humble Oil Co.

Senator ANDERSON. Are you familiar with whether or not Humble is paying severance tax to the State of Louisiana outside of historic

boundaries of the State of Louisiana? I am trying to get beyond the 3-mile zone.

Mr. PARKS. I cannot say from personal experience. I know we are complying with all the laws, rules, and regulations with which we have been asked to comply.

Senator ANDERSON. We are trying to find the answer to that question. I am informed unofficially that you are. I just wondered.

Mr. GRAY. Officially, we are paying the severance taxes to Louisiana.

Senator ANDERSON. All the way out?

Mr. GRAY. All the way out.

Senator ANDERSON. Oil and gas?

Mr. GRAY. Oil and gas.

Senator LONG. I would like to put in the record a letter addressed to Mr. John Madden, who is an assistant attorney general of Louisiana, on this subject with regard to the taxes that have been collected.

The last paragraph says:

> You are further advised that this State has not knowingly collected severance taxes on areas considered beyond the seaward boundaries of the State. In view of the fact that these boundaries are not definitely established, it cannot be stated with certainty just what areas the revenue is derived from.

Senator ANDERSON. Mr. Gray, the fact remains that every well that Humble has in that area you pay a severance tax on it to the State of Louisiana, no matter where located, is that not right?

Mr. GRAY. That is correct. We have not attempted to fix the line.

Senator ANDERSON. I realize that. I earlier remarked that the severance taxes are being paid in the State of Louisiana. There is some question about it because of Mr. Madden's letter.

Mr. GRAY. Every barrel of oil we produce. We are not selling gas, therefore we are not severing any gas at the moment. We have some gas wells, but they are shut in. We have to pay in shut-in royalty.

Senator ANDERSON. Do you know of any company that is not paying severance taxes?

Mr. GRAY. I do not know. There may be some who are not, I am not sure.

Senator BARRETT. Without objection, the letter may be received.

(The letter referred to follows:)

MAY 15, 1953.

Mr. JOHN MADDEN,
Willard Hotel, Washington, D. C.

DEAR Mr. MADDEN: In compliance with your request, the following information is given you concerning the revenues collected by this Department from the Louisiana coastal areas.

The only revenue received by this Department from the Louisiana coastal areas, which were originally leased by the State of Louisiana during the period from 1945 to 1948, and included in the injunction in case No. 12 original, *United States* v. *State of Louisiana*, is severance tax on oil and gas produced in the area which amount to a total of $4,183,028.64 and which revenue represents the severance tax on the seven-eighths working interest.

You are further advised that the eight coastal parishes of the State produce 56 percent of all of the oil and gas produced in the State.

You are further advised that this State has not knowingly collected severance taxes on areas considered beyond the seaward boundaries of the State. In view of the fact that these boundaries are not definitely established, it cannot be stated with certainty just what areas the revenue is derived from.

Very truly yours,

JOHN B. SMULLIN, *Chief Counsel.*

Senator LONG. I did want to know a little more about your radio cost. That is not a cost on dry land, is it, to maintain a radio station?

Mr. PARKS. It is a slight cost; yes, sir.

Senator LONG. What is the difference in the sea? How expensive is that radio expense of yours to maintain communications back and forth to a well?

Mr. PARKS. When I said communications, I included not only that but the surface communications that take place when a person goes out on a boat.

Now, the radio communication is more expensive to operate offshore only in that you have more trouble. You have a more moist atmosphere out there and you need more service on equipment. It costs more to get service people around from one area to the other. From that viewpoint it is several times as high, I feel quite sure, as it is on dry land. On the other hand, that is not a critical cost of operation.

Senator LONG. What sort of radio watch do you maintain? Do you maintain somebody 8 hours a day or longer than that?

Mr. PARKS. We follow the rules of the Federal Communications Commission on that. We use the frequencies that are assigned to us and licensed operators whose classes I do not recall, but the radio operators are not required to be highly technical or highly skilled men there. Really, they are just people registered with the Federal Communications Commission.

THE MINERAL LEASING ACT OF 1920 AND THE CONTINENTAL SHELF

Senator MALONE. Mr. Parks, reverting to your testimony about the depth to which you can drill, how long ago was it when it was either not considered feasible or not seriously considered to drill in the open sea at all, that is, beyond a depth of only a few feet of water?

Mr. PARKS. I am having to draw on my memory. My company made an attempt in the 1930's at costs that were considerably less than the ones we are talking about now.

There was shallower water, and at distances off shore where we were in most cases able to build trestles out to them. At that time after those operations the consensus of opinion was that we would never go back into offshore water again.

Senator MALONE. You are an engineer?

Mr. PARKS. Yes, sir.

FEASIBILITY—A RELATIVE TERM

Senator MALONE. Although I have been in the engineering business for 30 years, I know very little about petroleum geology, and the petroleum business. I have been engaged in an entirely different phase of engineering. But I was very much impressed by your method of approach. As far as engineers are concerned, feasibility is a relative term, is it not?

Mr. PARKS. Yes, sir.

Senator MALONE. If they give you the amount of money to operate on and tell you what they want to accomplish, you tell them whether it is feasible under those conditions?

Mr. PARNS. Or not feasible.

IF A MINERAL IS VALUABLE ENOUGH, ENGINEERS WILL GET IT

Senator MALONE. I bring that up because in 1950, 1949, 1951, I visited again the Pacific coast area where a certain amount of drilling was going on. I was consulting engineer on flood control in 1935 or 1936 and saw all that coast before there was very much development. Then I went back. I saw things done there that had not been considered feasible during the thirties. In talking to some friends of mine in the engineering business, I asked them the question whether or not it would be feasible to drill at much greater depths offshore. Their answer was typical of any engineer. They said whenever it becomes valuable enough, we will get it. Do you agree with that statement?

Mr. PARKS. I think that is correct.

Senator MALONE. In other words, Mr. Parks, all of the minerals that have been mentioned like sulfur, phosphate, and other minerals that are supposed to exist offshore and are known to exist, when they become valuable enough, engineers given enough money will get the material.

Mr. PARKS. I think there is one other phase to that which you recognize and that is the reduction of cost of doing these things through improved techniques. We are optimistic that eventually we shall be able to reduce some of these costs, but it is only from the viewpoint that human beings in the past have always been able to do things better the second, third, fourth, and fifth time than they did the first time.

FUNDS FOR DISCOVERY AND DEVELOPMENT—DETERMINING FACTOR

Senator MALONE. Of course that is taken for granted. The more you do a certain job the more shortcuts you find in contracting and engineering and the men in the business get the advantage of the improvements in technique. But generally speaking, feasibility is a relative term and whenever there is enough money available, it is your opinion that those minerals and materials and oil and gas can be secured out there?

Mr. PARKS. I have no doubt about it.

Senator MALONE. Then it is just a question of degree, something you could not do on 80 cents a barrel in 1928; you can do now at $2.50 a barrel.

Mr. PARKS. We have a calculated risk that the industry is willing to assume, both on the present price of oil and on the price that it might be at some future date. We are living now on oil that was discovered and developed 10 and 12 and 15 years ago and we always have to look forward to taking care of what requirements will be.

Senator MALONE. I want to ask another question in that regard. All mine operators and drilling operators naturally are born gamblers, are they not, or they would not be in business?

Mr. PARKS. They are in a sense; that is true of any businessman.

Senator MALONE. It is getting more of a gamble with each piece of legislation we pass. I want to establish the fact, if it is a fact, and I believe it is, that what is feasible now may be only a beginning. If

the oil and other minerals become valuable enough and the engineers are furnished money enough, they will get them if they are there.

Mr. PARKS. I think that we will do that.

Senator MALONE. I have to go to another meeting at 3 o'clock. I am afraid I will not be able to be back for this one. If I might take 1 or 2 minutes more, Mr. Chairman, I would appreciate it.

Senator BARRETT. Proceed.

AN AMENDMENT TO INCLUDE SULFUR

Senator MALONE. Mr. Chairman, I wish to offer an amendment to this bill. I understood of course on Thursday that we agreed to start with a bill and discuss a bill that only included oil and gas, however, open to amendments through discussion. I just looked up the record. I made it a matter of record that there are several minerals, including phosphates, sulfur and 5 or 6 other minerals that were included in the Mineral Leasing Act of 1920. In order to get this matter before the committee, I am going to offer an amendment at this time that complies to a certain extent with he House bill. The bill which the House passed includes sulfur and some other minerals. That is H. R. 5134.

Now, that section 10, paragraph (k), says:

> Nothing contained in this act or any other act shall prevent the leasing of a particular area for oil and gas, and also, at the same time, and for the same area, for sulfur or other minerals, and no person having been granted a lease for any particular mineral shall have any preference right to a lease for any other mineral on account of a discovery of such mineral in the area covered by his lease.

I want to say in this connection, that the Minerals and Fuels Subcommittee, of which I am chairman, has already had a couple of days hearings, and will continue very shortly on the matter of coordinating or in some way facilitating the mining of uranium on lands already covered by oil and gas leases. It is a development not quite as simple as it looked at the start, and I do not believe it has a simple solution.

SULFUR LEASES

Mr. Chairman, in order to get this important matter of the production of sulfur, and I will not take the time of the committee now to discuss it—we all know that sulfur is used in many industries now and it is a necessary product and all the known deposits are not being depleted but several of them are—I will offer an amendment to S. 1901 that would make it possible for leases to be granted for the mining and production of sulfur.

Now, there may be other minerals which will be necessary to add to it, at which time I would like the privilege of offering amendments.

Senator BARRETT. I might call your attention to the fact that the next witness is going to be Mr. Fred Nelson, the president of Texas Gulf Sulphur Co. He is interested in that same amendment.

Senator MALONE. I am glad he is. I will not be able to hear him. So I will offer that amendment now.

I hope then that Mr. Nelson, whom I do not know, will discuss it in some detail, because I consider it a very important matter.

RUSH LEGISLATION IS DANGEROUS

I also consider that phosphate is important. I say again, as I did on Thursday—I missed the Saturday meeting due to a prior engagement—that there is a danger always in rush legislation, such as this, of affecting the production of other minerals and materials which the committee does not have any intention of affecting at all.

Senator BARRETT. Would you mind telling the committee of the nature of your amendment Is it just adding different minerals to the House bill?

THE SULFUR AMENDMENT

Senator MALONE. I would add it at this point, at section 8, it would be then section (c) and then section (c) would be (d), and so on, on page 15 of this S. 1901. I will read the amendment:

(c) In order to meet the urgent need during the present emergency for further exploration and development of the sulfur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest bonuses on a basis of competitive bidding sulfur leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this act, and which sulfur leases shall be offered for bid and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

URANIUM MINING PRESENTS A PROBLEM

I might degress right at that place to say that is the problem we are having with the uranium mining. The oil and gas leases apparently preclude a legal location under the 1872 Mining Act. In other words, it does not say that the oil and gas lessees have any right to mine uranium. It develops that you cannot perfect a patent on a mining claim located on top of an oil and gas lease. Therefore, to all intents and purposes it is illegal. We are holding hearings without getting into the changing of the Mining Act of 1872, which has a long line of decisions behind it and everyone knows what it means.

KNOWN SULFUR IN THE AREA

I note that if oil and gas leases are provided for here without mention of any other minerals, the same thing might easily happen in this area. There are known sulfur domes in this area, I am informed, and this certainly would not hinder any oil and gas leasing, by any company holding a lease for oil and gas.

Now, section (d):

A sulfur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of ten years and so long thereafter as sulfur may be produced from the area in paying quantities, or drilling, well reworking, plant construction, or other operations looking to the production of sulfur, as approved by the Secretary, are conducted thereon, (3) require the payment of a royalty of not less than 5 per centum of the value of the sulfur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe in advance of offering the area for lease.

Mr. Chairman, I simply offer the amendment as a basis and I presume Mr. Nelson then will discuss something on the subject matter. It

is to prevent the very thing that has happened in the Oil and Gas Leasing Act as far as mining uranium is concerned.

THE MINERAL LEASING ACT OF 1920

Now, as I have said before and did say on Thursday of this week, we have a Minerals Leasing Act of 1920 that provides for the extractions of these minerals, it provides for oil and gas leases. The Secretary of the Interior simply ruled it is not applicable to the sea-bottom lands, there is some weird construction in the language as to why the act was not applicable. Action was immediately brought against him by individuals who had filed on the sea-bottom land, some of them under the National Oil and Gas Leasing Act. The case has been argued. It is now in the Supreme Court for decision.

NO ADDITIONAL LEGISLATION NEEDED

So it could develop we have all the legislation we need, if that decision is against the Secretary of the Interior. Even if it were for him, a simple amendment to the Minerals Leasing Act would permit you to do everything on the Continental Shelf you can do in New Mexico. So I merely bring these things to the attention of the committee at this time just for purposes of discussion.

Senator BARRETT. Thank you very much, Senator.

Senator LONG. Could you give us a breakdown on the number of employees your company has connected with this operation at sea and how many of those, if any, live out actually on these platforms in the sea?

When your people spend this money going out to look for oil and you do not find oil but find sulfur instead, what is the view of your company on that?

Senator BARRETT. Would you mind holding that up? That will take quite a bit of time. He will answer that at 2:30.

(Whereupon, at 12:25 p. m., a recess was taken until 2:30 p. m.)

AFTERNOON SESSION

Senator BARRETT. The committee will come to order.

Mr. Parks was on the stand when we recessed this morning. Do you have some questions you would like to ask Mr. Parks, Senator Daniel?

Senator DANIEL. Yes; I would like to bring out a few more points as to the nature of the operation. Some of them might have been covered while I was gone to the Supreme Court. If so, you can tell me.

First, I would like to ask how the platform is tied into the bed of the sea, as to about what depths the piling goes in. Your illustration a little while ago about the low stool and the high stool would leave an indication which I know is not correct, and that is that they just sit on the bed of the sea. But actually you drive that piling pretty deep into the ground?

STATEMENT OF MERCER PARKS, PETROLEUM ENGINEER, HUMBLE OIL & REFINING CO.—Resumed

Mr. PARKS. The conventional procedure is to drive quite deeply, depending upon the nature of the soil in place and the nature of the

load that is to be supported. That is an engineering problem. As an instance of what has been done, we might cite the large self-sufficient platform of which we had the picture. Those pilings were driven, if my memory is correct, 195 feet into the mud. They extend up through 45 feet of water, and then 30 feet above the water. We have, however, raised the height of future platforms to 40 feet, in from 40 to 60 feet of water, based on the experience that 1 operator had with a platform that was set lower than ours who experienced some storm damage from the waves striking up from underneath it.

Senator DANIEL. How far is your platform from the water in the picture that you showed us this morning?

Mr. PARKS. That is 30 feet there. We have come to the conclusion though that our future design shall be 40 feet and if we go into still deeper water, it may be necessary to increase the height above the water still more.

Senator DANIEL. What is your depth of water underneath the platform?

Mr. PARKS. Under that particular one it is 45 feet.

Senator DANIEL. So for 75 feet above the seabed you have driven the piling or pipe supporting the platform how much?

Mr. PARKS. About 195 feet.

Senator DANIEL. Into the soil?

Mr. PARKS. That is right.

Senator DANIEL. Now, the smaller platform that you showed us this morning, about how far did you drive your supporting pipe or your foundations into the soil?

Mr. PARKS. I do not remember definitely, but it was something of the same magnitude. You see, among our heaviest loads are our derrick with the pipe and the drilling line pull of full derrick capacity.

Senator DANIEL. Over 100 feet even on the smallest one.

Mr. PARKS. Yes; I am positive of that. It is the concentration of the load rather than the areal extent of the platform that determines the depth of the piling.

Now, a soft soil will require a greater pile penetration to carry the same load than does a firmer soil. So it would depend for any particular location on both, the amount of load that had to be carried and the ability of the soil to take that load.

Senator DANIEL. So far you have found that that will require you to go more than 100 feet below the seabed to find some firm soil?

Mr. PARKS. That has been our experience in the Gulf of Mexico.

Senator DANIEL. So they are fixed structures then tied to the seabed?

Mr. PARKS. They are not movable as a unit, no, sir.

Senator DANIEL. Now, what kind of lights and markers and buoys do you put up and with what Government agency do you deal in finding out what kind of safety devices to put out?

Mr. PARKS. The Army engineers, of course, control hazards to navigation under which classification platforms fall. They call for lights and other signals which comply with Coast Guard specifications.

Now, the normal lights that we require to operate by when a platform is being used, according to my recollection, is a sufficient marking for them, for their regulations. When a platform is left unattended, as is the case, say, when you get production, there is a prescribed lighting system there and they have a foghorn system.

Senator DANIEL. Is that the Army engineers or Coast Guard?

Mr. PARKS. The Army engineers.

Senator DANIEL. Do you deal with the Coast Guard so far as you know on those warning devices at all?

Mr. PARKS. I believe so far as I recollect, the Coast Guard regulates our transportation, our floating equipment for safety of life at sea, but they do not take jurisdiction on our fixed equipment, except as noted above.

Senator DANIEL. If you find anything different on that, you will advise us, will you?

Mr. PARKS. Yes.

Senator DANIEL. The committee has been told that maybe the Coast Guard outside of the 3-mile or 3-league limit might have some regulations there even as to the fixed structures as far as safety devices are concerned. You probably are correct in your memory, but we would appreciate it if you would check it for us.

Now, it would appear that a great bulk of this operation on offshore drilling is carried on on the shore. Have you told the committee about all that is done at your shore base? I believe you told us at the shore base you had communications and you had warehouses and the men had billets, you had docks and wharves. What else do you do at the shore base?

Mr. PARKS. That shore base, of course, is not a static situation. There is a constant stream of material and equipment passing through there and as equipment becomes defective or needs repairs that cannot be made on the job, why, we have to bring things in from out there and take them back still further ashore for repair work.

Senator DANIEL. The whole operation is an operation from shore to the drilling platform.

Mr. PARKS. That base is the funnel.

Senator DANIEL. You could not carry on the drilling operations in your outer continental shelf without your cooperation from the shore or having your facilities on the shore to supply you, could you?

Mr. PARKS. I would say it would be almost impossible. There again, you have the limitations of finances.

Senator DANIEL. Do you agree with the proclamation of President Truman on this continental shelf that it is necessary to have cooperation from the shore in order to discover and develop these resources properly? I believe that is what he said here in this proclamation, saying that is why this nation ought to have the resources instead of all the nations of the world have them.

Mr. PARKS. I would rather put it on the basis of my own conclusion.

Senator DANIEL. I certainly have no objection. You agree that that is necessary?

Mr. PARKS. I agree with you, yes, sir.

Senator DANIEL. Now, what about your production storage? Is that on shore, too?

Mr. PARKS. Partly. It depends on the circumstances. Under the present mode of operation our company has not developed a sufficient reserve to justify the large expenditure of building a pipeline for transportation. In that sort of circumstances it means that we must have some sort of storage at the offshore location and also some storage ashore. We have used floating barges at the location for the storage

there. However, there is a considerable percentage of the time, depending upon the location, where we are unable to maintain a connection between a platform and a barge in rough weather. In those locations it has been necessary to go on the platforms which were originally built for drilling and to build tankage of somewhat similar nature to that ordinarily found on land enough to accumulate a barge load. We happen to use barges that will haul from 3,000 to 10,00 barrels, as I recall the figures, and we put enough storage on location to accumulate a load for a barge. Then we are able to run out there and in a few hours' time, load up and come back in.

That sort of operation requires some storage on land for seagoing barges to discharge into, and from which the inland barges fill to carry on to the points of refining, or from which a pipeline accepts delivery.

Senator DANIEL. In other words, ultimately you have some temporary storage tanks maybe out on the platform, but ultimately your movement of the oil is to the shore, is that correct?

Mr. PARKS. Very definitely.

Senator DANIEL. That is true, is it not, of all the oil being produced in the gulf now? Is that not all coming by pipeline or barge to the adjacent shore?

Mr. PARKS. So far as I know, there is no movement in any other direction.

Senator DANIEL. Is it not true that they all have storage tanks on the shore?

Mr. PARKS. I would rather not make a broad statement about other people's operations. I am positive they have to have that or the equivalent.

Senator DANIEL. And all of the operators out there in the outer Continental Shelf do have their land bases like you talk about, it is necessary to have that on the shore to sustain your operation out in the water?

Mr. PARKS. That is right.

Senator DANIEL. Now, how many holes have you drilled from the large platform you showed us this morning?

Mr. PARKS. My recollection is not positive on that. I think it is 3 or 4.

Senator DANIEL. Are they producing wells or not?

Mr. PARKS. Some of them are and some of them were dry holes. Of course, when holes were dry we sometimes came back up and did what we call sidetrack. We shoved the drill off in another direction in an attempt to gain production.

Senator DANIEL. Did you find one or more reserves drilling from that platform?

Mr. PARKS. I believe we did.

Senator DANIEL. Were they much better than the reserves you find on shore?

Mr. PARKS. No, sir.

Senator DANIEL. Have you found anything thus far to indicate that you are going to find reserves which are enough better out here on the outer Continental Shelf than what you would find on land to justify that extra expense?

Mr. PARKS. Our exploration has been too limited to say anything on that. It is my understanding that the geophysical pictures are better in some cases than many many of the ones that are found on shore.

Senator DANIEL. But not as good as some others that have been found on shore, is that not correct?

Mr. PARKS. The geophysical picture looks good. The only way you can tell whether the geophysical picture is any good is to get out there and work, maybe all the way around it. Where we drilled 3 or 4 wells from 1 platform on 1 large geophysical picture it might take several times that many to define that field on land.

Senator DANIEL. Regardless of how many geophysical pictures you have, the only way you can find out whether you have oil down there is to put the bit down in the ground and go down to it.

Mr. PARKS. We have found only that way.

Senator DANIEL. That is the only way you can be sure about it, is it not?

Mr. PARKS. Yes, sir.

Senator DANIEL. As a matter of fact, the companies have spent a lot more money out there in the last few years than they have been able to recover from production, is that not true?

Mr. PARKS. Yes, sir. That, however, is the case in almost all early exploration efforts in oil fields. Whether it is a shore or offshore, that is true. You have to spend quite a bit of money to get ready.

Senator DANIEL. Do you have the figures as to the total expenditures the companies have made in the gulf?

Mr. PARKS. I have figures that I think are——

Senator DANIEL. Around 300 million.

Mr. PARKS. Of that magnitude. Certainly we do not have access to all of the other companies' records. We have a certain scattered interchange of information, but we know about from our own costs. Our estimates are a little bit lower than your 300 million, they run around $261 million.

Senator DANIEL. What is the total recovery to date?

Mr. PARKS. I think it is $51 million. That is dollars worth of product, which I am quite sure does not take into consideration the operating expenses. That does not represent a net profit.

Senator DANIEL. Are the men who work out there on the platform billeted on shore and live on shore?

Mr. PARKS. Their residence is on shore, yes, sir. They will stay out on location for several days at a time, but their families live back on the shore and when they have worked their schedule for a week or for 2 weeks, they are off a certain amount of time to go back and be with their family or do whatever else they wish.

Senator DANIEL. I believe that is all.

Senator BARRETT. What is the estimate of the production from these wells that produce $51 million in all?

Mr. PARKS. The daily production now?

Senator BARRETT. No, the estimate potential.

Mr. PARKS. The ultimate?

Senator BARRETT. The ultimate.

Mr. PARKS. I do not really have any idea on that.

Senator BARRETT. I was asking about barrels that it was estimated would be produced from that area. I was wondering whether it

would be enough to recover the $261 million. That is what I was driving at.

Senator DANIEL. Your total recovery, as I understand it, of all your companies up to date has been $51 million?

Mr. PARKS. That is right.

Senator BARRETT. I was asking how much they might anticipate could be recovered in the future from that same operation.

Mr. PARKS. We have not been able to do enough drilling to outline the reserves.

Now, on a structure the size that we built this large platform on first, if it were on land, it would probably by this time it would be developed with maybe 75 wells. There is no exact method of figuring reserves, but it is rather simple in principle. It is really arithmetic, the figuring out actual volumes from sand, thicknesses areas, volumes in place, and estimated recoveries.

Senator BARRETT. When we recessed this morning, Senator Long had addressed a question to you. Can you answer that now without having it repeated?

Senator Daniel. Before you go into that, for the record, why was all this development stopped? Who stopped it?

Mr. PARKS. The development was stopped when the difficulties arose as to the title.

Senator Daniel. When the Federal Government sued the States?

Mr. PARKS. When the Federal Government sued the States and on the basis of the adverse decision.

Senator LONG. I can not recall the question I asked you.

Mr. PARKS. We went back over it a minute ago and I think I have it. The number of employees of course would vary according to the amount of work that is being done. Probably for each drilling rig the people that would work on that rig most of their time—I mean at a 40-hour week—would number about 40 people. They are involved directly with that rig's work.

There are people in service organizations and there are people in our own staff, technical people, who find it necessary to spend time on the job out there. Then you have your shore personnel which are required to support the project. So you could figure on a rather modest operation of two or three rigs that you might run up to 150, 200 employees without a great deal of trouble.

You asked also about their living on the platforms. It is possible I answered the question in answering Senator Daniel's query on that. Nobody is domiciled offshore. They do have bunks where they sleep during the days of work, probably 4 or 5 days a week. Then they have their days off ashore until their next week's work starts.

Senator LONG. They usually work one workweek out there and then come back in?

Mr. PARKS. It depends entirely on the agreement that the organization and its employees have. My company happens to work men 40 hours and then give them their time off. Under the system they work they get that 40 hours in in four days. It gives them 4 days out there and 3 days off each week.

Senator LONG. This might be a difficult question to answer, I know. I was wondering if you could give me some idea as to the number of

people that might be involved in this operation insofar as you would visualize the industry being expanded on the Continental Shelf.

Mr. PARKS. I could hazard a guess, Senator, but I think probably anybody would be as well qualified to guess at that as I am because nobody knows how big the operation might get.

If it developed into a drilling boom, as was developed in some areas of the country, there could be thousands of people involved in it. If, on the other hand, it went at a more sedate pace, why, a very few thousand, I would say, would be involved there.

Senator LONG. It would be difficult to guess just what the numbers might be?

Mr. PARKS. I think compared to the petroleum industry, or industry as a whole, it would not be a large percentage. It would not be a large percentage of the production operations personnel.

Senator LONG. Why would you think there would be less now? Is that based on your theory there is only a number of oil fields that would be economically feasible there?

Mr. PARKS. Yes, sir, and the fact it is going to be important to digest the information that comes from the development of these. People will hardly feel like doing as they do sometimes on land, throwing a group of drilling rigs in and drilling on several wells at one time, because wells will be expensive and it will be necessary to have the information from well No. 2 before you drill well No. 3 and information from No. 3 before you drill No. 4.

Senator LONG. By contrast, on dry land you might have several wells going in a field all at the same time?

Mr. PARKS. It is more likely. I am not saying we would not have several rigs out there because, if you get a drilling proposition that offered no particular problem to look ahead, that would be the economical way to drill it.

But you would have to be well assured that you would hit a high percentage of productive wells in that case. You could not go out there and risk drilling three or four expensive dry holes just for the sake of speeding the program up.

Senator LONG. Do you erect those platforms in the sea on the site or do you attempt to fabricate them totally or partially on land before you go out there?

Mr. PARKS. They are partially prefabricated. It depends to a considerable extent on the design of the particular company. Naturally, it is cheaper in most instances to do all the work possible on land. There are many reasons for that.

Senator LONG. It always occurred to me you might have difficulty in driving piling in 30 or 40 feet of water particularly if the sea was anything other than just glassy.

Mr. PARKS. It does not have to be glassy, but there is definitely a state of sea that will preclude operations. It of course varies with the type of operation you carry on and the type of equipment you have out there. I believe we have had some cases where there have been days at a time where you could not drive piling out at sea.

On the other hand, there has been a high percentage of time we could work.

PRODUCING WELLS ON THE CONTINENTAL SHELF

Senator MALONE. Mr. Parks, how many wells do you estimate are producing or would be ready to produce out in that area? I understood you to say that $261 million had been expended and $51 million recovered. How many producing wells have been drilled out in that entire area? I understood also that these figures for expense and recovery included other companies besides your own.

Mr. PARKS. May I refresh my memory a little bit here?

Senator MALONE. Yes.

Mr. PARKS. I think I have a little summary of those statistics. There have been 241 holes drilled, of which an even 100, according to our account, have been oil wells.

Senator MALONE. Producers?

Mr. PARKS. Producers. That does not necessarily mean they would be good producers.

Senator MALONE. What would be the range? From what number of barrels to what number of barrels?

Mr. PARKS. We do not——

Senator MALONE. What is the largest one you know about?

Mr. PARKS. I do not believe any of them have received an allowable of four or five hundred barrels a day.

Senator MALONE. What would be the smallest that would be commercial, if you have 100 commercial producers there?

Mr. PARKS. It might be kind of hard to argue that any of them are commercial in view of the small amount, relatively small amount of money back.

LOOK TO THE FUTURE

Senator MALONE. I do not understand that any of you are canceling your leases. Let us talk about the future, what are you out there for, and are you satisfied with the producers you have found?

Tell me something about it.

Mr. PARKS. No, I do not think we are entirely satisfied with the producers, but nearly all of them represent initial attempts to develop production in a reservoir. We have not any places where we have really outlined a reservoir out there. If you get a well that is not particularly easy to produce in a situation like that, you go ahead and worry along with it, eventually thinking that further exploration in that reservoir will develop a reserve that is worth while. If it does not, certainly you do not keep operating such wells.

Senator MALONE. Is that not customary procedure in all oil fields?

Mr. PARKS. I think so.

Senator MALONE. How does that 241 wells with 100 producers compare with other oil fields that you know about, the average let us say?

Mr. PARKS. May I add one other thing on the producing wells? Those are the oil wells. There are 43 gas condensate wells in addition to those.

Senator MALONE. That makes 143.

Mr. PARKS. 143 out of 241, I do not recall what the industry's average is. I think though that it is in the same magnitude as the industry's success.

Senator MALONE. You expect to get a certain number of dusters, you do not expect oil in every hole you drill?

Mr. PARKS. Pardon?

Senator MALONE. You are expecting to get a certain number of dusters?

Mr. PARKS. It is a calculated risk and in all calculated risks there are some failures.

Senator MALONE. If you get 43 gas producers and 100 producing oil wells, do you not think that compares rather favorably?

Mr. PARKS. That certainly gives grounds for hopes that we might have a going proposition out there eventually.

Senator MALONE. Yes, it keeps them from canceling the leases.

Mr. PARKS. Yes, sir.

THE PUBLIC LANDS ON THE CONTINENTAL SHELF

Senator MALONE. That was the point.

Now, suppose that it developed that this being public land out there—now I think we have finally reached the public lands out beyond the State boundaries—and it developed that the Mineral Leasing Act was applicable to the land. The Secretary of the Interior said suddenly when the Supreme Court declared the sea bottom lands from mean lowtide to the historic boundaries public lands instead of State-owned lands that the Mineral Leasing Act was not applicable. Supposing it developed through court decisions or amendments to the Mineral Leasing Act that this Mineral Leasing Act was applicable to those lands, would your company have any objection to leasing from the Government? Do you have any preference in this matter or could it be handled just like you handled it on all other public lands, as in the State of Wyoming, Montana, Nevada, or any place else on public lands?

Mr. PARKS. I am not familiar with that statute, Senator, so I am not prepared to answer.

Senator MALONE. Does Humble Oil Co. not operate on public lands other than on sea bottom?

Mr. PARKS. Yes, sir.

Senator MALONE. Who handles that particular part of it? You are not familiar with it? Is he here?

Mr. PARKS. No, sir.

Senator MALONE. Does he intend to visit Washington?

Mr. PARKS. We could get somebody here.

Senator MALONE. I believe it would be a good idea.

Mr. PARKS. I think probably that situation might have been covered at a previous hearing in which Mr. Hines Baker testified.

Senator MALONE. When would he have testified?

Mr. PARKS. I do not recall the date on that. Mr. Gray can tell that.

Mr. GRAY. 1949 in the Eighty-first Congress.

Senator MALONE. Did he testify on these lands that are now under investigation?

Mr. GRAY. Yes, at some length.

Senator MALONE. Would that testimony be valuable now to answer this question I have just asked? You are an attorney for Humble Oil Co.?

Mr. GRAY. No, sir.
Senator MALONE. You are an attorney?
Mr. GRAY. No, sir.
Senator BARRETT. He is assistant to the president.

CONTINENTAL SHELF LEASED BY ADJACENT STATES

Senator MALONE. You are now leasing from the States in all cases out on this bench, which is presumed to be beyond the historic State boundaries, are you not?
Mr. GRAY. We did lease before the lawsuits were filed.
Senator MALONE. You still have the leases?
Mr. GRAY. We still have the leases; yes, sir.
Senator MALONE. Do you consider the leases good?
Mr. GRAY. We have a lot of money invested and we hope to have an opportunity to find out if they are good.
Senator MALONE. You have leased from the States, you still have the States' leases, you have done all developmental work under the State leases; is that true?
Mr. GRAY. Yes.
Senator MALONE. Supposing it developed that these being public lands—the difference being they are covered with water, that is the only difference between those lands, if they are public lands, and the lands in Wyoming, Colorado, Montana, and Nevada—supposing the Mineral Leasing Act with proper amendments were made applicable to this land on the Continental Shelf.
Mr. GRAY. I think that would depend entirely on what amendments were adopted.
Senator MALONE. Just suppose it were made applicable and you would have to pay then 12.5 percent royalty just the same as I suppose you are paying now and in known areas there would be a bidding arrangement. I understood from the distinguished Senator from Texas and from Louisiana that there are higher prices paid out there under the State leases than normally under the Federal leases.
Mr. GRAY. That is because the competitive-bidding system prevails in those two States.
Senator MALONE. The competitive bidding system is supposed to prevail in known producing areas?
Mr. GRAY. I believe so; yes.
Senator MALONE. Now, what is the difference? One would be the same to operate under as the other.
Mr. GRAY. There would be no difference in the price of the lease. I think the bidding would be in the same manner.
Senator MALONE. What would be the difference? Would it not be satisfactory to you?
Mr. GRAY. I think there are many other provisions of the Mineral Leasing Act that would not be applicable.
Senator MALONE. What are they?
Mr. GRAY. I would like to refresh my memory on that point.
Senator MALONE. I would like you to take your time and make it part of the record.
Mr. GRAY. The Mineral Leasing Act, insofar as proven areas are concerned, I do not believe would be any different. It is in the non-

proven areas where you do not require competitive bidding on public lands.

Senator BARRETT. There is only one difference, I might say, between the leasing under the Oil and Gas Leasing Act and the State leases. It is in respect to the acreage. Under the leasing acts you cannot have in excess of 640 acres on a proven structure. As I understood the Senator from Texas this morning, you can have as much as 1,440 acres on a producing structure; is that right?

Mr. GRAY. 1.440 in a single lease. That is the maximum for Texas leases and 5,000 is the maximum that Louisiana has leased in a single lease. But you could have more than one lease on a proven structure.

Senator MALONE. The same company?

Senator BARRETT. Yes. The only limitation is in one lease. The Mineral Leasing Act, if I am not mistaken, provides for 640 acres on a known producing structure.

Mr. GRAY. I believe that is correct.

Senator DANIEL. But it does not provide, does it, that the company cannot buy more than one 640-acre lease?

Senator BARRETT. I think it does on the given structure.

Senator MALONE. That we can determine.

Senator BARRETT. The way I remember the Mineral Leasing Act, you can have a noncompetitive lease of 2,560 acres, you can have a total of 15,360 acres in a State, and you can hold options on 100,000 acres in a State in addition to 15,360 acres of leases which are for a period of 2 years, but over that period of time if you are operating you have to confine it to the 15,360 acres. Am I right, Major?

Major JAMES J. COSGROVE (chairman of the Board, Continental Oil Co.). That is my recollection.

Senator BARRETT. I am directing my question to Major Cosgrove. What about the limitation?

Major COSGROVE. It formerly was 2,540 acres on any one structure running to 7,680 acres in 1 State. That was enlarged up to 15,360 acres and an option of 100,000 acres.

Senator BARRETT. As I remember, under competitive leases you could not have in excess of 640 acres on a proven structure, am I right?

Major COSGROVE. That is my recollection.

SMALLER ACREAGE UNDER A FEDERAL LEASE THAN A STATE LEASE

Senator MALONE. Then your objection would be confined to the point that there would not be enough acreage allowed under a Federal lease as compared to the number of acres allowed under State lease?

Mr. GRAY. Yes, I think the 15,360 acres is too small. I do not think that small amount of acreage would encourage anyone to spend the money to go out there.

Senator MALONE. What would be the minimum acreage in your judgment?

Mr. GRAY. I do not think there should be a limit.

Senator MALONE. How many acres do you have under lease out here where you are operating?

Mr. GRAY. I have promised to furnish that material to the committee. I do not have it with me.

MINERAL LEASING ACT OF 1920 COVERS SEVERAL MINERALS

Senator MALONE. The purpose of these questions, of course, is that we do have the Mineral Leasing Act. It seems to cover anything that is necessary on public lands with the possible exception of the amount of acreage under water that would be necessary to induce development, and it also includes other minerals, like phosphate, sulfur, and various other minerals that have been added from time to time to this Mineral Leasing Act and minerals which we understand are found, a number of them, in this area.

Now, that is the reason that a National Mineral Leasing Act might be very important for the development of other materials beside merely oil and gas. Would you have any objection to that?

Mr. GRAY. I have no opinion in respect to other minerals. I know nothing about them. I am primarily interested in oil and gas.

Senator MALONE. You do not have any idea, at least you would not object to any lease for oil and gas that excluded and gave you no right to any other minerals at all except oil and gas?

Mr. GRAY. All of the pending bills and all of those that have been before the Congress in the last several years relating to the Federal leasing of the area outside of the State boundaries, none of them have included anything but oil and gas.

Senator MALONE. Well, the National Mineral Leasing Act does include other minerals and very simple amendments could make it applicable to this public land area, there is no question about that. It is a question as to whether there are legitimate objections to it.

Mr. GRAY. One legitimate objection would be to the extent that the operation of these other minerals might interfere with the prior leases. I have a lease for oil and gas and you come along and get a lease for something else. I think our surface rights should be protected against interference by reason of your operation.

Senator MALONE. I think in the National Oil and Gas Leasing Act the surface rights are protected.

Mr. GRAY. I think that is true.

Senator MALONE. In other words, when there are more than two leases, it is so provided, is it not?

Mr. GRAY. It is up to the discretion of the Secretary, I believe, Senator.

Senator MALONE. The Secretary has discretionary power. I am not sure. At least you are protected?

Mr. GRAY. We hope so.

OIL AND GAS LEASE WITHDRAWS LAND

Senator MALONE. Now, there is a purpose in this questioning. We have the same trouble now before the Minerals and Fuels Subcommittee, of which I am chairman. We are having difficulty in Colorado and Utah because of the fact that there are numerous oil and gas leases covering vast areas and it develops that a mining claim under the 1872 act cannot be carried to patent if subsequently filed on the same area covered by one of these leases.

Now, several attorneys have testified to the fact that a filing, if it cannot be carried to patent, is invalid. So we are trying to work out something now that would allow the mining of uranium ores and

still not interfere with the oil and gas development by a lessee. It does not seem that it ought to be very difficult, but we get into various legal technicalities. It looks like we ought to try to avoid similar incidents before we pass another act.

Mr. GRAY. I have not studied that question, Senator, and I am not prepared to express an opinion. But if you contemplate protecting the interest of the oil companies, particularly their surface rights, I am sure that the Congress could work out something that would be satisfactory.

Senator MALONE. In other words, you would have no objection under the National Gas and Oil Leasing Act, if it became applicable, nor under the State laws to lease for other minerals so long as such leasing would not interfere with your production of oil and gas?

Mr. GRAY. As I said, I have not studied it. There may be angles I am not familiar with. Offhand, I see no objection so long as the oil and gas lessees' interests are amply protected.

OTHER MINERALS MUST BE INCLUDED IN ANY LEGISLATION

Senator MALONE. The House bill, as just passed, is somewhat comparable to this legislation, but it includes other minerals. This one does not include other minerals. It is simply an oil and gas leasing act. If we pass this bill without taking into account the other minerals and you obtain the leases in accordance with this bill, would we not then be in the same trap that we are now in on uranium mining by trying to pass something later that we would be unable to make retroactive?

Mr. GRAY. I cannot answer, Senator Malone, because I know nothing of the minerals that may exist out there, the minerals that might be recovered out in the water as compared with land. I can understand the fact that you might be able to locate and mine minerals on land that you could not locate and could not mine in water. I am not familiar with it.

Senator MALONE. I think you can assume, since you are an expert in oil and gas, that there are other experts who say there appears to be sulfur and phosphate, at least sulfur out there, in some of these domes, and it can be mined. Now we have to assume, then, that you are all correct in your predictions. If we give the oil and gas lessees a lease without any safeguards whatever, and that is what this Senate bill 1901 does at the moment, then could you not prevent the people wanting to mine these other minerals from proceeding, just like they are apparently doing now out in Colorado and Utah?

Mr. GRAY. That is a question I cannot answer. I do not know whether we can hold them out or not.

Senator WATKINS. Would you object to their coming in and doing some exploring and developing of sulfur deposits, for instance, on the same structure?

Mr. GRAY. As I stated a while ago, Senator, I am not familiar enough with the mining industry to visualize what might happen, but offhand my opinion is, so long as they do not interfere with our operations.

Senator WATKINS. You would not object to a bill that would permit them also to be able to develop the areas for sulfur and other minerals?

In other words, there should not be a priority or preference given to oil and gas over other activities that might be needed for the national defense?

Mr. GRAY. I think that might be left to the discretion of some official in the Government, so that he might determine the magnitude of one against the magnitude of the other, which is the most important.

Senator WATKINS. Why should not the Congress fix the priority? That is what I want to find out.

Mr. GRAY. If I had a lease on an area and developed it for oil and gas and you have another lease from the Government for another commodity, so long as the development of that commodity did not damage our operation, I cannot see where we would have objection.

Senator WATKINS. Of course, under the guide given by Congress that the Secretary of the Interior should lay down regulations and permit both activities.

Mr. GRAY. I am sure the regulations would protect both parties.

Senator WATKINS. You would not object to that sort of arrangement?

Mr. GRAY. I do not believe so.

Senator BARRETT. Do you have any objection, or would any of the oil and gas industry, to a provision in this bill that the granting of a lease on a given piece of land would not prohibit the execution of another lease for a different mineral on the same land, provided it did not interfere with your operation?

Mr. GRAY. That is my statement.

Senator MALONE. You have no objection to that?

Senator WATKINS. I do not know whether the chairman heard my questions of the gentleman a moment ago, with respect to their attitude if the bill provided that the Secretary of the Interior laid down regulations, where they had two types of drilling, whether he would have objection. As I got the answer, he said "No".

Mr. GRAY. I think Mr. Parks can tell you what problem he visualizes in connection with the extraction of other minerals.

OIL AND GAS LESSEES WOULD BE PROTECTED

Senator MALONE. I did not hear the answer to my last question. Would you have any objection if we wrote the sulfur and phosphate provisions in this bill, and any subsequent lease that followed the oil and gas lease would be subject to your rights, and would not interfere with them, would you object to having such a provision written in this bill? Then it would be similar to the bill passed by the House.

Mr. GRAY: I do not believe we would object, provided our interests were protected. As I say, Mr. Parks can give you a concept of what damage might result from the dual operation.

Senator MALONE. Well, you certainly do not want to preclude the mining of every other mineral in an area covered by an oil lease, when the dome or domes containing these minerals would probably cover a very small percentage of the area, would you?

Mr. GRAY. So far as there was no interference with our operations.

Senator BARRETT. I might say that I do not quite agree with my colleagues on this committee about the matter of the conflicts.

I think my good friend, the Senator from Nevada, is confused somewhat with reference to the problem that we have as to uranium.

Now, as I understand the difficulty with reference to uranium leases on oil and gas lands presently under lease, it is this: that wherever a placer claim is permitted at the present time under a mining lease, they can proceed to prove up on their claim and get a patent, which gives them a right to all the surface and all of the minerals under the surface. Consequently that would destroy the right of the Government to lease it for other minerals.

Now, where minerals are subject to lease only, and not to the patenting under the law of 1872, I do not think there is any conflict at all, but I believe it would be wise to write into the bill a provision to that effect, that nothing herein, no lease granted under this Act, shall in any way restrict the right of the Secretary of the Interior to grant a lease for the production of other minerals, as long as it does not interfere with the operations.

Senator MALONE. Mr. Chairman, on that point, before we get away from it, I had particular reference to mining claims, filed on top of oil leases. You cannot carry them to a patent.

Senator BARRETT. That is right. That is because, under the mining law you get an undestricted patent.

Senator MALONE. That is our problem.

Senator BARRETT. That is the problem, but that is not the problem under the sulfur lease. A sulfur lease comes under the Oil and Gas Leasing Act and you do not get title to the land. You just have the right to remove sulfur from the soil.

Senator WATKINS. And you have the regulations laid down by the Secretary of the Interior governing the operations of both the Oil and Gas and the Sulfur, and no one, I would say, under a circumstance of that kind, would have a priority over the other.

You see, there has been a suggestion that the sulfur lease or some other mining lease would have to be subject to oil and gas. I do not think that is proper. I think if you are going to lease, lease in such a way that each has rights.

Senator BARRETT. And no one interferes with the other.

Senator WATKINS. Yes.

Senator MALONE. But you would have to specify it in this bill.

Senator BARRETT. That is right.

Senator WATKINS. I think we are all agreed on that.

Senator MALONE. It is simply a measure of precaution to prevent the need for future legislation.

Senator WATKINS. I think the chairman is right when he says that under the regular mining law, when you get title to the surface, you get title all the way down.

Senator MALONE. So this bill is improperly written?

Senator WATKINS. It is a good piece to work from.

Senator BARRETT. Are you through then, Mr. Parks?

Mr. PARKS. Yes.

Senator BARRETT. Mr. Nelson, will you come forward? Please give your full name and your title with the Texas Gulf Sulphur Co.

STATEMENT OF FRED M. NELSON, PRESIDENT, TEXAS GULF SULPHUR CO., HOUSTON, TEXAS

Mr. NELSON. Mr. Chairman and gentlemen of the committee, My name is Fred M. Nelson and my home is in Houston, Tex. I am the president of Texas Gulf Sulphur Co., a large producer of crude sulfur.

We are vitally interested in the proposed law regarding the outer Continental Shelf for a very simple reason. This area is believed to contain important sulfur deposits.

In the hearings on Senate Joint Resolution 13, mention is made of a report issued in October 1952 by 18 competent geologists and engineers. This report states that assuming the submerged lands to have potentialities equivalent to the discoveries already made in dryland operations, the gross ultimate income from sulfur at $25 per long ton from the offshore lands, would amount to considerably more than $3 billion. This is some indication of the tremendous value of this national resource, in terms of money. The inestimable necessity of this natural resource to our economic welfare and to our national security, as well as its value to the economy of our free world, is incontrovertible.

I need not remind members of your committee that sulfur is a critical material in peace and war. Without it, under our present technology, our industrial machine would cease to function. Even in the postwar recent past it has been in short supply, and the subject of governmental allocation.

My company and others in the industry are now engaged in an effort to find additional deposits of sulfur in many parts of the world. Our company is particularly interested in sulfur here at home. It is sulfur here at home that counts for the most in time of war. It must be remembered that oil can be produced as soon as a well is completed, but sulfur production must wait upon discovery, ascertainment of the extent of the deposit, and the completion of extensive facilities; a process which takes a period of years.

Last Wednesday the House passed a bill (H. R. 5134) which contains a provision (sec. 10 (k)) providing for sulfur leases by the Secretary of the Interior on the outer Continental Shelf. (See Congressional Record, May 13, 1953, p. 5060.) Your committee is now considering a bill (S. 1901) providing in detail for the leasing of oil and gas, but making no provision for handling sulfur deposits.

It is generally believed that deposits of sulfur in the Continental Shelf will be found at varying depths down to 2,000 feet. They will occur on the top of the so-called salt domes. Deposits of oil and gas are found at a much greater depth on the flanks or flanges of these domes.

There is no reason why operations cannot be carried on for exploring, developing, and producing hydrocarbons and sulfur at the same time, in the same area. It is my earnest petition to you that provisions for oil and gas be retained in the bill now before you, but there be added an amendment providing for the granting of sulfur leases in a similar manner by the Secretary of the Interior.

I am submitting for your consideration today a draft of such an amendment, which conforms to the one submitted by Senator Malone. Later, if there is reason to believe that other minerals are to be found

in commercial quantities, Congress may provide for their disposition by appropriate legislation. I believe when you have considered the matter that you will decide to do a complete job and make possible the recovery for present and future uses, under proper and adequate conservation regulations, this much-needed material. In my judgment it would be unwise at this point for the Senate to abandon the policy adopted by the House and to pass a bill for the Continental Shelf providing for the leasing of oil and gas but containing no provision regarding the leasing of other important material to be found there, namely, sulfur.

I think Congress should make it clear in the proposed law that nothing contained in the act shall prevent leasing of a particular area to one person for the recovery of oil and gas and at the same time leasing to others for the recovery of sulfur in the same area. I think that it should say that no persons having been granted a lease for any particular mineral should have any preference rights to a lease for any other mineral. I suggest that the Secretary of the Interior should offer for sale, under separate competitive bidding, leases for the recovery of sulfur or of oil and gas, as the case may be, notwithstanding the existence of an outstanding lease for the recovery of either hydrocarbons or sulfur in the same area. This would be merely carrying forward to the outer Continental Shelf the same leasing policy that has developed through the years in our mining laws. Indeed the regulations of the Department of the Interior specifically provide that a lease for the prospecting, development, or production of any one mineral will not preclude the issuance of leases on the same land for deposits of other minerals, with suitable stipulations for simultaneous operation (sec. 191.7 of Circular 1781, entitled "Multiple Development or Other Disposition of Land").

If the bidding is competitive, every person will have an equal right to bid. Moreover the granting of separate leases for oil and gas on the one hand, and sulfur and other minerals on the other, obviously will provide greater revenue to the Government in the form of rentals, bonuses, and royalties. If the bidding is separate, an oil and gas company can bid for oil and gas and a sulfur company can bid for sulfur. Each bidder may then judge for himself how far he is willing to back up his judgment in the development of the particular mineral in which he is interested.

Through the use of modern geophysical methods, the oil companies, and the sulfur companies, prior to bidding, will have before them geophysical data to aid in determining whether any given area is a likely prospect. In this way, the possibility of a lessee finding sulfur where he hoped to find oil or finding oil where he hoped to find sulfur is reduced to a minimum.

Moreover, I would be remiss if, with all the sincerity of which I am capable, I did not impress upon the committee the urgency of legislating regarding sulfur now.

If oil and gas leases only are to be granted under the bill now pending in the Senate, obviously the sulfur companies would be precluded from bidding. My company is in the sulfur business, not the oil and gas business, and we are interested in finding and producing new sulfur reserves. We do not wish to bid for oil and gas. But if today leases for oil and gas are made on any large areas, and drilling for oil and gas

on the flanks of a dome may show some sulfur, conceivably tomorrow the lessee may attempt to come forward with some claim that his oil drilling operations should be credited to him for sulfur. With modern geophysics there is neither excuse nor justification for this, because the basic nature of the prospect is known before the drilling starts.

If oil and gas only are given consideration in the proposed act, oil and gases moreover may tie up domes which geophysical surveys show are favorable for the production of sulfur. In the absence of sulfur legislation, it will be possible for the oil and gas industry to obtain what is in effect a preference, and to deny to the sulfur industry an equal opportunity to explore and bid for these domes. All we ask is an even start.

The principle I am contending for may be simply stated as "equal rights to all, special privileges to none."

I have purposely made my prepared statement brief in the hope that questions by your committee will lead to a general discussion of this most important subject.

(The proposed amendment to S. 1901 is as follows:)

PROPOSED AMENDMENT TO S. 1901

Insert after subsection (b) of section 8, subsections as follows:

"(c) In order to meet the urgent need during the present emergency for further exploration and development of the sulfur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest bonuses on a basis of competitive bidding sulfur leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act, and which sulfur leases shall be offered for bid and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas leases on the same area.

"(d) A sulfur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of ten years and so long thereafter as sulfur may be produced from the area in paying quantities, or drilling, well reworking, plant construction, or other operations looking to the production of sulfur, as approved by the Secretary, are conducted thereon, (3) require the payment of a royalty of not less than 5 per centum of the value of the sulfur at the well-head, and (4) contain such rental provisions and such other terms and provisions as the Secretary may, by regulation prescribe in advance of offering the area for lease."

Reletter (c) to (e), and (d) to (f).

Page 16, line 3—change "oil and gas" to "oil, gas, or sulfur."

Senator BARRETT. Let me ask you this question, Mr. Nelson. The House bill provides on page 9, section (k):

Nothing contained in this Act or any other Act shall prevent the leasing of a particular area for oil and gas and also, at the same time and for the same area, for sulfur or other minerals * * *

Now, that is satisfactory to you?

Mr. NELSON. Yes.

Senator BARRETT. Let me ask you this: Supposing that we had that provision, and that is all we had, and a sulfur lease was issued, could you get an oil and gas lease on the same land?

Mr. NELSON. Yes.

Senator BARRETT. I do not think you would read that into the language. Would you? It says here "Nothing in this Act shall prevent the issuance of a sulfur lease over an oil and gas lease" but it does not say the converse, does it? As I understand, that is not the request

that you are making. What you say is entirely different from what the bill says, in a strict reading of this House bill, and perhaps Senator Malone's proposed amendment also. What you mean to say is that the Secretary will have authority to issue concurrently leases for all minerals at the same time on the same lands.

Mr. NELSON. From what I have here, it says:

Nothing contained in this Act or any other Act shall prevent leasing of a particular area for oil and gas and also at the same time and for the same area for sulfur and other minerals.

Senator BARRETT. It does not say though that nothing herein contained will permit the Secretary to issue a sulfur lease and at the same time an oil and gas lease, does it? If you got the sulfur lease, the oil people would be out. Is that not right, under that language?

Mr. NELSON. That is not our intention, I will tell you that. We have no intention of stopping the oil company from taking a lease on the same area we have.

Senator BARRETT. What you want is that concurrent leases may be issued by the Secretary for sulfur and other minerals, as well as oil and gas, and as long as they do not interfere, one with the other?

Mr. NELSON. That is right.

Senator BARRETT. I have no objection to such an amendment. Senator Malone, do you have any objection?

LEASES FOR ALL MINERALS MUST BE CONSIDERED

Senator MALONE. I should think it is absolutely necessary, and I would say further, we should explore other minerals, that is phosphates and others, to see what we are doing to those people, and if there is any possibility of finding such minerals in the area.

It is eminently fair that each be given what they want, that is, a lease to prospect for oil and gas, a lease to prospect for sulfur, a lease to prospect for phosphate, et cetera.

My only point is that if you pass an act without considering the phosphates and sulfur and other minerals, then any subsequent act could hardly be made retroactive. There would be a lot of lessees there, that while they might not be interested in the sulfur, phosphates, and other minerals, they might have some control that might preclude any leases for providing those minerals—and now would be the time to consider them.

Now, Mr. Nelson, you say that sulfur in that area is estimated to be valued at about $3,000,000,000. What area did you have in mind? How extensive an area?

Mr. NELSON. That was an opinion expressed by these 18 geologists.

Senator MALONE. What area did they cover?

Mr. NELSON. They meant the whole Continental Shelf, in my opinion.

Senator MALONE. Not only on the Gulf side and the Atlantic side, but on the Pacific side, too?

Mr. NELSON. They said "assuming submerged lands," so I guess that is what they mean, the whole thing.

Senator MALONE. That is a good deal of money and there has been such minimizing of the value of the oil and gas in the area that yours is a very forthright statement, to the effect that it might be worth

$3,000,000,000. Nevertheless, the estimated value is not so important at this time, except to encourage the development of these minerals.

Mr. NELSON. I guess that is their guess. My guess would be that that is a conservative figure.

Senator DANIEL. Your guess would be what?

Mr. NELSON. That that is a conservative figure, $3,000,000,000.

Senator DANIEL. You mean as to the gross value?

Mr. NELSON. Yes, of the gross value of the sulfur.

Senator DANIEL. That does not allow for the cost of producing, and then the Government's royalty would be, of course, only a small percent of that.

Senator LONG. When you speak of appraising that at $3,000,000,000, as to the value of the sulfur out there, is that not like having salt on your table and appraising the salt in the ocean at that rate? Can you say it is commercially feasible for you to recover sulfur, that it is economically feasible for you to recover sulfur beyond the 3-mile limit in the Gulf of Mexico?

Mr. NELSON. That is something we intend to try to find out.

Senator LONG. Based on present methods and on known engineering methods for the recovery of sulfur, can you state with certainty at this time that you can produce sulfur and make a profit at it in the Gulf of Mexico beyond the 3-mile limit?

Mr. NELSON. No, I cannot.

Senator LONG. In other words, you are going to have to develop the methods and the techniques to make that profitable, if it is made profitable?

Mr. NELSON. We have spent considerable money on experimental work so far, that we believe we can make it work. Now, it might not be done with this price of sulfur. It might be done much cheaper than what we are estimating now, as our technology increases.

Of course, this is a new venture. We have to develop our technology as we go along. Mr. Parks stated the second well is cheaper than the first. You keep improving your methods.

Senator LONG. Your position is that you cannot state with certainty that you can make money recovering sulfur from the Gulf of Mexico, but you want to try. You think as you improve your method you probably can do it economically; is that correct?

Mr. NELSON. I have been in the mining game ever since I was born. I have never seen a mineral deposit but that eventually some fool comes around and figures out how to produce it at a profit. I am speaking of Bingham Canyon. Some fool engineer will try it.

Senator LONG. Will you give us some idea as to what your present research indicates will be the method to produce that? I understand there is one place in my State around Freeport, Freeport Sulphur Co., has the whole city on stilts in order to have the equipment necessary and the people living there to recover sulfur. Would you propose to conduct this attempt to recover sulfur on a platform or would you try to do it by tying a vessel out there at sea, or how do you think you might get at that sulfur?

Mr. NELSON. It would be necessary to have your powerplant on a platform above wave action.

Senator LONG. As I understand the methods that are used in Louisiana, you have to heat some liquid and pump it down under the soil

in a heated condition and then to extract it through another opening somehow so you can keep melting and washing the sulfur out?

Mr. NELSON. The same process we use on land. We used water heated 320° Farenheit, which we pump down into the ground. There it comes in contact with sulfur. It melts the sulfur, which melts at 240°. The sulfur being twice as heavy as the water in liquid form, settles to the bottom. There we have a pipe inside our hot-water conductor pipe through which we pump the sulfur out, using an airlift.

Senator DANIEL. Then you let it cool and solidify again?

Mr. NELSON. Then it solidifies. In the Gulf of Mexico we would probably pump it into barges and store it. Here is a piece of sulfur formation, the way it occurs.

Senator DANIEL. You would store it in the barge and let it solidify in the barge probably?

Mr. NELSON. No. We would take it direct to our customer in the molten form. We are shipping liquid sulfur now. In many places, particularly to the chemical industries along the Louisiana and Texas coasts, we would deliver the liquid right to the plants.

Senator LONG. Can you use heated salt water?

Mr. NELSON. We are experimenting on heated salt water, but we probably will have to pipe fresh water to sea.

Senator LONG. Your platform, I take it, would have to be much larger than an oil drilling platform?

Mr. NELSON. Much larger.

Senator LONG. Have you any estimates as to what the cost of a platform might be in a given depth of water?

Mr. NELSON. Not exactly, but our estimate would be somewhere between $20 million and $30 million.

Senator LONG. Would you expect to have a substantial number of people living on the platform or would you keep your people living on shore?

Mr. NELSON. Our plan would be to anchor boats, with sleeping quarters for men, and then operate the same as the oil companies do. We would have our townsites on shore, and then take our men out and keep them 48 hours, or 2 or 3 or 4 days at a time, and then give them time off.

Senator LONG. What is the nearest thing to compare with this type of operation that your company is doing at the present time?

Mr. NELSON. All our operations are on dry land. We have producing properties at New Gulf, Wharton County, Tex.; Moss Bluff Dome in Liberty County, Tex.; and Spindle Top Dome in Jefferson County, Tex.

Senator LONG. In Louisiana, our submerged land leases include sulfur. It is oil, gas, sulfur, phosphate, or just anything you happen to find when you drill down. That has been the practice for many years.

It first occurred to me that it might be a good idea to let a person who spent some million dollars in going out and drilling and exploration get the benefit from anything of value he finds down there.

What would be the argument against using that process and making sulfur a separate bid?

Mr. NELSON. Well, if you ask me whether we could make a profit out of sulfur, I say I really do not know. How could we pay the oil company an overriding royalty to any extent big enough to interest them for that sulfur under those conditions? And why would they accept when they can hold that sulfur by the production of oil and gas, until some future time when the methods are developed for higher-priced sulfur?

Senator LONG. In other words, it is your theory if it can be developed the probabilities are that the oil companies would prefer to hold their reserves rather than develop them and go ahead and develop the oil and just wait until some day further down the line when the process had been sufficiently developed, that they could benefit from the types and methods you had developed?

Mr. NELSON. That is possible. Of course, whenever they could see they could make some money out of it—in other words, why should they give it to us when they could hold it without cost to themselves?

Senator ANDERSON. Is it your understanding that these Louisiana leases, if they are exchanged for Federal leases, carry the sulfur rights with them?

Mr. NELSON. Yes.

Senator ANDERSON. To me that is a very important question here.

Mr. NELSON. My understanding is that they will carry the sulfur.

Senator ANDERSON. Had not the Federal Government then better take a careful look at the exchange of leases, because a Federal lease would not carry the least for sulfur, would it? An oil and gas lease?

Senator MALONE. Under the Mineral Leasing Act, it would. At least, it so provides. Under this act it does not have any provisions for leasing sulfur.

Senator ANDERSON. The people that mine potash, get potash in our State, do not get it under oil and gas leases. They have to have a separate lease for potash. They are now granting oil leases so that an oil well can go down right beside.

Senator MALONE. That is what I meant by being provided. nI other words, they can still go in and mine the sulfur.

Senator Anderson. What I am getting at is this: If the present leases issued by the State of Louisiana carry more than a comparable Federal lease will carry, will those leases be exchanged?

Senator MALONE. I do not know.

Senator ANDERSON. Is there any authority to transfer leases carrying sulfur and various other rights for a Federal lease carrying oil and gas?

Senator LONG. You tell me. It is your bill and not my bill. I am seeking information.

Senator ANDERSON. It is only to the extent that we want to treat the people fairly. Actually there is no authority whatever for the lease being issued out in that area. Theoretically, when the so-called Holland bill is signed and the declaration is made that the Continental Shelf is an area for development, what leases are out there possibly fail. There is nothing in the legislation that carries forward these leases.

Senator WATKINS. Unless we put it in now.

Senator ANDERSON. When we come to carry it forward in this legislation, if we do, by providing if these leases carry over, do we automatically transfer the sulfur rights?

Senator LONG. I would say it depends on what you put in your transfer provision. If you want to do it, you can do it. If you do not want to do it, you do not have to do it. That is a matter of congressional decision.

Senator ANDERSON. I would think you would put them on layers, more or less, allow development for oil and gas, allow development for potash, if there is potash, and allow development for sulfur, and allow development for phosphates, and that they not necessarily be tied up in these present leases. If they are, I think it is going to be bad news to a great many people. I think it may very definitely make difficult the transfer of these leases, because quite obviously, you cannot just transfer a State lease to a Federal lease when the provisions that you are going to write into that lease are not permissible under the Federal law.

Senator DANIEL. Does not your bill simply confirm the State leases, according to their terms, on the basis that those who bought in good faith would be confirmed by the Federal Government?

Senator ANDERSON. I do not see how you can confirm the sulfur part of it. The sulfur part of it came up more recently.

Senator DANIEL. I do not know whether the Louisiana lease covers sulfur or not.

Senator ANDERSON. They cover everything.

Senator LONG. Yes.

Senator ANDERSON. My difficulty heretofore is that the Texas leases covered only oil and gas and the California leases covered only oil and gas. It is only recently that I became acquainted with the fact that the Louisiana lease presents a very troublesome case if you try to transfer more than the oil and gas.

I would say I would not worry about transferring the oil and gas rights, because they entered into those leases with the States, but when it comes beyond that I do not see how we can say that Louisiana could sit out there and grant a lease that would not have been valid if the Mineral Leasing Act did not even apply to that area. I mean the Federal Government does not believe in granting a license that covers every known mineral.

Senator WATKINS. Do you not think they could adopt the policy and get a high price? Why have an oil company which is to expand its operation to take in the matter of sulfur, phosphates, and what-have-you?

Senator MALONE. They say they are not interested.

Senator WATKINS. You may have oil companies formed for that general purpose, take a lease on a piece of ground and pay for that lease on the theory that there is sulfur there, phosphate, or what-not.

Senator ANDERSON. I think Senator Watkins, in your own State of Utah, they have separate leases for phosphates. I know that in my State the potash industry has only been able to develop because it has not been in too much competition with the oil industry. In fact, right now, we are beginning to grant oil leases in the areas which have been reserved for potash.

Senator WATKINS. You may be surprised to know how some of these companies are branching out.

I know some mining companies that are in oil, and a railroad company that is in oil. The oil companies may get in on sulfur.

Senator LONG. Frankly, the point that occurs to me is that the only argument in favor of ratifying leases, particularly if we take the point of view this is beyond the State boundaries, and if we take the philosophy of this bill, that the States have practically no interest in this matter, that this is completely foreign to them, if that philosophy is completely pursued, then the only argument in favor of ratifying these leases at all is if they were taken in good faith and people invested a good deal of money in good faith, and thinking they had the right to do it. If that is the point of view we are to take in ratifying these leases, to me it is not logical to say, "Now these people, when they bid on the lease, which included oil, gas, sulfur, phosphates and other minerals, were in good faith bidding on oil and gas and not in good faith bidding for some other minerals. It seems to me that is the argument that applies for a lease being valid for sulfur.

Senator ANDERSON. I think you would have a hard time trying to sell that on the Senate floor.

These leases were all made after the California suit was filed and after the California case was decided.

Senator LONG. No, sir.

Senator ANDERSON. Out on the Continental Shelf.

Senator LONG. I believe you would find most of them were made before that time.

Senator ANDERSON. I do not know where—not too many of them.

Senator LONG. The fact is that some of them were made before the California case was filed and some made after the California case was filed.

Senator ANDERSON. I think the man that took an oil and gas lease out there could hardly expect that he has the sulfur rights, and every other mineral that may be in the area. It just is impossible.

Senator LONG. I do not know if it provides for all minerals, but it does include sulfur. So far as I can determine, every lease includes sulfur.

Senator DANIEL. May I say this, so that the committee will not get any idea that Louisiana is following an unusual practice?

Throughout Louisana and Texas, too, most of all of your regular form of oil and gas and other minerals. It covers sulfur and everything else. It is the usual practice in an oil and gas lease to include oil, gas and other minerals.

Now, the State of Texas departed from that policy and they have been for quite a few years, the State, leasing just "oil and gas"; but private individuals, nearly in every instance, using the regular form 88 lease form—it is a pretty well standardized form—they lease on "gas, oil and other minerals." There are actually few other minerals produced along the gulf coast. But, that purchaser of that lease, if he happens to find them going down to try to find oil and gas, gets the benefit of the other minerals. I think for the future the best policy is the policy our State follows.

Senator ANDERSON. Mr. French, could you attempt to find out from the Interior Department what happened in the Snowden-McSweden

lease in eastern New Mexico? They were drilling for oil when they found this potash.

Senator BARRETT. I can give you that here. The act of 1872 with reference to sulfur provides they may have a lease not to exceed 640 acres. Then you find this proviso:

Provided, That where any person having been granted an oil and gas permit makes a discovery of sulfur on lands covered by said permit, he shall have the same privilege of leasing not to exceed 640 acres of said land under the same terms and conditions that were given the sulfur permittee under the provisions of this section.

It is here, and I think the same thing runs through all of them.

Mr. NELSON. In only one instance have we located any provision whereby any preferential right is granted to a discoverer of another mineral as to which no primary grant or right was given by the Government. This treatment is found in the statutes (secs. 271–276 of title 30, U. S. Code) relating to sulfur deposits in the States of Louisiana and New Mexico only. This statute, unlike the proposals which have been submitted at this session of Congress, provides for the issuance by the Secretary of the Interior of a "prospecting permit" which upon the discovery of a deposit of sulfur by the permittee entitled the permittee to a lease of the land embraced in the prospecting permit pursuant to the rights and obligations established by the statute. It is further provided:

that where any person having been granted an oil and gas permit makes a discovery of sulfur in lands covered by said permit, he shall have the same privilege of leasing not to exceed 640 acres of said land under the same terms and conditions as are given a sulfur permittee under the provisions of this section (sec. 272).

We submit that this treatment, unique as it is, no longer represents governmental policy. In the first place, while the early statutes relating to oil and gas, as evidenced by the original act of February 25, 1920, provided for prospecting permits as to oil and gas, this has been eliminated. By the enactment of the Mineral Leasing Act in 1920, Congress established a new system of disposing of the oil and gas resources of the public domain by substituting for the location and patent method of the Placer Mining Act the plan of granting permits for exploration and leases for production. Subsequent amendments of this act have again materially changed the plan by providing for the granting of leases instead of prospecting permits for unproven oil and gas lands. Our authority for this statement is the recognized work of Summer's on Oil and Gas, volume 4, page 295. The act which made the above change is that of August 21, 1935 (49 Stat. 674), amending sections 13, 14, 17, and 28 of the Mineral Leasing Act (30 U. S. C. A., secs. 221, 223, 223a, 226, and 185).

It will be observed that the sulfur statute relating only to the States of Louisiana and New Mexico gives the preferential privilege of leasing for sulfur only to oil and gas permittees and further it will be noted that by reason of the new system established by Congress with reference to the disposal of oil and gas resources that prospecting permits for unproven oil and gas lands are not now provided for in the law. Accordingly, under the new system section 272 is rendered ineffective and obsolete inasmuch as the privilege extended only to oil and gas permittees, who no longer exist.

Further, in connection with section 272, the committee has the benefit of a precedent as to royalty rates which have been provided for in connection with the leasing of federally owned lands in Louisiana and New Mexico. It will be noted that in section 272, the royalty rates to be included in such leases are recited as being at a royalty of 5 percent of the quantity or gross value of the output of sulfur at the point of shipment to market. However, it is submitted that the provision relating to point of shipment to market is inapplicable to sulfur reduced from platforms over submerged areas. It will be physically and economically impossible to effect shipments to market from the overwater producing structure and additional costs will accrue in transporting from the point of production to a place of shipment. Consequently it is submitted that it would be equitable and fair to both the Government and to the lessee that the royalty be computed at the point of production which, in dry land operations, is also the point of shipment.

Senator ANDERSON. I would be interested in having Mr. Nelson's comments on this, if he has any. Offhand, you can recognize that there are several hundred thousand acres of leases already in operation, that all the area that is reasonably close has been leased. Far out, it has not been, all of it, but a great deal of the shelf has been already leased.

Now, is it your understanding that those leases cover sulfur as well? Do I understand that Texas leases in the Continental Shelf would not cover sulfur?

Senator DANIEL. That is correct.

Senator ANDERSON. We have it limited to the Louisiana area, then. I do not imagine there are any leases in the Continental Shelf in the States of Louisiana, Alabama, and Mississippi?

Senator DANIEL. Florida did have some—and Mississippi, too. I do not know if they are in effect or not.

Mr. NELSON. In our amendment, we refer here to the lands. It says, "the Secretary is authorized to grant to qualified persons offering the highest bonuses on the basis of competitive bidding, sulfur leases on submerged land."

Senator ANDERSON. I did not ask for the rights of the Secretary to offer leases. What I am trying to say is that a great share of the Continental Shelf is already leased under State leases. Now, in the State of Texas that lease does not cover sulfur. In the case of Louisiana, that lease does cover sulfur.

Is it your opinion that the interests of this country would best be served by transferring the Louisiana lease into a Federal lease that would include oil, gas, and sulfur, or that it should be transferred into only an oil and gas lease, if it is transferred by the Congress?

Mr. NELSON. I am inclined to agree with Senator Long that the leases were bid for and taken in good faith.

Senator ANDERSON. What good faith could there possibly have been in a lease that was out 50 miles from shore, on sulfur?

Senator LONG. I do not believe we have any as far out as 50 miles. We might have one as far out as 27 miles. Louisiana proposed to extend its boundaries 27 miles from shore, that is, 27 marine miles, and within that point, then, to issue leases.

Senator ANDERSON. Your leases only go that far?

Senator LONG. So there are none that the State ever attempted to lease beyond that point.

Senator ANDERSON. The Louisiana situation is different from the Texas situation, is it not?

Senator DANIEL. As to the type of lease?

Senator ANDERSON. Lease beyond ten and a half miles.

Senator DANIEL. Yes, Texas did.

Senator ANDERSON. But its lease is confined to oil and gas?

Senator DANIEL. When they got from Texas, they were bidding on oil and gas. That is all they paid for. When they got from Louisiana, they bought oil and gas and other minerals, in that lease, and they paid for it. They got more in the Louisiana lease than they got from Texas. Whether they paid a comparatively higher price or not, I do not know. In Texas we got nearly twice as much on bonus, and Louisiana got about five times as much on rentals and got more development. Louisiana has a rental system by which the annual rentals are half of the original bonus money. So that it a terrific annual rental.

Senator LONG. So in Louisiana you had to pay to sit still?

Senator DANIEL. That is why you have more wells drilled off Louisiana today than in Texas, because they had to drill there to keep from paying those terrifically high rentals.

Senator ANDERSON. You were talking the other day about trying to develop uniformity. Obviously, where a Federal lease off the coast of Texas would carry only oil and gas, but a lease off the coast of Louisiana would carry oil, gas, and all the other minerals, then a lease off the coast of Mississippi would only carry oil and gas again, and so forth, it would be a very spotty sort of administration, would it not?

Senator LONG. Looking to the future, insofar as you have a Federal leasing law, it obviously should be uniform. Of course, you are still going to have this lack of uniformity under your inland waters and in your marginal belt, I assume, that you will still have Louisiana giving leases that cover all minerals—at least, minerals we know about—and Texas giving leases that do not.

Senator ANDERSON. You explain the fact that one State may operate in one fashion and another State may operate in another fashion, but when it comes to an area where the Federal Government will be doing the leasing, it does seem there should be some consistency in the policy.

CLARIFY THE LEASING QUESTION FROM THE BEGINNING

Senator MALONE. It seems to me that as long as this is Federal land, there are no leases in good standing on it at this time. You are merely recognizing them by virtue of good faith, or whatever it is, and at least one president or vice president of one oil company has testified they have no interest, they do not care about the sulfur. If there is no conflict, we can go ahead and amend this bill now so that we do not get in trouble later, as we have on land with uranium. Now is the time to do it. Otherwise, someone will come along here in another 2 months or 2 years and want a lease for some mineral other than oil and gas, and you cannot make it retroactive, and all the land leased in the meantime is tied up.

Senator ANDERSON. I agree with the Senator exactly.

FEASIBILITY IN THE MINING INDUSTRY

Senator MALONE. I think it is easy now if we consider the field.

I would like to ask Mr. Nelson to clear up this matter of feasibility. The sulfur business, especially out that far from shore, is a good deal of a gamble, just like mining of any other kind; is it not?

Mr. NELSON. Yes.

Senator MALONE. You agree that feasibility is a relative term?

Mr. NELSON. Yes.

Senator MALONE. And we all look back to improvements in techniques and beneficiation in mining. For instance, some years ago it took 7 or 8 percent copper to be feasible. But a young fellow by the name of D. C. Jacklin came out of a laboratory one day with a process that made a half of 1 percent feasible, and that turned that country rock all around Ely, Nev., and around Butte, Mont., and in Arizona, and certain other areas into ore. Often the difference between country rock and ore a lot of times is that there is a little better method of mining it and of processing it. At the moment the University of Nevada has a research project under the auspices of the Atomic Energy Commission searching for new and improved methods of beneficiation of ore. There is no scarcity of ore at all; there is only a scarcity of high-grade ore. Right now, it has been reported there is a 25-barrel well in Nevada. None of them want to give up the leases; they are gamblers.

So we are not dealing here in the committee with what is going to be feasible. What business is it of ours to determine whether they should spend the money? They will find it if the mineral is out there. If we knew anything about it, we would be in the business. We certainly can do nothing but handicap people by our actions here and on the Senate floor, if we get off the basic principles. That is my only concern—to keep out of the trouble we are now in concerning oil and gas leases on the same land containing uranium and maybe other minerals.

Now we have an opportunity to protect everybody. The slate is clean. Why not pass a bill that will take in these other minerals, and, if it is feasible—and the engineers all say it is—to allow them to prospect the same area, a different company for sulfur than the ones that are drilling for oil and gas, without interference or giving the first one in there preference, let us do it. What is the objection?

Senator LONG. I believe somebody told me, Mr. Nelson, that a company looking for sulfur would drill on a different part of a geophysical structure than a company looking for oil. Is that correct?

Mr. NELSON. That is correct.

Senator LONG. Will you explain the differences, as you understand it?

Mr. NELSON. The salt dome is an intrusive salt plug with a cap on it.

Senator ANDERSON. You do not trap sulfur in the same way you trap oil, do you?

Mr. NELSON. No. Sulfur forms in rock similar to that core. Here is an illustration.

Senator LONG. Then you usually find sulfur right on the very top of a structure and you tend to find the oil around the flanks of it?

Mr. NELSON. The oil on the flanks, that is the real production. Now, oil has been found on top of the dome, too. There has been only one big oil producer on the top. That is Spindle Top.

Senator DANIEL. Cap-rock oil?

Mr. NELSON. Cap-rock oil. On Boling Dome, where we are operating, they produced a half million barrels on top. There has been some production on other domes. It is of no consequence. In other words, a half million barrels of oil should not interfere with the development of a sulfur bed.

Senator ANDERSON. Do I understand you to testify, in response to Senator Barrett's question, that you believe the leases should be given for oil and gas and for sulfur? It would not matter which was given first or which was given later. They are separate ventures entirely, and there should be separate leases for sulfur and separate leases for oil and gas?

Mr. NELSON. That is right.

Senator ANDERSON. Now, I think Senator Barrett's question was also to this effect: If they gave a sulfur lease first, you would not object to their giving an oil and gas lease thereafter?

Mr. NELSON. That is right.

Senator BARRETT. That was not altogether my question. My question was, under the House bill, whether or not you could.

Senator ANDERSON. You could not do that under the House bill. You would agree with Senator Barrett?

Mr. NELSON. My impression was that you could.

Senator WATKINS. The legislative history may show that the intent was to make it work both ways.

Senator BARRETT. Mr. Nelson's company is producing 300 tons of sulfur a day from oil and gas wells in our State. The gas contains sulfur to such an extent that they extract the gas from it and get about 300 tons of the best sulfur produced in the country. Am I right?

Mr. NELSON. That is right.

Senator LONG. There are only two major sulfur producers in this country, are there not?

Mr. NELSON. There are four sulfur producers. Our company, the Texas Gulf Co., Freeport Sulphur Co., Jefferson Lake Sulphur Co., and Duval Sulphur and Potash Co.

Senator LONG. Would you give us some idea as to the amount each one produces annually?

Mr. NELSON. We produce about 60 percent.

Senator LONG. What percentage do the others produce?

Mr. NELSON. Freeport produces about 30 percent, and the balance is divided between Duval and Jefferson Lake.

Senator LONG. What percentage of the world production does American production account for?

Mr. NELSON. All of it. That is of the Frasch process sulfur, 100 percent is produced here. Of course, there are surface deposits in Italy and Japan and other parts of the world.

Senator LONG. What percentage of the world production of sulfur, regardless of process, do our American companies produce? I would like to have the picture.

Mr. NELSON. The United States produced in 1950 5,050,000 tons as compared with the total world production of elemental sulfur of 5,767,000 tons. So that the production in the rest of the world of elemental sulfur is small. Of course, we know nothing about Russia. They are developing surface deposits of sulfur. The balance of acid and sulfur comes from pyrite, sulfur ores, and smelter gases, recovering their SO-2. I thought that was in here on the Paley report. That just covers elemental sulfur. I do not have the exact figures.

Senator BARRETT. Will you supply it for the record, Mr. Nelson?

Mr. NELSON. Yes, I will.

(The information, subsequently furnished, follows:)

1952 world sulfur production—All forms in equivalent sulfur

[1,000 long tons]

Description of the material	United States	Percent	Other countries	Total
Sulfur:				
Frasch process or native sulfur	5,295	90	575	5,870
Recovered sulfur	248	47	282	530
Total	5,543	87	857	6,400
Other forms:				
Pyrites	450	8	5,050	5,500
Smelter gases, anhydrite, spent oxide, hydrogen sulfide, and sulfur dioxide	325	25	1,000	1,325
Total other forms	775	11	6,050	6,825
Grand total	6,318	48	6,907	13,225

NOTE.—Recovered sulfur includes sulfur produced from hydrogen sulfide or produced from sulfide ores. A small amount of additional sulfur is obtained by the burning of petroleum sludge for the production of sulfuric acid.

Senator BARRETT. Are there any other questions?

Senator DANIEL. Mr. Nelson, under modern methods of drilling for oil and gas, do we find any discoveries by the oil companies of sulfur?

Mr. NELSON. If they drill a cap rock. With our geophysical methods, we determine the location of domes favorable for occurrence of sulfur. Now sulfur very seldom occurs—no commercial deposits of sulfur—in domes that are over 2,000 feet to the top of cap. Some sulfur occurs in domes up to 3,500 feet to top of cap rock. Below that there is no sulfur. Our theory is that it was caused by the exposure of cap rock at one time. The domes were exposed to the surface and it gave it a chance for oxygen and bacteria to enter the dome and reduce the hydrogen sulfide. That was probably the limit of the up-and-down movement of the gulf coast as the Continental Shelf was coming in and out of the water.

Senator DANIEL. Now, under present exploration, is there very much drilling on top of cap rock?

Mr. NELSON. There is no reason why an oil company should drill on top of the cap rock. I believe you would find most of their work is on the flanks.

Senator DANIEL. In the old days when you drilled for shallow oil on top of a dome they did run into some sulfur.

Mr. NELSON. Yes.

Senator DANIEL. But in recent days you do not find many sulfur domes proven up accidentally by wells drilled for oil and gas, do you?

Mr. NELSON. Many of them have been discovered by oil companies, but when they drilled into that cap rock, it caused considerable trouble and they generally quit.

Senator DANIEL. Is there anything under the electric logs that run in the wells that would show sulfur deposits?

Mr. NELSON. No. In the old days we did not have modern methods, geophysics. These shallow domes are very easy to locate, and to even determine within a few feet, the distance below the surface of the top of the cap rock, and to get a complete outline of the dome by combining gravity and seismic methods.

The only case where an oil company would drill to cap rock, I know of, would be when they drill a hole right down to the center of the dome, into the salt, and anchor your geophones there, and then they shoot seismics to determine overhangs, to see if there is a protrusion on the side of the dome where the cap rock sticks out. They find oil trapped under those areas.

Senator DANIEL. My father discovered the Moss Bluff dome you are now producing on, and he was looking for oil. I am sorry to say, he did not get the area from which you are now producing sulfur.

Senator ANDERSON. Maybe the legislative history in the House would help a little on this.

Congressman Francis E. Walter of Pennsylvania offered an amendment reading as follows:

> Nothing contained in this act or any other act shall prevent the leasing of a particular area for oil and gas and also, at the same time, and for the same area, for sulfur or other minerals, and no person having been granted a lease for any particular mineral shall have any preference right to a lease for any other mineral on account of a discovery of such mineral in the area covered by his lease.

In his statement, he explained that:

> Since the bill reported by the committee deals simply with oil and gas and makes no provision to recover other minerals, I think Congress should say nothing contained in this act or any other act shall prevent the leasing of a particular areas for oil and gas, and also, at the same time, leasing to others for recovery of sulfur and other minerals in the area. I think we should say no persons having been granted an oil and gas lease should have any preference right to lease for sulfur, for example, on account of the discovery of sulfur in an area covered by an oil and gas lease. I think the Secretary should offer for sale under competitive sealed bids leases for the recovery of sulfur or any other material, nothwithstanding the existing of outstanding leases to cover oil and gas in the same area.
>
> Conversely, I think the holder of a lease for the recovery of any particular mineral should have no preference right to lease for any other mineral simply because of the discovery of that other mineral in the lease covered by his lease—

so he quite obviously was intending to cover the whol situation.

Senator MALONE. Senator Anderson, is it not a fact, if we do not insert a paragraph such as you suggested, or an amendment such as the one I have offered, applying to other minerals as well as sulfur, that we will be in that same trouble, attempting to determine whether when a man gets an oil and gas lease he does, impliedly at least, have the right to the other minerals. Now we have the problem right in front of us. It is a very easy thing to handle.

Senator ANDERSON. But we will come squarely up against it when we attempt to draft the language to validate the Louisiana leases.

Senator LONG. I might suggest one possible solution to it. I have not discussed this with anyone. The point just came up here in the hearing. It occurs to me that the answer to it might be to simply provide that production of oil and gas shall not hold the lease that includes sulfur.

I think, as a practical matter, that unless someone cares to go in and produce sulfur under the lease, after a while the lease would expire, as far as the sulfur part is concerned.

Senator ANDERSON. Why could we not provide also equally as well, if we wished to, that a transfer of a Louisiana lease should include only oil and gas? If the party transferring did not want it on that basis, of course, he would have the great American privilege of turning it back.

Senator LONG. I suppose if anyone does not want it on that basis he could come in and ask to protect his rights on sulfur.

Senator DANIEL. How could you say you bought the oil and gas lease in good faith but did not buy sulfur and other minerals in good faith?

Senator WATKINS. Because of sulfur being really a defense material and one that was badly needed, you might want to limit the development of it until some future time.

Senator MALONE. The representative of the oil company just testified they are not interested in the sulfur.

Senator DANIEL. He did not say he wanted to give up whatever rights to sulfur he bought on the lease.

Senator MALONE. No. He said they were not going to give up the leases, either.

Senator WATKINS. I think Congress can write a provision in there limiting what they will accept in the way of leases and still be acting fairly with these people.

Senator BARRETT. The leases that have been granted, covering all minerals, are only those granted by the State of Louisiana. Is that right?

Senator LONG. To the best of my knowledge, I can testify that Louisiana leases include sulfur. I see a nod from one of my mineral board people.

My understanding is that all of the leases include the sulfur.

Senator WATKINS. Did you increase the price when you threw in everything?

Senator LONG. We have no way of knowing. My impression is, if somebody wants you to draw a commercial lease, as an attorney in Louisiana, and you go down and buy the legal forms, that it will include, on that form, oil, gas, sulfur and various other minerals.

Senator BARRETT. Are there any other questions?

Senator LONG. I doubt that under any of those oil and gas leases that the company had in mind the prospect of sulfur.

Senator BARRETT. I want to insert at this point the statement of Julian D. Conover, and following that the statement of Eugene German.

STATEMENT OF JULIAN D. CONOVER, EXECUTIVE VICE PRESIDENT, AMERICAN MINING CONGRESS, WASHINGTON, D. C.

Mr. CONOVER. Mr. Chairman and members of the committee, my name is Julian D. Conover. I am executive vice president of the American Mining Congress, with offices in Washington, D. C.

Our organization represents the mining industry of this country as a whole—coal, metals, and the various nonmetallic minerals, including sulfur, potash, phosphate and many others. We are deeply interested in furthering the exploration, development and production of these natural resources, both from the viewpoint of our members and from the standpoint of maintaining a continuous supply of these vitally important raw materials. No one knows better than you gentlemen that the products of our mines are basic to our whole economy and absolutely essential to our national defense. We must continue to develop new mineral reserves and to maintain a healthy mining industry if we are to keep our industrial machine going and to keep our country strong.

Of all these minerals, one of the most critical is sulfur, which is the principal raw material of our chemical industries. We are deeply concerned in the adoption of legislation for our submerged land areas which will make adequate provision for the exploration and development of sulfur and other potential minerals in addition to oil and gas. We believe that while the Congress is providing for the development of the resources of the outer Continental Shelf, it should recognize this problem and provide for the development of all minerals on an equal basis.

We have particularly noted the so-called Walter amendment to H. R. 5134 which was adopted by the House on May 13, and we believe that the principle outlined therein, that the lessee of a particular mineral should have no preference right to a lease for any other mineral within the area covered by such lease, is appropriate and should be followed in legislation dealing with the outer Continental Shelf. This principle has been followed in other mineral leasing statutes and is especially desirable in this case because of the need for developing not merely the oil and gas but also the sulfur which is reported to exist under these lands. It will encourage those having the specialized know-how of sulfur production and the fortitude to undertake the risks of sulphur development in their efforts to augment our reserves of this vital mineral. It will establish a basis for equality of treatment and will yield to the Government the greatest recompense for the natural resources covered by such a leasing policy.

For these reasons, which have been further developed in the statement presented to you by Mr. Fred M. Nelson, we urge that adequate provision be made in the pending legislation for the separate development of the sulfur and other potential minerals, on an equal basis with the oil and gas of the outer Continental Shelf.

STATEMENT OF EUGENE GERMAN, VICE PRESIDENT AND TREASURER, DUVAL SULPHUR & POTASH CO., HOUSTON, TEX.

Mr. GERMAN. Mr. Chairman and members of the committee, my name is Eugene German. I am vice president and treasurer of Duval Sulphur & Potash Co., of Houston, Tex.

The bill now under consideration by your committee (S. 1901) providing for the exploration for and development of oil and gas deposits that may underlie the submerged lands of the outer Continental Shelf should also contain provisions for the separate development of sulfur and/or other minerals for the reason that the oil and gas companies are interested primarily in oil and gas, whereas sulfur production is a highly specialized industry and requires skills and procedures quite different from those used in oil and gas development. These skills and procedures have been developed by the sulphur companies over a period of years and therefore, we feel that the sulfur companies should be permitted to bid for sulfur leases on these submerged lands without being required to bid on the oil and gas.

The Duval Sulphur & Potash Co. has been producing sulfur by the Frasch Process from salt domes in the Gulf Coast area for over 20 years. At the present time, we are producing sulfur from the Orchard dome in Fort Bend County, Tex.

Should it be claimed otherwise, I would like to point out that it is practical to conduct oil and gas operations and sulfur operations on the same area. It is actually being done on areas of the land mass as at Orchard Dome just referred to.

Furthermore, there has been no question of interference between the oil and gas operations and the sulfur operations in the 17 years of joint operations. The oil and gas is being produced from the flanks of the dome and the sulfur is being produced from the limestone caprock of the dome.

The vital part that sulfur plays in the industrial and everyday life of this country is so well known that there is no need for me to review it here. I do wish to point up the fact that the most orderly and economic development of any sulfur deposits that may underlie the outer Continental Shelf can best be done by the sulfur companies. Sulfur operations and oil and gas operations can be carried on simultaneously from the same domes without interference with either operation. Special skills and procedures are required in each operation.

This summarizes our reasons for requesting that separate leasing provisions for sulfur be set out in the proposed bill.

Senator BARRETT. The committee will be in recess until 10:00 o'clock tomorrow morning.

(Whereupon at 5:45 p. m., the committee recessed to 10 a. m., May 19, 1953.)

OUTER CONTINENTAL SHELF

TUESDAY, MAY 19, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met, pursuant to call, at 10 a. m., in the committee room, 224 Senate Office Building, Washington, D. C., Senator Guy Cordon (acting chairman) presiding.

Present: Senators Eugene D. Millikin, Colorado; Guy Cordon, Oregon; George W. Malone, Nevada; Arthur V. Watkins, Utah; Thomas H. Kuchel, California; Frank A. Barrett, Wyoming; Clinton P. Anderson, New Mexico; Russell B. Long, Louisiana; and Price Daniel, Texas.

Also present: Kirkley S. Coulter, chief clerk; Stewart French, staff counsel; and N. D. McSherry, assistant chief clerk.

Senator CORDON. The committee will come to order, please.

The committee will now hear from Mr. William Murray of the Texas Railroad Commission. We will be happy to have Senator Price Daniel introduce one of his former colleagues in Texas.

Senator DANIEL. Mr. Chairman and members of the committee, I asked Mr. Bill Murray to come before the committee to testify as to what would be the best conservation practices for this committee to adopt in the area of the outer Continental Shelf.

Let me say why we have never had any conservation experts come before the committee before. It is because not until this time has there been any indication that it would be advocated that a separate system of Federal regulatory laws and conservation laws would be applied on the outer Continental Shelf. The previous bills that have covered the matter or attempted to cover the matter in the past have assumed that the laws of the adjacent States would be applied here. That is why this type of evidence has not been gone into before.

I believe that we have a witness here who can give the committee an objective study or report on this matter even though he happens to be on the Texas Railroad Commission at the present time, because for 4 years he served in the field of conservation with a Federal agency, the PAD, the Petroleum Administration for War. I wanted to give you a little bit about his qualifications.

While we have not had any conservation witnesses here before and, as I have indicated, Mr. Murray was asked to come straight here without any preparation whatever, I think his statement and answers to your questions will be of some assistance to the committee.

Senator ANDERSON. May I say Hiram D. Dow, who is a well-known oil attorney in New Mexico, and has been a leader in the conservation work, has spoken of Mr. Murray very, very many times. He speaks

of him in the highest terms. I would go further than the Senator from Texas did in praising Mr. Murray's conservation.

Senator DANIEL. Bill, you give some of your qualifications as you go along. I will say the Commissioner Murray is an engineer. He is one of the top engineers in the field of oil and gas and in conservation work.

STATEMENT OF WILLIAM J. MURRAY, JR., MEMBER RAILROAD COMMISSION OF TEXAS, AUSTIN, TEXAS

Senator CORDON. Mr. Murray, it may be that you can make a general statement in the first instance without too much questioning.

The Chair would suggest that this committee must make a determination with respect to whether it (1) will recommend the application of the appropriate State law to the administration of the outer Continental Shelf, or (2) will recommend the administration of the area by the Secretary of the Interior, or some other official of the Government, under rules and regulations to be promulgated by such official within standards set by the Congress. So, the first question that is before us is: Be it down the road of State administration, or down the road of Federal administration, and limiting that question to the matter of conservation of the minerals, and of the kind of minerals to which it is limited, which are, I assume, generally, oil and gas.

The committee would like to hear from you with respect to this overall question. The Chair will ask 1 or 2 questions and then you will be on your own, I hope.

Are you familiar with the rules and regulations of the Department of the Interior having to do with the administration of Federal oil leases?

Mr. MURRAY. I have tried to familiarize myself with those rules. I have been given this booklet which is supposed to contain the rules, and I have read it. I have talked with members of the Department of the Interior who are charged with the responsibilty of administering these rules. I have talked with representatives of the conservation authorities in the States which have substantial amounts of Federal land, but I do not mean to imply that I am intimately acquainted because, as you know, we have relatively little Federal land in the State of Texas.

Senator CORDON. There are Federal leases, are there not, on acquired lands in Texas—military reservations and perhaps national forests?

Mr. MURRAY. I do not know of a national forest in Texas, but there are leases on acquired lands there that have become productive of oil or gas and they have been treated just like State land or any other landowner, and there has been no significant difference to the Railroad Commission, so it never occurred to us this was Federal land as distinguished from somebody else. It was just another landowner interested in getting the maximum oil and gas return and maximum recovery.

Senator CORDON. I have one other question. Are the conservation regulations of the State of Texas a part of the law of Texas, or are they promulgated under some law of the State giving authority

and discretion to an official of the State to make rules and regulations?

Mr. MURRAY. They are promulgated under the broad authority of the State conservation law but the law is reasonably specific, so that any regulation of the Texas Railroad Commission must be related back to authorization in the statute and is subject to court review and ascertainment whether the specific regulation of the conservation authority was within the authority granted by the statute.

Senator CORDON. Does the State of Texas have pamphlet copies of laws on special subjects, that is, conservation of oil and gas, and so on?

Mr. MURRAY. Yes.

Senator CORDON. Together with the rules and regulations?

Mr. MURRAY. Not with the rules and regulations. We do not have pamphlets of the rules and regulations because most of our regulations are tailor made for the specified field involved.

Under the broad authority of our State statute we write specific rules for each field, and these comprise four volumes, a total of so thick [indicating], to cover all of the rules. So when a person is interested, he gets the field rules for the particular field in which he is going to operate and does not worry about hundreds of other fields and their field rules.

Senator CORDON. Do the rules for the different fields vary greatly?

Mr. MURRAY. Not too much. They are essentially the same in principle, but all fields have some differences and there are generally broad differences within fields. I am engineer and it is difficult for me not to cut loose on this subject. I must be brief.

We have three general types of fields, the water drive, the gas-cap drive and the solution-gas drive. Recoveries are going to vary considerably according to which type of drive we have. Recoveries from a water-drive field will range from above 50 percent up to 80 percent. We are getting 82 percent of the oil out of the east Texas field. Recoveries from a gas-cap-drive field will range from 30 to 50 percent maximum.

Recoveries from a solution-gas drive field will range from less than 20 percent up to maybe 25 percent. So it is important for us to recognize right at the start the type of drive, because if it is a solution drive, unless we do something by the way of artificially injecting energy, we are going to have pitifully small recovery. So within those three broad distinctions the field rules pretty well group themselves.

But then a field will not be completely one or the other. So you see the necessity of addressing the rules to a particular field. However, you can classify fields by types of drives and by areas, and most of the fields of a given type within a given area. The field rules would be so comparable that you could almost write one rule.

Senator CORDON. Will you go ahead with your definition of water drive, solution drive, and gas-cap drive?

What do those terms mean in layman's language?

Mr. MURRAY. Oil, as frequently not understood by the general public, is not found in underground lakes or pools. It is found in the interstices or the minute porous space of a tight reservoir rock and it is quite difficult to get substantial portions of that oil out and impossible

to get it all out. The oil has no inherent ability to expel itself from that rock. It is like water in a sponge, it is going to stay there unless it is pushed out. So the factor that determines how much of the oil that you find you are going to get out is not the nature of that oil but the nature of some displacing medium that will force oil out of the rock into the borehole. So we classify reservoirs according to the available energy source to move oil out of the rock into the borehole.

Now, some fields nature fortunately endows with a water drive that will move either from the periphery of the field or from one side of the field slowly through the sand and rock and flush oil ahead of it. The great east Texas field is of that type. By controlling production so as to wait for that water drive and by returning in excess of a half million barrels of water a day to the reservoir back over on the west side where the water is coming from to supplement the water drive, we are getting the highest recovery, substantially the highest recovery known to any field; in excess of 80 percent. That is the water drive where you have a natural water influx moving in to force the oil ahead of it.

A gas cap drive field is one in which you have no water drive but where you have quantities of gas, in excess of that which can be dissolved in the oil, accumulated above the oil in a gas cap. It is like carbon dioxide at the top of a seltzer bottle, if that illustration is understood, and gas expanding down on the oil will force the oil in the borehole. In that type of field you have to be very careful not to dissipate the gas from the gas cap. If you were to allow the carbon dioxide at the top of the seltzer bottle to escape, you will not get any water out, but as long as you keep that gas trapped and have the glass tube in the water, that expanding gas will shove out nearly all the water.

The solution gas drive field is a field in which there is no water drive, no gas cap. The only energy is the amount of gas that is dissolved in the oil. Oil is always found with gas dissolved in it. Now, that is kind of like a pop bottle with carbon dioxide, a Coke with carbon dioxide dissolved in the liquid. You can punch a hole in a cap of a Coke bottle and shake it up and by releasing the pressure by punching the hole, carbon dioxide will cause a little bit of the Coke to squirt out. Now, this stops when you run out of carbon dioxide, not when you run out of Coke. You know, you get only a small amount of Coke to squirt out that way. That is the solution drive. The only energy you have is that contained in the gas. When it is gone, even though you may have in excess of 80 percent of the oil still in the ground, you are not going to recover any more of it unless you artificially inject gas or water to force that oil out.

Senator WATKINS. Have you worked out a practical method where you can do just that?

Mr. MURRAY. Yes, sir.

Senator WATKINS. Would you mind explaining it?

Senator ANDERSON. Do you not think it would be useful also if he would give us just a word on gas repressuring and waterflooding so they will have the whole picture?

Mr. MURRAY. I will be pleased to. I will try to keep myself brief. Maybe I might follow those three types of fields and tell you what the desired conservation practices are.

In the water-drive field you are lucky to have it. If you produce that field too fast, if you take oil out faster than the water can come in,

then gas begins to come out of solution in the oil, and you start producing this field as a solution-drive field.

It is possible for any field which could have an efficient natural-water drive to be produced as an inefficient solution drive, if you get too greedy; take the oil out too fast. For example, it was estimated in the early days of wide open production in the east Texas field that total recovery would be in the range of a billion barrels, but by curtailing rates of production so as to not take oil out any faster than water moved in, so you have an orderly movement of water in and flushing the oil out, we are going to recover in excess of 5½ billion barrels of oil from this field.

Senator LONG. Five times as much.

Mr. MURRAY. Yes, sir.

Now, when you have a water drive, you want to be thankful for it and do not ruin it. Maybe you may need to take the produced water as we are doing in east Texas and reinject it. You cannot help but produce some water, so do not waste that and do not pollute streams with it. Pump it back in the ground over on the side from which the water is coming and you have it to help you. It is estimated that our return of water in the east Texas field is going to increase recovery from the field by in excess of 1½ billion barrels.

Senator CORDON. Do you introduce that return water through drilled wells?

Mr. MURRAY. Yes, sir.

Senator ANDERSON. Sometimes through a well you cut off from production?

Senator WATKINS. How can you get enough pressure back of it to force any oil out?

Mr. MURRAY. You see, water is heavier than oil and water will go into a formation under gravity and have enough pressure to make oil flow out naturally. Most of the wells in east Texas are still flowing. That is one advantage I did not even mention, the economies to the operators of having their wells flow instead of having to pump them. There were pumping units installed in the east Texas field in the early 1930's that have deteriorated or have been moved away and never put to use. The wells were ready to be pumped then and they are still flowing today because of this orderly withdrawal, slow rate of withdrawal and return of water.

Some of these injection wells will be used to pump water back in; water is returned under pressure. That is to get them to take more water than they would take otherwise. But they will actually take, under gravity, water and that water in the formation has enough pressure to force the oil out.

Now, Senator, that would explain why we need specific field rules. You see, we have rather lengthy field rules in the east Texas field in which we provide for this water injection and since the operator who injects his water is benefiting the field as a whole, we have a bonus allowable which gives this operator additional allowable credit for water which he injects, because if a fellow is over on the west side producing water, he does not help his properly by putting water back in, he is helping the whole field and particularly the leases away from the water side. So he gets an additional share of the production from the field as a whole, additional allowable as bonus for inject-

ing that water. That would explain why we have to have so many detailed field rules for the specific field involved. We issue those rules after lengthy study and very exhaustive hearings on that particular field.

Senator WATKINS. Where do you get the water to put down these wells? I have been across Texas and I have seen a lot of it that did not seem to have water.

Mr. MURRAY. That, sir, is quite a problem in west Texas. In east Texas we have a natural-water drive. As water begins to flood out all wells, you can not help but produce water with the oil. That water production was creating quite a pollution problem. We solved two conservation problems at once. We increased oil recovery by 1½ billion barrels by putting that water back in the ground and we solved the pollution problem.

Senator WATKINS. You mean you separate the water from the oil?

Mr. MURRAY. Yes.

Senator WATKINS. And then run it down the other hole?

Mr. MURRAY. Back in there. We just take an old oil-producing well, deepen it below the oil-water contact and separate the water from the oil that is produced—you have to do that anyway before you can pipeline the oil—and you pump the water in the ground.

Senator WATKINS. They say oil and water do not mix, but it looks to me like you are getting them to cooperate very well.

Mr. MURRAY. You cannot keep from producing water and gas when you produce oil.

Senator LONG. Do I understand you do not have to put any substantial pressure behind that water to put it back in there? I thought you would have to use high pressure to put that water in.

Mr. MURRAY. You do not have to, and many of the wells will take water under vacuum. You understand you could pour water in a pipe here and a container of oil here and that would make enough pressure to force the oil out here. In order to get larger quantities so that we can force wells, the frictional resistance is overcome by pumping it in. Many of the wells have pumping units not very high pressure, but just to get more water in.

Now, that, then, is used in a water-drive field where you naturally are endowed with water. That is where you get the water you use, the water is produced. You put it back in.

Senator CORDON. You talk about using an old well. That would indicate you did not open up this field to use the water drive. If you have a field here, that is north and this is south and this is east, and your water is moving east to west?

Mr. MURRAY. West to east in the East Texas Field.

Senator CORDON. West to east. When you first discover that field, you do not know whether the water is moving, do you?

Mr. MURRAY. No, sir.

Senator CORDON. You are going to have to put down a well.

Mr. MURRAY. You drill wells all over the field. There are 25,000 wells drilled in east Texas.

Senator CORDON. In a given field, how would you approach the matter of determining what ground rules to have in a new field? Just give us a picture of what would happen in a small new field.

Mr. MURRAY. We have certain statewide rules which cover operations until specific field rules are adopted. Now, they have to be broad but general conservation rules. As soon as five wells have been drilled in a field, in a new field, then we have a hearing to put in specific field rules for that field. We do not think we know enough about it until we have five wells. But our general rules are sufficiently adequate so as to allow no appreciable waste to take place in the early development.

Senator CORDON. Those general rules that would apply for the first five wells would include spacing between the wells?

Mr. MURRAY. Yes, sir.

Senator CORDON. What is the minimum you would have in your general rule there? We have sunk one well and we have found oil. What is your general regulation?

Mr. MURRAY. The statewide rule is that you must move 933 feet, a minimum of 933 feet away. You must have 20 acres for each well. Now, that is the statewide rule. You can move farther away if you want to. That is the minimum spacing. Then as soon as you have sufficient information, you come in, the operator comes before the commission and we have a hearing and decide whether for that particular field—we have been drilling it on 20 acres for 5 wells—whether 40 or 50 or 10 or 5 would be required. If we need wider spacing, the operator should have seen it and kind of spread his wells out, he is permitted to do that, on his first five wells. Usually he tries to see how much he has in productive acreage. So he does not drill five too close. If they think the closer spacing is necessary to recover the oil, we put in 20 acres and he comes back and uniformly drills it to 20.

Senator CORDON. Do you find any objection on the part of the operators to either, one, cooperating with you in determining the facts or, two, complying with your rules.

Mr. MURRAY. Do we have objection to the operator complying with the rules? That is at a minimum, sir. In honesty, I must say that there is objection. The fact that there is not much objection now just comes from years of knowing that the producers have to comply with the rules and it is for their benefit. But when we first started putting the rules in, there was plenty of objection.

Senator ANDERSON. Do the operators not set up a field committee themselves that work along with your people?

Mr. MURRAY. Yes. Most of the recommendations for the rules come from the operators. It is human nature that all of the operators will not exactly agree. So there has to be a compromise of judgment, their judgment and our judgment, as to what is the best for the field.

Senator DANIEL. Commissioner, will you state what evidence you look at to determine whether or not the wells should be developed 1 well to every 10 acres or 1 well to every 40 acres; how do you decide that?

Mr. MURRAY. The type of drive which I have already described, the permeability and porosity and thickness of the reservoir rock.

Senator DANIEL. By permeability you mean the——

Mr. MURRAY. The ease with which a fluid can flow through the sand and rock.

Senator DANIEL. By porosity you mean what?

Mr. MURRAY. The amount of porous space contained within the rock.

Senator DANIEL. In other words, you are trying to determine how many wells it takes on a given acreage to drain the oil, a maximum amount of the oil, into that one hole you have drilled in the ground?

Mr. MURRAY. Yes.

Senator DANIEL. If you have a high porosity and permeability and favorable drive——

Mr. MURRAY. And good pressure——

Senator DANIEL (continuing). One well might drain 40 or 80 acres?

Mr. MURRAY. That is correct.

Senator DANIEL. If you have unfavorable conditions, it would take a well every 10 acres to get maximum recovery of the oil?

Mr. MURRAY. That is correct.

Senator LONG. Does not one other thing come into play; that is, if you have deep production, the expense is so great that to require close spacing might make it uneconomical for a person to recover oil?

Mr. MURRAY. That could happen. Now, we do not go into the question of economics in determining waste prevention except that economics can become a factor in waste. If it is prohibitively expensive to drill, then no wells will be drilled and it is a total loss. So that is waste. But we do not decide whether an operator would make more profit on one spacing than on another. We just determine what spacing will get the greatest ultimate recovery as long as it is a reasonable profit so he will drill on it.

But I am practical enough to realize that it would not do any good to have a spacing that would be so costly as would permit no wells to be drilled. Because then you have total loss. But we do not decide, "Now, we will have 80-acre spacing because you will make more profit out of it than you will 20." We only permit 80-acre spacing when we consider as much oil will be recovered under 80-acre spacing as will be recovered under 20.

Senator LONG. You mean as much oil will be recovered from 1 well drilled on the 80 acres as would be recovered if you would drill 4 or 5 on it? Ultimately you would get just as much recovery from one well, so you set the spacing that wide? The purpose of the conservation law is to get the ultimate recovery and to prevent waste so that the public will be served by an ultimate recovery, is that not correct?

Mr. MURRAY. Yes.

Senator CORDON. The Chair would like to ask one question. In this case of water drive would your conclusion as to the size of the area to be drained by one well be influenced by the fact that you would not want more wells because they would take the oil too rapidly? Would that come into the picture at all? You mentioned that you wanted to take the oil out of this subterranean area at such a rate as would permit the water to follow and not take it out too rapidly, so I thought, to lose the water connection.

Mr. MURRAY. You are entirely accurate. I hesitate in answering "Yes" for this reason. The commission not only specifies the spacing pattern but also fixes the rate of production. If I might divert just a moment to discuss that, for every field in the State we have lengthy hearings. Then we come back periodically and review them at least

once every year, and we set what is now called the MER, the maximum efficient rate, more accurately it should be called the maximum rate of efficient production.

Now, in east Texas and all of the other fields, we have found by study and experiment and testimony the maximum rate at which a given field can produce efficiently. So we are not going to let that field produce more than the amount it can efficiently produce. If more wells are drilled, that means less oil per well.

Senator CORDON. I see.

Mr. MURRAY. That is an indirect effect that if you drill too many wells, you have a smaller allowable per well. You are also wasting critical materials, steel, in drilling the unnecessary wells. So you can see the disadvantage of permitting more wells to be drilled than are needed to recover the oil. But if too many wells are drilled, we are not going to compromise with waste, we just cut the allowables down so that the field as a whole does not produce more than it should.

Senator DANIEL. Is it wasteful to produce at a rate higher than the maximum rate of efficient production?

Mr. MURRAY. Very definitely.

Senator DANIEL. Why is that?

Mr. MURRAY. I have given an illustration on the East Texas Field and even gave figures of what the figures were, wide open as compared to orderly production.

Senator DANIEL. The result, then, of production at a rate higher than the maximum rate of efficient production is that you just have not recovered the ultimate amount which you would otherwise recover from the ground.

Mr. MURRAY. That is right.

Senator WATKINS. Do your regulations cover production of oil on privately owned land as well as that leased in the State of Texas?

Mr. MURRAY. There is no difference to us. The State of Texas is simply a large landowner and we have small landowners and large landowners in the State of Texas, and they all look alike when they come before the railroad commission. We are there to administer conservation regulations.

Senator WATKINS. In other words, you mean even though he owns the land he is not leasing it from the State; you make him observe the regulations just the same as if it were on State-owned land?

Mr. MURRAY. Yes, sir. Our regulations are uniform and applied to all. We think certainly it is for the benefit of that individual.

In answer to the chairman's question about cooperation, in east Texas when we first put these rules in, a lot of the small landowners and operators were very opposed to them. Now, they had a big celebration later inviting the commission down, honoring the commission for having put the regulations into effect which they had fought so diligently. They now realize great benefit to the general area because of conservation practices in this oilfield.

So our regulations apply to all alike. They are for the benefit of the operators, the landowners, the people of Texas, and the people of the Nation. We do not think an individual landowner has a right, even though the well is drilled on his private property, to produce that well in such a fashion as will harm his neighbors or will harm his State and Nation by losing oil that could be recovered.

Senator ANDERSON. Or harm himself.

Mr. MURRAY. Yes, sir.

Senator WATKINS. I was wondering on what theory you took over, you put the controls on private property. You would not attempt to do that on the surface. For instance, to tell a man what kind of crops he had to grow in an area and how fast he could grow them, whether he had to grow hay all the time or only part of his land, whether he had to grow grain or something else. I wonder what the theory is back of this.

Mr. MURRAY. What he does on his property does not affect his neighbor. I am an engineer and I am getting a little bit in the field of legal theory. A stream may cross a man's private property, but if it is a certain kind of stream, he can use that stream, but he cannot dam it up and take all of the water out of it. He has to give consideration to the neighbor down the stream.

Senator WATKINS. If he owns all the water, he can take it all out. Is that not true in Texas? In my State, if you own all the water, you have the use of the water in the stream and you can take it all out, no matter how many neighbors you have down the line.

Mr. MURRAY. Oil under a piece of property does not respect the fence lines or property lines. It has to flow through the reservoir. It can flow freely across property lines. So what a man does on his property can ruin or greatly reduce the value of his neighbor's property. So he has a right to reduce or capture the oil that is underlying his property but must do it in such a fashion as not to harm his neighbor.

Senator WATKINS. Now, you are getting in a field where I think you can justify what you have done.

Mr. MURRAY. That is a slow evolution of legal philosophy which I am not adequate to describe. But when it first started happening in Texas, the court would strike down the orders of the railroad commission. It was only gradually when it was possible to show how the individual benefited from conversion and how he would damage his neighbors if he did not adhere to them. They might say if he did not have sense enough to practice conservation in his own interest, let him go. But it is just like you could not burn your house down, even though it is your property, if burning it down might endanger your neighbor's property. There are certain police powers that society must exercise to keep an individual on his own property from doing things that can harm society or harm his neighbors.

Senator CORDON. You do pretty well in the field of law, too.

Senator WATKINS. I appreciate the very brief course on oil production and the reasons behind what you have done. They were not quite clear to me, which was evidenced by the questions I asked you. But I assumed there were others in the Senate who would be in the same situation on it. I justify what I have asked in my own behalf that I asked it for the other fellows that do not know any more about it than I do.

Senator BARRETT. Has the Secretary of the Interior or any operator on acquired Federal land ever objected to your regulations so far as the production of oil?

Mr. MURRAY. To my knowledge, the Secretary of the Interior, on acquired lands, has never objected in the State of Texas. A rela-

tively small percentage of our production is on federally acquired lands and we are so in the habit of just treating everybody alike, it does not matter whether it is an independent producer, Gulf or Humble or the land commissioner, or the littlest farmer, they all look alike to us.

I think our land commissioner and the school land board, the attorney general, and the Governor are among the most competent and most diligent of any private landowners; I know that they to get the maximum revenue from those properties. They frequently come in and say, "Give us more allowable. Don't do this or you will reduce our income," but they must stand on the same footing as anybody else. We do not stop and say, "How much money are you going to make out of it?" We think only as to what will be the best for the field as a whole and how to get the greatest recovery.

Senator BARRETT. Do you know whether or not the Secretary of the Interior, or whether the Department of the Interior, has any comparable set of regulations of conservation in effect anywhere?

Mr. MURRAY. I have made fairly diligent efforts—I hope all of you keep in mind I do not presume to qualify myself in this field—but I made some effort to try to ascertain what the practice is, what the law and regulations were as applicable in those States, oil-producing States, that have substantial Federal producing lands. I know from a little bit of contact and trips to New Mexico, something of it, I know how they are practicing it, but sometimes from practice you cannot clearly determine what the law is. Even though I have asked since I have been in Washington—I made a call to some of the oil conservation officials of these States with Federal lands, I have talked with representatives of the Department of the Interior, I am reasonably clear in confirming my understanding of the practice, but not clear yet as to what the statute and law is. But this is the regulation of the Geological Survey of the Department of the Interior, as applicable to Federal lands with some exceptions, some Indian lands. I have read these over. I would say that they appear to me to be regulations such as, for example, our land commissioner, as the landlord, the lessor, might put out in regard to State lands in the State of Texas, but they would in no wise interfere with the administration of our conservation regulations. There are a few passages in here that I think would indicate that it was the intention of these regulations to have them fit in with State conservation regulations.

For example, here is one, 221.10. I will not read all of it. It says:

> Supervisor: The supervisor has been defined as a representative of the Interior Department—

is authorized to do certain things for various purposes, and these are the purposes that he is authorized, for which he is authorized to do these things:

> when such action is necessary to protect the interests of the lessor, the land owner, or to conform with proration rules established for the field.

So there it would seem specifically written into the rule that he is a landlord, the representative of the Interior Department is going to

make the lessee do certain things to protect lessor's interests and see to it that they comply with State conservation regulations.

Senator CORDON. When that regulation mentions proration rules of the field, does that refer to proration rules set up by the Interior Department or the State?

Mr. MURRAY. It does not say. I have read all the way through trying to find that out. But since the Federal Government does not set up proration rules and since in these public land States they do not own all of the fields, my interpretation of this is that the only proration rules there are those set by the States. Surely when they were writing this they were thinking of that and it must have meant they proposed them to be the State regulations.

Senator ANDERSON. You referred a moment ago to New Maxico. Is it not a fact in that State the Federal Government does abide by the proration rules established by the State?

Mr. MURRAY. I know that to be a fact. The question I cannot answer is what, if the Federal Government did not want to abide by State conservation rules, they could do or just what their legal rights are.

Senator CORDON. May I interrupt you there? I am going to have to leave. I would like to ask Senator Daniel a question. Do you know of any case, Senator Daniel, where objection was raised by the United States, or any agent of the United States, with respect to compliance with conservation laws or regulations of Texas as applied to federally owned land in Texas or elsewhere?

Senator DANIEL. No, I do not. The federally owned land producing in Texas now is under the Railroad Commission rules and regulations made in accordance with our State laws and there has been no difficulty with the Department of the Interior on them. Now, we have searched the other States also since this committee began its hearing on this particular matter. You know most of the western States have their conservation setups now, too, and in no State do we find a case that has gone up where there has been a contest of the State's right to set up its conservation laws and rules and regulations.

As Mr. Duncan testified the other day, the Department of the Interior cooperates with the States and follows their rules and regulations and their laws and I guess that is why there has never been a contest.

Now, briefing the law, the analogous cases, it would appear that State conservation laws are applicable to federally owned lands and only if a State discriminated could there be any contest of the State's orders. Of course, the contest would be not on the constitutional or legal applicability of the State laws but on the State's administration of those laws. We find no place where there has been any contest. We do find evidence that in writing these rules and regulations it was contemplated that the State law as to conservation would be followed.

Furthermore, there is a provision in the Federal Mineral Leasing Act of 1920 which would indicate that, since there is a phrase in that law which says it shall not conflict with any rights the State might exercise over the property. I think there has been such a wonderful cooperation between the State administrative agencies and the De-

partment of the Interior that there would not be occasion for conflict and that is why we cannot find record of any contest.

Senator Anderson. I do not recall that the State of Colorado has any proration.

Mr. MURRAY. They do, sir. They have a fairly recently created conservation commission, new statutes. My information comes from thefact that I was asked by the Colorado Commission to come out and testify in their first case and to assist them in the preparation of that case which was a test of their authority under the new statutes.

Senator ANDERSON. Is that in the last few months?

Mr. MURRAY. Yes, in the last few months. Though the law was passed at the last session of the legislature previous to the current one.

Senator DANIEL. May I make this further reply to the chairman's question? Mr. Jacobsen of my staff says that Mr. Paulus, chief counsel for USGS, says that there has been compliance all the way through with the State regulatory laws and there has been no contest that he knows anything about. Sometimes, as Mr. Duncan indicated, the Interior Department Conservation Division, as landlords, will go before these State agencies and say, "We think the allowable is too low for this field or too high." He told us in some instances, "We believe you are letting the field produce too fast, and that they go and put their evidence on and they work out changes in the commission's rules and regulations.

One other statute which Congress has passed would indicate it recognizes the court decisions which say that conservation is within the State realm of power, rather than the Federal realm. This is the fact that when the Connally "Hot Oil" Act was passed preventing the transportation across State lines of oil produced unlawfully, the whole standard of what oil may not be transported is gaged on the laws of the States and their production allowables. his law recognizes that the States have power over the rate of production and that it is unlawful for anyone to ship across a State line oil produced in excess of the rates set by the State regulatory body.

LIMITING OIL PRODUCTION

Senator MALONE. Suppose the State had no law at all, then who would step in, if anybody?

Senator ANDERSON. California has no law.

Senator KUCHEL. It is a voluntary situation in which the industry itself determines conservation practices.

Senator MALONE. Does the law provide for that?

Senator KUCHEL. No.

Senator BARRETT. We have voluntary regulation in Wyoming. We have a conservation law, but we have no proration law. One thing I would like to ask Mr. Murray is this: In establishing the allowable, do you take into consideration the economic conditions, or is it entirely on the basis of efficient production of the oil from the reservoir?

Mr. MURRAY. Now, we have a marginal statute which fixes a floor or a minimum. At a certain depth a pumping well is not restricted to less than a certain amount, that is in the statute. That presumably relates entirely to economics. But when the ceilings we set, the maxi-

mum rate at which efficient production can be obtained, they are always above the economic limit.

Senator MALONE. What about the situation where you have too much oil, do you not in your States get together and hold down the production, that is, prorate the production?

Mr. MURRAY. The States do not get together. We have in the State of Texas a market-demand statute which says that to produce in excess of market demand by virtue of the deterioration of oil on the surface, the premature abandonment of wells from cutoff, and so forth, that it is waste to produce in excess of market demand.

Senator MALONE. I can rememfer back in 1947 and 1948 I appeared before and addressed a meeting of the oil-State governors. The oil-State governors do not get together for their health. What do they get together for?

Mr. MURRAY. I presume they get together to discuss problems confronting the economies of their State wich are so largely dependent upon the oil revenues and to discuss conservation problems and techniques. But they do not get together to discuss proration, at least not in the State of Texas, because the Governor of the State of Texas does not have anything more to do with setting allowables in the State of Texas than the Land Commissioner or the Attorney General. They are all on the School Land Board and they are frequently in there saying, "Can't you raise allowables so that we can get more money for the schools?"

Senator MALONE. You are telling us now there is no collaboration, no communication between Louisiana, Texas, Oklahoma, or any of the States when it comes to meeting the market demand?

Senator DANIEL. You did not mean that you do not have cooperation.

Mr. MURRAY. I said communication.

Senator MALONE. I see them with their heads together and they limit the amount that is produced.

Mr. MURRAY. Unfortunately, that is not done. Texas has had to do a large share of the cutting and the raising. When the market falls off, Texas has to take most of the slack up. When there is a certain increase we supplied 86 percent of the oil used in World War II.

Senator MALONE. Texas does recognize that the other States produce oil?

Mr. MURRAY. Yes, sir. These other States are looking at the same factors that we are looking at in determining market demand. We would like them to start watching market demand more closely, raising and lowering their production accordingly, but they do not do that. My purpose here is not to criticize, but simply the facts unfortunately prove that neither do we get together and agree on it, nor do they independently do what we think they should do. The same I say of foreign countries. We think that production in foreign countries ought to rise and fall with demand.

Senator MALONE. You mean your imports of oil?

Mr. MURRAY. That is right. We do not take the position as opposing imports, but just think that when demand declines, imports as well as domestic production ought to be reduced.

Senator MALONE. We have 5 or 6 bills before us to limit imports. Who is behind those bills?

Mr. MURRAY. That I do not know, sir.

Senator MALONE. We will find out when we start holding hearings on them, I guess.

Mr. MURRAY. I am not informed about it. I have taken no position on those bills.

Senator MALONE. You understand that there are several bills, including the Simpson bill, over in the House that limit the importation of oil?

Mr. MURRAY. I have read that.

Senator MALONE. You are not interested in it one way or the other?

Mr. MURRAY. I am very definitely interested, but I think the Congress has far better judgment than I as to what is the wise thing to do. I consider myself reasonably informed on conservation.

Senator MALONE. That is the first time I have ever heard anybody say that, and I doubt it, too, whether they know anything about it or not. Congress is going to have to find out from people like you.

Mr. MURRAY. Not from me. The Congress has better sources of information than I, on that subject. We just started into this, Senator Anderson, and before I disqualify myself, I would like to express my appreciation for your very kind remarks about my qualifications as indicated to you by Hon. Hiram Dow. I hope I do not let him down.

Senator ANDERSON. You are not going to let him down. We in New Mexico trust the Texas commission completely and the citizens of New Mexico depend upon it a great deal to tell them what the general conditions are across this country.

Ernest Thompson lived at Amarillo for a great many years. He is well known to all of our people. You come over into the White Mountains to hunt and fish. You are known to a great many of our people. Naturally, they do have a great deal of confidence in you and the Texas Railroad Commission.

Senator DANIEL. There, it seems to me, would be a good place to say what the State conservation commissions do when you find a field on the State line. Have you had that kind of situation occur, for instance, between Texas and New Mexico? Will you explain how you work it out?

Senator ANDERSON. The situation between Hobbs and Denver City.

Mr. MURRAY. Recently in the Dollar Hide Field, which is a field that crosses the line in that area, the three Texas commissioners went to Santa Fe, met with the New Mexico Governor, the inland commissioner and State geologist who, together, constitute the conservation commission or whatever it is called in New Mexico. We agreed on a common set of allowables and common set of rules for this field, that crossed State lines. We were very happy, there was no disagreement. On certain reservoirs we had more information in Texas than in New Mexico. On these, they pretty well followed our line of thinking. On other reservoirs which were better developed in New Mexico we followed the suggestions of New Mexico.

This gives me one chance to state emphatically that while I am not crystal clear on what the laws and regulations of the Federal Government are, I can emphatically state that as I have seen it applied in these Federal land States the practice is splendid. There

is excellent cooperation and they are adhering to the conservation regulations of these States, only making suggestions.

Senator ANDERSON. I wish you would stop there, because I am a little worried about what Senator Daniel said. I am not sure that he is wrong, but he said the Federal officials come in as witnesses before the commission and are treated as other witnesses. My feeling was that they came in as partners out in these Western States; that while the State may have the final responsibility as it does in your State, where you deal wih each piece of private land and State-owned land and do not try to differentiate as to who owns the land, whether it is a private person, a corporation, the State of Texas, or the Federal Government, that in these Western States where there is a tremendous amount of public land, the United States Geological Survey does work in close cooperation with the State and works as a partner more than just as a witness. I think they have a dual capacity. They do appear as witnesses too.

Mr. MURRAY. That is definitely true. In Texas we are partners with the operators there. More of our rules are issued by getting together and discusisng it and deciding jointly the best thing to do, we are just simply partners trying to issue permissive rules that will help obtain conservation.

Senator ANDERSON. Let me ask a question on this thing. It does have some bearing on what is finally done with the conservation laws in the outer shelf. Does any State that you know of, and I ask you only because of the size of your operation and the value of it, but do you know of any State that has as much information on water drives, gas drives, solution drives, water flooding, gas repressuring, and so forth, the effect of gas ratios and what they indicate, as does the State of Texas, because it did produce, I believe you said, 86 percent during World War II——

Mr. MURRAY. Of the increased production necessary. We produce substantially half of the Nation's oil.

Senator ANDERSON. Now, has that given you a bigger body of information on which to draw than the other States? That is all I am trying to ask.

Mr. MURRAY. Yes, sir. We have been larger and we have been at it a longer period of time. It is not any tribute to our wisdom, it is just that anybody is going to learn by experience. I would like to acknowledge that we have made a lot of mistakes in the past in Texas, which we are sorry about, but we were pioneering in this field of conservation and we had to learn. We are hoping our experience can be useful to other States newly becoming oil-producing States and to the Federal Government and they will not have to make the mistakes that we made; that they can profit by our experience and start in right where we are today on conservation.

We have had a number of other State representatives, we have a number of representatives of foreign countries come and spend days and weeks studying our system so that they can start in where we are today and not go through this tedious trial and error and costly mistake period that we went through in early life.

Senator ANDERSON. Your proration depends on the permeability and porosity and sand and all that but does it not also depend to some degree on market conditions worldwide?

Mr. MURRAY. Very definitely.

Senator ANDERSON. You do not want oil wasted.

Mr. MURRAY. Very definitely not.

Senator ANDERSON. You do not want oil wasted; you do not want to waste gas accompanying it; you want to match it up so that the field will recover the maximum and recover most for the people and the Nation, but you also bear in mind the world market on oil.

Mr. MURRAY. That is correct. We are considered the model for conservation over the world, as I have said, not because of our wisdom but because we were big and started early and we have learned from experience. We have men all over the world helping to put into effect the conservation practices we have learned in Texas. Our former chief engineer of oil and gas of the railroad commission's oil and gas division, is in Venezuela helping to develop their conservation program. We had a man come from Iran and study with us. We have had a man setting up a system in Alberta and Saskatchewan. We have a man in touch with Mexico. This, aside from a number of States that hoped they were going to have oil, and have people come and study our system so that they could have conservation statutes ready to go when the first barrel of oil is produced.

Senator MALONE. Maybe we will have use for you in Nevada. I hope so. We have one well out there now. There are a lot of people drilling.

Mr. MURRAY. We did not do that in Texas but I certainly would commend the foresight that you would have and the people of your State to get those conservation statutes early.

COOPERATION BETWEEN STATE AND FEDERAL GOVERNMENTS

Senator MALONE. I think you are right. It is like underground water to a certain extent. We have profited by the experience of the other States.

Now, you were discussing the matter of cooperation with the Federal Government. I presume what you meant when the land was leased under the Mineral Leasing Act of 1920.

Mr. MURRAY. Yes, sir.

REVENUE TO THE FEDERAL GOVERNMENT

Senator MALONE. I suppose the State is very much interested in the conservation on public lands because apparently they were following the Mineral Leasing Act of 1920. They were following the lines of the homesteads, the Government was not getting paid for the land, but only collecting a filing fee. In this case the Federal Government gets very little of the revenue under the Mineral Leasing Act of 1920. You know that, of course?

Mr. MURRAY. No, sir, Senator, I am afraid I am not adequately informed.

Senator MALONE. Well, you are teaching me a lot of things this morning, so I will leave this with you. The Federal Government gets 10 percent of the royalty collected under the terms of the Mineral Leasing Act.

Mr. MURRAY. It is coming vaguely back to me. Some percentage of that goes directly to the States.

Senator MALONE. Yes, 37.5 percent goes to the State in which it is located because of its paramount interest; 52.5 percent of this income goes to the reclamation fund and the reclamation States include the public-land States. Texas is not a public-land State and neither is Oklahoma, Kansas, or Nebraska at the present time. The two Dakotas have some public land. The States including and west of that tier of States make up the 17 reclamation States. That 52.5 percent that augments the reclamation fund is expended for improvement in reclamation in those States. The royalties received in the reclamation fund from the production of oil on the public lands like in Wyoming, and California and the other public-land States really benefits these 17 Western States where that oil is produced. So the State has a paramount interest. It has 37.5 percent direct interest, then its interest in reclamation projects, whatever it happens to be. The Congress has to pass these acts. However, the reclamation States get their share over the long run of the 52.5 percent. So there is really 37.5 plus 52.5 percent which is 90 percent to these States that are interested. Therefore, they are interested in conservation. It is not the Government's interest, it only has 10 percent interest. But it has the responsibility of taking care of this property in accordance with the best information it can get. So I am glad to hear you say the Government cooperates with you. You see, the States have the major interest.

Mr. MURRAY. I certainly can see that, sir, the Government cooperates with us, but there is so little Federal land in Texas it is simply the cooperation I have observed in other States, for example, in New Mexico and Colorado. In the outer Continental Shelf here I propose to dedicate my testimony today simply from the standpoint of hoping for the best interest of the Nation that sound conservation would be practiced from the very beginning.

Now, if consistent with that policy the State of Texas would participate in revenues on a comparable basis from the outer Continental Shelf, then we would have an even greater concern in conservation. Still, I am a conservation engineer—I am concerned about the revenues of the school-land fund of Texas, but when I get to worrying about conservation, I forget whether it is the Land Commissioner, or small farmer, Humble Co., or little producer. I want to get the most oil for the Nation. That is my concern for the outer Continental Shelf. If this division of revenue would be included, too, as in the other Federal land States, Texas would certainly have even a greater concern.

Senator MALONE. That is true, and it is not beyond the realm of possibility.

Senator DANIEL. Mr. Murray, you are not here testifying about or asking any revenues for the State of Texas from the outer Continental Shelf?

Mr. MURRAY. No, sir; that is not in my field.

Senator DANIEL. You were asked here to testify before the committee as to the best conservation laws and practices we can provide for the good of the Nation on the outer Continental Shelf?

Mr. MURRAY. Definitely. I feel I can only be effective by limiting myself to the field in which I have experience, but I could not help but be impressed with the information the Senator just gave me.

Senator MALONE. I am partly responsible for getting Mr. Murray off

on this tack because I thought he ought to know what the interests of the States were in this conservation. We are going to be very much interested in the State of Nevada if and when we discover more of these wells.

As you see, if we get our share of the 52.5 percent and we get our 37.5 percent, we are vitally interested.

Take this Continental Shelf, it seems to me pretty hard to get our thoughts collected and talk about a Leasing Act. We have a new leasing Act here. On the other hand, we already have a Mineral Leasing Act that has been described to you, which applies to all public lands. Now, if these prove to be public lands, and I suppose the Federal Government owns them, that is what they would be, would they not?

Mr. MURRAY. I assume so; though I am not passing on that.

DISTRIBUTION OF THE ROYALTIES

Senator MALONE. After the Supreme Court decided these seabottoms were public lands, at least owned by the Federal Government, that is the marginal sea lands inside your boundary down there—the Federal Government no longer owns them—we had a Secretary of the Interior who immediately rules that the Mineral Leasing Act of 1920 was not applicable to these lands. The individuals who filed on these lands sued him in the Federal court here. We may have the decision in that case at any time. If the ruling of the Secretary is reversed, it may mean that the Mineral Leasing Act is applicable to any Federal land, anywhere, whether it is seabottom land or whether it is located somewhere else. If he rules the other way, and it was a very weird set of reasons which were given by the then counsel for the Department of the Interior as to why the Mineral Leasing Act was not applicable to the sea-bottom lands, a very simple amendment by the Congress would make it applicable. Then the division of the revenues would remain the same except as long as the area is not in any State, but beyond the 10½-mile limit for Texas or beyond the 27 miles for Louisiana or whatever it is finally determined to be, a simple redistribution of that fund would be very easy.

In other words, it would mean that 37.5 percent normally went to the State in which it is now located, so you have a law already on the books that says what we are about to say here, that you can lease with a 12.5 percent royalty. When the lease is on known mineral lands, you can ask for bids. That can be amended. So you are only interested in conservation. You would not care whether the leasing was under the Mineral Leasing Act of 1920 or whether under the Mineral Leasing Act of 1953 or what, would you?

Senator ANDERSON. Except as to the State or Federal. He might have some difference there. I am anxious to have him say whether the State should administer it or should there be integration.

Senator DANIEL. You are getting out of his field. He is a conservation expert.

Mr. MURRAY. You ask if I am only interested in conservation. I am not only interested in conservation, I am interested in other things. I could not say that I was not interested in the tidelands legislation, but I am not an expert on it.

Senator MALONE. We will not bother with that now. That is all over.

Mr. MURRAY. The point I am making is that I am interested in other things, but I do not consider myself qualified to express an opinion.

Senator MALONE. You are in this business now. Naturally if the State of Texas could gain from this Continental Shelf and get a share of these revenues, you would be interested in that?

Mr. MURRAY. Yes; but I would expect our attorney general, our land commissioner to be looking out for the interest of the State of Texas.

Senator MALONE. What difference would it make to you then whether the Federal Government leased it under the Mineral Leasing Act of 1920, where the revenues are already divided, and with proper amendments provide where they should go, or whether we should have a new leasing act on the same basis. It would not make any difference to you, would it, except if proper conservation practices were followed?

Mr. MURRAY. That is my interest here and the field in which I think I can give some possible help.

Senator MALONE. Suppose the same conservation practices were followed as are now followed in Texas, whether it was under the Mineral Leasing Act of 1920 or whether it is the 1953 Mineral Leasing Act, which we may or may not pass, it would not make any difference to you, would it?

Mr. MURRAY. Within the field of my specialty, I am interested in getting conservation. It might make a difference to me, but I would not presently be qualified to have an opinion as to which is the best.

Senator MALONE. In regard to conservation, it would not make any difference?

Mr. MURRAY. No.

Senator MALONE. That is good.

Mr. MURRAY. I did not mean to avoid your question, I could have an opinion. I might think one procedure is better than another, but my opinion is no better than anybody else.

Senator MALONE. We have abandoned that field of questioning entirely. We understand that. I have been an engineer for 30 years, although I was not in the oil business. What I want to say to you now is that I am under the impression that you do take cognizance of the oversupply of oil in your conservation practices, you go beyond what is good practice and you hold production down so that in California and in Texas and in Oklahoma and other fields there is not an oversupply so that it knocks the price brought down too low. Did you ever hear of that?

Mr. MURRAY. I have heard that statement made, but I do not think it accurate, sir.

Senator MALONE. I am sorry.

Mr. MURRAY. I did not understand it to be your view. I was not taking issue with that.

Senator MALONE. It is not my view. I have just been sitting in on some of the hearings. What then are you complaining about in Texas with the Venezuela oil coming in? There is also information to the effect that they are holding down the oil production to a certain amount, a certain percent, because of an oversupply of oil coming in

from outside the United States. What is that complaint about? That comes from Texas.

Mr. MURRAY. I certainly am aware that there is complaint in the State of Texas on that point.

Senator MALONE. They have to hold their production down because of the foreign imports.

Mr. MURRAY. That is correct.

Senator MALONE. That is the answer which I have been seeking.

Senator ANDERSON. I would like to have your opinion on this: Do you think there ought to be a separate Federal proration, in other words, a separate Federal administration of these lands that lie seaward of your historic boundaries, whatever they may be, or do you believe the States ought to cooperate in that field or ought to assume their full responsibility in that field? I would like to have your opinion on it.

Mr. MURRAY. Senator, I do not have a prepared statement, but I have written out, on half a page, four points that I intended to make at the beginning and then have interrogation. I think I can answer that question by making these four points.

Senator ANDERSON. Go right ahead.

Senator LONG. Mr. Chairman, might I interrupt to suggest that inasmuch as all of us have had a chance to ask some questions here, and we only have 25 minutes before 12 and the Senate meets, that we permit the witness to make his four points uninterrupted by questions and then one can ask questions about those points.

Senator BARRETT. Without objection, that is the way we will proceed.

Mr. MURRAY. Senator, many of these things we have already discussed. The first point I would make is that there should be a body of conservation law. You have heard me say to Senator Malone my reasons for thinking that conservation laws should be there at the beginning or as early as possible. Now, I would advocate that it be statute rather than just regulation.

As I mentioned as to Texas, we have a statute and then subject to those statutes, subject to court review on whether we are following those statutes or not, we write specific detailed rules for every new field. Any time we get out of line with the powers written by the legislature, we are knocked down by the courts.

Now, my first point: Have your conservation regulations early. I would advocate that it be based on statute and detailed regulations under authority given by the statute rather than have something like this (Interior regulations) which is fine, but the only appeal here is to the Secretary. It would look to me to be better to have it in the statute.

Secondly, I think that these conservation statutes and regulations should not be administered by the same agency as that which does the leasing. I think my reasoning there has been indicated by my reference, my tribute to the land commissioner, the attorney general, and the Governor, and the school land board for a splendid job.

This landlord drives a harder bargain in the State of Texas, but he is the landloard. When he drives a bargain, it is in a contract and it is a sacred contract and it cannot be broken. We in the conservation authority are prescribing regulations to him and his pro-

ducer like we are to anybody else. I do not think it would be satisfactory for him or for us to be in the situation of being the landlord driving the hardest bargain possible and then being the judge putting forth the conservation regulations.

So I would advocate that they be separated, two different agencies; one, they be full-blooded, hard-boiled businessmen getting the most for the Federal Government and for any States that might participate in that revenue and then an experienced conservation body that is a partner, as you have indicated, that is working with the operators, not trying to drive a hard bargain but working with them so as to get the greatest recovery.

My second point then is to separate them if possible. I certainly think we have borne out the wisdom of that separate division in the State of Texas.

Thirdly, I think it would be well and this goes specifically to the question you asked, to extend the State conservation law where it is not in conflict with Federal statute or valid Interior Department regulations. Now, I am advocating a statute first, then Interior Department or whatever department would make the regulations. Here are our Texas statutes. It has taken 25 or more years to build them up. I do not think you can write overnight the statutes and the regulations that will completely cover the field. So I think it would be well to provide that State conservation laws cover except where they are in conflict with Federal statute or regulation. That is what is being done, to the best of my knowledge, in your State and the other public land States.

I do not know whether the State of New Mexico has authority to impose its regulations on the Federal lands, but they are being followed. Presumably, they could be countermanded. That is a moot issue. I am not sure whether that is clear or not. But that is what I would propose. So that you will not have to cover everything to start with and then have great fields that are left out.

I would propose that State conservation regulations be extended to the outer Continental Shelf except where in conflict with competent Federal laws. Then for awhile the Federal Government would not have to put out but a few regulations. Whenever they found that the State government was not doing it in the fashion they thought best, they could move on in and countermand and extend. but there will not be a broad area there where the Federal Government and Interior Department, from lack of experience, not lack of wisdom—it took us a quarter of a century or more in Texas so we could not expect you to do it in a few days—would leave some broad fields unregulated which you would have to find from bitter experience causes bad waste.

My fourth point would be that I should think that it would be well for the State conservation agency to administer this State statute I am proposing to extend out there where not in conflict. You could pass a bill with such laws as in your judgment were wise and complement the applicable State conservation laws that were not in conflict and you could have the Federal agency, say the Interior Department, administer it. I think it would be better to have the State conservation board administer those applicable State conservation statutes which were not thus in conflict. I think there is a good bit of precedent

for doing it that way in your State, sir. The State Conservation Board of New Mexico has hearings, establishes the field rules, sets the allowables, and the Federal Government, the United States Geological Survey, has their lessees adhere to those regulations. They are partners, as you pointed out, and in their talking with the State conservation commission, they may suggest changes, but they are not out there setting up their own separate allowables, two separate sets of conservation regulations.

The operators would thus know where they stand. They would have a clear set of rules, a clear set of instructions. They would know they must adhere to the State conservation, gas-oil ratio test, and everything else that is not in conflict or specifically provided by the Federal agency.

Now, that was my suggestion here, get the conservation regulations as soon as possible and to have State statutes apply to any area which you might not cover to start with.

Senator DANIEL. Can you give some reasons hurriedly for your fourth point that the State agencies should administer the conservation law? For instance, would it not require a separate set of employees and separate bureau that does not now exist in the field?

Mr. MURRAY. Very definitely. When I was with the Petroleum Administration for War we had certain Federal regulations, but instead of setting up a separate enforcement agency, I had an office and spent part of my time in the railroad commission office of Texas and used all of the commission forms and the reports of the hundreds of railroad commission employees funneling in to me and in this manner one man part-time was able to do all of the Federal policing simply by looking at the State reports and using their enforcement division.

Later we had 25 Federal employees doing that same work and using a vast number of their own forms.

Senator ANDERSON. Was that not true also in the allocation of steel?

Mr. MURRAY. Yes. So my feeling is that if you had an Interior Department representative there looking it over, but having us, the railroad commission in Texas, do the enforcing, it would greatly simplify, greatly reduce the staff that would be needed.

Senator ANDERSON. What about the discrepancy between Louisiana and Texas?

Mr. MURRAY. We are already working that out on our present boundary-line fields. In Phoenix Lake Field, we got together, set the same allowable and same spacing rules. Now, where we have a field between the boundary line in the water of the States and the Federal Government, we have certainly got to work closely together. There will be a whole lot more possibility of fields along the line between State and Federal boundaries coming in there across this dividing line than on the line of State boundaries.

Now, another situation, the only way to handle this shelf oil is to move it to shore. You cannot leave it out there, produce it directly into tankers. So when it comes to shore, with divided conservation authority, we would have quite a problem in seeing that that oil not be commingled with oil that is produced under the regulations of the State. Our own policing will almost fall down completely unless we have some uniform authority, subject to being countermanded by

the Secretary of the Interior, over this outer Continental Shelf production. Otherwise, any time we think we have found hot oil, this fellow will say this came from Federal lands where you have no control over it. You cannot identify it. It is intermingled with hot oil. You have to leave it alone.

Senator DANIEL. Hot oil is that produced above the allowable set by the State?

STATES HAVE POLICE POWER OVER PUBLIC LANDS WITHIN THEIR BOUNDARIES

Senator MALONE. Mr. Murray, in regards to the policing of the offshore areas which, it is admitted, that it is not included in the State of Texas, would there not have to be something in this legislation, too, extending the authority of the States beyond their boundaries? I suppose there is no question in anyone's mind, at least it was tried out in the supreme court of our State and held the State has the police power over the public lands within its borders. There is no question about that. We tried that out in the case of stock water rights and it was held we could turn down stock water rights if the lake was being used in that area, on the theory that if additional stockmen went in, it meant trouble and under the police power of the State we policed that. There is no question on that, that the policing power over the public lands is within the State. When you extend the policing power beyond the boundary of your State, it would be like extending it into some other area, perhaps another State.

Senator BARRETT. Will you raise your voice?

ADDITIONAL LEGISLATION NEEDED TO EXTEND POLICE POWER BEYOND STATE BOUNDARIES

Senator MALONE. Yes. I am raising the point here that we need special legislation to give authority to the State to go outside their boundaries and exercise police power. It has been tried in Wyoming, we have tried it in the courts of Nevada. Anything our State legislature does under the police power of the State has been held constitutional.

Now, when you go outside of the State of Texas and exercise your police power, would there not have to be something in the legislation some place to empower you to do that?

Mr. MURRAY. Yes.

Senator DANIEL. May I give you what the House has done on that point? The House in the bill already passed, H. R. 5134, has followed your idea there. In their bill they say:

> 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 provide 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.

Senator MALONE. Mr. Chairman, I would like to ask one more question, or review this to its conclusion. It seems to me that that would be a very reasonable thing. Here is the State of Texas, the State of California, or whatever State it might happen to be. They could easily extend their police jurisdiction with the power to do so, where it could be offered to have an entirely new police force, whatever they call them, to keep the peace and to determine whose right is where, that is, if there were disputes, and an entirely new one from the Federal Government where, as you say, at 3 miles out or 10 miles out, whatever it is, 10½ miles out, there jurisdiction ceases and the Federal Government begins, it seems a reasonable thing to do.

I was trying to bring out the fact that this bill which does not carry it now would have to carry some special authority. You agree with that, Senator Daniel?

Senator DANIEL. Yes.

Senator MALONE. You agree with that?

Mr. MURRAY. Yes.

Senator WATKINS. I would like to ask Senator Daniel a question in connection with the witness' statement. I have not checked this question, and I am not sure in my own mind.

Would the State of Texas, Louisiana, or any of the other States that we might give jurisdiction to, have any constitutional difficulties in having their officers and their administration extend beyond State boundaries?

Senator DANIEL. No, I do not believe they would. As a matter of fact, Senator, when we first went out on the Continental Shelf Texas extended its jurisdiction out to the edge of the Continental Shelf. All our proration and conservation laws of the State have been applied. We have had the practical operation, this body has now, for 5 years. Louisiana did the same thing, 27 miles out on the shelf.

Senator WATKINS. Did anybody ever raise the question of the constitutionality of the operations?

Senator DANIEL. Not even the Federal Government.

Senator WATKINS. Of course, you do not get a test case until somebody raises the question. I am wondering if that document would hold good. I do not know your State constitution. I do not know the State constitution of others. I know in my State we do not have authority, no State officer would have authority, beyond State boundaries in matters of this kind.

Senator DANIEL. In two instances that very same thing has been done. Insofar as the State of Texas is concerned, under our constitution the State legislature can define the jurisdiction of the State. In two instances the State legislature brought within the jurisdiction of the State areas that had been outside theretofore. In both instances, of course, they had the consent of Congress. In the first instance it was over the area between the west bank of the Sabine River and the middle of the river. The Texas boundary stopped at the west bank originally. The United States purchased all the way to the west bank in the Louisiana Purchase. When Louisiana was admitted as a State, its boundary was set in the middle of the river. So that left the west half of the Sabine River outside the State of Louisiana, and also outside of the State of Texas. Congress passed an act authorizing Texas to extend its jurisdiction to the center of the Sabine River and that was

done, and we have been carrying on all of our police powers there ever since. In one other instance, on the Rio Grande——

Senator MALONE. At that point you did not actually take in the western side of the area, you simply extended your police powers. It is not part of the State yet?

Senator DANIELS. Yes, it is part of the State; for the powers you can extend over a navigable stream of that kind it is part of the State.

In the case of the Continental Shelf, you could not under international law extend your line to take in international waters. We all recognize that, beyond our territorial waters or historic boundaries, the overlying waters on top of the Continental Shelf belong to the family of nations and the United States cannot have exclusive rights; neither can the States. But international law is developing now to the point where it is pretty well recognized that the seabed and subsoil can be annexed separately from the waters. Unless the trend changes on us, and that is one important thing I think we ought to watch.

Senator WATKINS. I think we ought to determine the trend ourselves.

Senator DANIEL. We have helped and other nations have followed us in this trend. Our action here could help reverse this trend if we do not follow the theory on which the Presidential proclamation of 1945 was made—that the seabed and subsoil underneath the waters can be subject to the exclusive jurisdiction and control of our Nation.

Now, you have to envision a jurisdiction that goes out over the waters, airspace and all, to the territorial water limit or the historic boundaries; then you go down to the seabed and out to the edge of the shelf, leaving out the overlying waters of the outer Continental Shelf. Now, international law is recognizing that is all right for the adjacent nation to claim exclusive jurisdiction over seabed and subsoil.

As Mr. Tate from the secretary of state's office told us in here, whatever we do in that area of exclusive jurisdiction is a matter of domestic law. The theory for our claim in international law is that the shelf is just an extension of our continental land mass and that the United Nations or other international groups should not have jurisdiction over the seabed and subsoil, because it takes cooperation from the shore to develop the resources, just like all these oil operations out there. They begin from the shore, they are supplied from the shore, and the oil is finally brought back to the shore. So under that reasoning, the theory now prevalent in international law is that the coastal nation can have exclusive jurisdiction and control and can put its constitution and laws out over the seabed and subsoil but not over overlying waters.

Senator WATKINS. That point I am willing to concede.

Senator DANIEL. Now, on the State proposition, the State could extend its jurisdiction because it is a matter of domestic law. On the Rio Grande, the river would cut through a bend leaving a part of Mexico over on the north side of the present channel of the Rio Grande. Mexico and the United States fixed several treaties in which they agreed that in each instance, wherever the land was left on the opposite side of the present channel, that the other nation would take jurisdiction. Congress passed a law permitting the State to extend

its jurisdiction over what used to be part of Mexico, and we did. So I think that if the United States can extend its jurisdiction over the seabed and subsoil and if we, the Congress, extend the Constitution of the United States and our domestic law over the area, under our system of dual sovereignties it would be permissible for the States to extend their concurrent jurisdiction over the same area for local purposes.

Senator WATKINS. The point was the area is outside the boundaries of State and, ordinarily, State police power only goes to State boundaries. That is the reason I asked that question. It has never been raised in court; has it?

Senator DANIEL. No, sir. There is no one that has contested the extension over this area of the State boundaries. Actually, what we advocate being done is the policy followed by the United States in every similar situation. The closest thing I guess we have to it is in the Great Lakes where your boundary lines of the Nation go out as far as 75 miles offshore in the middle of the Great Lakes, which have been held to be open seas. After Canada and the United States fixed their boundary lines out there in the middle of the Lakes, the United States permitted the States to have conterminous boundary lines. We never have had jurisdiction of the Nation go out farther than the concurrent jurisdiction of the States. Every time the Nation goes out and extends its jurisdiction over some additional contiguous land, submerged or otherwise, it has permitted the States to extend their jurisdiction for local purposes over the same area. So if we follow that same policy here, like the House has in its bill, we will simply be following the same policy that our Nation has always adopted. The only difference in it here is that the matter of ownership would be changed. Here the Federal Government would own all of the land in this area that is being added and would get all the revenues from it. That is the only change in the policy that has been followed in the past in similar instances.

Senator WATKINS. I assume about the first time someone is arrested and charged with a criminal offense under the laws of the State of Texas, if the program which has been suggested is carried out, that he will probably raise the question whether they have a right.

Senator MALONE. I tell you how we settled that in White Pine, Nev., that borders on Utah. We have a sheriff that is quite a sheriff in White Pine County. A fellow shot a man in Ely and he thought he would beat the sheriff to the Utah line, and he did. When he got over there he said, "You can't arrest me, I am in Utah." There were just two of them out in that desert. The sheriff said, "You come back with me, I am no surveyor."

Senator WATKINS. That would be all right in a few instances, but you may eventually run into that question. I wanted to develop it, and I am glad you have.

Senator DANIEL. It is a good question. I think if the United States can legally extend its jurisdiction beyond its present boundaries, it can let its component States do the same. The whole theory of this thing is that this land is appurtenant to the United States, comes to us because it appertains to us. It cannot appertain to the United States without appertaining in the same way to a State.

Senator MALONE. It is a very reasonable thing if it can be worked out.

Senator DANIEL. We ought to be happy in this day of international thinking that the small group in international law which believes this land ought to belong to the family of nations and should be controlled by the U. N., is in the minority. The majority trend is going our way now. I say let us not do anything to change it. Let us make this land a part of the United States and make the Constitution of this country and the domestic law apply to the seabed and subsoil. Everything we do to bring this area more into our own country, we are simply helping see that the trend goes in our direction instead of letting the internationalists take over and get this valuable area for other countries.

Senator MALONE. Does the distinguished Senator think we ought to declare our independence again?

Senator LONG. Mr. Chairman, I would like to ask a few questions of the witness here. We may not have a chance to have him back. Would you mind explaining to me just what the interstate oil compact is? Was it authorized by Congress?

Mr. MURRAY. Yes.

Senator LONG. Will you explain why it was authorized by Congress?

Mr. MURRAY. The purpose of the interstate oil compact is for the compacting States to get together and exchange information on developments in conservation. I presume the reason for Congress approving that is that they felt that much value to the Nation could be gained from authorizing the States to get together and discuss and do studies in methods of attaining conservation.

Senator LONG. Did that interstate oil compact have anything to do with preventing States from having cutthroat practices? I recall that when some of your East Texas fields were brought in, at that time the price of oil was depressed to about eight cents a barrel or something of that sort. It was almost impossible for anyone to make a profit because there were so many people all seeking to sell their oil and the States had no way of cooperating in the marketing of oil and no way of adjusting themselves to foreign imports. Did that have any bearing upon the interstate oil compact?

Mr. MURRAY. I do not think so. It may have been a background feature, but the purpose of the compact is to obtain conservation. Now, in East Texas some people were concerned about the price. But let us not forget, the point I have already made, the excessive rates of production were going to give recovery something in the range of a billion barrels whereas controlled rate of production is getting it up to 5½ billion barrels. They were storing excessive quantities of produced oil above ground and tremendous waste was taking place. Now, there is not today and there has never been an agreement among members of the compact States what each State will produce. They do not discuss it. We talk conservation. We talk legal developments, but we do not discuss the allowable quotas for each State.

Senator LONG. I wish you would explain to me who does it. A while back Texas took a cut, then Louisiana took a cut. There are some people complaining about the cutback on their allowables. Would you mind explaining to me who it is that decides what the cutback would be and why Louisiana, for example, would take a cutback?

Senator MALONE. At that point there was no question that the oil was being produced in Louisiana faster than good conservation methods would permit, but it was too much oil.

Senator LONG. Would you explain that?

Mr. MURRAY. I can tell you definitely how we do it in Texas. I cannot tell you how they did in Louisiana. In Texas we received nominations from the purchasers, we received the Bureau of Mines estimate of market demand and we receive weekly figures on the stocks of crude oil and products in aboveground storage. That third thing is the most significant thing to us because we have had extensive hearings and have determined through these hearings that when the stocks of crude oil for the Nation are in the range of, say, 265 million barrels, that every demand of the entire Nation can be met. You have 265 million barrels of oil available for any purpose you need to draw on. If you build stocks above that level, then it is crystal clear that it is wasteful. You have more oil on hand above ground than you can use and you need to draw upon, and you are having it deteriorate from evaporation, fire losses, and other hazards. So when we see from the stock figures which are reported to the Texas Railroad Commission, and every other regulatory body gets those same figures, that stocks are climbing, climbing, then we know we have too much in storage. It is just like you are feeding hay out of a barn and you have a fellow bringing you some hay every day and you are feeding all the cattle can eat and your cattle are eating the hay all the time; if the barn is declining, the cattle are eating more hay than you are bringing in.

We do not look at the price. We do not say what the price of that oil is. We say how many barrels aboveground storage are needed.

Senator LONG. Texas produces about 40 percent of the Nation's oil, as I understand it.

Mr. MURRAY. Something in excess of that.

Senator LONG. Louisiana produces, I suppose, less than 10 percent. What factors are there to make Louisiana decide she should cut back when Texas cuts back?

Mr. MURRAY. We know the Nation's stock level and we know it is too high. We know that we are going to do harm to the Nation and to the State if we continue to produce in excess of market demand. So we have watched these stocks week after week and they are going up and up. So we know that the Nation is producing too much oil. Texas has its responsibility to do its part of the cutting back.

Senator DANIEL. Does that create waste?

Mr. MURRAY. To produce excessive oil, yes.

Senator DANIEL. Where does the waste occur?

Mr. MURRAY. It occurs in aboveground deterioration. Like all that was produced in East Texas in the excessive producing days. It is like tar. It deteriorates. Just like we are finding too much grain in storage, too many eggs, and too many potatoes creates waste. It is good to have enough in storage to handle any emergency, but when you start building more storage than you are going to use in the next 5 or so years, it begins to waste. A farmer can see that there is too much grain in storage or too much potatoes. He might decide to raise something else. Nobody told him to do it. If a whole bunch of

farmers start to raise something else besides potatoes because potatoes are going into Government storage and rotting, it is not collusion.

PRICE OF OIL DETERMINES AMOUNT PRODUCED

Senator MALONE. I think you have hit a sensitive cord here on this eggs and potatoes business. But the price is being held up. I have been in the engineering business for 30 years. I can see a meeting of the spirits here between you and me. Whereas, there may not be a market for oil at a dollar and a half, there is a market for it at a dollar. The facts are if it goes below the cost of production, ultimately people get hurt that are in the business. As a matter of fact, let us be practical about this. Is that not what it is all about?

Mr. MURRAY. Not to me, sir—definitely not.

Senator MALONE. Maybe you do not understand it, but I think you should. The thing is that you said awhile ago you are only interested in conservation. Then you said a minute ago the exact opposite, that is, if there is too much oil above ground, everybody cuts down. Too much oil at what price? A lot of people use oil all the time; they would like to have that price come down. They are not in the oil business. Too much oil at what price? At 8 cents a barrel nobody is going to make a lot of money on it but a lot of people use oil. We had a lot of butter at 90 cents a pound in these caves. People could eat a lot of butter at 40 cents a pound, but not at 90 cents or a dollar. The Government buys it up. They have not ventured into the oil business yet. You say you have a voluntary way, a lot of these people get together voluntarily and cut down, but you have a way of cutting down production by law. Why do you cut it down? You can sell that oil. You just cannot sell it at a dollar and a half a barrel.

Mr. MURRAY. That is the same opinion that a lot of us had in Texas back in 1949 and 1950. You see, so much of our State revenue comes from the production of oil that there is a lot of pressure from the Land Commissioner, from the Governor, from the legislature, "Don't you cut the allowables, we need that income."

Senator MALONE. What income do you get, do you get a percentage?

Mr. MURRAY. Yes.

Senator MALONE. So you do not want to break the price either.

Mr. MURRAY. They do not want to break the price. I am privileged to forget price and consider conservation. I am an engineer and I know that price economics enters into conservation. The point I made earlier, we do not pass the conservation regulations that assure the greatest profit, but I do know that you cannot pass a conservation regulation that is going to cause the operator loss because you cannot make him do it unless you subsidize him.

Senator MALONE. You cannot keep him from doing it, either, if he keeps on producing. He is going to lose. The point that was made very well by Senator Long is that they were producing oil on a conservation basis but they were required to cut down on a pro rata basis for some other reason. What was that reason? It was not because of conservation.

Mr. MURRAY. That is the point I would like to make because it is of the utmost importance. We tried in Texas, in spite of the fact we knew stocks were above what were needed and were at wasteful levels, we kept on leaving allowables up because we wanted that income. The commission did not want to do it, but we were succumbing to the arguments.

Senator MALONE. Did your income go down with the price?

Mr. MURRAY. The price did not change.

Senator MALONE. But the price would have changed if you had allowed the production to go on?

Mr. MURRAY. But it did not.

Senator MALONE. You did not allow it to go on.

Mr. MURRAY. Let me tell you what happened, sir. We kept on producing in excess of market demand. The reason we know we were producing in excess of market demand is because stocks were climbing, climbing; then what happened? The pipeline companies just said, "We won't take any more oil." But they did not quit from everybody proportionately. There was one area in north Texas which is predominantly stripper production, small wells. The pipeline just cut loose from the whole area, 4 or 5 counties, said, "We will not take a barrel of oil from any of these small oil wells. We are going to buy oil where it is most profitable to us, where we have the greatest ownership." The very interests that had been saying, "Don't cut allowables, you are going to reduce our income," said, "Cut allowables so that our oil can now find a market." Those wells would have been abandoned. The operators would have pulled the pipe out of them and while they do not produce much a day, they will produce a long time and they will produce a lot of oil for those operators, the State and Nation. When you produce in excess of market demand, it is the small operator and the small well that gets cut out and gets abandoned and you do create below-ground waste. That was the thing that we had to learn the hard way. When you produce in excess of market demand, you cannot make people buy it and the pipelines just cut off.

Senator MALONE. It has nothing to do with the price alone.

Mr. MURRAY. It did not. The price never changed.

Senator KUCHEL. Mr. Murray, if I understand your recommendation to the committee, it is that with respect to conservation statutes alone, this committee should pass legislation to the effect that the States have their jurisdiction extended to the outer limits of the outer Continental Shelf. Now, the question was asked, and I would like to have you develop it a little bit, whether there would be any difficulty in administration of the Continental Shelf by reason of the fact that such extensions by abutting States might create not one but several bodies of conservation statutes in the Federal Continental Shelf area. In other words, Louisiana and Texas, for example, I assume have laws that are not entirely similar. Could you make any statement or recommendation with respect to the elimination of any administrative headaches that would result from various abutting States exercising their own jurisdiction out there which may differ from one another?

Mr. MURRAY. Now, there would be between, let us say, Louisiana and Texas, a boundary of the land, submerged land to which Texas

has title and to which Louisiana has title and there may be a field discovered on that boundary line. If you extend the responsibility of Louisiana and Texas out over the outer Continental Shelf, that increases that boundary line. We have already worked out the problem of handling boundary line fields within the land mass.

Senator KUCHEL. So that your conception of how this statute ought to be drawn would be that oil company A would deal with respect to conservation and the manner in which its oil wells would produce in accordance with Texas law if it were interested in the leasehold of this Federal property on the Continental Shelf abutting Texas, and it would deal with Louisiana law if it was interested in an area off the Louisiana coastline; is that the idea?

Mr. MURRAY. That is correct, sir.

Senator KUCHEL. And you would not find or believe that there would be any administrative difficulties in applying those two sets of statutes?

Mr. MURRAY. No, sir, except where a field might lie right on the boundary line. We have worked out those situations on several boundary field areas already completely to everybody's satisfaction, between Louisiana and Texas, and between New Mexico and Texas.

But there is a greater problem of fields that will line on the boundary line, we will say in Texas, the 3 marine league limit that Texas has title to and beyond that that runs the entire coastline of Texas, owned by the Federal Government. The probability of finding fields on that boundary line is much greater, plus the fact that when oil is produced in Louisiana, it moves through channels in Louisiana and only crosses State lines at special places. But oil produced from the outer Continental Shelf along the Texas gulf has to come straight into shore and it has to be gaged and handled there on the shore. So instead of having a few places where you are crossing boundary lines, you are going to be crossing everywhere there is a field or a few wells. You have oil that is produced from Federal land out beyond the historic boundaries, a pipeline might be laid to this production and pass up oil that is within the State lands and then come on into shore and unless we have some kind of concurrent jurisdiction, we are going to be helplessly confused on policing it. You see, we set in Texas an allowable on every well. We set up tender systems so that we follow the oil all the way through. If you have 10 wells, each producing 100 barrels, that gives you a thousand barrels of tenderable oil when you bring it together. If you bring 10 other wells together, you have 2,000, if you get oil out here that is not subject to anybody's control in the State of Texas, mixed with our Texas produced oil, we would get hopelessly lost.

You see, the Federal Government frequently uses a local bank as a depository. The money belongs to the Federal Government but they do not say, "Now, it is our money and you can certainly trust us. We will go in and get it whenever we want to." The Federal Government abides by the regulation of the local bank and writes a check on the account. I hope that there will be some way adopted so that comparably there will be checks written on the Federal oil. Whenever the Secretary is satisfied with the way we are running, he will let us do the administering of it and tell us when he does not like it or wants to set up other regulations, but in the absence of other regula-

tions, we will have authority so that the oil will fit into our tender system.

The only alternative will be for the Federal agency to take over our tender system and police all oil production.

Senator KUCHEL. As part of your recommendation, the employees of the State of Texas, for example, dealing with the enforcement of conservation statutes would do the required policing and actual administering of oil development in that part of the area off her shores.

Mr. MURRAY. That would be my recommendation, although I am lazy and I hate to take on that extra, as a member of the railroad commission, hate to see us take that extra responsibility, but we have it within the 3 marine leagues and it would be easier to have our men take the outer development as it occurs than to try to keep separate which it is, fish or fowl; it would be easier to have us do the whole job, all subject to the Secretary of the Interior's proper advice. Any time he does not like our regulations, he could countermand it.

Senator KUCHEL. I would assume your recommendations would also include that to the extent that Texas may have manpower available for that chore, the United States would compensate such employees on some basis or other?

Mr. MURRAY. I have no recommendation on that. As a Texan, I would like to see them compensated. I would recommend this whether they are going to be compensated or not. It would be cheaper for us to have jurisdiction over the whole situation than to have jurisdiction over part of it and be continually trying to keep track of which is the oil over which we have jurisdiction and which is Federal oil over which we have no jurisdiction.

Senator KUCHEL. Do you think the State of Texas would accept that chore voluntarily and without the payment of compensation if Congress passed a law such as you have outlined here?

Mr. MURRAY. The railroad commission would accept the responsibility of trying to administer conservation regulations. Now, there are going to be patriotic representatives of Texas who are concerned about this revenue that are going to ask for every bit of revenue they can. But that is not my responsibility here.

Senator KUCHEL. If that were pursued and in line with your statements earlier, Senator, I can see an extremely delicate legal situation. Your comments are relevant to that. You have the Supreme Court decisions which apply that paramount rights doctrine out 27 miles, I think, in the case of Texas or Louisiana. You have Mr. Tate's testimony. You have the question of a State employee acting outside the actual jurisdiction of the sovereignty which hires him and whose servant he is. If that recommendation is going to be taken seriously by the committee, we have some rather involved legal questions facing us.

Senator DANIEL. No different from the legal question facing us of authorizing a Federal agent to go out there and do it. It is the same legal question that is presented to us. As Mr. Tate said, the seabed and subsoil, as far as the development of these natural resources are concerned, and our exclusive rights over them are concerned, is an area of domestic law. You can divide up the authority that is to be exercised between your State and your Federal Government if the Congress so decides.

Senator LONG. One point that occurs to me is that when there has to be a production cutback because of an overproduction of oil, which you consider to be wasteful, do you think it would be fair to have the area that is beyond the State's 3-mile limit or 10-mile limit off Texas be an area where the producers would not have to accept any cutback, where perhaps the area within the 3-mile limit would be an area where they would have to share the cutback with the other producers of the States?

Mr. MURRAY. It would appear to me that on a reasonable basis all ought to share in meeting the fluctuations of market demand. This I read from the pamphlet which I have described earlier, Federal Regulations:

> The production of oil and gas shall be restricted to such amount as it can be put to beneficial use and in order to avoid excessive production of either oil or gas when required by the Secretary shall be limited by the market demand for gas or by the market demand for oil.

So apparently in these regulations the necessity of limiting production to market demand to prevent waste is recognized and presumably the Secretary, consistent with these regulations, would apply the same on the outer Continental Shelf whether there was any concurrent jurisdiction with the Texas conservation authorities or not.

Senator LONG. In Louisiana I assume you know that the State is administering conservation practices. It has been and still is administering conservation practices ever since the day those leases were originally let.

Mr. MURRAY. In the outer Continental Shelf.

Senator LONG. The production that exists out there. In Texas you have no production in the outer Continental Shelf.

Mr. MURRAY. That is correct. We do not have any production within the historic boundaries now.

Senator LONG. Do I understand that Texas requires that their pipelines be common carriers?

Mr. MURRAY. Yes.

Senator LONG. Is that all pipelines, gas pipelines as well as oil pipelines?

Mr. MURRAY. All pipelines by definition. Oil pipelines, as I understand it, are by statute declared to be common carriers, gas pipelines are common carriers if they do certain things, condemn a right-of-way, cross a public road, but there is a question of whether a gas pipeline, if it does not do any of these specific things that by statute makes it a common carrier, whether it is a common carrier.

Senator LONG. Does that in effect mean that any pipeline of substantial magnitude in Texas must necessarily be a common carrier?

Mr. MURRAY. Any oil pipeline is.

Senator LONG. Would it not be necessary that gas pipelines, if they go any substantial distance, cross public highways and things of that sort?

Mr. MURRAY. Yes.

Senator LONG. So to all intents and purposes it almost amounts to a distinction without a difference providing it is a pipeline that goes a substantial distance; is it not?

Mr. MURRAY. Correct.

In the case we have pending at this time in Texas the district court made the comment that there was considerable question whether or not the gatherers of casinghead gas were common carriers. So I apparently have some basis for my stating it is not clear what the law is.

Senator LONG. Would you recommend to us in legislating on the Continental Shelf that we require oil and gas pipelines to be common carriers?

Mr. MURRAY. My recommendation would be that they should be declared common carriers, because an operator with small holdings out in the Gulf could not build his own pipeline. On the other hand, the company that does build it should certainly expect reasonable compensation. That would be my understanding of the definition of common carrier that they would be paid to haul their oil or gas at a rate that would reasonably compensate them for the investment in the line.

Senator LONG. It would be a case of making the majors accept some responsibility to cooperate with the minor producers of oil out there?

Mr. MURRAY. I definitely feel so.

Senator MALONE. What is the total consumption of petroleum in the United States per day, approximately?

Mr. MURRAY. In the range of 7 million barrels.

Senator MALONE. The imports have been around approximately a million barrels?

Mr. MURRAY. A million to a million and a quarter. Currently about a million and a quarter of crude oil and products.

BILLS TO PROVIDE QUOTAS ON OIL IMPORTS

Senator MALONE. That is right. Now, you are familiar with the several bills that have been introduced in both the Senate and the House to hold the imports down to 10 percent of the consumption, domestic consumption or thereabouts?

Mr. MURRAY. I am familiar to the extent that I have read press accounts of them. I have never read any of the bills.

Senator MALONE. What do you suppose brought about the introduction of those bills?

Mr. MURRAY. In the State of Texas we must look to the stocks of crude in the entire Nation in determining market demand for Texas oil and since we have learned from experience that if we produce in excess of market demand, we not only create waste but we run out of markets; we cannot make the pipelines buy oil. They just quit taking it.

Senator MALONE. The pipelines do not consume oil.

Mr. MURRAY. No, sir. But if they do not have a place to sell it or store it, they can't take it. Therefore, we have to watch crude oil stocks for the Nation. We have learned by experience we cannot ignore them. If you are bringing oil from foreign sources, they are contributing to supplying the market demand of the Nation, to building up these excessive stocks to the extent that these imports are brought in.

Senator MALONE. And they break the market; do they not?

Mr. MURRAY. To exceed the market?

Senator MALONE. They break the market price.

Mr. MURRAY. I do not think so. There has been no change.

Senator MALONE. There is no change because you cut down production. You need it, just as Senator Long said in Louisiana, but he did not understand, he wanted to find out, why they were supposed to cut below what good practices would demand, why they cut below that. To keep from breaking the price of oil.

Mr. MURRAY. There are 278 million barrels of oil in above-ground storage today. Anybody that wants any oil, that is available.

Senator MALONE. It is available through these pipelines and through the companies that are selling it at a certain price. Now, if you continue producing—suppose you had suddenly 2 million barrels of imports, which you may very well have, your oil is either worthless or you have to cut down your production in Texas and elsewhere; is that not true?

Mr. MURRAY. We would create waste unless we cut down the production in Texas. If we do not cut it, the pipelines just cut it. That is what happened before. When the pipelines cut it, they do not do it ratably to everybody.

Senator BARRETT. Why do you not ask him what would happen if the import reached 7 million barrels a day?

Senator MALONE. I will. What would you do, shut down everything or flood the market with oil and make the price 10 cents a barrel again? What would you do with 7 million barrels import? And you can get it.

Mr. MURRAY. I am aware of that, sir. I do not know what we would do.

Senator MALONE. You think you would not want to waste all that oil and you would want to sell it for 40 cents a barrel?

Mr. MURRAY. I do not want to go into the price situation.

Senator MALONE. You are very good. I hand it to you.

Mr. MURRAY. I do not mean to evade the question of price.

Senator MALONE. Well, you are doing it very efficiently.

Mr. MURRAY. Suppose we started reducing, the Railroad Commission and the State of Louisiana and other States, start curtailing allowables so that we pulled stocks down from 278 million barrels down to 265, the proper level, we pulled it on down and said we got to go to 200 million. Then we started cutting. Now, we have reduced stocks below the level that is needed. We must be doing it for a purpose——

Senator MALONE. Suppose you had 7 million barrels coming in a day. You had plenty of stock. What are you going to do about production? Are you going to produce everything that conservation will allow you to produce or are you going to take cognizance of this business of supply and cut production? You say it is all on account of conservation. I have high regard for the opinion of Senator Long. They are required right now to cut below what good conservation practices would demand.

Mr. MURRAY. I did not mean to be in conflift with Senator Long, and I do not think I was.

Senator MALONE. I do not think you were, because you did not say anything; you did not answer.

Mr. MURRAY. They are not cutting below in Louisiana what good conservation practices require because they realize as we do in Texas

that production in excess of market demand, and as this recognizes, constitutes waste.

Senator MALONE. I know what they have done here. You have read it into the record. Where did you find this? Let us study it. They talk about the price.

Senator DANIEL. Market demand.

Senator MALONE. What is market demand? It is market demand on the price. At $75 apiece I have all the suits I need and that is three, but if you cut it down to $10, I can use a couple.

Senator DANIEL. You and I will admit in preventing aboveground waste and belowground waste you also prevent the market from being broken. You and I will agree that is a result of it. We freely agree with it, but these conservation men who have their minds on conservation and do not want to be accused of trying to fix prices—they try not to look at prices. That is why he is trying to stay with conservation principles instead of prices. I have heard him go through this time and again. I have heard other experts in the field. Really, they get accused of trying to control prices so much that they try not to look at them. That is the situation you have with this witness. You are right, the effect of it is to keep our market from being broken as well as to prevent physical waste.

Senator MALONE. I have the highest regard for the distinguished Senator from Texas. One of these days Nevada and Texas will be on the same side and when they are, that is when the fireworks will start. Now I have met with these governors, I know what they talk about.

Mr. MURRAY. I do not. The Governor of Texas has no authority in the field of conservation of oil or gas.

CURTAILED PRODUCTION

Senator MALONE. That is good. You testified you do not know what they talk about. I do. They talk about overproduction of oil. They have this cut here to protect that market, just as the distinguished Senator from Texas has just said. I have letters in my office now, I am sure I have had them recently, from your own State of Texas, complaining about the imports of oil making it necessary for them to cut down their production and all below what you call conservation. So I do not intend to belabor the question. I thought maybe you would have some vague idea what the effect is that makes you cut this production now to fit the consumption. There are at least 10 bills which have been introduced in this session of Congress to cut down to 10 percent the importation or at least to hold to 10 percent of consumption the importation of oil from Venezuela and the Far East and everywhere else. Your own Senator preceding Senator Price Daniel introduced the same bill, only I think the limit was 5 percent, it might have been 10, last year. What did he do it for?

Mr. MURRAY. Could I very briefly try to present this whole matter of regulation and market demand and the interest the Nation has in it?

Senator MALONE. I know what the Nation has in it. What about Texas?

Mr. MURRAY. I think this is of the most importance to the security of our Nation. Our military have so said. I do not believe from your line of questioning that you see that. It would be belaboring the point to point out the tremendous importance of oil to our Nation's security. Our military have said it is second only to the supply of atomic bombs; our domestic reserve of petroleum. That is of significance. You can not develop oil reserves overnight. It takes at least 2 years from the time you start exploring for oil before you have it ready to produce. So at all times we must, if we are to be secure, have domestic reserve producing capacity. That is, we must have fields shut in part of capacity. We must have fields producing less than that which they could efficiently produce. Apparently, you think this is something that Louisiana is doing to affect prices because they are cutting down to less than what they could efficiently produce if there was market demand. That is something the Nation does not seem to realize that unless we have reserve producing capacity, we are not secure.

Now, we had a million barrels of reserve producing capacity when we went into World War II. All of you heard the statement of our military how important that oil was to be available at the opening of a valve to supply our own military and our allies. Now, we have today a shutin producing capacity in the Nation of between six and eight hundred thousand barrels. You might say that shutin would affect price. I will not deny that it could have an effect on price if you opened it wide open. But we are bringing in a million and a quarter barrels of foreign oil and products. If we opened wide and had our foreign imports cut off from us, we would still be in the hole at the very time when we would need a vastly increased production of oil.

So not only is it bad not to restrict to market demand, not only do you cause waste and inequities and premature abandonment when you do not restrict to market demand, but the Nation must try to get shutin capacity. Right now Louisiana and Texas are out producing at capacity. You say, "Why drill any more wells?"

Senator MALONE. I did not say that.

Mr. MURRAY. A lot of people do. A lot of our men in Texas ask why don't you let us produce wide open? That is the worst thing for the Nation. I wish we had more shutin capacity than we do.

My objection to imports—I do not advocate 10 percent quota, I do not advocate tariffs, I simply say that foreign countries ought to, as other States in the Nation, watch market demand and fluctuate up and down, but if we brought in 7 million barrels of foreign oil, you might say we would shut in all of the Nation's production and save it for the time we need it. When you have a shutin industry, you are not developing any new reserves and you are in no condition to meet an emergency. Nonuse is not conservation. Therefore, I think we should avoid becoming dependent on foreign sources to any greater degree than we can help, particularly the Middle East, which could be taken away from us in a day to a week's time. Therefore, we ought to do everything possible to develop additional producing capacity in the Nation. I do not mean to say that price is not involved. I just mean to say I look at conservation.

Senator MALONE. I am glad you said that last.

Mr. MURRAY. Anybody knows that price is involved. You only conserve that which has economic value.

Senator MALONE. Because being an engineer, I know you know. It is just a question of admitting it.

Mr. MURRAY. When we created waste in east Texas, it also had the effect of bringing the price down. I was not looking at the price of oil. I was trying to stop the waste. Here is where you can check us and see if we are doing it for price.

Senator MALONE. I have already checked it.

Mr. MURRAY. If we start bringing storage below the proper level, that would probably have an effect on price. If we brought storage on down to, say, 200 million, that would probably affect price. But as long as we are above what is proper, we are causing waste by excessive storage. Just to reduce allowables to bring it down to that proper level is not doing it to affect the price. If you lay out in front of a man more eggs than he can eat and say, "Just have that but do not waste any," you are not restricting him in satisfying his appetite. But if you say now, "Now, you might want 3 or 4 eggs, but you can just have one," then you are. As long as you have a dozen fried eggs in front of you, it is useless to fry any more because you cannot eat a dozen fried eggs. We should not produce to build stocks to more than 278 million barrels because we know such is wasteful. If we are reducing stocks to reasonable working levels we are not doing it to affect price. Collusion, I tell you, does not exist between any States to affect price.

Senator MALONE. You made my speech a while ago. I am the one that blew Secretary Ickes out of the water. He is the one that said we would save oil. I said you can't run out of oil in this country except by design. I made that statement in 1948 in Texas and again in Chicago and before your oil governors in New York. I met with them up there. That is the reason that I am for a tariff, as a matter of fact, regulated on the basis of fair and reasonable competition. The point I am trying to say to you is, you have already admitted that it does have an effect on price but you say you do not know anything about it. That is good enough for me. But I know your governors do because I have had letters from them.

Senator BARRETT. Just a minute. I want to put in the record here at this point article 5 of the joint resolution authorizing this interstate oil compact. It states:

> It is not the purpose of this compact to authorize the States joining herein to limit the production of oil and gas for the purpose of stabilizing or fixing the price thereof.

That disposes of the point that Senator Long made a moment ago.

Senator MALONE. In my opinion it does not dispose of it, Mr. Chairman. It is simply that it would have been illegal any other way. Now, you have made it legal by putting that paragraph in there, it does operate to hold down production.

Senator BARRETT. That is of course true.

Senator LONG. I would like to ask this last question that occurs to me. My experience has been that when I ask a witness this question, the more qualified he is to answer it the more quickly he disqualifies himself by saying that no one knows, or certainly he does not know, the answer. But would you attempt to give us just what your con-

ception would be and what is your best guess of the kind of oil and gas development we can expect on the Continental Shelf within the next 10 years? Would you give us your thinking as to what you might expect out there, particularly with regard to the magnitude of it?

Mr. MURRAY. In my own judgment the common conception existing today is exaggerated as to the magnitude of development. Now, I heard part of the testimony yesterday of the extra cost of development out there. Those costs, as I certainly recognize and I hope Senator Malone does not feel I have been evading it, are going to deter development. It is going to for a time until they find better techniques for doing it. Most of that oil cannot be economically developed at the present and there is no conservation body in the world that can make them develop it if they are going to lose money. So I fear we are going to see rather slow development. No one is going to reap a lot of revenue from it for quite some time. I do thing in the future that it is potentially a very large productive area. I think the techniques for finding and developing oil will improve as to accuracy and in turn reduce cost. Also, I thing the growing scarcity of oil inevitably—not scarcity of oil in above-ground storage but growing scarcity of underground reserves—and failure to find oil as we consume it, will inevitably force oil to climb more nearly to competitive prices with other sources of energy. As that time comes, the combination of reduced costs in the tidelands area plus increased price for oil will then result in substantial development. But I do not think there is going to be any sudden development out there.

If the States feel that they have gotten some bonanza by being given this quitclaim legislation, I feel they are in for a great disappointment. In fact, in Texas we do not have any production even within the 10-mile limit.

Senator LONG. I have been trying to explain to people in Louisiana that if they think they are going to receive some enormous benefit from that 3-mile limit that they are in for disappointment. My guess is that the State revenues might amount to $3 million under full development of that 3-mile belt.

Now, based on the fact that the expenses do run in that area, can you give me your guess as to just a rough estimate of how many wells or how many men might be involved in working in that area, say, 10 years from now? Have you ever attempted to estimate anything of that sort?

Mr. MURRAY. No, sir. Some of the other men who have had more experience in development, now, they do have to look at cost. I do not have to look at cost except to see to it that the costs do not exceed the income. But they are looking at cost and they know how feasible the thing is going to be to develop. Some of them could give a much better opinion than I.

Senator LONG. Could you give a guess as to how many producing fields there might be out there 10 years from now?

Mr. MURRAY. No, sir.

Senator BARRETT. Senator Daniel.

Senator DANIEL. Mr. Murray, under our present Federal Hot Oil Act and under the States hot oil acts you have to have tenders before oil is put into shipment, is that not correct?

Mr. MURRAY. Yes, sir.

Senator DANIEL. The Federal act prohibits the shipment of oil produced above the allowables of the State across State lines. Now, how would the State hot oil acts or the Federal Hot Oil Act be enforced with respect to this oil coming into the shore of the adjacent State unless Congress does extend the jurisdiction of the State out over this area for the purpose we have been talking about?

Mr. MURRAY. I am at a loss to see how it could be done except in that fashion. For example, when a Federal court will confiscate oil produced in violation of Federal regulations, they still require a State tender before that oil is allowed to move into commerce. Now, we give a tender under the authority and direction of the Federal court, but they do not ignore it because of the Connally Hot Oil Act. The pipelines will refuse to carry it.

Senator DANIEL. Any oil produced from the outer Continental Shelf in Texas, Louisiana, or any of the other 21 coastal States is brought into the shore, it comes into the markets of the States on shore, does it not?

Mr. MURRAY. Yes, sir.

Senator DANIEL. You will have regulatory power and control over it after it is stored on shore for certain purposes, will you not?

Mr. MURRAY. We nearly have to.

Senator DANIEL. To prevent waste in storage, and so forth?

Mr. MURRAY. Right.

Senator DANIEL. And in pipeline transportation?

Mr. MURRAY. Yes.

Senator DANIEL. How will you keep up with that oil if the State regulatory powers are not integrated as to the outer Continental Shelf, integrated with the regulatory powers exercised on shore? How are you going to keep up with that oil that is brought in from the outer Continental Shelf?

Mr. MURRAY. We can not do it unless we have some authority. The Congress might wish the Secretary of the Interior to designate what the allowable production will be for the wells in the outer Continental Shelf. Or under the proposal here he might say, "We will leave it to the railroad commission to have hearings and fix conservation rules and we will countermand them if we do not agree with them." We are going to have the authority for the State of Texas to set that allowable. It may have been at the direction of the Secretary of the Interior but we will then start a checking account so we can follow that oil all the way through. If any oil is going to come in completely absolved of any State jurisdiction over it, we are helplessly lost in our policing situation.

Senator DANIEL. I believe you said a minute ago that the cost to the State would be more if it had to work out some working arrangement with a separate regulatory body out on the Continental Shelf than it would be if you were actually carrying out the same regulations with the present employees in that area.

Mr. MURRAY. That is true, because if we do not have some concurrent jurisdiction, their oil that came from the outer Continental Shelf has to be moved in to the shore. If it were loaded on tankers there and moved to other markets we would have a problem, but not nearly the problem. If it were brought inshore, we would have to have a man watching it all the time to see that they did not mix it with oil over which we have jurisdiction, like bringing in a commodity on

which there is tariff regulation and putting it in bond. You can not have it running all over the State without claiming a tariff. You have to keep it in port and sealed and keep it under constant watch to make sure it does not get away from tariff regulation. We would have more trouble and expense to try to watch this Federal oil and see it did not commingle with oil over which we do have jurisdiction.

Senator DANIEL. You are not recommending that they set up any compensation situation team to the State of Texas for carrying out these conservation laws, are you?

Mr. MURRAY. No, sir.

Senator DANIEL. As a matter of fact, does the Congress pay New Mexico or any of the western States where they have conservation laws applying to federally owned lands the same as State and privately owned, or does the Congress make any contribution to them?

Mr. MURRAY. I learned this morning from Senator Malone that they are paid very handsomely by getting 37.5 percent directly and 52.5 percent indirectly.

Senator DANIEL. That is because the lands are off the tax rolls. Bt you do not know of any direct appropriation of Congress to New Mexico for enforcing conservation laws?

Mr. MURRAY. I am certain that Congress makes no direct appropriation to the State conservation of New Mexico or of Colorado.

Senator DANIEL. In those states where there are federally owned lands, the same system that you recommend to this committee is being followed in those States that have conservation laws, is that not correct?

Mr. MURRAY. Yes.

Senator DANIEL. In this area that we are now talking about, the States of Texas and Louisiana have been exercising their conservation laws over a period of years?

Mr. MURRAY. Yes.

Senator DANIEL. Now, you recommended to the committee against the landlord agency, whether it be State or Federal, being also the agency to handle proration and conservation laws.

Mr. MURRAY. Yes, sir.

Senator DANIEL. In other words, you think the Secretary of the Interior, acting as the landlord agency for the Government, would not be the proper agency to administer the regulatory conservation laws?

Mr. MURRAY. I feel that our experience in Texas where I think we have done a wonderful job as a landlord agency and a reasonable job as conservation agency——

Senator DANIEL. You mean through two separate agencies?

Mr. MURRAY. Two separate agencies—indicates the desire of keeping them apart. The closer you get them together, the less desirable it is. I would hate to see the same person, I feel that that person would hate to have that responsibility put on him, of being both that designated official in the Interior Department who has responsibility for promulgating and administering the conservation statutes and the responsibility for negotiating and obtaining the best bargaining leases.

Senator DANIEL. It is difficult for a landlord or lessee to look objectively on this matter of conservation regulation and allowables?

Mr. MURRAY. To me it is like asking the policeman to pass sen-

tence on the man he apprehends or the prosecuting attorney to also be the judge.

Senator DANIEL. Now, if this Congress should decide to set up for the first time a separate regulatory conservation agency over the Continental Shelf, could you give us any estimate of the amount of money we would have to appropriate to duplicate the services the States are now willing to furnish without any cost? Could you give us any kind of estimate on it?

Mr. MURRAY. I could not give an estimate because I could not answer Senator Long on how much development I think there is going to be. But you would have to have a fairly comprehensive force just standing by until you got some production. One of the things you have to watch out is safety precautions. There has not been a whole lot of discussion on the hazards. I guess you read about that Pure Oil blow-out. They were about to lose five wells at once. There was a tremendous loss. You have to have regulations before the first well is drilled to see about that. So they would have to be just standing by, a skeleton force, but it would be a pretty comprehensive force; as development occurred in the outer shelf, you would have to expand it.

Senator LONG. Could you give us an idea of some of the expenses involved in getting a blowout under control?

Senator DANIEL. Could we let him file that with the committee?

Senator LONG. Yes.

Senator DANIEL. Will you file with the committee, the figures that Senator Long has asked you for as to the cost if you do not have proper prevention of blowouts, that the blowout might cost? I would like to ask you to file about three things.

Mr. MURRAY. That is almost like saying what a fire in Washington, D. C. would cost.

Senator DANIEL. Furnish what you can. Also, please file with the committee a résumé of the State conservation laws, what they cover from the time you put the bit in the ground to the time you bring oil to shore.

Mr. MURRAY. Yes.

Senator DANIEL. I wonder if the committee would not mind Mr. Murray filing a written statement on this issue of the market demand. Oil being fugacious, I think the conservation laws being gauged to the market demand to some extent is for the protection of correlative rights of the people who own this oil in a given field. Would you file with us an elaboration of your views on any of these questions that you think will be helpful to the committee?

Mr. MURRAY. Yes.

(NOTE.—Mr. Murray subsequently submitted the following statement in response to the above requests.)

STATEMENT OF W. J. MURRAY, JR., MEMBER, RAILROAD COMMISSION OF TEXAS, TO SUPPLEMENT TESTIMONY PRESENTED BEFORE THE SENATE COMMITTEE ON INSULAR AND INTERIOR AFFAIRS RELATIVE TO CONSERVATION REGULATIONS FOR THE OUTER CONTINENTAL SHELF

Because there are presently no Federal conservation and market-demand statutes, it was recommended in my testimony to the committee that State conservation laws and regulations that were not in conflict with any Federal statutes or regulaions be extended to apply to the outer Continental Shelf. This would save the Federal Government the expense of duplicating State conservation staffs and would assure adequate, comprehensive, and time-tested statutes and regulations

administered by men with years of experience in practical conservation regulation. To this recommendation I have nothing further to add. The following statement is presented in response to the invitation by the committee to supplement and amplify my testimony relative to the urgency of establishing ceilings on oil-production rates which will prevent both underground and aboveground waste. This discussion is applicable to all petroleum production whether it be within the continental land mass, within the tideland area included in the historic boundaries, or in the outer Continental Shelf. The conservation policies recommended are equally sound whether they be based upon State or Federal statute and whether they be administered by State or Federal agencies.

Sound regulation of petroleum production requires the establishment of two ceilings. The first ceiling is the m. e. r., or maximum rate of efficient production, which cannot be exceeded if serious underground waste is to be avoided. Excessive rates of production can irreparably reduce total ultimate recovery. An explanation of the effect of rate of production on underground recoveries would require a discussion of petroleum-reservoir mechanics which is beyond the scope of this statement. However, it may be stated here that a careful study of each petroleum reservoir is of utmost importance in order to analyze the individual characteristics of the reservoir and to determine the maximum rate at which it can be efficiently produced.

Before the effect of rate of production on efficient recovery was generally recognized, terrible waste was occasioned by overly rapid producing rates. Fortunately, most oil-producing States now understand that much more oil, sometimes two to three times as much, can ultimately be recovered by restricting production rates to those rates which will obtain the most efficient utilization of the natural reservoir energy. The fact that immense waste can result from unrestricted production was learned by bitter experience in Texas. Many of the newer oil-producing States have been wise enough to profit by the experience of those States in which oil was discovered much earlier. These States have adopted sound conservation regulations and have placed in effect restrictions on rate of production at a very early stage in the development of oil production. In fact, in recent years, several State legislatures have been sufficiently aware of their responsibility to their State and Nation and sufficiently foresighted as to pass conservation legislation in advance of the actual discovery of oil in their State.

The second ceiling on producing rates required to accomplish sound regulation is that of reasonable market demand. Restriction of rate of production to market demand is as important as the establishment of M. E. R. ceilings and is equally vital to the welfare of the consumers of the Nation as it is to the welfare of the oil-producing States. The crucial importance of market-demand regulation to our national security exceeds all other considerations in these times of international crisis. Unfortunately, the urgent need for, and the effect of market-demand regulation is frequently misunderstood by well-meaning but inadequately informed persons who erroneously attribute price fixing as the primary object of such market-demand regulation.

While this writer knows of no way by which it could be accomplished, it is certainly true that if it were possible for production to be restricted to less than market demand then effect on price could thereby be obtained. Consequently, it seems extremely important that there be a more general understanding not only of how crucially important it is to the welfare of the Nation that oil production be restricted to market demand but also of how market demand is determined so that any who were suspicious that price fixing has been the objective of market-demand regulation could determine whether or not production at any time had been curtailed to less than market demand or whether at all times production was entirely adequate to meet reasonable market demand.

MARKET DEMAND REGULATION NECESSARY TO PREVENT PHYSICAL WASTE

The first purpose of restricting oil production to market demand is to prevent waste, both aboveground and underground. Continued production in excess of market demand inevitably results in the accumulation of unnecessarily large aboveground stocks of crude petroleum with consequent physical waste occasioned by evaporation, weathering, leakage, fire loss, and general deterioration of the stored crudes. In addition, there is economic waste, to which the Texas Railroad Commission gives no consideration but which certainly affects the prosperity of the Nation, which is occasioned by the immense cost of building

aboveground tankage in which to store the unnecessary stocks of petroleum. The interest cost for the huge investments in tankage and in the unneeded oil which is stored in this tankage add to the costs of petroleum products and therefore must necessarily ultimately result in increased price to the consumer.

Not only does the cost of building unnecessary tankage constitute economic waste; but, in all probability, if production were not restricted to market demand, there would not be sufficient supplies of steel available for construction of steel tankage to hold the excess production of crude oil. In Texas, before the passage of our market demand statute, excess production of crude was stored in earthen pits in which the waste of oil was much more rapid than in steel storage. The Railroad Commission today prohibits the storage of oil in earthen pits but it has been possible to enforce this regulation only because production has been restricted to market demand.

In addition to causing aboveground waste, production in excess of market demand invariably occasions underground waste. When production exceeds demand, the purchasers of crude oil will for a limited time buy not only what they need and can use but also as far as possible will endeavor to buy the excess quantity and place it in storage. But as their storage begins to be filled, they then restrict their purchases to that portion of the total production which they can use. It is only natural that when all of the oil production cannot be sold, the first to lose its market outlet is that production which is least desirable and is most difficult to gather and transport. This is the production which comes from marginal and stripper wells and from wells producing large quantities of water. The individual production from such wells is small and it is a lot of trouble to gather the oil from these widely dispersed stripper wells. Consequently, such wells are usually the first to lose their market. When this occurs, they may be flooded with water and permanently damaged. Or, because they are such small producers, the owner probably cannot afford to wait for some date in the future when he may again obtain a market for his crude and therefore proceeds to prematurely abandon these wells in order to salvage the equipment from them. Once abandoned, these wells are never redrilled causing their recoverable oil to be forever lost. While the individual production from such wells is small and the cost of operation nearly equal to the revenues obtained from the sale of the production, these small stripper wells constitute a large portion of the Nation's total reserves and their premature abandonment, while constituting no very great economic loss to the owners, nevertheless constitutes a very real loss to the Nation as a whole.

In the above discussion it is not meant to imply that the crude oil pipelines, when production exceeds market demand, do not still act as common carriers and take ratably from all to which they are connected. When a pipeline company finds itself unable to sell all of the oil that is being produced by the wells to which it is connected, then it institutes what is called pipeline proration, whereby the pipeline company announces that it will take only a certain percent of the allowable production of the wells to which it is connected. Thus, even though each pipeline may take ratably from all of its connections, there is found a condition of unratable take and gross inequities existing in most oil fields. Since one pipeline may find itself able to take 75 percent of the allowable of the wells to which it is connected, another pipeline may be able to take only 40 percent of the allowable of its connections; consequently, the owner of one lease in a given field may find himself able to sell 75 percent of his allowable whereas the offset operator can sell only 40 percent of his allowable and therefore must suffer drainage to his neighbor. In addition to causing inequities between off-setting operators, the uneven reservoir withdrawals can cause gas or water coning with consequent loss in ultimate recovery of oil. As a general rule, the pipeline systems serving the areas of stripper production are the first to lose their outlet for oil and therefore must severely restrict or possibly completely cease their take from these wells with the consequent wasteful premature abandonment previously described.

None of these statements on the effect of permitting production to exceed market demand are theory. They have occurred many times in Texas and as recently as 1950. Then many pipelines instituted pipeline proration, and one gathering system, the Premier Pipeline Co., completely ceased taking oil from some 2,000 stripper wells in north-central Texas. When this occurred, the Texas Railroad Commission, which admittedly had been slow in reducing production sufficiently to bring it in balance with market demand, then made the severe curtailments in allowable necessary to stop the above- and below-ground waste being occasioned by production in excess of market demand.

HOW MARKET DEMAND IS DETERMINED

There is no mystery in the means of determining market demand and no difficulty in checking to determine whether the regulatory bodies of the various States have ever restricted production to less than market demand. The proper quantity of crude oil and petroleum products in aboveground storage sufficient to meet all consumer demand but not so large as to occasion physical waste has been determined by the Texas Railroad Commission through extensive public hearings. These hearings are held at periodic intervals so that data relative to proper storage levels may be kept up to date and adjusted to meet changed conditions. At these hearings, representatives of all the large crude oil purchasers of the Nation are asked to be present. Small crude oil purchasers are also invited and urged to present testimony so that assurance will be had that production and storage levels are at all times completely adequate to meet all consumer demands regardless of their nature or location. The hearings are open to the public and an official transcript of the proceedings is available for anyone who would care to study it. The major petroleum purchasers are never in complete agreement as to the proper level of stocks, and their estimates of desired crude oil storage may vary as much as 20 million barrels. But this variation does not constitute an unduly large percentage range and amounts to less than 3½ days' production for the Nation. At the last Railroad Commission hearing on this subject held February 18, 1953, the estimates of proper crude oil storage ranged between a minimum of 255 million barrels and a maximum of 275 million barrels. Consequently, we cannot be certain of an exact figure for adequate but nonwasteful storage but do know it to be in this general range. Furthermore, there can be no question that present national crude oil stocks of 278 million barrels are more than adequate but probably are not yet large enough to be seriously wasteful.

Not only have the regulatory bodies of the oil-producing States never met and in collusion agreed to restrict production below market demand but, unfortunately, there has not been full cooperation between the States, and many have failed to curtail production to reasonable market demand. Whenever the Nation has had producing ability in excess of market demand, which for security reasons is always to be desired, then the oil-producing States of the Nation have usually been slow in restricting production to market demand, and aboveground storage has almost always been excessively large. However, when the stocks become so large as to begin to occasion very serious waste, then action has almost always been taken to bring production more nearly in balance with market demand. It is my opinion that the State of Texas has had to do more than its share of increasing and reducing production in order to maintain a reasonable balance with market demand.

RESTRICTION OF PRODUCTION TO MARKET DEMAND VITALLY NECESSARY AS A SECURITY MEASURE

The discussion thus far has dealt with the wastefud consequences of permitting production to exceed market demand. However, there is an even more serious consequence and this is the adverse effect which it would have on our national security. Many persons, including some oil producers, recognize that if producing ability exceeds market demand then production must be restricted in order to prevent waste; but they conclude that the desired goal to be sought is for producing ability at all times to exactly equal market demand, thus eliminating any necessity for regulatory bodies to restrict production to less than m. e. r. Some of these people even advocate the elimination of market demand regulation. They admit this action would temporarily cause waste but assert that if the petroleum industry were thus allowed to produce more than market demand, then the consequences of such wasteful excess production would cause the industry to severely curtail its exploration for and development of new production, and that such curtailment would continue until producing ability was no longer in excess of market demand. The writer agrees that this would ultimately be the result of the elimination of market demand regulation and that the wasteful excess production would continue only until development had declined to the point of bringing producing ability and market demand in balance. However, there are few things which could have more dire consequences on the security of the Nation and the welfare of the consumers of petroleum than such action.

Since months are required to drill additional wells in proven fields and years are required to discover and develop new fields, additional crude oil producing

capacity cannot be obtained overnight, either to meet an increase in domestic market demand or to supply the military in the event of armed conflict. Consequently, it is vitally important that an adequate reserve producing capacity be maintained at all times, both to insure a steady flow of petroleum products to the consumers of the Nation and more importantly for use in time of military emergency.

In regard to the need for reserve producing capacity to protect consumers, it might be pointed out that after three abnormally warm winters in succession, it is quite possible that next winter may be abnormally cold. The demand for heating oil would then be greatly increased, but as long as reserve producing capacity is available this increased demand could readily be met. However, if no reserve producing capacity were available, it would be absolutely impossible to drill additional wells in time to alleviate the shortage occasioned by an extremely cold winter. The consequences, therefore, would be cold homes and idle industries and probably the competition for the inadequate supplies of heating oil would materially increase price.

Secondly, in regard to the need of domestic reserve producing capacity for security reasons, it should be emphasized that in the event of armed conflict, the petroleum requirements of the Nation are enormously increased at the very time when many sources of foreign supply are cut off. Failure to develop domestic reserve producing capacity, unneeded for normal civilian consumption but available to meet a military emergency, can have disastrous effects on our national security. To conclude that the Nation can wait until war comes to develop additional oil-producing capacity is just as foolish as it would be to wait until we are engaged in armed conflict to start building tanks, battleships, and bombers. It has been stated by some military leaders that nothing short of our supply of atomic bombs is so vital to our national security as is our reserve oil-producing capacity. Reserve oil-producing capacity can only be obtained by restricting production at all times to reasonable market demand. The inevitable consequence of failure to restrict production to market demand is, first, to cause excessive aboveground and belowground physical waste and, second, to ultimately bring producing ability and market demand into balance. However, when current producing ability equals market demand, there is then no reserve to meet an emergency.

OUR PRESENT RESERVE PRODUCING CAPACITY AND THE EFFECT OF IMPORTS

Since questions were asked by members of this committee relative to the import situation and its effect on regulation of market demand, some additional comments on this point would appear appropriate. We have in the Nation today approximately 800,000 barrels of reserve producing capacity, most of which is located in Texas. This means that because production has been restricted to market demand and each operator allowed to produce a certain fraction of his total producing ability, there has continued to exist an incentive to develop producing ability in excess of market demand.

It is extremely fortunate that the Nation today possesses this approximate 800,000 barrels of reserve producing capacity. However, this amount is woefully inadequate to give us military security in view of our increasing dependence on imports. At the beginning of World War II, we were then the largest net oil exporting country in the world. Today we are the largest net importer in the world with imports amounting to approximately 1¼ million barrels of crude oil and petroleum products daily. When our Nation entered World War II, we were substantially cut off for a time from all foreign sources of petroleum supply. However, cutting off foreign exports more than offset our loss of imports and because the Nation possessed a domestic reserve producing capacity of approximately 1 million barrels, we were able to meet the enormous military requirement of our own Armed Forces and those of our allies. This reserve producing capacity, available at the turn of a valve, was of inestimable importance in bringing us victory. However, had we not possessed this reserve producing capacity when we entered the war, it would have been impossible during the duration of the conflict in face of critical shortages of materials and manpower to have developed the additional production necessary for victory.

WHAT IF WAR COMES TODAY?

But if all-out war should come today, the petroleum requirements of our Military would be vastly in excess even of the huge needs during World War II.

Should we again be cut off from foreign sources of supply as we were at the beginning of War II, instead of having approximately 1 million barrels in excess of essential domestic needs available for the use of our military, we would lack approximately one-half million barrels daily of having enough oil to meet even our domestic peacetime demand without having one single barrel available to supply the enormous requirements of the Armed Forces.

It is easy to suggest that under such circumstances civilian consumption be curtailed so as to eliminate the deficit occasioned by the loss of foreign imports and to furnish the military its vast needs. However, as anyone can tell you who served on a Ration Board in War II, it is extremely difficult to materially reduce civilian consumption without adversely affecting our ability to produce armaments and supplies for our military. How effective would our defense industries be if the workers had to live in unheated homes and were inadequately fed because the farmers had no fuel for their tractors and if the railroads had no diesel fuel to haul freight to and from the defense factories. How could the workers get to and from their jobs without gasoline for their cars?

This admittedly is not a very pleasant picture, but it is a realistic one, and there apparently is no entirely satisfactory solution to the problem presented. It is unfortunate that our Nation today is not as independent of foreign supply of petroleum to meet its essential needs as it was when we entered War II, and in the future we may even have to depend to an increasing degree upon imports to supplement our domestic supply. But we should never lose sight of the fact that to the extent that it becomes necessary to depend on foreign sources of supply, we are to that extent compromising our national security. Every effort should be made to encourage maximum petroleum development within the United States so that for as long as possible, and particularly for the years of crisis immediately ahead, our dependence on imports and our consequent insecurity will be minimized. It is urgently imperative that imports not be allowed to continue to supplant domestic supply with the consequent retarding effect on domestic development. The volume of imports should be adjusted to meet fluctuating market demand just as is domestic production. Whether this should be accomplished by voluntary action of the importing companies, by administrative direction, or by legislation, I leave to the wisdom of others to decide. But I feel compelled to steadfastly point out the dire consequences of failure to reasonably relate the volume of imports to market demand.

Senator MALONE. I would like to suggest that we call Mr. Russell Brown, Secretary of the Independent Petroleum Association of America.

Senator BARRETT. We will be glad to have Mr. Brown.

Senator MALONE. Not today but let us have him before this gets cold.

Mr. MURRAY. May I thank the committee for its patience with me and my apologies? I had not intended to take so much of your time.

Senator LONG. Mr. Chairman, on yesterday the Senator from California, Mr. Kuchel, indicated that it would be helpful for the committee to have before it the statutes of the various States as they relate to oil and gas leasing and development on State-owned lands and water bottoms. I therefore ask to place in the record at this time a compilation of the Revised Statutes of Louisiana on this subject. This compilation was made by the Louisiana State Mineral Board as of January 15, 1952.

Senator BARRETT. Without objection, that information will be included in the record.

(NOTE.—The revised statutes of Louisiana are carried in the Appendix.)

Senator BARRETT. I will say to you, Mr. Murray, you have been a very fine witness. We appreciate your testimony today.

We stand adjourned until 10 o'clock tomorrow morning.

(Whereupon, at 1 p. m., a recess was taken until 10 a. m., tomorrow, Wednesday, May 20, 1953.)

OUTER CONTINENTAL SHELF

WEDNESDAY, MAY 20, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met, pursuant to recess, at 10:20 a. m., in the committee room, 224 Senate Office Building, Washington, D. C., Senator Frank A. Barrett presiding.

Present: Senators Eugene D. Millikin, Colorado; George W. Malone, Nevada; Frank A. Barrett, Wyoming; Russell B. Long, Louisana; and Price Daniel, Texas.

Also present: Senator Lyndon Johnson, Texas; Kirkley S. Coulter, chief clerk; Stewart French, staff counsel; and N. D. McSherry, assistant chief clerk.

Senator BARRETT. The committee will come to order.

The first witness is Mr. John Shepperd, Attorney General of Texas.

Mr. Shepperd, will you come forward and take a seat here right opposite the reporter. We are pleased to have you back again, Mr. Shepperd.

STATEMENT OF JOHN SHEPPERD, THE ATTORNEY GENERAL OF TEXAS

Mr. SHEPPERD. Mr. Chairman, in conformity with the announcement that was made by the Chair yesterday of the desirability of having the witness file a statement and then briefly summarizing, I will proceed along that line.

Senator BARRETT. The statement that you have entered will be received and made a part of the record in its entirety. Then you may proceed to summarize it as you desire.

STATEMENT OF SCHOOL LAND BOARD OF TEXAS

Mr. SHEPPERD. This is a joint statement by the members of the School Land Board of the State of Texas, which is composed of Bascom Giles, commissioner of the General Land Office of Texas, as chairman, Allan Shivers, Governor of Texas, and John Ben Shepperd, Attorney General of Texas. This board is the agency authorized by statute to lease for oil and gas purposes the submerged coastal lands and other lands within the boundaries of the State of Texas the revenues from which are dedicated to the permanent free school fund of Texas.

During the past week, legislation previously approved by the Senate restoring to and reaffirming in the States title to the submerged lands within their historic boundaries has been passed by an over-

whelming majority of the House of Representatives and sent to the President for approval. Since this legislation did not make provisions for the Continental Shelf area outside of the original boundaries of the respective States, we are now confronted with the problem of passing proper legislation providing for the leasing and management of this area.

The importance of proper and workable legislation for the leasing and management of the portion of the Continental Shelf outside the original boundaries of the respective States is no less than that of the legislation recently passed dealing with these matters inside these boundaries. The area of this portion of the Continental Shelf is nine times as large as the area of the marginal belt. The Continental Shelf adjacent to the gulf coast is about 140 miles wide at the Texas-Louisiana line and 70 miles wide at the mouth of the Rio Grande. Along the coast of the Western States, the shelf is much narrower, averaging from 5 to 25 miles in width. The Atlantic shelf varies from 25 to 100 miles in width, and that part of the shelf to the west of Florida is almost twice as large as the emerged land surface. In terms of area, the Continental Shelf bordering the Atlantic coast is approximately 127,000 square miles; the Pacific coast, 18,500 square miles; and the Gulf of Mexico, 144,000 square miles.

It is the view of the School Land Board of Texas that any legislation passed with respect to this area should, both from the viewpoint of justice and equity and from the viewpoint of sound governmental practices, provide an equitable solution of the claims of the Federal Government and the coastal States in this area. In the first place, the States pioneered the development of the Continental Shelf area both within and without the boundaries of the States. Texas made its first lease on coastal submerged lands in 1919. Prior to the President's Proclamation of 1945 dealing with this area, which admittedly "does not touch upon the question of Federal versus State control," the Legislature of the State of Texas in 1941 extended the State's original boundary of 3 marine leagues to 27 miles from lowwater mark. Subsequently, in 1947, the State of Texas extended its boundary to the outer edge of the Continental Shelf. The validity of these extensions was not questioned by the Federal Government in the litigation with the State of Texas over this area. The benefit derived by the United States from such State action was recognized by the United States Supreme Court in the opinion in *United States* v. *Louisiana* (339 U. S. 705–706 (1950)), where the court said:

> So far as the issues presented here are concerned, Louisiana's enlargement of her boundaries 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.

The action of the States in extending their boundaries and jurisdiction over the Continental Shelf was, of course, subject to and in recognition of all constitutional powers of the Federal Government. It was and is in line with the whole concept of the Continental Shelf being appurtenant to and properly within the jurisdiction of the adjacent sovereign. A basic part of this concept so far as the Government of the United States is concerned is that this area and the resources therein by becoming a part of the United States also become a part of the respective adjacent States. This has been the history of all accretions or acquisitions of property adjacent to the present States

of the Union, as shown by the following excerpt from a unanimous decision of the Supreme Judicial Court of Massachusetts, written while Mr. Justice Holmes was a member of that court:

> There is no belt of land under the sea adjacent to the coast which is the property of the United States and not the property of the adjacent States.

The same principle was recognized by the Supreme Court of the United States in an opinion written by Chief Justice Taney in *Scott* v. *Sanford* (19 How. 393, 446 (1856)), where it was said:

> There is certainly no power given by the Constitution to the Federal Government to establish or maintain colonies bordering on the United States or at a distance, to be ruled and governed at its own pleasure; nor to enlarge its territorial limits in any way, except by the admission of new States * * * no power is given to acquire a territory to be held and governed permanently in that character.

In line with this principle is the proposal, with which this board is in accord, that the respective adjacent states should receive 37½ percent of the moneys received from oil, gas, and other mineral leases on the Continental Shelf outside the original State boundaries, the balance of these moneys to be paid into the United States Treasury. This is the same percentage received by the States under the Federal Mineral Leasing Act from all federally owned land within their respective boundaries (41 Stat. 437; 30 U. S. C., sec. 181, et seq.).

Another, and perhaps the most important, reason that legislation dealing with the Continental Shelf outside original State boundaries should recognize and preserve the claims and rights of the respective States in and to this area not in conflict with the constitutional powers of the Federal Government is that the public interest would best be served, in our opinion, by keeping the supervision and management of these lands close at home and under the control of agencies and persons familiar with the problems involved and experienced in the handling of these problems. While we have no particular objection to legislation which would give the Secretary of the Interior the authority to make oil and gas leases in this area, we believe that this is unnecessary and less desirable than permitting the States to continue to make these leases, subject to the approval of the Secretary of the Interior. As heretofore stated, the School Land Board of Texas has been dealing with the problems of leasing coastal submerged lands since 1919. The first lease on the area between the three-league boundary of Texas and the outer edge of the Continental Shelf was made in 1947. Since that time the School Land Board of Texas has leased 144,799 acres in this area, the bonus on these leases amounting to $2,863,963.18. This is an average bonus of $19.78 per acre, compared to the 25 or 50 cents per acre which would have been received by the Federal Government had these lands been leased under the Federal Mineral Leasing Act.

Along with the right of the States to share in the leasing of and revenues from this area, we think it is imperative that any legislation passed with respect to this area should also provide for the extension of the police power of each coastal State to that portion of the Continental Shelf within the State boundaries or which would be within the boundaries of such State if extended seaward to the outer edge of the Continental Shelf. This police power should include, among other things, the power of taxation, conservation, and control of the manner

of conducting geophysical operations. This is in line with the following recommendation of the Committee on the Judiciary of the House of Representatives in Report No. 695, 82d Congress, 1st session:

The committee considers it proper that the police power of the coastal States be permitted to apply to that portion of the Continental Shelf appertaining to the jurisdiction and control of the United States. Exercise of such power does not confer property rights upon the coastal States but merely permits them to exercise local governmental authority, including taxation and control of the manner of geophysical operations, over the lands in the same manner as the authority applies to lands on the shore.

This type of control is justified under existing legal principles. *Skiriotes* v. *Florida* (313 U. S. 69 (1941)) and *Toomer* v. *Witsell* (334 U. S. 385 (1947)) both hold that the coastal States have the authority to extend their police jurisdiction to the areas involved subject to the approval of Congress. Also significant is the fact that the court in the California, Texas, and Louisiana cases did not hold, and did not undertake to hold, that the States' police power does not extend to operations conducted within the boundaries of the States.

Criminal statutes, workmen's compensation laws, and other police powers should be applicable to Continental Shelf operations. One of the more important police regulations to be applied under this provision is the conservation laws of the coastal States. These State laws are designed to prevent the waste of oil and gas, both under and above ground, and are administered by State conservation agencies through appropriate rules and regulations. They cover a variety of subjects, such as the location, spacing, drilling, and abandonment of wells, control of gas-oil and water-oil ratios, and the rates at which individual wells and pools may be produced.

These laws have been in effect in some States for a period of about 25 years. They have resulted in great benefits to the Nation, and they should be permitted to apply to oil and gas fields discovered on the Continental Shelf off the coastal States just as they apply to fields discovered on the uplands. The laws and the agencies administering them are in existence and are currently functioning, and their application and extension to the areas of the Continental Shelf are merely matters of applying the laws and regulations to new areas close at hand, comparable, indeed, to the situation obtaining when a new field is brought in in the upland area of an oil-producing State.

It is of particular importance that the conservation laws of the respective States be extended to this area. The national security requires the development of our oil and gas resources in a manner that will involve a minimum amount of waste, thus insuring the maximum recovery of these valuable resources.

The contol of production in accordance with sound conservation practices has been exercised by State agencies for over 25 years. The first oil and gas waste preventive legislation in Texas was enacted in 1899. That enactment was amended in 1905 and again in 1913. In 1917 pipelines were declared by the legislature to be common carriers and placed under the supervision of the Railroad Commission of Texas. Pursuant to article 16, section 59a, of th constitution, adopted in 1917, which declares the conservation and development of the States natural resources to be public rights and duties and which provides that "the legislature shall pass all such laws as may be appropriate thereto," the legislature in 1919 undertook a more comprehensive regulation of the oil and gas industry with a view to conserving the oil and gas resources. The railroad commission was given the duty of enforcing such legislation and carrying out the purposes of the constitution. Since that time, the Railroad Commission of Texas has done an oustanding job of conserving the oil and gas resources of our State and has gained experience that cannot be duplicated by any Federal agency.

Cooperative State and Federal management and control would give the Federal Government full use of the experienced personnel and established machinery set up by the State leasing and conservation agencies. These State agencies can perform this task with a minimum amount of additional expense and personnel and without cost to the Federal Government. On the other hand, there being no agency of the Federal Government with similar experience or with personnel experienced in the administration of conservation policies, it would be necessary to create and staff a new bureau or to greatly increase the personnel of the Department of the Interior. This would involve large expenditures by the Federal Government which, in our opinion, are wholly unnecessary and which would not achieve the efficiency of operation which has existed under the States.

Also, the exercise by the Federal Government of control over the management and leasing of the portion of the Continental Shelf outside States boundaries would give rise to numerous administrative problems. For example, if an oilfield should be discovered which lies on each side of the boundary between the area under the control of the Federal Government and that under the control of a State, two sets of regulations would be applicable which, no doubt, would conflict in many respects. If the allowable under one set of regulations were greater than that under the other set, it would permit a well just over the boundary line to drain the area on the other side of the boundary line. Additional problems might arise also from field operations being conducted, as some operators contemplate, by directional drilling from a single location.

The impracticability of such separate control was recognized by Edwin Borchard, Dean of the School of International Law at Yale, in testifying before the Special Committee Investigating Petroleum Resources on June 28, 1945, as follows:

> It is probable that no regulatory system along an arbitrary boundary could function effectively when divided between two different jurisdictions. Since the marginal sea is definitely vested in the State, it is hardly conceivable that outside that belt another set of regulations could be effective or efficient. Practical considerations thus lead to the conclusion that the State must be permitted to exercise jurisdiction over the submarine soil beyond the marginal sea on the Continental Shelf.[1]

In view of the above and the many other problems that would be created by Federal management and leasing of the portion of the Continental Shelf outside the boundaries of the respective coastal States, the School Land Board of Texas favors the passage of legislation which would provide for the most economical, orderly, and efficient development of this area, and which would place these lands in the same category as other Federal public lands and provide for their leasing in accordance with established policy. We do not ask that we be given anything except the same treatment given other States which have large Federal holdings within their boundaries. We do not believe that Texas and the other coastal States should be treated as "stepchildren" merely because this area is within or contiguous to their borders by being required to bear the entire expense of providing and maintaining the onshore public facilities, such as highways, ports, etc., necessary for the successful prosecution of offshore

[1] Appendix B to Report of Committee on the Judiciary on H. J. Res. 225, 79th Cong., 2d sess. (1945).

drilling operations. Instead, we believe that these States should be assisted in this by being allotted a share of the revenues derived from the leasing of oil, gas, and other minerals in this area. We think the 37½ percent given other States with federally owned lands within their borders is a proper and equitable portion in this case. The extension of the taxing power of the coastal States to this area would yield additional moneys to these States for use in the construction and maintenance of onshore facilities and in providing for the enforcement of the police powers and conservation measures of the States in the Continental Shelf area.

Legislation along the lines above discussed will, we believe, best serve the interest of the entire Nation as well as the coastal States.

ALLAN SHIVERS,
Governor of Texas.
BASCOM GILES,
Commissioner of the General Land Office of Texas.
JOHN BEN SHEPPERD,
Attorney General of Texas.

Mr. SHEPPERD. This is a statement of the School Land Board of Texas, composed of Gov. Allan Shivers; Mr. Bascom Giles, commissioner of the General Land Office of Texas, who is here with me and will testify, I understand, next; and the attorney general of Texas.

By statutory mandate and judicial edict this board is supposed to know the answers to all of the questions regarding lands in Texas. If there are any that come up that Mr. Giles and I cannot answer, I am sure that Governor Shivers will know those answers.

Texas has pioneered in the development of the Continental Shelf, starting and giving the first lease back in 1919. Neither President Truman's proclamation of 1945 nor the Supreme Court in any of the celebrated submerged-land cases have disputed the fact that the State had the right to extend its boundary, with proper congressional approval, of course.

We take the attitude that this territory cannot be a part of the United States unless it is also a part of some State or territory. Going back to the Landmark case that has been cited before this committee on numerous occasions, the Supreme Judicial Court of Massachusetts, when Mr. Justice Holmes was on the court, said:

> There is no belt of land under the sea adjacent to the coast which is the property of the United States and not the property of the adjacent States.

It was later pointed out by the Supreme Court in *Scott* v. *Sanford* in 1856:

> There is certainly no power given by the Constitution to the Federal Government to establish or maintain colonies bordering on the United States or at a distance, to be ruled and governed at its own pleasure; nor to enlarge its territorial limits in any way, except by the admission of new States * * * no power is given to acquire a territory to be held and governed permanently in that character.

There with the practical aspects involved of a Federal belt of territory that would completely surround the United States on three sides plus the economic considerations that were pointed out yesterday on the creation of numerous boards and commissions to deal with this particular area plus the extension of various Federal laws, as pointed

out in S.1901 and which had stretched things pretty thin to make some of those laws applicable to the particular area involved. We are of the very definite opinion, as we have always had when we came before the committee and asked that this be settled at one time that the States should be allowed to extend their boundaries into this particular area, that our conservation laws, police laws, and taxation laws should be extended to this particular area.

We have cited numerous authorities and various reports to sustain us in those particular things.

I would like to point out one consideration and that is to stress the power of taxation in this particular area. The Federal interest, of course, would not be taxed from the county or local ad valorem tax setup, which is too well established to take the time of the committee this morning. But we think it would be an equitable way to compensate the State for its own shore services, use of highways, schools, ports, and harbors. I think all of these witnesses that have appeared before the committee to date have been pretty explicit in the fact that you are not going to be able to operate that particular area out there unless you keep most of the installations on shore. It is our contention that by allowing us to extend our boundaries to that particular area, allowing us to tax the personal property—as a matter of fact, that is what it would amount to, intangible property in that particular area—that would compensate us for the use of the shore facilities which will be required to enforce that. We are not going into the obvious difficulties of maintaining a 130- or 140-mile imaginary line all the way between the historic boundaries and the Continental Shelf under two different administrations.

The picture of the barge that the Humble representative had here that drilled 7 to 8 to 9 to 10 wells from a particular location, the question of drainage, the question of conservation on the thing has been developed by two particular agencies. Governor Shivers concurred in this statement that was drawn up in the formal meeting of the Land Board last Friday and Saturday. I would like, if I might, to read this last paragraph in the statement:

In view of the above and the many other problems that would be created by Federal management and leasing of the portion of the Continental Shelf outside the boundaries of the respective coastal States, the School Land Board of Texas favors the passage of legislation which would provide for the most economical, orderly, and efficient development of this area, and which would place these lands in the same category as other Federal public lands and provide for their leasing in accordance with established policy. We do not ask that we be given anything except the same treatment given other States which have large Federal holdings within their boundaries. We do not believe that Texas and the other coastal States should be treated as "stepchildren" merely because this area is within or contiguous to their borders by being required to bear the entire expense of providing and maintaining the onshore public facilities, such as highways, ports, etc., necessary for the successful prosecution of offshore drilling operations. Instead, we believe that these States should be assisted in this by being allotted a share of the revenues derived from the leasing of oil, gas, and other minerals in this area. We think the 37½ percent given other States with federally owned lands within their borders is a proper and equitable portion in this case. The extension of the taxing power of the coastal States to this area would yield additional moneys to these states for use in the construction and maintenance of onshore facilities and in providing for the enforcement of the police powers and conservation measures of the States in the Continental Shelf area.

I might point out, Mr. Chairman, as you well know, from your own State, when you talk about 37½ percent of the revenues, that does not amount to a lot of money because the Federal Government in most instances, certainly in the developmental stage, is only requiring an eighth of the royalty or 12½ percent and actually that amounts to less than 5 percent in the over-all picture.

When we look at the amount that is in this record from previous hearings that goes to the States, 57½ percent, it is not much money involved. It is certainly not as much money involved as we would gather from reading the paper regarding the thing.

Senator BARRETT. Mr. Shepherd, as I take it then from your statement, you contend that there is no constitutional manner in which we can segregate this outer Continental Shelf from the coastal States?

Mr. SHEPPERD. I would say it would be an extremely close question in the light of past decisions, sir. I do not think that anybody could read the Louisiana case and these other cases that are cited here and not have uppermost in their mind that the Supreme Court was trying to tell us regardless of whether historic boundaries were being restored or not that this had to be part of the country. I do not know; we set that area up there. There is a map of the particular area affected in Texas. This is all in the record, but we have reproduced this map showing the Continental Shelf of all the States and ours is not the largest by any means.

I am sure you will recall that testimony was introduced by Dr. Clark before. It is not something that is peculiar unto ourselves but it just happens to be we are on the firing line at this particular time. The other States will be involved as time goes on.

Senator BARRETT. It is your theory then that under our Constitution we have a Union of sovereign States and that all of the States of the Union make up the total area of the United States plus the coastal territories?

Mr. SHEPPERD. That is right.

Senator BARRETT. If we, under the bill that is before us now, assume that the outer Continental Shelf is not a part of the coastal States, just what designation would it have?

Mr. SHEPPERD. I do not think it is a public land. Of course, if you and I started discussing public land, I agree with your theories on public land. I am alarmed about the United States Government owning a fourth of the territory of the United Sttes and when you add the Continental Shelf, it will add another fourth, which will make it just a little bit below 50 percent.

Senator BARRETT. I was going to ask a question about public lands. I agree of course with the theory that Justice Taney was laying down here. I notice the last part of his decision there; he makes this statement:

> No power is given to acquire a territory to be held and governed permanently in that character.

Of course, Wyoming was made up principally of lands acquired from France under the Treaty of 1803, the Louisiana Purchase. We have felt out in our State that the Federal Government has attempted to establish, and a good many people feel that way about it, about half of our State as Federal land to be held in perpetuity by the Federal Government and in the nature of a landlord. We think that was never

the concept of this country at the time the Union was formed. For a long period of time it seems to be a doctrine that has grown up in the last half century.

The question I would like to ask you is this: Assuming that that is sound doctrine, that the Federal Government cannot hold permanently or in perpetuity half of the public-land State, how long can they hold it? They cannot hold it forever; now how long can they hold it? It is 150 years since the Louisiana Purchase. How many more 150 years can they hold and still stay within the provisions of the Constitution?

Mr. SHEPPERD. We are getting down to some pretty fundamental questions of government, but I think the whole thing needs intelligent consideration. I think the reason it was set up as it was, and of course we know the reason some of it was acquired later on is that the Federal Government was the only agency from the standpoint of forestry, and so forth. But I hope on this thing we do not make the same mistake that we made there. Scuttlebutt has it that we have not much chance here because we are kind of getting brother-in-lawed because of the education program that was conducted in the Senate on the bill regarding historic boundaries, and in order to appease some of the people that have never understood the fundamental questions involved in the historic boundaries of the various States, in the Texas agreement and our annexation treaty, that in order to appease some of the bitter critics, the States are going to be excluded just per se in this particular matter and we are going to have a situation that is going to be even more nefarious than the public land question in the Western States, and because we are not meeting the issue face to face and fairly today just like the issue was not met 150 years ago back there.

Senator BARRETT. Mr. Shepherd, as I understood the junior Senator from Texas yesterday, the State of Texas is not asking for any payments for their administration of the conservation laws, at least in the outer Continental Shelf. Do I understand your position here today that you think that it would be in the best public policy for us to extend the conservation laws and police power, maybe the taxing power, at least as to the oil when it is severed?

Mr. SHEPPERD. Yes, that is right. Of course, actually our conservation laws require so little and would require so little to administer, and they are paid for primarily out of our severance tax. One and one-half percent of our severance tax goes into our enforcement fund.

Senator BARRETT. But do I understand your position, that if other laws of Texas are extended out there, such as police power, the Workmen's Compensation Act and, such as that, that there ought to be some compensation made to the State of Texas?

Mr. SHEPPERD. That compensation would be made by allowing us to tax the area.

Senator DANIEL. You would not claim any right to taxes or any compensation for the administration that we perform on the outer Continental Shelf. What we spend on the outer Continental Shelf on police powers and conservation laws would be a very small fraction of the service that we would actually be rendering as a State to these operators. Is that not correct?

Mr. SHEPPERD. Yes, that is true. I would say 95 percent of it would be for the compensation of onshore services.

Senator DANIEL. What are the State services furnished to these operators, to these companies, to their employees, and families for which you think the State ought to have a right to levy a tax?

Mr. SHEPPERD. Back on shore for schools, for highways, for ports, for old-age pension, for workmen's compensation.

Senator DANIEL. What does our occupation tax, known as severance tax on oil and gas, go to pay for?

Mr. SHEPPERD. One-fourth goes in the public free school fund and three-fourths of it goes in the general revenue fund that pays for roads, pensions, and all the services of general government.

Senator DANIEL. The next biggest amount of money spent by the State next to schools, I think, is for highways.

Mr. SHEPPERD. Highways. Welfare is third.

Senator DANIEL. Welfare includes old-age pensions and other things furnished to certain citizens of the State above a certain age or with certain physical handicaps, is that right?

Mr. SHEPPERD. Yes.

Senator DANIEL. Actually, some State funds or local district funds are spent by port authorities and on the ports in addition to Federal funds; is that correct?

Mr. SHEPPERD. Yes.

Senator DANIEL. Now, all of that is furnished on shore to people who drill on the shore; is that not correct?

Mr. SHEPPERD. Yes.

Senator DANIEL. Are the same State services furnished to these operators and their workmen and employees who drill offshore on the outer Continental Shelf?

Mr. SHEPPERD. Yes.

Senator DANIEL. Why is that true?

Mr. SHEPPERD. The Air Force estimates it takes four mechanics to keep a pilot in the air. I have approximately 12 trial lawyers out of 47 and 53 other employees. As you well know, I estimate it takes nine people to keep a trial lawyer in court. I would say, although we cannot have any definite statistics, that it would take at least 5 people to keep 1 man out on that rig, out in either the historic boundaries or out on the shelf, either one.

Senator DANIEL. Five people working from shore?

Mr. SHEPPERD. Yes.

Senator DANIEL. Where does that man that they keep out on the rig during his working hours, where does he live?

Mr. SHEPPERD. He lives on shore.

Senator DANIEL. Where does his family live?

Mr. SHEPPERD. On shore.

Senator DANIEL. Where do his children go to school?

Mr. SHEPPERD. On the shore.

Senator DANIEL. So therefore all the State services that we furnish to onshore operators on shore are actually furnished to the offshore operators and to their families because they live on shore and work from shore; is that not correct?

Mr. SHEPPERD. That is right.

Senator DANIEL. So it is not so much the governmental services we might furnish out in that area of the outer Continental Shelf but it is the governmental services we furnish to the people who work out there and who live onshore that we think justifies the right to tax those engaged in the occupation?

Mr. SHEPPERD. As you will recall, when we were here before, Mr. Giles and I, together with Governor Shivers, offered to do what we could in leasing the area free. There is no question about compensation involved there.

Senator BARRETT. Senator Malone.

COMPENSATION FOR POLICE PROTECTION

Senator MALONE. Mr. Shepperd, you have made a very interesting statement here and I am sorry I was a little bit late getting here. I notice that you are talking about taxes. Certainly, I should think there should be some compensation for all the services you furnish out there. What type of tax do you suggest? Would it be a property tax?

Mr. SHEPPERD. We do not have a State property tax. We have a severance tax on oil, so much per barrel, 4.6 cents per barrel. Then we have an intangible tax on personal property and on pipelines. Then of course we have county property taxes.

Senator MALONE. What kind of tax do you have on pipelines?

Mr. SHEPPERD. It is called an intangible tax.

Senator MALONE. How does it work?

Mr. SHEPPERD. It is actually a property tax.

PERCENTAGE OF ROYALTY

Senator MALONE. It looks to me as if it is a reasonable thing, if you have a personal property tax and a property tax on anything used in connection with the business. We have a tax based on that principal in Nevada.

Now, I am interested, however, in this 37½ percent. Do you mean to imply that 37½ percent of the income from the sale of oil would go to Texas in this matter?

Mr. SHEPPERD. It has always been our contention and has been for the last 7 years. We have supported the Walter bill passed by the House, I believe, on three different occasions by merely drawing an analogy with the Western States on the amount of income that they receive from similar situations.

Senator MALONE. That is true. This is not in your State, however. You do not claim that?

Mr. SHEPPERD. No, we do not claim that. I believe we were also discussing before you came in the serious question of the fact that it would have to be in some State or Territory.

Senator DANIEL. May I intervene 1 minute, Senator Malone? You say it is not in the State. As far as Texas is concerned, it has done all that it needs to do to bring it within the jurisdiction of the State. Is that not correct, Mr. Shepherd?

Mr. SHEPPERD. Yes.

Senator DANIEL. We have passed a law which would extend State jurisdiction over the area. Of course, it is up to the Congress to

approve or disapprove that. In other words, as far as the State is concerned, we have done all we can do to extend the jurisdiction over it, and Congress simply has not done its part.

Senator MALONE. Congress has not approved it.

Senator DANIEL. That is right.

Senator MALONE. Suppose they were mining sulfur out here, what would you do about that, if they suddenly quit producing oil or other minerals, how would you get the income from the other minerals?

Mr. SHEPPERD. We have a sulfur tax, sir.

Senator MALONE. Then you would apply the sulfur tax?

Mr. SHEPPERD. Yes.

Senator MALONE. What is that sulfur tax?

Mr. SHEPPERD. The State of Texas levies an occupation tax of $1.40 per long ton or fraction thereof of all sulfur produced within the State of Texas during each quarter.

Senator MALONE. My purpose in asking this question, is to determine if 52½ percent of these revenues received from public lands in the States go to the reclamation fund.

Mr. SHEPPERD. Yes.

TEXAS A RECLAMATION STATE

Senator MALONE. Texas as one of the reclamation States is a beneficiary from the revenues received from all the other States.

Mr. SHEPPERD. Yet we are not a reclamation State.

THE RECLAMATION FUND

Senator MALONE. Yes, you are by law. There are 17 Western States. Now, you have overlooked that and you are not now contributing anything to the reclamation fund. You would have if these sea-bottom lands had remained public lands within the 10-mile limit or 3 miles or wherever the boundary is set. Those are public lands according to the Supreme Court. After the decision in the case of *U. S.* v. *California*, the Mineral Leasing Act became applicable there. Everybody thought it was, but the Secretary of the Interior said it was not. They have sued him in the courts here to reverse his decision; if it is reversed, of course the act would be applicable. Even if the court decision is unfavorable to it, a very slight amendment to the National Oil and Gas Leasing Act, is all that is necessary to make it applicable. Therefore, if we had not passed the bill granting to the coastal States ownership of the sea-bottom lands within your boundaries you would have received 37½ percent, 10 percent to the Government, 52½ percent to your reclamation fund. That Leasing Act is already on the books, the division is already made. It will not be difficult to bring these sea-bottom lands out there beyond the State boundary under the Mineral Leasing Act, and they are well outside the State boundaries. We understand there is no claim made by the State that they own the land out there. That is true, is it not?

Mr. SHEPPERD. Yes.

DIVISION OF ROYALTIES UNDER THE MINERAL LEASING ACT

Senator MALONE. I just want to be sure. Now, if the Mineral Leasing Act would be made applicable to these lands, the division of

the royalty would be 52½ percent to the reclamation fund, these being public lands, 10 percent to the Government, and there would be a question as to where the 37½ percent would go. If it were decided by this committee or by the Congress finally, and signed by our President; that Texas would get 37½ percent, which would leave the division of revenues as it is or if it were not supposed to be worth that much for just policing, add the surplus to the reclamation fund. As you can see, the Government is not trying to make any money on these revenues. Ten percent is simply for administration. So Texas benefits from the 52½ percent contributed to the reclamation fund but puts nothing in the fund.

RECHARGING THE RECLAMATION FUND

We have passed bills here, this committee, on reclamation porjects for your State. The only new money that has been available for that fund for many, many years has been from the Mineral Leasing Act. There might be a little money that comes in from the sale of land or timber, and the repayments on projects already built. You know, we pay back the money without interest to the reclamation fund. We are trying to keep this fund intact. If you took the 37½ percent and Congress decided that it was right, there would not be any change in the present distribution. But do you not think then that a proper amendment to the Mineral Leasing Act of 1920 would be all that you need to make it applicable to these lands? The court decision covering the question is already to be rendered.

Mr. SHEPPERD. In reading these decisions I do not believe the Supreme Court has said they were public lands.

Senator MALONE. They did not say they belonged to Texas.

Mr. SHEPPERD. No.

THE MEANING OF PARAMOUNT RIGHTS

Senator MALONE. And of course I hear that on very hand, I would like to see some of you fellows on the other side once in a while come up and say what you think about the Supreme Court decision that says the Government has paramount rights. What do you think "paramount rights" mean?

Mr. SHEPPERD. I do not know.

Senator MALONE. The dictionary says it is the highest title. So I took the definition in the dictionary and let it go at that. If it is the highest title, I do not think there would be any question, would you?

Mr. SHEPPERD. No.

Senator MALONE. You will find that is the way Webster defines it if you look at it.

Mr. SHEPPERD. It is more confusing.

Senator MALONE. It is confusing if you want to make it so. Nevertheless, the dictionary says paramount rights is the highest title.

Senator DANIEL. What edition was that?

Senator MALONE. I have one of the pocket editions which costs 25 cents and that is the way it defines "paramount rights." The one that costs $40 elaborates a little.

Senator DANIEL. I wonder if the Supreme Court would not put the word "proprietorship" or some words of title in the decree when the Federal officials asked them to.

Senator MALONE. I do not know. I just looked up the language. I have been an engineer for 30 years and I only believe what I hear and see.

So if that is paramount rights and if they are public lands—let us assume something—could the Mineral Leasing Act not be amended properly and just be applied to it and give you whatever is necessary?

Mr. SHEPPERD. Yes, I think we could. I think the House does, except they do not go on with these two additional steps you mention in the Graham bill.

Senator MALONE. What steps are those?

Mr. SHEPPERD. The steps where we get 37½ percent and percentage to the reclamation State. I have learned something that I did not know.

Senator MALONE. You ought to study that law. You know, Texas benefits from pretty nearly everything and it is a big State. It is a great deal bigger than Nevada.

Mr. SHEPPERD. We might not be if you flattened out.

ALL THE LEGISLATION WE NEED

Senator MALONE. That is right. But west Texas and Nevada are a lot alike. That is why they use a short rope and tie it fast and set her down fast. We apparently think every time something comes up, a sore spot, that we have to pass a new piece of legislation. But we have all the legislation we need.

Mr. SHEPPERD. Of course we could actually go one step further here and put in that the State agencies involved, the leasing agencies involved could administer the leasing of this area subject to that act or any other stipulation the committee would set.

Senator MALONE. That might be all right, but we have a leasing agency over here now that costs us too much money, nevertheless, it is here. They lease Federal lands all over the West. They do it in the same manner exactly. They get 12½ percent royalty. If it is a known mineral area, they ask for bids. We can change that if we want to. Why do you not make a few suggestions along that line and make this Mineral Leasing Act applicable to this area? Maybe we can see that your State gets a piece of this revenue already provided.

Mr. SHEPPERD. Actually, we are not up here for a piece of revenue as such.

Senator MALONE. I understand that is all this is about. I read it hastily, but I did not see anything else in it. You are just talking about revenue to Texas.

Mr. SHEPPERD. We are talking about compensation for services to be performed.

Senator MALONE. That is compensation or revenue from these properties out here. Of course, you do not know exactly what you are going to perform. That has all been testified to here. But you are going to do what is necessary. Certainly, the junior Senator from Nevada would be the last one to ask you to do it for nothing. Let us face the subject here. We have all the legislation that anybody could require. All you have to do is quit dodging it.

Mr. SHEPPERD. I am not exactly dodging it. I have seen, and it was introduced by testimony back in February here, that the leases that have been given under that particular act were 25 cents for awhile and then they were raised to 50 cents. We will not even put any out unless we get a minimum of $5 on them.

PRODUCING WELLS ARE IMPORTANT

Senator MALONE. We can easily change that. You do not think that the money that you get out of the leases is so important anyway. The major problem is to get them in production and paying taxes. The Government owns 60 million acres of public land in my State of Nevada. I have not introduced any bill to give that land to Nevada. They are public lands just like the lands we are talking about. Just like the lands we gave you. Let us face it, now. You have these lands if the President signs the legislation and I guess he has by now.

Mr. SHEPPERD. I do not know, but we are hoping he will.

Senator MALONE. It is pretty hard to back into this stuff. Just face it right across the table.

Mr. SHEPPERD. I would be very happy to submit to the committee some observations on that after some study and review of the past record. I think it would affect considerable amendments on sealed bids and proximity of production and complete revision of the act itself. I know you are interested in that and Senator Barrett is, too, because you are interested in your States.

Senator MALONE. If you got 37½ percent of the royalty you would not worry very much, would you? It is at least as much as you would get in taxes, if they asked for bids after they had a known oil field.

Mr. SHEPPERD. Of course you and I know that when you look at statistics, 37½ percent is not too much because when we consider an eighth of an interest of the Federal Government, it is less than five percent, but it is still a lot of money.

Senator MALONE. It is still a lot of money. It is more than you would get in taxes on a property tax, no doubt, if you find any amount of oil out there.

Mr. SHEPPERD. I do not believe it would be.

Senator MALONE. I will not argue about that. You would not ask for more than 37½ percent, would you?

Mr. SHEPPERD. No, sir.

THE MINERAL LEASING ACT FITS THE PROBLEM

Senator MALONE. Why do you not go ahead and take that Mineral Leasing Act and read it, now, and you will find that very slight changes will fit you to a T.

Mr. SHEPPERD. Yes.

Senator DANIEL. As I understand your testimony, Mr. Shepherd, it is not confined strictly to asking for taxation privileges or revenues, you are also testifying as to what you think is to the best interest of the Nation insofar as allowing State cooperation in local affairs by extending State jurisdiction over this area, is that not correct?

Mr. SHEPPERD. Yes, that is true.

Senator MALONE. I would like to say before I go that I think your State has to do something out there in this matter of policing. I do not see how anybody else could do it.

Senator DANIEL. Now, I would like to ask this. If the Congress of the United States decided that they did not want to give the States any money for the services you furnish on shore or out on the shelf, say they would turn down the House provision on that, and do not want to give you any compensation or any percentage of the revenues, would you still favor the extension of State jurisdiction over the outer Continental Shelf for local governmental purposes?

Mr. SHEPPERD. By all means, Senator Daniel, because we are right proud of the frontier. That may be the last frontier that this country will ever have out there. We are proud of the fact that we might be the vehicle that will make it possible for the Federal Government to get it. Of course, I think when we do not cross the other bridge and we have forded the creek, it is evading the issue and it will be brought forcibly to our attention later on down the line.

Senator DANIEL. I think you are correct, but knowing the feeling of the Congress on this subject, I want to make it clear that you are not asking for extension of state jurisdiction just as an excuse to try to get some revenues from the area.

Mr. SHEPPERD. That is true. We pioneered in this field a long time ago.

Senator DANIEL. That is right. The State has had its jurisdiction extended over the outer Continental Shelf for many years, is that not correct?

Mr. SHEPPERD. Yes.

Senator DANIEL. That is true of Louisiana and Texas.

Mr. SHEPPERD. Yes.

Senator DANIEL. Now, as far as getting this outer Continental Shelf out of the family of nations and into the exclusive control of our United States Government, with all of the land and revenues going to the Federal Government under the proposed Cordon bill here, do you think the States have assisted the National Government in securing its claims to the area?

Mr. SHEPPERD. If it had not been for Texas and Louisiana, I do not think the National Government would ever have known it was out there.

Senator DANIEL. We extended our jurisdiction ahead of the Federal Government, ahead of the Truman proclamation.

Mr. SHEPPERD. And President Truman was very careful in his proclamation not to disturb that extension.

Senator DANIEL. And no one has contested the extension of the State jurisdiction over the area as far as governmental power is concerned.

Mr. SHEPPERD. That is true.

Senator DANIEL. The only thing that has been decided is we do not own the land out in the outer Continental Shelf.

Mr. SHEPPERD. That is right.

Senator DANIEL. Just like Federal land in Colorado and Mexico. The Federal Government owns the land, but the political jurisdiction for local purposes is still in Colorado, in New Mexico, and Wyoming, is that not right?

Mr. SHEPPERD. Yes.

Senator DANIEL. Did not the Supreme Court in the Louisiana case actually say that the extension of State jurisdiction over the area

had inured to the benefit of the Federal Government and strengthened its claims as against other nations.

Mr. SHEPPERD. Yes.

Senator DANIEL. I do not believe you read that sentence. It is in your statement, but would you mind reading into the record the statement from the Supreme Court taking cognizance of the assistance of the State of Louisiana to the United States in its claim to these lands?

Mr. SHEPPERD. Excerpt from case of *United States* v. *Louisiana* (339 U. S. 705 and 706):

> So far as the issues presented here are concerned, Louisiana's enlargement of her boundaries 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.

Senator DANIEL. Now, by the same token do you not think it would weaken the claim of the United States as against other nations to do away with Louisiana's jurisdiction over the area and lose all of the possession and development that Louisiana has already established there since 1938?

Mr. SHEPPERD. I certainly do. I do not believe it can be a part of this country from a fundamental constitutional point of view without being a part of a State or Territory.

Senator DANIEL. In other words, if under the Truman Proclamation the justification for the claim of the United States to the area is based on the fact that it appertains, such as an accretion to the land mass on the shore, if that is the correct philosophy of this claim of our Nation, how can it appertain to the United States as a Nation without appertaining to the adjacent States?

Mr. SHEPPERD. I am unable to see any way it can, sir.

Senator DANIEL. I just want to make it clear again for the record that as far as the State is concerned, we are not entirely selfish about this matter. If the Federal Government gives us nothing for what local governmental powers we exercise over the area, we are still willing to exercise them and carry out the system of dual sovereignties that we think is a good system for this country and for all of the area within the continental United States, is that not correct?

Mr. SHEPPERD. Yes, that is true.

Senator DANIEL. Now, your idea is then that the Constitution and laws of the United States ought to apply to the seabed and subsoil the same as within the rest of the United States, is that not true?

Mr. SHEPPERD. Yes.

Senator DANIEL. Now, you used the term "boundaries" and say the boundaries of the Nation should be extended out there to cover the outer Continental Shelf and the boundaries of the State. Now, the term "boundaries" worries the State Department and worries international lawyers because they are afraid that it prevents you from clearly distinguishing between the overlying waters and the subsoil. Where you use the term "boundaries" you could just as well use the term "jurisdiction and control" as they were used in the Truman proclamation; is that not correct?

Mr. SHEPPERD. Yes.

Senator DANIEL. It amounts to the same thing.

Mr. SHEPPERD. I believe it is in the other statement I filed.

Senator DANIEL. We are talking only about jurisdiction and control.

Mr. SHEPPERD. Yes.

Senator DANIEL. Whatever jurisdiction and control the United States is entitled to over the seabed and subsoil you think that the domestic law of this country ought to apply to it; is that correct?

Mr. SHEPPERD. Yes.

Senator DANIEL. And the secretary of the state did so testify that it would be applicable. Do you think we should follow the same system of dual sovereignties as far as governmental powers are concerned that are followed onshore?

Mr. SHEPPERD. Yes, I do. If we had a rearrangement of boundaries in the Great Lakes, if California should acquire Lower California from Mexico, or the Rio Grande should change its course, I do not think the Congress would hesitate 30 seconds to not only ratify an extension of our boundaries but do as they did before, ask us to extend our boundaries. We just have a hot potato here that we are going to have to juggle around a little bit until public sentiment crystallizes. By so doing we are not facing the issue squarely from a constitutional standpoint or practical standpoint.

Senator DANIEL. Would it not be foolish to talk about annexing some islands to the United States, islands 2,000 miles away, and refusing to annex this band area contiguous to our State?

Mr. SHEPPERD. Yes.

Senator DANIEL. When Great Britain in the Gulf of Paria, first extended her jurisdiction over the Continental Shelf, is it not true when that treaty was worked out between Great Britain and Venezuela, the other country involved, that Great Britain annexed to the territory of her dominion the adjacent seabed and subsoil?

Mr. SHEPPERD. Yes.

Senator DANIEL. That is true, and there have been other instances, too, where nations have asserted this same exclusive jurisdiction and control over the seabed and subsoil where they have annexed it to their adjacent territory and made it a part of their country.

Mr. SHEPPERD. As pointed out in your able statement in February, Russia has always done that.

Senator DANIEL. Yes, at least out to 12 miles. Now, Mr. Chairman, Mr. Shepherd has these maps as to what the extension of jurisdiction by the States would look like for each State. They are maps that were prepared and shown to the committee by Dr. Clark at the last hearing but were not put in the record. I wonder if in this record that applies to the outer Continental Shelf we could not have Dr. Clark's testimony inserted as a part of this record as well as these maps.

Senator LONG. As I understand it, this shoreline is based on the principle of extending the boundary lines in the direction they were running at the time they reached the sea. There has been some suggestion that perhaps the boundary lines should be extended in a way to put within the boundary of each State the proportion of the coastline they had rather than extending the boundary lines at the angles they extended when they reached the sea. I have never seen a map drawn on that basis to show what coast each State would have on that basis.

Senator BARRETT. Do you have a copy of Mr. Clark's statement?

Senator DANIEL. Yes.

Senator BARRETT. Do you want that in the record?

Senator DANIEL. Yes. I move that we place Dr. Clark's statement and the maps in this record.

Senator BARRETT. Without objection it is so ordered.

(NOTE.—The statement of Dr. Harold F. Clark, and the maps referred to above, are carried at the conclusion of Mr. Shepperd's testimony.)

Senator LONG. Mr. Shepperd, what is your concept of law with regard to these fixed structures in the sea? Would you think they should be regarded as an island in the sea in that area and put a limited territorial band around it or do you propose to draw an island based on a structure erected on the subsoil of the sea?

Mr. SHEPPERD. Senator Long, I think they would have to be regarded as an island. I do not think they could be regarded as a boat or barge at all.

Senator LONG. Of course, there is nothing new about that concept as far as my State is concerned because in Louisiana we have islands that appear and disappear. The waves will push the muck out there in one place and after awhile there will be an island created there. And then the wave wash will erode an island and it will disappear. While it is there it is a part of the State of Louisiana. When it disappears, of course the concept of the high seas again comes into operation.

Now, you have said very little about any consideration to which a State might be entitled by virtue of the services that it performs. Would not any operation beyond the State's historic boundaries lean upon the State's economy just as heavily as an operation within the State boundaries?

Mr. SHEPPERD. Probably more so because it would probably take more people on shore to keep them afloat and keep them operating than it would a well that would be drilled on the surface.

Senator LONG. The people working that area in the sea would spend at least half their time on land in the State. During that time they would benefit from all State services, would they not?

Mr. SHEPPERD. Yes. I made an estimate, I believe before you came in, it would take at least 5 people to keep 1 man on the barge or on the platforms.

Senator LONG. The evidence here indicates there was a greater expenditure on the shore base as to the first few wells that were drilled, than there is on the operation in the sea. The shore base, I believe, costs around $2 million and the smaller structure in the sea could be constructed for perhaps a half-million dollars and a large platform would cost about a million and a quarter. But in the case of either one, the shore base would be much more expensive than a base at sea?

Mr. SHEPPERD. Yes.

Senator LONG. But all those people, whether based on shore or working at sea would all be benefiting from all the State services that are supplied?

Mr. SHEPPERD. Certainly they would be unless some method is devised to build floating cities, which seems unlikely.

Senator LONG. The State would be supplying to all those people the services of education, which is one of the major costs of State

government; they would be supplying to them the protection of their person and protection of their property when they are ashore at least; they would be supplying to them all the services of health and sanitation; they would be supplying all the highways over which all their trucks and all their materials would be moving; they would be supplying the various elements of security which includes hospitalization and unemployment services to both them and their families, would they not?

Mr. SHEPPERD. Yes.

Senator LONG. I take it you agree that there should be some formula worked out to compensate the State for the burden upon the State's economy and the burden upon the State's services in helping to support this operation.

Mr. SHEPPERD. Yes, sir; I think not only is it a businesslike approach but it is an equitable approach to the matter involved. I think if all the Federal acts within this worksheet were applied to this particular area, the venue set in the District of Columbia as indicated in certain instances here, we will run into a multitude of problems that will be imposed to foresee, legal problems and social problems and economic problems, that we will be creating another country. That is what it amounts to.

Senator LONG. You already have the enforcement operation established as far as Texas is concerned, even down to the local government.

Mr. SHEPPERD. We could start in the morning with a leasing program and conservation program with no additional staff, those two particular agencies.

Senator LONG. And law-enforcement program also for domestic law?

Mr. SHEPPERD. Yes.

Senator BARRETT. Thank you very much, Mr. Shepperd.

Senator DANIEL. Thank you, sir.

[Excerpt from pp. 353–364, with accompanying maps, hearings before the Senate Committee on Interior and Insular Affairs on Submerged Lands, February 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, March 2, 3, and 4, 1953]

STATEMENT OF DR. HAROLD F. CLARK, PROFESSOR IN CHARGE OF EDUCATIONAL ECONOMICS AT COLUMBIA UNIVERSITY

Dr. CLARK. Mr. Chairman and members of the committee, I would like to ask permission to go through this statement, if I may, and then answer any questions.

Senator CORDON. Without objection, you may.

Dr. CLARK. My name is Harold F. Clark. I am professor in charge of educational economics at Columbia University. I am here to testify in behalf of legislation in regard to the Continental Shelf, the great frontier of the future. It is my belief that this Congress should pass legislation at the earliest moment possible to permit the extension of boundaries of the various States to the edge of the Continental Shelf, and that the States exercise the rights of jurisdiction or ownership in this area.

I urge this course of action for several reasons. As a matter of economics, geology and geography, international law, domestic law, and political concepts which have existed since colonial times, the treatment of these submerged lands as lands of this country and as lands of the respective States is pertinent here, is in keeping with the governmental and legal concepts of this country, and is feasible and desirable today under the current posture of international law.

I favor State ownership, management, and control because it is the soundest formula for the economic growth of the country. Some bill, similar to the Daniel bill here in the Senate or the Walter bill in the House of Representatives, or a like bill, would be a move in the right direction. Passage of such legislation would be in keeping with the most practical and idealistic governmental concepts

of this country and certainly would be in keeping with the best technical economic practices and possibilities.

One passing reference to the historical context of law in regard to our coastal submerged lands will suffice. Chancellor Kent in 1826 wrote that "considering the great extent of the line of the American coasts" the United States could reasonably claim "the control of the waters of our coasts, though included within lines stretching from quite distant headlands, as for instance * * * from the south cape of Florida to the Mississippi" 500 miles across and 200 miles wide at its widest point. (I Kent, Commentaries on American Law 30 (1826).) I sometimes wonder if we have lost some of the vision of our forefathers.

I desire, however, to address myself to the field in which I have studied for the past two decades—the economic possibilities and procedures desirable in this area. My thoughts then will be directed along those lines.

ECONOMIC AND AGRICULTURAL POSSIBILITIES

The basic problems in regard to the ocean resources are economic and agricultural. There are many reasons to think that much of the food supply of the world in the future will have to depend upon the resources of the ocean. The day has long since passed when we can rely upon the wild animal and plant resources of the ocean. We would not expect to rely upon wild pigs in Iowa. Just as we cultivate corn and raise pigs in Iowa, we will cultivate the food resources of those parts of the State extending out to the edge of the Continental Shelf.

It is hardly conceivable that a farmer having trouble with his oyster farm 20 miles out in the Gulf of Mexico would have to call Washington for authority to plant his oysters in one field rather than another. Anyone can imagine what would have happened if the Federal Government had insisted on keeping control of all the farmland west of the Mississippi. If every farmer in Iowa had to get his favorite hog sirup from a bureau in Washington, probably most of the hogs would die before it arrived.

In regard to the offshore resources of the ocean, we are dealing fundamentally with an economic and agricultural problem. The trends of technical life for 100 years have all been pointing in the same direction. This land to be properly farmed must be owned and controlled completely by the States. International law has been moving this way for a century. Country after country around the world has been extending its boundaries. It is inevitable that the customary boundary for all countries will shortly become the Continental Shelf.

The land involved in our own ocean resources is probably more important to the future of the country than was the Louisiana Purchase to the Nation at that period.

To attempt to decide the ownership and control of this land in terms of an oil issue would have been like trying to decide on the method of farming the Louisiana Purchase in terms of whether you wanted a hundred or a thousand buffaloes. It really had nothing to do with the basic issue at all.

I would like to try to state very briefly what some of the basic issues are, as I see them. I would like to discuss first the mineral resources, then the plant and animal resources.

All the main mineral elements of the world have been discovered in the ocean. Some major processing plants have been established for obtaining minerals from the ocean. Much of our bromine and iodine are extracted from the ocean. A very large fraction of all the magnesium currently used in the United States comes from a single plant extracting the mineral from the ocean. There are 6 million tons in a single cubic mile of ocean. For practical purposes, these supplies are unlimited. Every country in the world that has access to the ocean has an almost unlimited supply of magnesium.

All practical steps should be taken to further the procuring of more minerals from the ocean. There are many reasons to think, given time, money, and adequate encouragement to private initiative, that the results will be substantial. But surely the States are in a better position to do this than the Federal Government would be. If you allow the Federal Government to take all these economic resources, it will wind up in almost complete control of the economic life of the country. Inevitably, Washington will become the dictator of almost all our economic policies. There are very few Americans who want that result.

Senator CORDON. I might suggest, Doctor, that you are speaking my doctrine now. Go ahead.

Dr. CLARK. The animal life of the ocean is extremely rich and varied. Most people thing of a few fish and oysters and shrimp perhaps constituting the major life of the ocean. The technical people tell us that there is a far greater variety of animal life in the ocean than there is on land. The most careful estimates available indicate that there is far more animal life in the ocean than there is on land in the world. The interesting thing about this is that this animal life is still wild. If the Iowa farmers were trying to catch wild pigs and make a living, they would not make a very good living and the rest of us would not have very good meat or very much of it, either.

There is no more reason to assume that the wildlife in the ocean is beyond improvement than there was to assume that the wildlife on land could not be improved. Thousands and hundreds of thousands of farms in every coastal State will have to carry on millions of experiments in order to produce animal life in the ocean most economically. There are very few farmers and ranchers in Montana or New Mexico who would think their State would develop more rapidly if the Federal Government had 100-percent control of all the economic resources of their State. Even if one can conceive of the thing working efficiently, and I cannot, it is not the kind of a world we want in this country. It must be kept in mind that if all of these ocean resources remain in the hands of the Federal Government, the Federal Government will become almost all powerful.

The famous ocean experimental station in Maryland has clearly demonstrated the careful cultivation of oysters will bring yields many times as high as can be obtained from wild oysters. The oyster beds of the Chesapeake Bay must be put back under careful cultivation. As the inland waters are farmed, the tendency will be to move farther and farther out. I would like to quote from a popular article, my own, from an issue of the Saturday Evening Post a few years ago. There follows a quotation which I will not take the time to read, but the substance of it is this: That in almost every type of animal life, fur-bearing and literally hundreds and thousands of varieties of fish, we have the chance to build up wider kinds of animal-life cultivation in the ocean than we ever had on land. That is the basic position I am presenting to the committee. We are not discussing oil. We are discussing where the farming of America is going to be centered, and who is going to own it. That is the issue, gentlemen, and that is the issue that we have to come to.

(The quotation from the Saturday Evening Post, May 4, 1946, page 17, follows:)

"If as much money and effort were spent on experimental stations for oceanic plant life as are now being expended for land agricultural and range management, sensational changes would occur within a short time. Once the importance of the stakes are realized, money for such research would be greatly forthcoming. The facts already known suggest that an acre of ocean should yield several times more than an acre of land. * * *

"Some of this submarine animal feed will be harvested for livestock on the land. More of it will feed the animal life of the oceans. The average citizen is apt to think of oceanic animal life only in terms of fish and shellfish. * * *

"A trip through any good aquarium will quickly dispel any doubts that there are plenty of basic types from which the geneticist could breed desired animals. Fish, crustaceans, and mollusks also offer bases for experimentation. In the case of oysters, artificial propagation is already a fact, and new and larger varieties are already being grown and gathered for market. * * *

"The sea could furnish many, if not all, of the furs demanded by society. The marine mammals could possibly supply all the leather needed also. Furthermore, even some of the most sophisticated persons will be surprised to learn that one of the most highly developed textile products on the market is even now derived from seaweed."

Dr. CLARK. England is an interesting example of a country that did not develop its ocean resources. For 75 years, people have been saying that England did not have the size and economic resources to remain a great world power. She not only had the adjoining ocean territories, but she had control of a very large fraction of the coastal submerged lands of the world. She did not develop them. The trouble with England was not that she did not have the resources; she did not have the imagination to use them, and that is the only reason she is in the position she is in today. Any country which refuses to develop its ocean resources is going to fall by the wayside.

The United States is in the position today of having the opportunity of developing its ocean resources. These resources are extremely rich and varied. They

are represented by a great range of mineral wealth and by an almost incredible variety of animal and plant life. In order to develop these resources, however, it will certainly be necessary to have the ownership of these lands under the control of the States. Only in this way can the necessary local initiative and drive be tapped that will be required to develop these resources.

Within a century, a country which refuses to use these ocean resources will decline to a sixth-grade nation.

An interesting light on an international scale, of the importance of the ocean is shown in the case of Australia. Many people consider Australia a second- or third-rate power and that its future development is limited because of lack of water. There are the best of reasons for believing that Australia has by far the greatest supply of water of any country in the world. It has open ocean on all sides and when its ocean claims are extended to the ultimate extent possible, it will have a far greater supply of water than any other country in the world. In addition, it will almost certainly be one of the greatest powers in the world. If one does not understand why, he does not understand what has happened in regard to the economic resources of the ocean.

Let us take a simple illustration as to what will probably be done to get food from the Gulf of Mexico. The agricultural experimental station at Auburn, Ala., for many years has carried on a highly successful campaign to get farmers on the land to have a fishpond. They want these fish to be fed and the yields in some cases have been very large. If the State of Alabama wants the port of Mobile to become a great food market for food products from the gulf, they will have to go into the ocean farming business in the part of Alabama that sticks out into the Gulf of Mexico. If Mobile does not lead the way in this field, some other gulf city will. Alabama's part of the gulf will have to be farmed just as well as the parts from any other States if there is to be any important agricultural yield from it.

PROSPECTIVE LIMITS OF THE COASTAL STATES

I have some new maps of the coastal States, made by myself and Mr. W. W. Ferrier, that you may find interesting. These maps show the prospective limits of the States if the State boundaries embrace the territory to the edge of the Continental Shelf. The State of Maine adds almost as much territory as it now has. It is interesting to note that the territory is almost the exact same shape of the State itself. New Hampshire adds about one-sixth to its territory, and that in turn has much the same shape as the State. The State of Massachusetts adds about 2½ times as much territory as it now contains. The State of Rhode Island would double in size. New York adds about one-seventh of its territory.

It is of more than passing interest that many people seem to have the idea that a State such as New Jersey is not involved in a major way in these offshore ocean resources. Actually, New Jersey adds more ocean territory than it has land territory. Delaware adds about three-quarters as much territory as her land area. Maryland adds approximately one-quarter as much ocean territory as she has land and water now. This is counting Chesapeake Bay as part of the old State. Virginia adds approximately one-sixth as much ocean territory as the old land territory.

North Carolina adds about one-fifth as much territory. South Carolina adds approximately one-half as much territory as its present land area. Some people seem to think that Georgia is not involved. Actually, Georgia, adds one-eighth as much territory in the ocean as she has on land. Florida is one of the most interesting cases. Florida adds 1⅓ as much territory as the State now contains. As a matter of fact, Florida is approximately a square in size and shape. Alabama adds some three and a half million acres. Louisiana adds well over one-fourth as much ocean territory as she formerly had land. Texas gets about one-tenth as much territory as her former area. California adds some 20,000 square miles. Oregon adds about 10,000 square miles, and the State of Washington adds almost 10,000 square miles.

Whatever area is added to each State will be perhaps the richest and most productive area in that State.

We are, of necessity, in the process of extending our boundaries to the edge of the Continental Shelf. Economic and legal consideration compel such a course of action if the country is to retain its position.

Historical practices in this country would be honored if the Congress does follow this course of action, and a vibrant awareness of the economic possibilities and international law of the day dictates such a course.

I respectfully submit that these problems, considerations, and possibilities should be considered by this committee and a solution found for the best interests of the States and the Nation.

I think probably the best thing to do is to turn to the maps of the States, if you will just turn to them, and we will run through the States very hurriedly.

Take the first one, Alabama. The territory in black shows the amount of territory that would be added to the State of Alabama, approximately one-eighth additional territory.

The next State is the State of California, which adds approximately 20,000 miles to the State of California.

The next State is Delaware, which adds just a little less than its present land territory.

Then I would like to stop a moment on Florida, if I may.

I have a large map here showing the counties of Florida.

Incidentally, I would not want to defend the legality of this. I am talking of the substance of it. I am talking of the economic substance.

This, in my opinion, is Florida [indicating]. The committee can say it is the law this year but, gentlemen, if I may say so, if you do not, the next Congress or some other one will. You have no alternative. That is Florida [indicating]. As you can see, the new Florida has about one and a third the amount of the old land territory.

The next State is Georgia, which adds approximately one-eighth of the land area.

The next State is Louisiana, which adds about a third of the present land area.

I would like to insist again, that is by far the most productive territory. If any member of this committee will spend the time, he can convince himself, I will guarantee, that that land will yield from 3 to 10 times as much per acre as any known land yields.

Senator LONG. Might I ask a question at that point, because I am intrigued by his testimony.

How do you think you can conduct farming in the sea after you get over about 10 or 15 feet of water?

Dr. CLARK. Mr. Senator, the bulk of the farming is not going to be done about the bottom. This is a little intellectual jump, and I know it does not come easy to any of us. I am a Kentuckian, a landlubber. It does not come easy to me to imagine most of the plantlife of the world floating freely, but we have thousands of experiments. Almost all the plantlife in the ocean floats freely. It is not attached to the bottom.

I might say for the record that the Navy Department has conducted very elaborate experiments. In fact, I will quote the Navy figure on it. They estimate that one kind of plant in the Pacific alone, which is a good food for human beings, produces 500,000 tons of food for every person in the world. That is free-floating food.

Senator LONG. What kind of plantlife is that?

Dr. CLARK. That is one of the planktons. It happens to run approximately 60 percent protein.

With the consent of the distinguished Senator from Texas, I will say that is about twice as much as the best Texas beefsteak. That is a lot of food.

I would like to repeat: There is already more food in the ocean than has ever been produced on land.

Senator CORDON. Could I ask the doctor whether you would eat that or drink it?

Dr. CLARK. Yes, that is a good question. There has been an elaborate test. The Air Corps conducted tests during the war. Human beings not only survived on it, but they gained as against the Army and Navy diet. Maybe somebody will think they did not fare very well on that. It is a good diet. People eat it. They are eating it.

Senator HOLLAND. May I ask a question?

Did you read Kon-Tiki?

Dr. CLARK. Yes.

Senator HOLLAND. Is it not true that the six Scandinavian travelers subsisted in large part on plankton and similar small animal and vegetable life from the sea which they took in the course of their drifting with the trade winds westward?

Dr. CLARK. Yes. It is a curious thing that people have starved to death for lack of food in the ocean in the middle of the greatest supply of food on earth.

It is just another indication that we do not know what to do, and we starve to death.

The next State is Maine. It is an interesting thing that you have almost two Maines there. The ocean Maine is almost the same shape and size as the land State. That is figure 8.

The next is Maryland, which adds some one-third or one-fourth of the present land area.

Massachusetts is one of the oddest States of the Union. As all of you know, many of my good friends in New England think New England has an economic problem. It does have. They have been kind enough to invite me to come up and discuss with them some of their economic problems, and I have told them rather definitely that much of the greatness of New England was built from the sea. They have the greatest economic resource in the world. Massachusetts has two and a half times her land area, but they are not developing it.

New England has the resources. That is not a problem in New England. New England has the opportunity. There it is. It is just a case of whether you go out there and develop it.

The next State, Mississippi, which has approximately an eighth additional area on the Continental Shelf.

New Hampshire is a very odd case. It has a thin strip sticking out between Massachusetts and Maine. Some of my friends in New Jersey have told me, "New Jersey has no interest in this problem," but actually there is more of New Jersey which lies east of the coastline than west of it. The greatest area of economic development in New Jersey lies east of the coastline, if they see it. It is just up to the people in New Jersey whether they want to develop it.

New York is a curious situation.

Notrh Carolina, fairly straightforward.

Oregon adds some 10,000 or 12,000 square miles.

Interesting little Rhode Island gets substantially more ocean than she has land.

South Carolina adds some 40 percent to her area.

Texas adds approximately 10 percent to her area.

Virginia, about an eighth.

Washington adds about 10,000 or 11,000 square miles.

Senator CORDON. Are there any questions by any member of the committee?

Senator ANDERSON. Do we understand that it is your suggestion, then, that since all these great areas lie off the coast, they should have State ownership and control?

Dr. CLARK. Yes.

Senator ANDERSON. You think these food supplies will be developed best by State ownership and control?

Dr. CLARK. That is exactly what I believe, Senator.

Senator ANDERSON. You mentioned magnesium a great deal. The magnesium plant of the Dow Chemical Co. which was built along the coast, was that built by private capital solely, or were there any Federal funds involved?

Dr. CLARK. I have read the Dow story. I would be afraid to risk a statement on it. As I understand, the five other companies that tried it finally went bankrupt, and Dow kept pouring their own money in, and it almost bankrupt the company. This is not official, and I can be wrong about it. My understanding is that it is essentially Dow Chemical Co. money. I could be wrong about it.

Senator ANDERSON. We have supplies of food that move around a little bit in the shape of birdlife. Is that handled by a migratory bird law of the Federal Government?

Dr. CLARK. I would like to see us get more——

Senator ANDERSON. Is it? Are not the migratory bird laws Federal laws?

Dr. CLARK. Yes.

Senator ANDERSON. Do you advocate their repeal and the substitution of State laws?

Dr. CLARK. I think I would be a little slow on that. There are very few places that they are farmed. I happen to be fairly close to the issue, and I know pretty well, both in the Canadian and in the gulf and the east and central flyways. If I were facing the problem of getting a food supply—I happen to know the cost, Senator, pretty well, of what it takes to get that food. We spend about a billion dollars on the part of the hunters, and we get about $10 million worth of food. It costs us about $100 for every dollar of food we get. We cannot afford to have much food of that kind.

Senator ANDERSON. What is that?

Dr. CLARK. For every dollar of food we get out of birdlife, it costs us about $100. We spend about a billion dollars in getting about $10 million worth of bird food.

Senator ANDERSON. Is it your assumption that we protect the birds for the sake of food?

Dr. CLARK. I was saying if I were out to get food, I am not at all sure I would not make some differences.

The way it is working, speaking purely as an economist, it is not good economics.

Senator ANDERSON. I think this opens up a good field. You mentioned Australia and its lack of water. Does Australia have a few States, six perhaps?

Dr. CLARK. Yes.

Senator ANDERSON. Do you think the States of Australia should handle that water problem in Australia?

Dr. CLARK. By all manner of means, surely.

Senator ANDERSON. Are you familiar with a little compound known as DDT?

Dr. CLARK. I think I would know what it is.

Senator ANDERSON. Was that developed by a State or a private individual? It was developed in Senator Holland's very fine State of Florida. It came out of an agricultural experiment station sustained by the Federal Government.

Dr. CLARK. I think it goes back a little further. I do not want to cross you with chemists, but I would like to take you back to Switzerland. I think my chemist friends at the university have shoved it back about 20 years, and they would argue with you that all the basic formulas were developed in Swiss universities. As I say, I am not a chemist and I do not know.

Senator ANDERSON. But there was no application made of them by an individual State was there?

Dr. CLARK. I certainly would not say that the Federal Government has not done some things. I would not want to get into that position here. I would not want to say there is not something good in Washington. [Laughter.]

Senator ANDERSON. I am just trying to find out. We are coming now to the control of foot-and-mouth diseases. Do you believe that should be handled by the States?

Dr. CLARK. I would go at it this way: I would turn over to the States as much as I could, and in the States I would turn back to the counties as much as I could, and in the counties I would turn back to the individual as much as I could, Senator. When we run into something and we cannot do it that way, then I think we have no alternative, but I am not too happy. I certainly would try to be a realist and to be efficient. In those things where the Federal Government obviously has to do it, I would be entirely happy.

Senator ANDERSON. You say on page 3, "Country after country around the world has been extending its boundaries." Are those being extended as nations, or by States, or individual political subdivisions, in Peru and in the various areas which have gone out 200 miles?

Dr. CLARK. I am not at all advocating that Massachusetts extend its boundaries. If I gave that impression, that is incorrect. What I am advocating is that the Congress of the United States move as rapidly as it can convince itself, and I would say no more rapidly. All I would ask the Congress to do is to study the issue, because I am perfectly sure where the evidence lies; and then my own recommendation, for whatever it is worth, is: Turn over to the States as much as the Congress thinks ought to be turned over.

Senator ANDERSON. With reference to this Continental Shelf, you mentioned magnesium out there in the ocean. Does not that magnesium come up right to the shore, also? Do we have to control the Continental Shelf to get hold of ocean water?

Dr. CLARK. Not for magnesium.

Senator ANDERSON. Why should the State, then control it?

Dr. CLARK. As I say, I am completely convinced that there is going to be a great deal of farming. For instance, the shrimp. I had a person from Miami tell me the other day that they had found an inexhaustible supply of shrimp in the gulf. I know the record too well. There is no such thing as an inexhaustible supply of shrimp, unless we can get this thing back on a farming basis. I simply have too much trouble seeing the Department of Agriculture here, in spite of all its good work—I do not want to abolish it. I simply do not want every shrimp

farm in the Gulf of Mexico to have to call up the Department of Agriculture to make a change in a fence or whatever it is they have to do.

Senator LONG. Do you know where those shrimp are being spawned?

Dr. CLARK. I do not know anything about it, Senator.

Senator LONG. My impression is that most of it is being spawned in the bays, the inland waters of Louisiana. I might as well put in a plug for my State. We have conservation laws to see that those shrimp are not all fished out during the spawning season, too.

Senator ANDERSON. They start from Louisiana and float out into the ocean. Are you going to put fences out there? How are you going to control them?

Dr. CLARK. We have had a lot of amusing discussions of that issue, of course, and I would not want to be dogmatic about this because I do not think we know. We see a lot of feeding stations set up. We have some stations which have tried it out. They are working very well. That was my reference to the wild fish life. I think the day of the wild fish is about over. You can get a few, of course, as we could get some wild hogs, but you cannot do it very well, I think. I think we are moving toward the stage of setting up feeding stations.

The control of it is complicated. There are problems, as you say. They shift about. You cannot put up a barbed-wire fence.

I know of no issue in regard to feeding stations that cannot be solved. The only plea I am making is that Congress takes the steps that will open the issue up and allow the people of the various States, the people of New England, the people of the west coast, the people of the Gulf States, to begin to move out into this thing and get beyond the stage of just picking up the wildlife which happens to be there, but really begin to expand. The yield, as far as we can tell, will run 10, 20, 50 times what it is now.

Senator ANDERSON. No one can quarrel with you on that. There is an article in the Scientific American for August of 1951, "The Deep Sea Layer of Life," which deals with this very subject. Nobody is quarreling about the desirability of developing food supplies. I do wonder what there is that persuades you that the State must own the ground, the State must control it, and therefore there must be some State legislation passed.

Senator BARRETT. Mr. Chairman, I would like to ask Professor Clark a few questions.

I am quite interested in his old-fashioned philosophy about State ownership and private ownership. When the Original States formed this Union, they reserved all of their own soil themselves, did they not?

Dr. CLARK. Yes.

Senator BARRETT. They did not cede anything except this 10-mile-square area here to form the District of Columbia. The Constitution provided that as to that area the Congress would have exclusive jurisdiction. The professor knows that the Northwest Territory was ceded for the purpose of paying the Revolutionary debt, and after it was paid and the sale of public lands brought in some additional $28 million to the Treasury, the Congress decided that that money belonged to the States, and they distributed it to the States in the form of a loan, and the notes are still held in the hands of the Secretary of the Treasury, and they have never been paid. That has been 125 years ago. So the concept all the time was precisely as you have stated: that the land should either go into private ownership or should be transferred to the States.

Your own State of Kentucky—you said you were a native of Kentucky—received full title to all of the public lands within its confines. The Federal Government never owned any public lands in that State. We had the Federal homestead laws whereby the Mississippi and the Missouri Valley States were settled. I am leading up to one point, professor. The Louisiana Purchase had provisions in the treaty that the States should be carved out of that area and be admitted to the Union on a free and equal basis with the Thirteen Original States.

Now, I want to ask you this question: The Federal Government owns 51 percent of the entire area of Wyoming. The Federal Government is the landlord over more than half of Wyoming. We are not going to be a full and complete State if we have a landlord down here in Washington which is supervising more than half of our area. It owns 71 percent of all the minerals under our soil out there, and about $140 million has been paid into the Treasury from the minerals produced in Wyoming.

Do you think that that was within the concept of the founders of this country or the policy of this country for the first 100 years or more of our history?

Dr. CLARK. I certainly do not want to see the Federal Government absorb a lot more territory and hold 100 percent of it. Certainly 51 percent is enough. But if it was 100 and we had very many States where 100 percent of it was owned by the Federal Government, I would really be disturbed.

It is exactly that point.

Senator BARRETT. Let me ask you this question: You come from New York State now. New York kept all its public lands, all the lands within its confines. In addition to that, it received 900,000 acres of public domain in the area of what is now a part of Wisconsin and the money from the sale of those lands was used to build your State university at Cornell. Is that not right?

Dr. CLARK. That is right.

Senator BARRETT. Do you think it is following the original concept of our Government for the original States to keep for themselves all the public lands within their own borders and then to acquire vast bodies of public lands in the interior territories and then for the Congress to change the rules as to the Mountain States and as it were to say, "There is a new policy now. We own 71 percent of all the minerals of your State, and we own 51 percent of the area—in some States as much as 87 percent of the area"? How are we going to tell our people that we have been admitted on a free and equal basis and that we are treated the same as the earlier States in the Union?

Dr. CLARK. I certainly would take a good look at it, and I would take even more than a good look at an even greater extension of it.

Senator BARRETT. You could not extend it much further and still have States, Professor. I will tell you that much.

Senator DANIEL. Before the witness leaves, Mr. Chairman, I would like to ask if the handling of the public lands in the West—the Federal Government now owns 24 percent of the land in this country—if the type of job the Federal Government has done there and the way in which it has held back development in the Western States is not one reason that you think State controls should exist over these submerged lands for better development?

Dr. CLARK. It certainly has not given me any encouragement. As an additional thing, I would not be disturbed very much about any one thing. The Federal Government can take the shrimp or any given kind of thing. I do not object to any one thing. The thing that I am afraid about is when you get 51 percent in Wyoming, 28 percent in California, and then go out and take 90 or 100 percent of the richest territory that we have ever had and that begins to develop, then the whole central focus of the United States begins to center here, the economic life.

It is that piling up of the things, one after another, that really disturbs me, in addition to the point that you made.

Senator ANDERSON. I do not intend to ask you the question, but when you answered this question of Senator Daniel in which he talked about the Federal Government holding back the development of these areas where there are large areas of public lands, I do hope sometime that you will take a look at the population figures between 1940 and 1950, and see how the State of Oregon grew, which has a very heavy percent of public lands; how the State of Washington grew; how the State of California grew; and how Arizona grew. Then see if maybe it is not some of these States that do not have public lands that are being held back a little bit.

Senator DANIEL. Of course, Mr. Chairman, I was referring to the development of the lands in those States.

Dr. Clark, I will ask you one other question. Have you, as professor in charge of eductaional economics at Columbia, had occasion throughout the years to work toward obtaining more and more funds for public education throughout the United States

Dr. CLARK. I have made a desparate effort, anyway, to get as much as I could.

Senator DANIEL. You have been engaged in that work?

Dr. CLARK. Very much.

Senator DANIEL. In the National Eduaction Association?

Dr. CLARK. Yes, and all kinds of organizations.

Senator DANIEL. You have heard of the proposal that the natural resources of our submerged lands ought to be divided up for Federal aid to education, have you not?

Dr. CLARK. Yes.

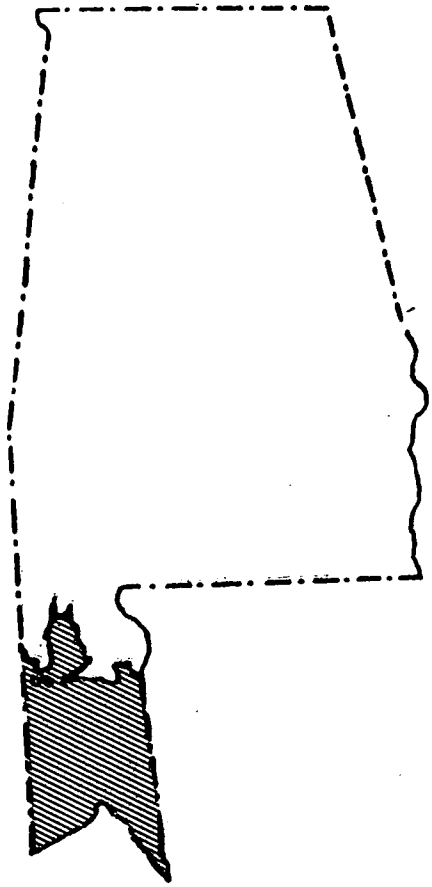
Senator DANIEL. What is your opinion of that proposal? Do you think that that would be a fair and equitable proposal or that the schools of our country ought to advocate any such proposal.

Dr. CLARK. As I have stated on a good many occasions, I am far more concerned about developing the economy in all the States so a State can take care of itself. I made the statement in South Carolina the other day that the State of South Carolina can quickly become one of the richest States in the Union. That I know. I will go right down the lien on it. I told them exactly what they would have to do, and they will do it, and they will be. They can solve their own problems. The plea that I would make is that we do not get ourselves in the attitude that we have a lot of poor people in this country and we want to help them. We want to take the attitude of enabling people to get in a position where they can solve their own problems. I would take exactly that attitude on this problem.

Senator DANIEL. You think our school system would end up with more money if the Federal Government would let the States continue with the problem and develop their own lands?

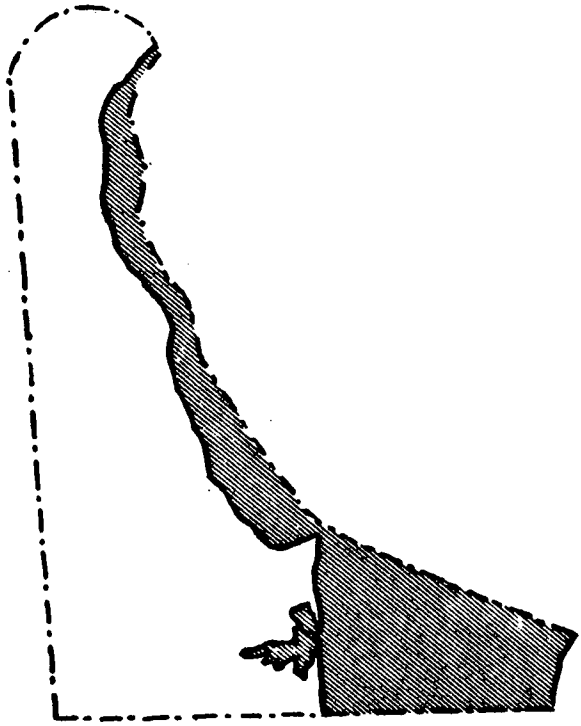
Dr. CLARK. Really develop them and get the rich base.

Senator CORDON. Thank you very much, Doctor. You have presented an intriguing picture to the committee that it had not already had before it.



ALABAMA

Boundaries extended to the edge of continental shelf



DELAWARE

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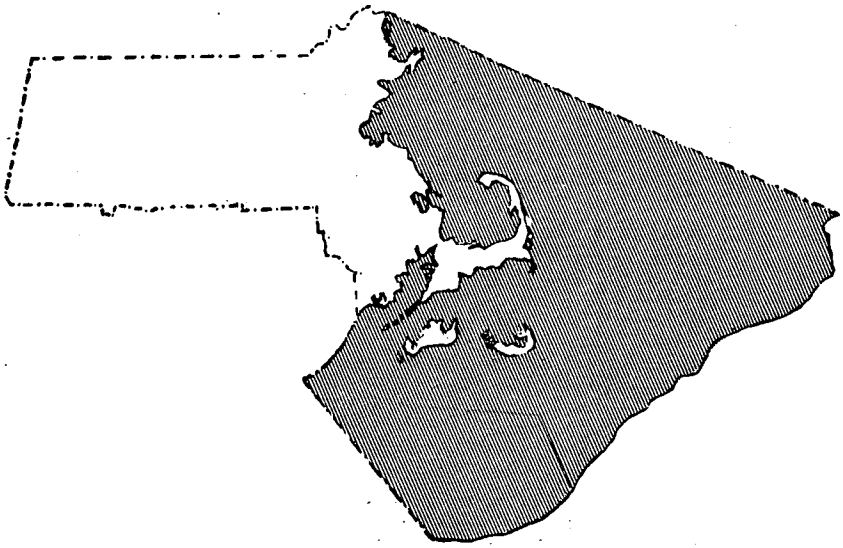
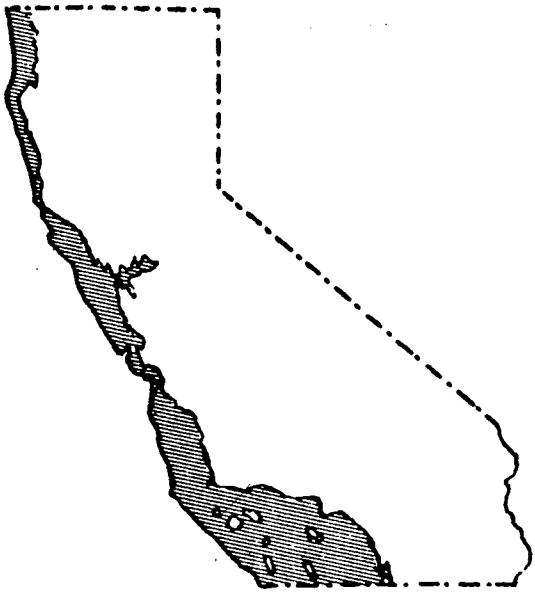


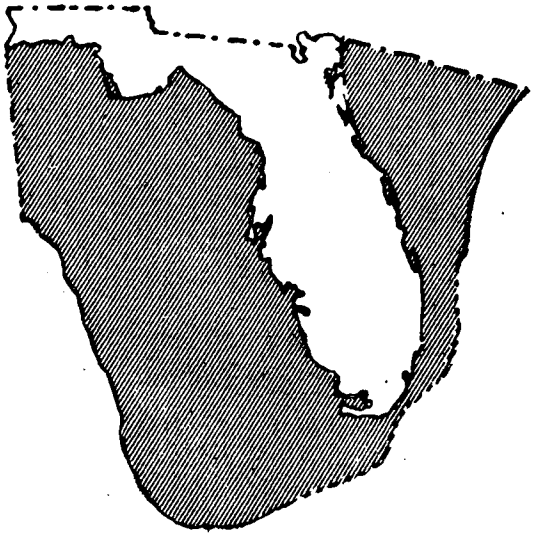
MASSACHUSETTS

Boundaries extended to the edge of continental shelf



CALIFORNIA

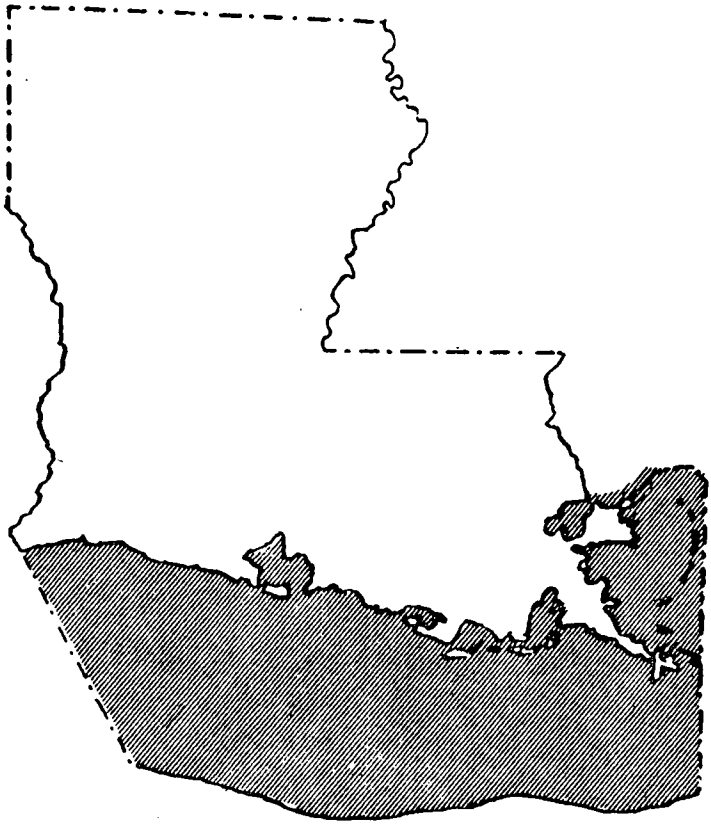
Boundaries extended to the edge of continental shelf



FLORIDA

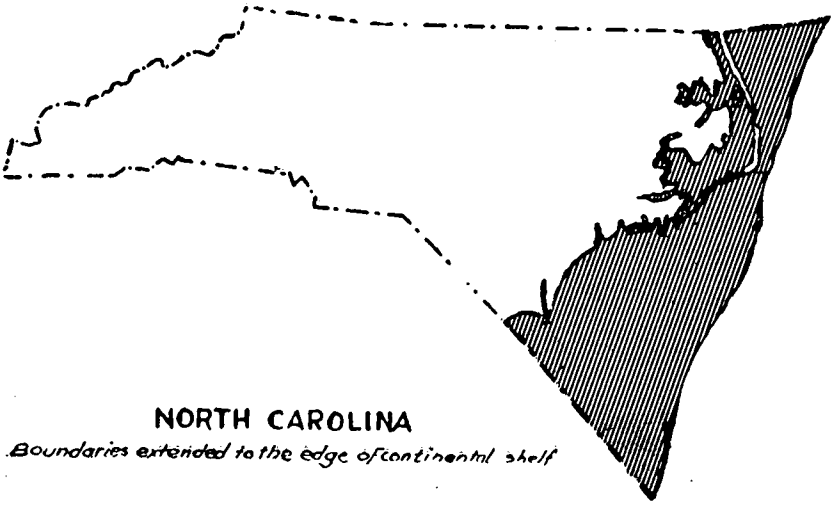
Boundaries extended to the edge of continental shelf

Dotted line represents boundaries requiring negotiations



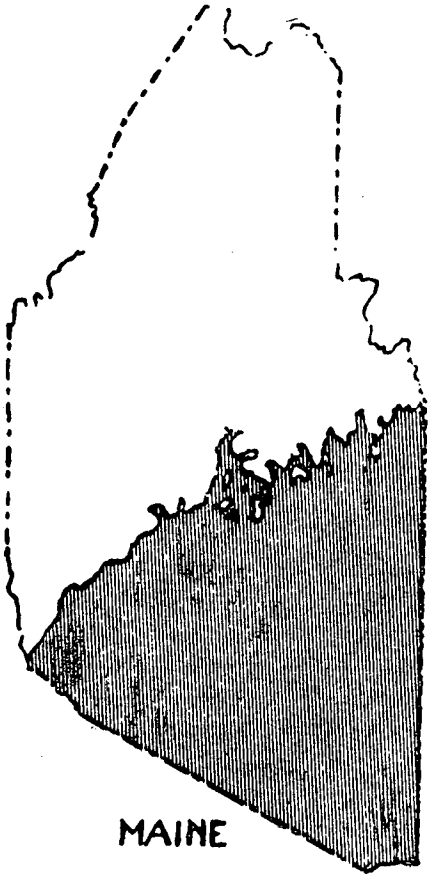
LOUISIANA

Boundaries extended to the edge of continental shelf



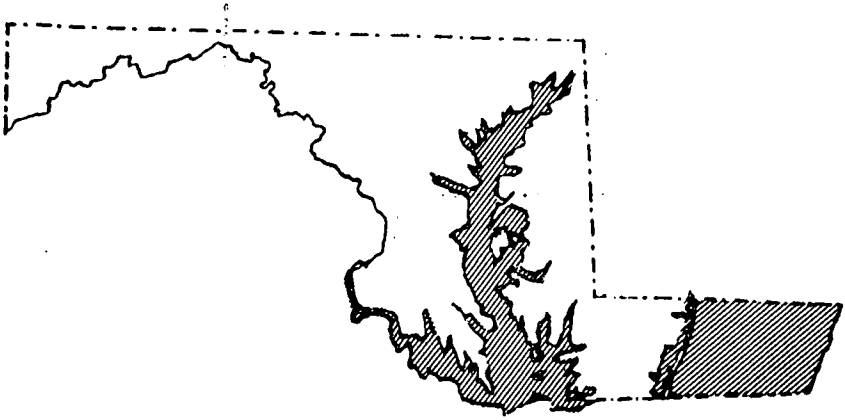
NORTH CAROLINA

Boundaries extended to the edge of continental shelf



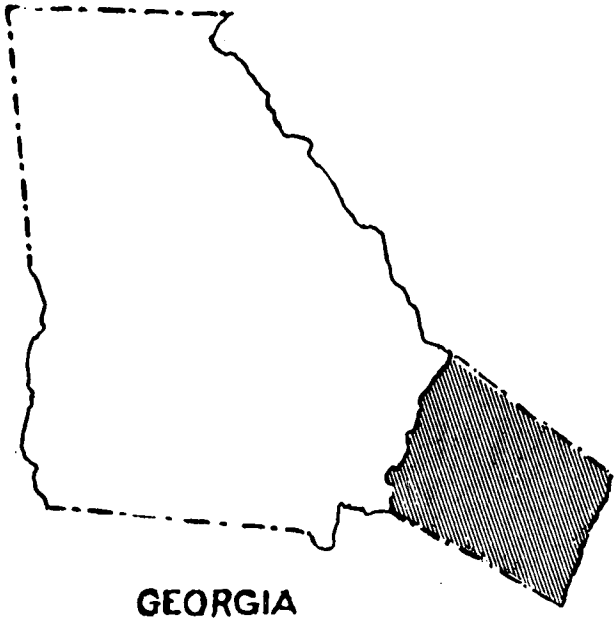
MAINE

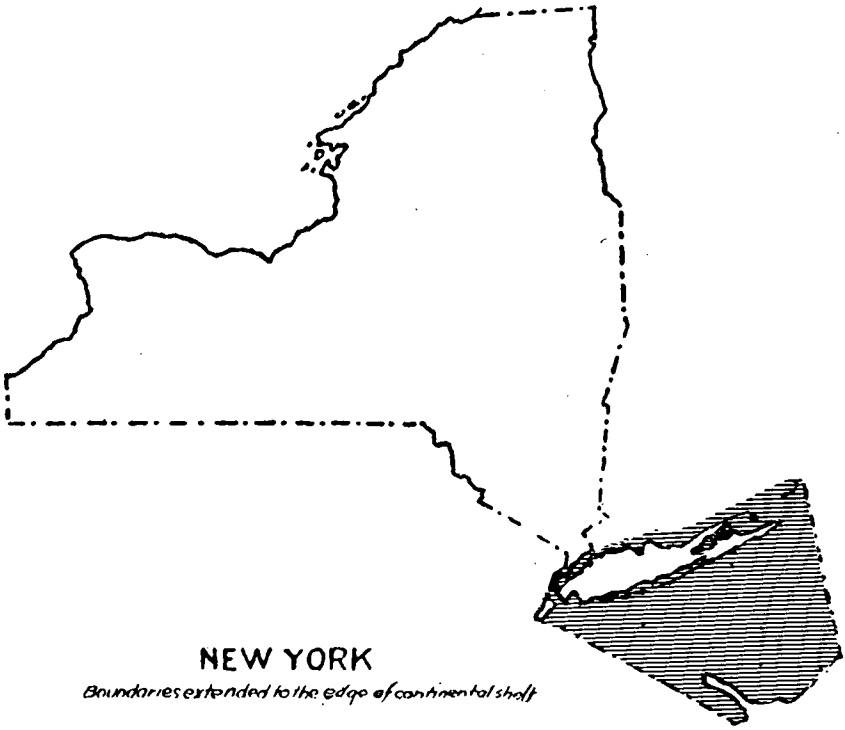
Boundaries extended to the edge of continental shelf
Dotted line represents boundary subject to negotiations

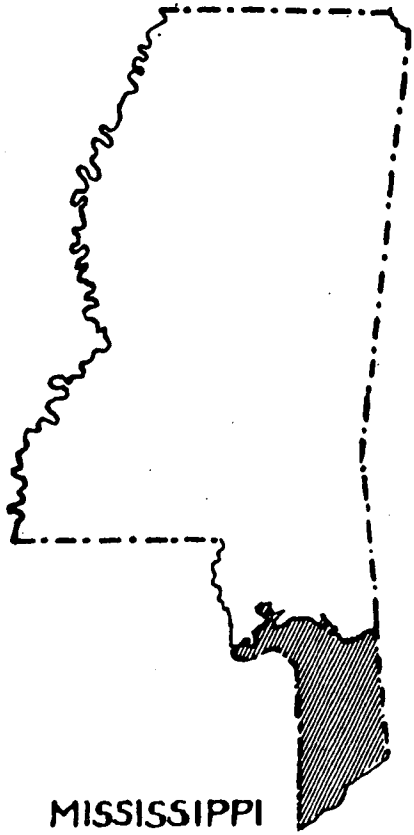


MARYLAND

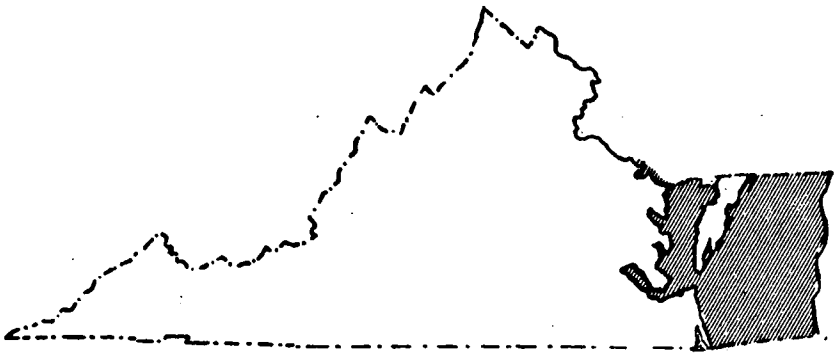
Boundaries extended to the edge of continental shelf


GEORGIA
Boundaries extended to the edge of continental shelf

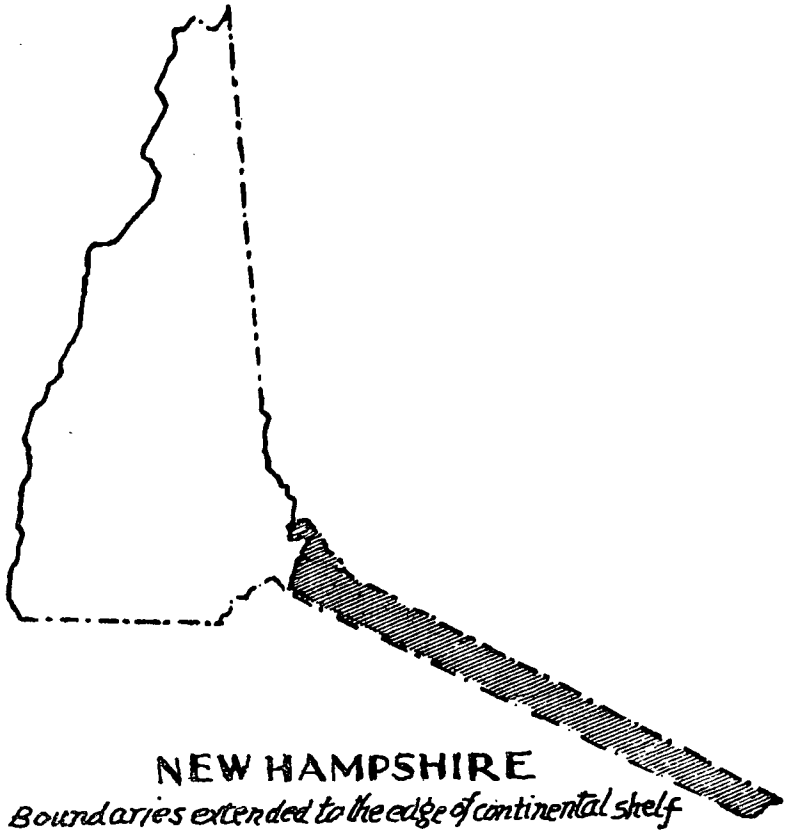

NEW YORK
Boundaries extended to the edge of continental shelf



Boundaries extended to the edge of continental shelf



Boundaries extended to the edge of continental shelf



NEW HAMPSHIRE

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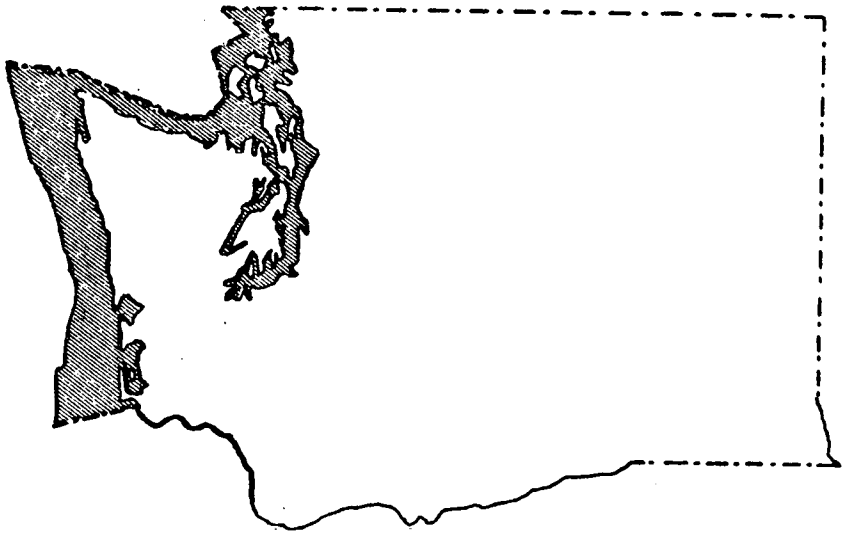

WASHINGTON

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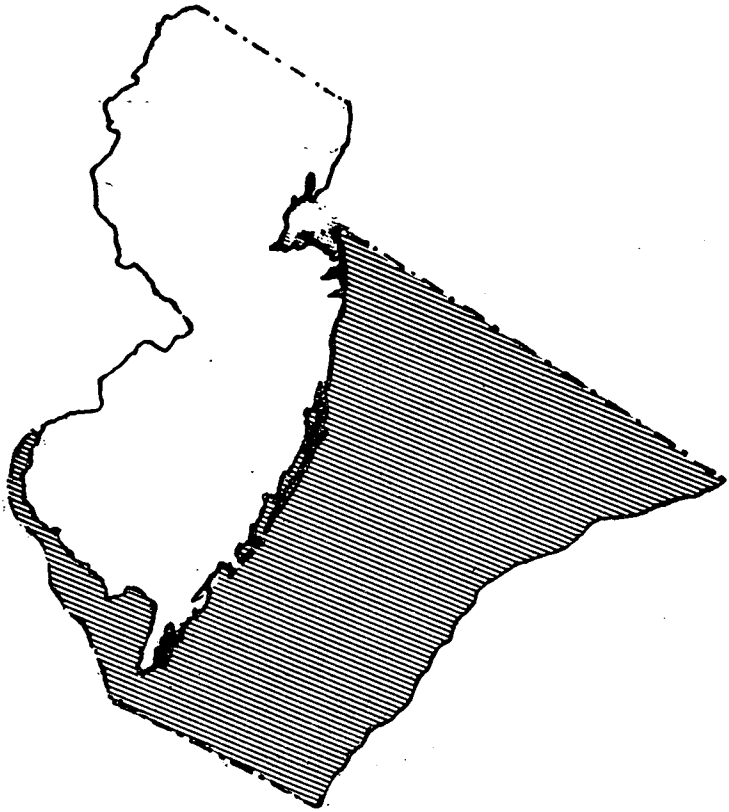

NEW JERSEY

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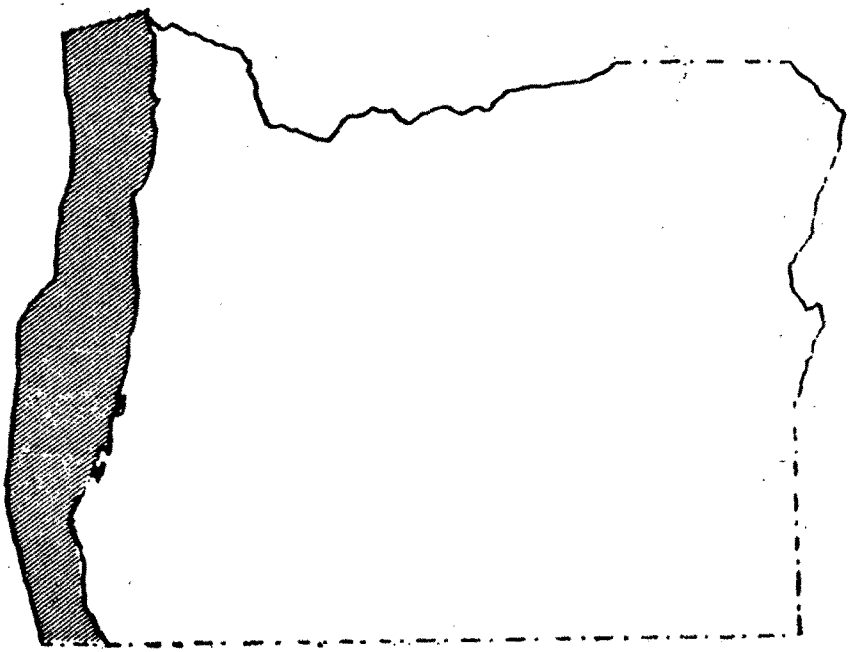
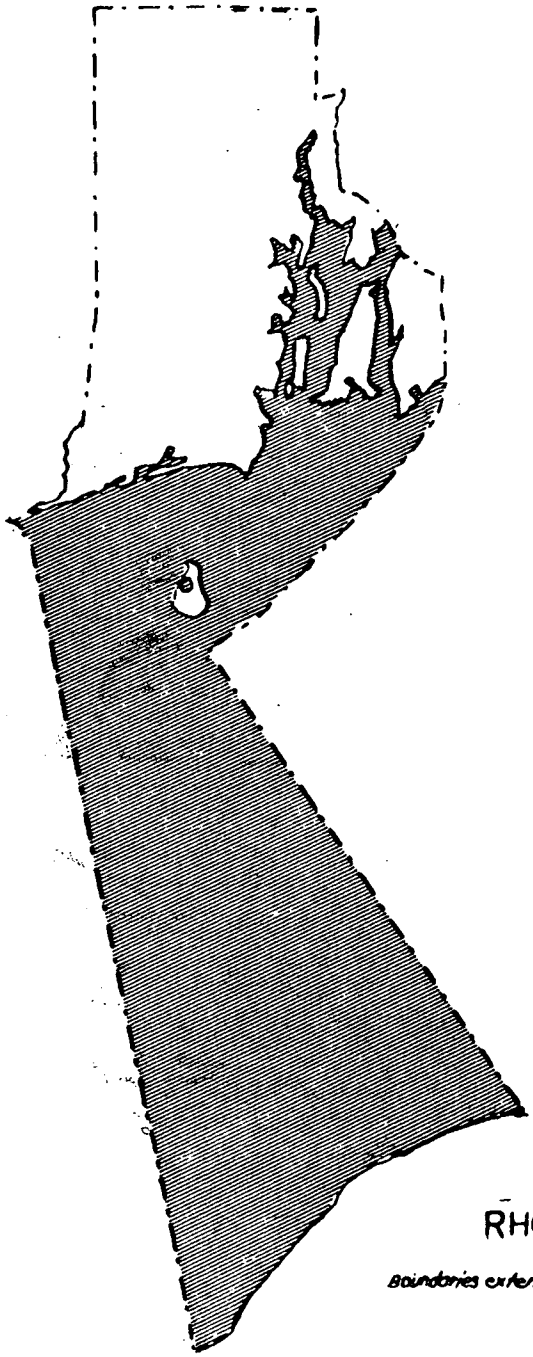


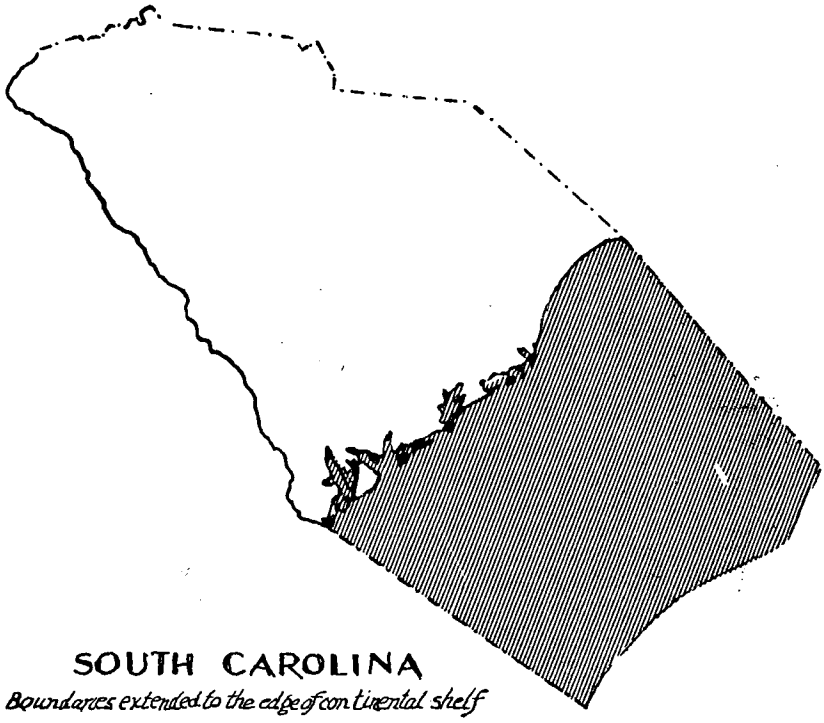
OREGON

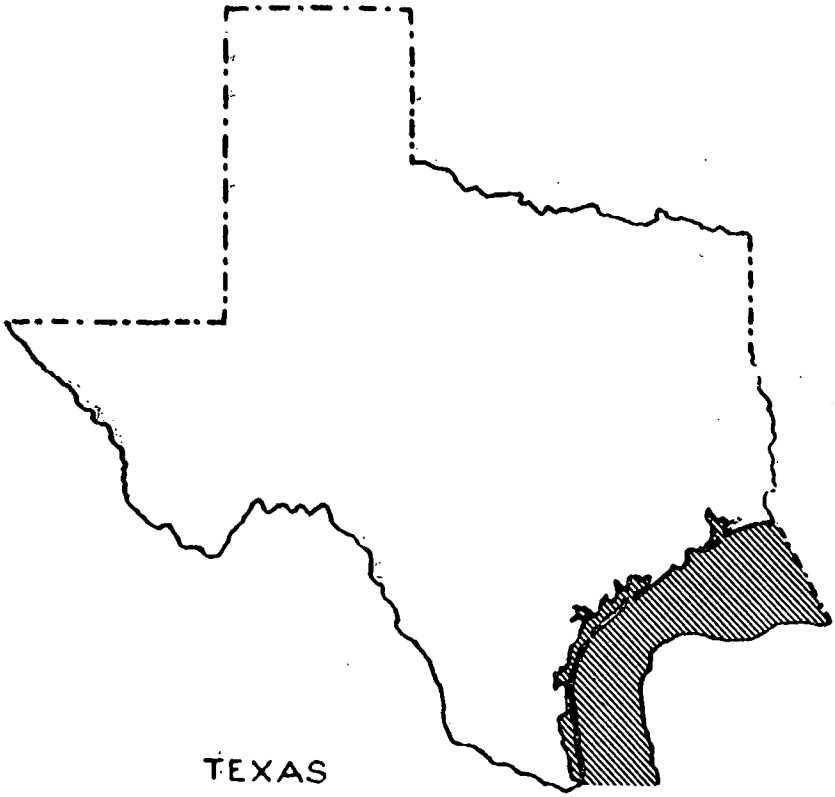
Boundaries extended to the edge of continent shelf



RHODE ISLAND

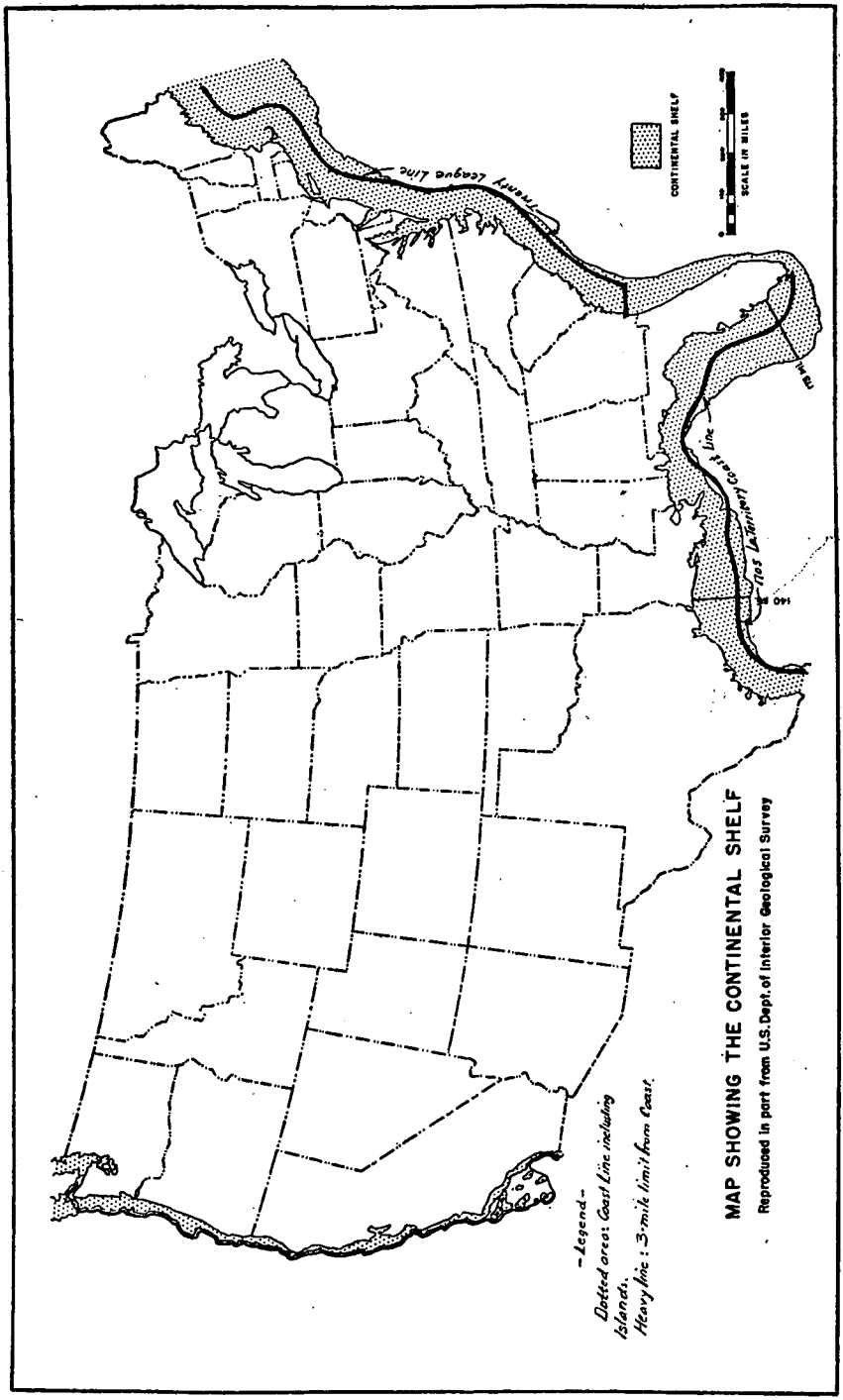
Boundaries extended to the edge of continental shelf


SOUTH CAROLINA
Boundaries extended to the edge of continental shelf



Boundaries extended to the edge of continental shelf

Dotted line represents boundaries requiring negotiations



MAP SHOWING THE CONTINENTAL SHELF

Reproduced in part from U.S. Dept. of Interior Geological Survey

Senator BARRETT. Mr. Giles, may we hear from you at this time?

STATEMENT OF BASCOM GILES, COMMISSIONER OF THE GENERAL LAND OFFICE OF TEXAS—Resumed

Mr. GILES. I am Bascom Giles, commissioner of the general land office of the State of Texas, chairman of the School Land Board.

This board was created in 1949 by statute. It is composed of the members that have just submitted a joint statement here for your consideration. We have placed that statement in the record. I concur in it personally as well as officially in signing the statement.

I would like to convey to the committee a narrative statement relating some experience we have had in the Gulf out there in the development of this area.

Senator DANIEL. May I interrupt to say something about Mr. Giles that he will not say? He has been our land commissioner for how many years?

Mr. GILES. Since 1939.

Senator DANIEL. You have been head of the landlord agency that leases the land within the State of Texas, including the area out on the Continental Shelf until the Supreme Court decision, is that not correct?

Mr. GILES.That is correct.

Senator DANIEL. So you have had experience in doing exactly what this committee is thinking of providing laws for the Secretary of the Interior to do with regard to the outer Continental Shelf?

Mr. GILES. Yes, Senator Daniel. I have had more than 10 years dealing with this exact problem, of development, experience of actually placing tracts of land properly located so that they might be leased out there just as surveys on the ground may be. Those surveys on the Gulf are platted. I would like to call the committee's attention to the system that is used there. We used the United States Coast and Geodetic benchmarks on the shore and establish our meridians and cut the entire area up in tracts first of 3 miles square or 5,760 acres each. If you will pardon me, I would like to go over to the map. This line represents the shoreline and the indentation bays along the Texas coast. This heavy black line represents the constitutional boundary or the 10½ miles in the Gulf. This line represents the outer edge of the Continental Shelf.

You will notice that we were dealing with an area of some magnitude of 18 million acres in the entire shelf. Some 3 million of which is inside the constitutional boundaries, meaning that the outer shelf in Texas is approximately 5 times or 6 times as large as the constitutional boundary area. This outer edge here being some 140 miles offshore off the mouth of the Sabine River, while opposite the mouth of the Rio Grande, is only 60 miles seaward.

As you can see, an irregular curve connecting those two points represents the outer edge of the shelf.

Now, Senator Daniel, Governor Jester and myself, who were the officials at the time this work was done, devised and set up this plan under the best engineering advice we could get. Our own office has an engineering staff. We have personnel of 125 employees in our office. We supervise, the Land Commissioner does, some 30 million acres of land in Texas in which we have the minerals, including at that time the Continental Shelf.

Now, of course this bill that has just been passed and is now on the President's desk, deals with the area out in Texas, out to 10½ miles. I want to point out to you that in the first 3 miles it was the policy of that board that I have mentioned, the members of the school land board at that time, to carry on those 9-section tracts or 5,760-acre tracts. Near shore we cut them in 640's, that is, continued to reduce those tracts down to 1 mile square so they would be available for lease near the shore in tracts of even a quarter of those if we could see them fit, we could get them down to tracts of even 160 acres.

Then we adopted a further policy of more than 3 miles from shore of quartering the 9 sections or reducing them to 1,440 acres and making them available for leasing.

As you will notice from this map, we did not quarter the areas beyond the 10½-mile line, feeling that the proper size to lease tracts in the outer edge of the Continental Shelf or in the shelf itself would be in tracts of 3 miles square, 9 sections, or 5,760 acres.

Now, I am a very, very strong believer in sealed competitive bids with a fixed royalty in this type of area. That is my personal opinion. I know that it is a plan that our school land board would have followed and will follow undoubtedly in the area that is within the State jurisdiction. Now, my statement here is for the purpose of being helpful, giving the committee the benefit of the experience we have had in dealing with this problem. We do not think there should be any limit. At least, I speak now for myself since I am here. I do not think there should be any limit on the number of acres that any company or group of people should be able to buy. I think it would be very foolish to limit, we will say, to start selling lands and you sell 15 or 20 or 100,000 acres and say the best bidder, the one best equipped to operate, will be out of the picture. But it would certainly be very foolish in my opinion to relieve from your competition, first 1, 2, 3, 4, and get down to where you are dealing with a 6th, 7th, 8th, or 10th best bidder. So I certainly would never establish any such policy as that with reference to these lands.

Now, as to whether it is a good land policy inland, we do not have that policy in Texas even with reference to our own mineral land or State lands. We do not have that policy. I am not speaking so much of that. I am speaking of this outer area where the cost is so great and where you cannot expect any great number of bidders. You do not expect any 100 or 1,000 bidders. For land inland there would be no problem at all. For instance, we have a lease sale in Texas, we send notices to more than 2,000 interested bidders. We have a list of more than 2,000 people who constantly remain on our list who would like to receive notices of sales. You will never have in my opinion any such number of bidders as that out here.

Suppose you had a hundred, I think that is a little too far in the future to expect that. If you start taking off 8 or 10 of your best ones and selling the last 60 or 70, I think it would be a big mistake. I think the committee would want to keep that in its mind in dealing with that problem out here.

As to whether the property is on a structure or not in our opinion does not make so much difference. If you put this property up for sale, with a sealed bid, and with fixed royalty, leave only one condition of bid open, there will be sufficient competition that you do not

have to worry so much about what the geology is. If you offer it for sale on a certain day, there will be plenty of competition to bring the highest and best price for that particular property.

While the State has the right to reject any and all bids on any occasion, we have not found it necessary to do so, due to the keen competition we have.

Senator LONG. What harm is there in letting a person, in addition to the cash bid that he offers, offer more than one-eighth royalty?

Mr. GILES. Senator Long, we have had a very sad experience in Texas with that problem. We have found that if you leave too much discretion with the board—let me apply it to myself first and not include the other members, I would rather speak for myself because I set this policy up, we used to have the policy of leaving open both royalty and cash. We found ourselves faced, or at least former commissioners did, with a high cash—I have one lease in mind in particular. The State was offered $100,000 on the one hand and an eighth royalty on the other hand. It was offered $476 in cash and some overriding royalties and some oil payments, and so on. Now, it was the decision of the commissioner, which I questioned——

Senator DANIEL. And whom you defeated.

Mr. GILES. And whom I beat and successfully questioned it to the satisfaction of the people of Texas, if you want to put it that way. What happened in that case is that he awarded the bid to a person I think he knew right well for the $476 and turned down $103,400. It was not long until that area was of no value whatsoever, it was dry.

The school children of Texas lost $102,000. They did not get any oil. Had they gotten oil, there were so many conditions in the bid, many of which I cannot remember at this time. That put the commissioner or the board or its employees in the position of selecting, a problem of determining who is the highest or best bidder. Even if they are in the utmost of good faith, they have a severe problem and only will know after that field is exhausted which was the best bid.

Now, you have to know in advance. You have to know that. I say to you we ought to establish the policy, I did in Texas, and the other board members quite agreed with me and we have followed it continuously since, never to leave open but one condition on the bid. We wanted higher royalty and we do do that in inland waters where it is a proven area, we do there increase our royalty either to three-sixteenths or a quarter or even up to 50 percent.

Senator LONG. Did you ever ask for 50 percent?

Mr. GILES. Yes.

Senator LONG. Did you ever get a bid of 50 percent?

Mr. GILES. Yes, we have had bids of as high as 58 percent royalty.

Senator LONG. With substantial cash payment, also?

Mr. GILES. No. In those cases we do one of two things. Let us say we have a cash bid. We will not leave it $500 because we had that experience happen to us at one time in Texas. We had some university boys who bid $500 on an oil lease and 75 percent royalty but we found they could not perform. They did have the highest and best bid on paper but not in fact. That was not my experience.

So we established the policy of a cash bonus of sufficient amount to make the bidder be in good faith. I do not believe we ever placed a tract for bid unless it has at least $2,000 and generally we fix a price

like $10,000 or 20,000 in cash and then leave the royalty open, so that small operators can compete with the biggest of operators.

In other words, if you have an area that is on a riverbed or bay here, there is known production, you have every reason to believe it will produce and you are not taking too big a gamble in getting a dry hole, it is pretty well known you are on a geological structure, we have done that in the basin rivers. I would not recommend that too much in the gulf.

Senator LONG. It would not be a good idea to offer your leases for bid where you take the average price, where the companies have bid up to this point for the bonus, and ask for that average price on the bid and then ask them to bid on the royalty.

Mr. GILES. There would be nothing unsound about that if you thought that was the best thing to do. However, we have found when you are down to making the award on the bid, let us say it is the school land board in Texas, it used to be the land commissioner—I recommended this plan of having three officials—I think it is of the utmost importance that first the official knows who is the highest and best bidder. He needs to know because he is charged with the constitutional duty of determining who is the highest and best bidder and only that, to get the bid.

I think it is also very important that the public know that there was not any question as to who was the highest and best bidder and that you award it only to the highest and best bidder. That is the reason I do not like to leave a lot of contingencies there, open for oil payments, speculative bidding, and so forth. I want to make that clear, because I think that is of the utmost importance. I think that is basic and fundamental in Government.

I think if you set cleancut, concise, clear, and unmistakable terms and they all bid on a common basis, even if you maybe do not have the very best basis, if they are on one sound plan, your bid will be far in excess of where they do not know whether to bid high royalty or high cash, and so on.

I think you have to realize that in this outer shelf you are dealing with an area that has deep water, high-wave action. You heard an engineer testify on it. We are familiar with it. We acquired a lot of the information before we filed that area. You will notice we cut our tract into 640 acres next to shore, 1,440 out for a short distance. We have leased, as you can notice, out to these red areas shown on this map, which represent leased areas.

I want to call the committee's attention to the fact that some of those leases now are cut right across by the 10½ mile line. These leases are now in force and effect and it will be necessary for the State agency, the Land Commissioner, particularly, the chairman of the board and the board on certain policy matters to have a good deal of business with the Department of the Interior here, the Secretary or some of his agents in working out the final settling of the exact boundary.

I want to urge upon this committee to be certain that someone in the Federal agency has authority to establish a definite line. I think you can readily see what will happen by accretions on shore, if you leave this imaginary line, 10½ miles seaward and the shore is either by erosions or by accretion changing perceptibly. Fortunately, in the Texas

coast it does not change a great deal, but I call attention to this irregular place in the line here opposite the mouth of the Sabine River next to Louisiana. Doubtless this line, the swing in the line there of some 6 miles, was caused by accretion from the mouth of the Sabine River over a period of years. You can readily see what will happen to a company if they drilled a well in the outer shelf and that accretion built up perceptibly as it has there in probably 100 years time. You can see that that well might change from the inside to the outside.

Senator LONG. Would you recommend that we give some agency of the Federal Government in the executive branch the authority to come into agreement with the State on what the precise line would be?

Mr. GILES. Yes, on establishing a firm and definite line that could be established upon the ground and upon the map so that we can eliminate those problems without having to bring them all to the Congress or first establish it in the first instance.

Senator LONG. Would it have some advantages if you permitted an agent of the Government, speaking of the Federal Government now, to agree with you to draw a line that would tie into the grid system that Texas has already established in the gulf?

Mr. GILES. I think that would be ideal from an operation standpoint. After all, that is what this line is going to be. It is an imaginary line, but by putting it on the grid system, even if irregular, it might serve the leasing of land much better than any other system that I can at present think of.

Senator LONG. Do you have any idea what the cost was of establishing that grid system?

Mr. GILES. It was not a great sum of money. A great number of people worked on it. We had outside engineers. We had our own engineers. Some of the companies offered us some assistance. I have forgotten to what extent. It was not any great sum of money. However, it would take a great many dollars to do the engineering necessary in platting this map; the calculation is quite a little item.

Senator LONG. Is that all tied to Government benchmarks on the shore?

Mr. GILES. Yes. These points are fixed and any company making a lease on one of these tracts can readily tie onto it by going to that benchmark, locate that tract in the gulf and pinpoint, it so to speak.

Senator LONG. Would it have advantages if you worked it out administratively that the State might give in some instances and the Federal Government a little in other instances to where you migh be able to make the various leases fit on one side or the other of the line? Would that help the administration?

Mr. GILES. I think it would. I have not discussed that with many other people. From my own experience out there I think that would be very desirable if it could be a general average or there could be a line that this governmental agency had authority to establish or agree with the State agency, probably through the Secretary and possibly the Attorney General, the Federal Attorney General I believe that would be desirable. You can readily see what will happen. We do not know exactly what portion that would be for some time of that lease, but a portion would be in the State boundary and in the outer shelf.

I would very much like to see this grid system continue. We will undoubtedly do so in the State of Texas. I do not think there is any question but what it will remain with our present survey.

Now, if there happened to be a line agreed on between, following these blocks in an irregular fashion as an operation matter at this time, I think it would be desirable.

Senator DANIEL. Right along that line, the line runs through Lease Block No. 189, right through the middle of it. Would it not also be desirable for the Federal statute to provide, for unitization of that area, the half of that block that is within the State boundary and the half in the Federal boundary, so that the man who owns a lease on one-half of the land from the Federal Government and the other half from the State could unitize the two and operate the entire block together?

Mr. GILES. Senator, I quite agree with you. You can realize, too, Senator Daniel, that this company thinks undoubtedly, or companies think this particular area is highly profitable to produce. That is as far as we can go yet because there is no well. We can only determine it by drilling a well. If this area is productive, it will be both in the outer shelf and inner shelf. It so happens that particular one is thought principally to be in the inner shelf.

Unquestionably proration laws will have to apply to that field or coordination and tied to the State system. If it is not, I do not know what will ultimately result. You can see how desirable it would be for the operation of the lease and the production of oil and gas if a line could be established for lease purposes anyway. That was an agreed line following the lines that the grid system has laid out in the Gulf. If we do not do that, there will be many problems that are going to present themselves that will not otherwise.

Senator DANIEL. How many acres are there in each of these blocks in the outer shelf, in each numbered block?

Mr. GILES. In each one of these little square blocks there are 5,760 acres, 9 sections, or 3 mile squares. That is 3 sections of land on each side, 3 miles on each side, or 9 square miles inside of each tract. You can see that is quite an area.

As I say, we use the same system all the way to shore, making every line 3 miles apart. Then we cut them up close to shore. Close to shore we reduce them to smaller size, even down to sections of 640 acres each, cutting them down to 9 tracts each.

This map shows practically all of the leases. You can see approximately half of the leases we have made have been inside the 10½-mile line and about an equal number on the outside.

These leases were made in 1947, I believe. We had a sale at that time—all the leases in the outer shelf.

Senator DANIEL. Before Texas was sued?

Mr. GILES. Yes. Now, we worked on this map back at that time, the preparation of it, for about a year. It took us 1 year to establish this grid system and get the calculations made and actually reduce it. That is one reason we did not sell the land a year sooner than we did. We had a lot of requests for it. The demand was exceedingly heavy for it. There was tremendous interest for leasing in the gulf. We had numerous requests, as I told the committee the other day, we did not place land on the market, when interrogated on the side, without

a request from the company, from someone capable of developing the property, someone that was in a position to develop.

Senator BARRETT. How deep is the water there at the deepest point, the land under lease?

Mr. GILES. I believe it is over 100 feet, Senator.

Senator BARRETT. How deep is the edge of the outer Continental Shelf opposite the Sabine River?

Mr. GILES. At this point the outer Continental Shelf—of course that is the way it is determined—is the 600-foot depth of water, or 100 fathoms.

Senator BARRETT. Does it average down——

Mr. GILES. From nothing to 600 feet.

Senator BARRETT. Does it drop uniformily?

Mr. GILES. No. Off the Texas coast we have a high in here, in Texas and Louisiana, opposite the mouth of the Sabine, we have a high that comes up to as little as 10 feet about 27 miles out. I believe our soundings show readings of only 10 feet deep 27 miles out over quite an area. We have never leased any property on that area. We have been quite anxious to do it, I do not mind telling you. There has been a lot of demand for a strip of land. This would be about 27 miles, I am sure there are some places there where the water is not over 7 feet deep.

Senator BARRETT. Is it much deeper down here opposite the Rio Grande?

Mr. GILES. It gets deeper faster. That is very uniform. The ocean bottom is very uniform on all the southern portion here from nothing to 600 feet, and it is very, very uniform.

Senator BARRETT. Is it pretty deep right where the Continental Shelf starts?

Mr. GILES. No, it is not. That is around 30 feet, if I remember.

Senator BARRETT. Do I understand your proposal that you would like to have a dotted line there where the Federal Government must grant portions of these tracts to the State, and another lease to the State would grant portions to the Federal Government. Is it for exchange or just leasing purposes?

Mr. GILES. We would reach an agreement something like this, that we have to sign an instrument with the Government for leasing purposes only, that the line actually came down this line for 20 miles and then dropped down 2 or 3 and then over 3 or 4, and so forth. So that we would not be confronted with a problem of having a portion of this lease in the State and a portion of it in the gulf. That is, in the State constitutional boundaries and the other in the outer Continental Shelf.

You can see the desirability of any lessee knowing what he is getting and also you can see why the erosion on shore, if you follow a technical line, would cause that line to gradually shift in and would change the amount of area in that particular given lease constantly. The same thing would apply if we were accreting to the shore.

Senator BARRETT. Would the royalties accrue then to the Federal Government if the State ceded that area to the Federal Government?

Mr. GILES. I would not say "ceded." I would not want to go that far. I want to say that this line would be a line that by agreement between the State and the Federal Government would be established

for leasing purposes and that it would remain that way until there comes some cause to change it. So that when you lease you would not lease partly from the State government and partly from the Federal Government.

Senator BARRETT. Would you pay the royalties to one or the other?

Mr. GILES. I would pay all to one or the other.

Senator DANIEL. If you unitize, you could work it out.

Mr. GILES. You could work it out in your unitization agreement. With your railroad commission you could reach an agreement. But there still will be the necessity of establishing a definite boundary in each instance, not just in some individual case but in all of them. Any company and we, as agents for the State, are going to have to know. Mr. Murray is going to have to know, before he can establish that, how much of that area is productive. First, he will establish it and we have to know what portion is ours. That would help solve some of the problems.

Senator BARRETT. I doubt if we could make any exchange of the Federal lands now beyond the historic boundary except by legislation specifically for that purpose.

Mr. GILES. That is another problem that I noticed had not been brought up. You can readily see—I do not know which company this is—but here are 13 leases I can see from here that are on the line as best we can establish it at this time.

Senator BARRETT. If we provide that leases granted near that line would have to enter into a unit agreement with the adjoining leases how could we force the State of Texas to make its people enter into an agreement?

Mr. GILES. In order to get the best return for your money you want to make it attractive to your lessee. That is what we try to do in Texas. We try to see that it brings the best market. If you have a lot of problems, a lot of legal problems, a lot of litigation, and use up their primary term or uncertainty of production, naturally they are going to value that lease down. They are not going to bid for it as keenly as if it were well established and they know exactly what they are buying. Nobody wants to buy a lawsuit.

Senator DANIEL. In answer to Senator Barrett's question as to how do you know the State will provide for unitization over on its side of the line, is it not true that you already have a State law that authorizes you to enter into unitization agreements on State lands?

Mr. GILES. Yes. The State lands can be entered into any type of agreement with other lands; whether they be county, city, we have authority to enter in a pooling agreement.

Senator BARRETT. Why would it not be necessary for us to make it mandatory along that line and instruct the Secretary of the Interior to enter into an agreement with the State of Texas?

Mr. GILES. A pooling agreement on any lease that was within a certain distance or the lines crossed? You can readily see what is going to happen in a case like that. Of course, that was not a short period of time. That was over a period of 100, 150 years the mouth of the Sabine has accreted so much. We are talking about a distance of some 4 or 5 miles that that line has moved. Unfortunately, from our standpoint, rather unfortunately from the standpoint of the State, back to the west the shore has eroded perceptibly. There is a highway

that has been washed away and the shore cut back in behind the road. We have some additional area there. You can see what that is going to do on the 10½-mile line; that is going to move that line landward. If you have your pooling agreement all set up here, in 5 years' time or 3 years' time that erosion will change your boundary out there, you can see what is going to happen.

Senator BARRETT. There are a lot of problems even in establishing the line.

Mr. GILES. First in establishing it, then to maintain it.

Senator BARRETT. Are these lands divided into townships?

Mr. GILES. No. We number our tracts. We do not go into townships and ranges. We do have some land in west Texas, but not in the Gulf. We just number them. They are numbered in nine sections. That was the system we devised that seemed the most feasible for this particular area.

Senator BARRETT. How do you describe then the series of nine sections?

Mr. GILES. That is just one tract. That is tract 476 or 261. It has a number. That is listed numerically. There are not enough tracts where we go into townships or ranges as you do in your area.

Senator BARRETT. Now, do you think there will be any demand for leasing beyond the point you have marked out?

Mr. GILES. We have marked it out all the way. We just have not put the numbers on. We have marked it out all the way to the outer edge of the Continental Shelf.

Senator BARRETT. Have you any inquiries other than opposite the Sabine River there for any of the other lands?

Mr. GILES. I should say. The interest is very keen. I have been asked that many times. The interest is very keen right at this time.

Senator BARRETT. How much production do you have from the submerged lands?

Mr. GILES. We only have 5 wells. They are actually directional wells from shore. And I believe one shut-in gas well. That is all that has been developed either in or out. We do not have any production in the outer shelf. There is none out there now. These leases were made in the utmost of good faith. We put that property up for lease. There is one other point I would like to stress. I hope you will recognize these are county lines, the lines of the respective counties, 13, I believe. They abut the shoreline. You will notice from this map the lines have been extended by special act of the Texas Legislature under my supervision and I was charged with the establishment of those lines. We were given a ratio of frontage on the Continental Shelf, the same ratio or in proportion to the area they had fronting on the Gulf. That was done in a very satisfactory manner.

The reason I say it was because all the counties met and accepted it. That was under a mandate of the legislature. They all accepted this boundary as agreeable, extending jurisdiction over the area. So actually we do not have to do anything. We already have the machinery set up for all types of government. All we need is clearance from the Congress and we will be ready to go.

Senator BARRETT. Do you have any geology that leads you to believe there is a structure in the outer Continental Shelf?

Mr. GILES. Yes. I have seen figures published that I thought probably were exaggerated. But I do say there is considerable interest. Now, we kind of follow this plan in Texas. We have not gone so much into just what the structure was because in the first place no one really knows. There is one way to find out and that is to put that drill bit in there. We say when a company in good faith writes us a letter requesting this area to be put up and when we put up the area, they request and they bid on that area, you will find that some of the other companies have that or similar information and there will be a lot of competition.

Senator LONG. How far in advance do you give notice that you are putting up an area for bid?

Mr. GILES. In this place there ought to be at least 4 months or some such time. On shore we would have to have at least 90 days' notice. Out here there should be at least 4 months' time that you are planning to have a sale and that you will notify all the companies that you would entertain requests for a certain area.

Senator LONG. How large an area do you put up at one time?

Mr. GILES. That is discretionary with the Board. That is settled on the basis of the amount of demand. First, we would not put up an unreasonable amount, some area we knew would not be bid on. We even go so far as to say to company No. 1, 2, 3, 4, "Well, you requested 200,000 acres here. We want to know if you are going to be a substantial bidder, if you are in good faith." We may cut that even then to 100,000 acres and only put up 100,000 acres, but in that 100,000 acres we may have 2 or 3 other companies in there for part of it.

Senator LONG. It does not make sense to put up an area unless someone thinks there is a geologic prospect.

Mr. GILES. I am glad you brought that up. I am not saying this, "Here is the Gulf and I will put up the whole thing and you can bid on any tract," which would flood the market. You would be faced with this problem. People would submit bids. We will take a tract out here and we will assume there is one bidder who bid the minimum. You would be faced with the problem, would you accept that or not? You would not know anything about the geology at all. But if you hold your area to a practical amount that you put up for bid, you hold that to a limit to where there will be competition, then I say that you do not have to worry too much about that. The competition will take care of it if the amount of the acreage you put up is not too great.

Senator LONG. If you put up, let us say, half of the Gulf of Mexico for one bid, it would be impractical for some smaller company to go out there and try to seismograph half the Gulf of Mexico to bid, but if you pinpoint the area you want the bid on down to perhaps 40,000 or 50,000 acres, it would be completely practical for a lot of small companies—I do not mean small companies but I mean the smaller oil companies—I am not speaking about the small million-dollar company, but about the small 40- or 50-million-dollar company—to go out there and seismograph and see if he would be interested in bidding on it.

Mr. GILES. I quite agree with you on that.

Senator LONG. The more bidders you get the probabilities are the better price you will get.

Mr. GILES. You should limit your area to where there will be keen competition. I just want to remind the committee again that this is not wading water out here. This water is pretty deep, and it takes somebody out there that can operate. You have to know what you are doing. You cannot send a small group of people out there. It takes somebody that knows how to operate. It takes a substantial company.

Senator DANIEL. Would you tell the committee how you handle the permits for geophysical operation? That ties right into this particular point.

Mr. GILES. This ties back into the question that was asked me a few moments ago, how much interest is there out there.

My office issues the geophysical permit. I believe we have 20 permits issued at this time. There are 20 shooting crews that have permission to operate. I do not say that everyone is operating; but I believe 17 of them are operating at this time out of 20 permits issued. That is considerable interest.

Of course, companies who plan and form for this purpose come to my office and say, "We are forming a company." Maybe it is a combine of 2 or 3 or 4 companies. "We are going to start offshore operations." I have had a number of companies do that.

Senator LONG. Is it practical to have more than one company drilling on a single property?

Mr. GILES. I would say not, Senator; that that is not the best way to accomplish it.

Senator LONG. Why?

Mr. GILES. Out in this gulf you have so much area and so much property to develop, it is so great, and of such high potential value. I want to point out again I think the values have been grossly exaggerated, as I have seen in the papers. We do not know what the ultimate will be, of course. I think that anybody can just venture a guess, if you want to be perfectly frank about it.

Senator LONG. The trouble is in estimating the values that those estimating have not been looking to net values. If they were looking at the amount of oil you had in the ground, they might be right. They are not looking at the cost and how much you net after you pay all the expenses.

Mr. GILES. Yes, and the fact that the State or Federal Government will only participate about one-eighth plus the bonus.

Senator LONG. The trouble is that these enormous guesses at value you have seen would work on the same principle as if you went out there and tried to appraise the salt water based on the value of table salt on someone's table.

Mr. GILES. I thought your comparison was very good.

Senator LONG. Would it not have this advantage, though: If you had more than one company on a given structure, when oil and gas is found, the competition to get at that oil and get it before the other man gets it gives you more rapid development?

Mr. GILES. Yes. I say that would be true inland. I want to make quite a different statement respecting operating from 10½ miles in the gulf seaward and operating on the uplands. I think there is quite a difference in the operation. You do not want a company out here—when I say you do not want, the Government or the State—unless they are a substantial company, because you want them to use every pre-

caution known. You are going to require them to do it. It is going to be exceedingly costly, all kinds of protective valves and setting casing in with the greatest of caution, because you do not want a blowout in the gulf to let a well out of control. It is exceedingly costly and hazardous.

If you catch an unfavorable wind following a lot of oil being put on the water, anything can happen. Certainly you do not want a thing of that kind.

Senator LONG. It took Louisiana the better part of 2 weeks with gas going in every direction to get a well under control 6 months ago.

Mr. GILES. It is a serious thing. If the company is not a substantial company, they are not able to cope with that situation. That is the point I want to make.

Senator LONG. Let me ask you about one other phase of this leasing problem. In Louisiana you are required to pay a rental every year in cash amount of one-half of the amount of your bonus so that when a person goes and bids on a lease, if he does not mean business, he better not bid on that lease because if he gets the lease, he has to pay every year after that. Is that not a good device to get expeditious drilling and get development?

Mr. GILES. I will say "Yes." I want to qualify that. I can only see one thing wrong with that. You have a lot of scenery; you have a lot of area here that you are not going to get any recovery from. Now, if you let those companies go out there, they are going to reduce that cash bonus whenever you make them pay that much rental. They are going to reduce that cash bonus. Then you let them have 1 year and they can pay the second rental, they still have not paid anything like they planned to pay if they keep the rest. So they are getting a look at that property, watching the development of other companies, without you getting the greatest cash return in the first instance. You are letting them kind of pay as they go.

I kind of like to get that money. If you make a cash rental too high, you are going to undoubtedly reduce your cash bonus. I do not like to do anything that will reduce my cash bonus. The Senator and I over here as members of the board discussed that many times. I never liked to get my rental so high that they are going to begin cutting my bonus down. I like to get my bonus because that money so often comes from unproved lands that always will remain dry. If you let them take a look at it and they release that property after 1 or 2 years and do not pay that high rental, then you may have made a loss. That is the only thing I say is bad about your system.

Senator LONG. The only question I have in mind is whether in the long run anybody profits by someone losing his money on a bad business venture. In the long run it seems to me that if it is not a good deal for the other man, it is not a good deal for you.

Mr. GILES. I quite agree with you on that, too. It has to be made out of a venture or nobody is going to stay in the business. It has to be made.

Now; the State might gain a little. You might let them make it on a private venture. You might pick up a little loose money over on your side if you handle it right. I always try to do that.

Senator MALONE. Has there been quite a demand for leases within that 10½-mile limit?

Mr. GILES. As you can see, the area leased thus far is only about half and half. There is quite a demand, going to be, because they are shooting now in the gulf. They are doing exploration work to quite an extent.

Senator MALONE. Do you have quite a few applications on file?

Mr. GILES. You mean applications to do geophysical work?

Senator MALONE. Applications for permit to explore.

Mr. GILES. Yes, sir, we do have. We have 20 issued at this time.

Senator MALONE. They apply for permit to explore for oil and gas?

Mr. GILES. Yes. We have issued 20 permits in the State now. There is quite a number of crews operating.

Senator MALONE. Twenty within the 10½ miles?

Mr. GILES. They could even operate outside up to this point until you passed this legislation. We would not issue any permit to go outside a State boundary, of course.

Senator MALONE. But the permits you issue show up on this map?

Mr. GILES. The permits do not show there. These are bid leases.

Senator MALONE. Tell me the difference between a permit and lease.

Mr. GILES. A permit is the right to go upon the ground and do geophysical exploration. I want to point out one further thing there. It is very important that you combine. I know Louisiana has done a lot of fine work in this regard, for the protection of marine life. That is so important in the issuance of this permit; that it be done under certain hours and under certain regulations and certain restrictions under supervision of enforcement agencies. That is important. Otherwise, you will run afoul of shrimp and fish people and cause them a lot of damage. It has to be done properly. Your State, Senator Long, I want to commend your conservation board, they pioneered in that field.

Senator MALONE. There are certain hours.

Mr. GILES. Yes. You limit them to the hours, the depth of shot.

Senator DANIEL. Those are dynamite blasts in the water and the purpose of these limitations is to keep them from killing an unnecessary amount of fish?

Mr. GILES. That is correct.

Now, we have a lot of problems in that field. Both Texas and Louisiana have had both some good and sad experiences. We have learned by trial and error, but now I say our situation in Texas is a very happy one. We are getting along very fine with the people in the marine business. We have promulgated very strict rules with reference to timing of shooting or exploration work in an area and the fishing in another area, and so forth. There is coordination between them. The Federal Government certainly will make no mistake in following the experience we have had in that line.

Senator LONG. That is a point that should be made that the States have been very solicitous of protecting the marine life in this area both within and beyond their historic boundaries because it is a matter of survival of their domestic industry in some respects.

Mr. GILES. We had some people that took the position it could not be done, you could not protect marine life and discover oil and gas. That is not correct. Since we had a big hearing and promulgated strict rules and regulations both as to when and where the shrimping

was going to be done and when and where the shooting was going to be done and coordinated the efforts of each, we have had no complaint now for 3 or 4 years in Texas since that was done.

This permit is limited as to time. It is a grant to X company to go upon the waters within certain hours and to explode shots of a certain weight, a certain depth, a certain time, and not to interfere with other operations and so forth. That runs over a period, we will say, of 90 days. When that permit expires, for which they must pay $50 per day——

Senator MALONE. Regardless of the size of the area?

Mr. GILES. They must pay $50 every day or for part of a day.

Senator MALONE. What size area do you generally let them have?

Mr. GILES. We would restrict them to a certain bay or certain county on the gulf.

Senator MALONE. Quite a large area?

Mr. GILES. Yes, you do not want to tie them down too close.

Senator MALONE. This is a relatively short period to explore.

Mr. GILES. Yes. Following that they request you to lease a certain area, "We want to lease tracts Nos. 10, 12, 14, 16." Of course they will say a good many more than they actually want. We know they are not going to want to show their hand as to exactly where they want to operate. That would be the worst thing they could do from their viewpoint. We want to be fair with them.

Senator MALONE. What size areas do you actually lease then?

Mr. GILES. The lease then becomes a regular commercial 5-year primary term lease.

Senator DANIEL. You mean you put it up for bid?

Mr. GILES. For sealed competitive bid on a certain day. We will say you have done your geophysical work, you have made your request to the board. The board meets and decides which tract it will put up, taking all facts into consideration. We sometimes put up a tract of our own or we may take out some for a particular reason. We exercise full jurisdiction over that problem. It is a sealed competitive bid only and I recommend that it only be done by the National Government.

Senator DANIEL. The one who got the first geophysical exploration permit would have no priority of any type. He has to bid against everybody else?

Mr. GILES. That is right. It is often the case that 3 or 4 companies or sometimes even more have the full information from that geophysical exploration.

Senator MALONE. What size tracts do you actually lease to them?

Mr. GILES. In Texas we have not yet leased any tract over 1,440 acres, one-fourth of the 9 sections I spoke of. That is on a 5-year primary term lease. Our rentals have been $2 an acre and our cash bonus received has been an average of $20 per tract. I believe that is double yours, if I am not mistaken.

Senator LONG. Then again you do not get the rental?

Mr. GILES. No. I commend you on your rental.

Senator LONG. By the time you get your rental in you are likely to find that Louisiana is getting more than Texas.

Mr. GILES. Yes.

Senator DANIEL. Or more rapid drilling because a leased well will hold the lease without payment of rental in Louisiana.

Mr. GILES. That is right.

Now, you may have a little better area, you may have that condition, you may have more valuable property in your offshore. I do not say it is true, but I believe it is possible.

AVERAGE ROYALTY FROM OIL PRODUCTION

Senator MALONE. Previously you mentioned that on these bids you got up to 50 percent royalty. Is that the highest you have received? Do you know what the average might be?

Mr. GILES. This policy I mentioned where we advertise either the cash or the bonus but not mixed, one or the other, we also control, supervise the leasing of bays and riverbeds.

Senator MALONE. You mean that underwater area.

Mr. GILES. It is all the same, it is submerged land. Of course you cannot operate out in the open gulf like you can in a bay or riverbed. We will call this stick the riverbed and there will be a well on either side. We have every reason to believe that it will produce, a well on either side. We have every reason to believe that it will produce, a well on each side of the river. We would advertise that tract most likely at about $1,000 an acre, cash bonus. Fix the cash.

Senator MALONE. How many acres?

Mr. GILES. The acreage would depend in that case on the width of the river, the length, because we cannot advertise on a riverbed anything that is not within 2 miles of production. It must be within 2 miles of production before we can. So in that case we receive a bid of about a thousand dollars an acre, 51½ percent free royalty to the State and on the particular tract we had 130 acres, and we have 5 twin wells, 5 wells producing from 2 different sands.

Senator MALONE. 51½ percent of all the revenues that come from the production?

Mr. GILES. Correct.

Senator MALONE. That is gross?

Mr. GILES. That is gross production, 51½ percent of the gross. That is an unusual case. That is on a known geological structure.

Senator MALONE. We had testimony before, at least we had the information, that the city of Long Beach received as much as 96 percent gross but the net which they actually received was about 60 percent. This figure in the Long Beach area is about the highest that I have heard of. Is that an unusual bid?

Mr. GILES. No, we must have a hundred cases like that. We have 1 case that does pay 58 percent royalty. We must have 30 or 40 that pay 51 or 51½ percent. We have a number in the 40-percent bracket, a good many in the 30-percent bracket, that would not operate. Let me say to you again, I want to make myself clear, I do not think that would be a sound policy in the outer Continental Shelf.

Senator MALONE. You have not had experience out there yet?

Mr. GILES. No, sir. My experience has been very limited out there.

Senator MALONE. In other words, there are some beyond your line of 10½ miles. What happened there?

Mr. GILES. There has been no drilling out there because we have made the leases and the Federal Government brought suit on us.

You know the story from there down.

Senator MALONE. Yes, I do.

Mr. GILES. That is the reason there has been no development. Our outer shelf undoubtedly today would have had considerable production and a number or more leases and considerable dollars taken in if we had not had the litigation and wrangling.

Senator MALONE. To determine whether it belongs to you and not the Federal Government.

Mr. GILES. That is right.

BIDS TO RESPONSIBLE BIDDERS

Senator MALONE. That is a little different. I understood you to say that you were very careful to let only responsible people lease. Of course, responsible people would be people that had a check in the bank.

Mr. GILES. No, sir, I do not say people with a check in the bank. I think there has to be know-how to go with them. You do not want somebody out there that will make a lot of mistakes.

Senator MALONE. What kind of people would you say made most of the wildcat discoveries over the last number of years, people that had money in the bank, well-known oil people?

Mr. GILES. I think you could point out conditions where every situation you could imagine has existed. You and I are talking about two different areas; you are talking about the desert land of Western United States and I am talking about land that has mud and haze all the way from nothing to 60 feet of water on top of it.

Senator MALONE. I like Texas people. They fight for what they want. I would like to have them get on my side.

Mr. GILES. We will get together sometime.

APPLICATIONS FILED UNDER THE MINERAL LEASING ACT

Senator MALONE. Are you familiar with the fact that there have been five or six hundred people who have filed on the seabottom land under the Mineral Leasing Act. They are the same kind of people that developed a good deal more than half of the oil in the United States.

Mr. GILES. We have pioneers, too, that started on a shoestring but they did not have the responsibility then on dry land, upland, that you have, Senator Malone. As you heard the testimony of one company here yesterday, it takes a $10 million investment. I do not think it would take any company that would spend the last $10 million they had to go out there. I would not recommend it to them. A company could spend five or ten million dollars, that is really beside the point.

My main purpose for mentioning that point is two-fold, first to get somebody to do the job, to get the job done; second, it would not help somebody else. If you go in the bay and you get a well blown out because you did not use proper methods and you did not know what you are doing, and hurt a lot of people, the marine life in the whole area, a lot of people, I think that is serious.

Senator MALONE. What company had this accident down there?

Mr. GILES. I do not know.

Senator MALONE. One of my first recollections on the fires is Kenney Oil Well in Oklahoma that blew out. It burned for months and months. That must have occurred around 1905, a little before your time.

Mr. GILES. Think how wasteful that was.

Senator MALONE. That was an established company.

Mr. GILES. They can all do it.

A FAIR DEAL FOR APPLICANTS

Senator MALONE. As one of the 96 Senators I am interested in a fair deal for each applicant for a permit or lease and to prevent the denying of permits or leases on the basis of weird excuses.

Mr. GILES. You misunderstand me 100 percent. I will say this: we only award to the highest and best bidder.

Senator MALONE. You are the one that judges whether this fellow is going to be able to hire the right kind of men.

Mr. GILES. No, sir. We do not go into that. We do not give consideration whether he is going to have a man with red hair. We just take the one that puts up the most cash, the one that has the most cash on the line.

Senator MALONE. If a man did not know anything about the oil business at all and he laid down $10 more than the other fellow, you would take it?

Mr. GILES. Sure we would. What other basis could you have it on?

Senator MALONE. You said they had to have ability. They had to protect the marine life and they had to do a lot of things, but now you say if they had $10 more, you would let them have it.

Mr. GILES. Yes.

SEABOTTOM LAND IS PUBLIC LAND

Senator MALONE. Now, you have heard considerable discussion here about the National Oil and Gas Leasing Act, called the Mineral Leasing Act of 1920, it covers other minerals besides oil. That seabottom land out there is public land. I guess that is established. You do not claim it any further out than 10½ miles. Many of us think that this Oil and Gas Leasing Act is applicable to the area. If it is not, a simple amendment would make it applicable. Then the royalty received is divided 10 percent for the Government, 37½ percent to the State within which such lands are located, and 52½ percent to the reclamation fund.

Mr. GILES. I happen to be the State reclamation engineer.

THE RECLAMATION STATES

Senator MALONE. And I am the one that organized the 17 Western States' engineers. I was State engineer in Nevada. That was in 1927 when there were 11 Western States that came into this business. I think it was the forerunner of bringing Texas into the reclamation States. Now, what would be the matter with that act operating out there with a proper percentage going to you, maybe the 37½ percent?

We could let that ride if that is agreeable. Is there anything the matter with that? Or are you familiar with it?

Mr. GILES. I am not familiar with it. I could make enough amendments to where I could be satisfied with it.

Senator MALONE. I am talking of amending an act that already is workable.

Mr. GILES. I say amend that act.

Senator MALONE. Just add a little paragraph. It would be up to the Secretary of the Interior to say whether one applicant obtains the right to explore, or another individual obtains the right.

Mr. GILES. I believe you still misunderstand. I do not say you are, but possibly you are confusing the regulations with geophysical work.

Senator MALONE. No, I am not confusing it at all. I thoroughly understand that you allow them to go out for 90 days.

Mr. GILES. That is where the regulations come in.

Senator MALONE. We settled that awhile ago. No use going back to that. Do I understand there are two propositions; what I am trying to say to you now is that we have a bill here confined entirely to oil and gas. You heard the testimony yesterday perhaps about sulfur. Did you hear that?

Mr. GILES. Yes, sir.

MINERALS IN THE CONTINENTAL SHELF

Senator MALONE. There has been no testimony on phosphates and half a dozen other minerals included in the Mineral Leasing Act. No doubt many of these minerals will be found in the Continental Shelf. Would it appeal to you at all to have an act that provides for all these contingencies so we will not be back here in the future trying to handle sulfur, handle phosphates and to handle all these other minerals.

Mr. GILES. I think it should be done under different rules and regulations. You would not want to lease them all at one time. I would rather lease oil and gas and maybe have sulfur leases, and later phosphate leases.

Senator MALONE. Or a priority so that one lease would not interfere with another or one would have a priority if one did interfere.

Mr. GILES. That is the way we did in Texas. We have sulfur leases in riverbeds.

Senator MALONE. They are separate leases?

Mr. GILES. Yes, sir. That is the only way I would recommend it. There is no reason why we should give up, though.

Senator MALONE. You know, the Mineral Leasing Act covers all these contingencies.

Mr. GILES. I am not 100 percent familiar with it, but I am sure it does. I do like that phase of 37½ percent. I think that is pretty good.

NECESSITY OF RECLAMATION PROJECT

Senator MALONE. I listened to the debates for 3 months. It is awfully hard to have anybody understand that the revenues have been divided for 34 years. Nobody is against it, nobody is objecting to it. People want to take it for education but we have to have some boys and girls to educate first and out in Texas and that dry country you have to have some reclamation. Every time we have a reclamation

project and they really get started, there is more money to educate the kids. I think you are a very aggressive, intelligent man and you have dealt with this thing right from the start. Why could you not do a little studying of this Mineral Leasing Act and give us some suggestion as to how it could be arranged and transmitted over to the Continental Shelf, the States could take 37½ or whatever percentage is determined.

Mr. GILES. I could do that. I will be happy to do it.

Senator MALONE. I think it would be a wonderful thing.

Mr. GILES. With a few amendments, I think it might be satisfactory.

Senator BARRETT. What is the committee's pleasure about a session this afternoon. I understand Mr. Hardee wants to be heard.

Senator DANIEL. Is it possible for us to hear Mr. Hardee? He is anxious to get away. Could we hear him now, Mr. Chairman?

Senator BARRETT. Yes. Without objection, we will hear Mr. Hardee and then adjourn until 10:00 o'clock tomorrow morning. Mr. Hardee, will you identify yourself?

STATEMENT OF W. L. HARDEE, BROWNSVILLE SHRIMP PRODUCERS AND THE TEXAS SHRIMP ASSOCIATION, BROWNSVILLE, TEXAS

Mr. HARDEE. My name is Will Hardee. I own and operate 14 vessels that fish for shrimp in the southwest gulf area. I am here representing not only my own firm, but also the Texas Shrimp Association, and the Brownsville Shrimp Producers Association. These organizations represent a large majority of the shrimp industry of the State of Texas, which is composed of approximately 1,500 shrimp boats that fish for shrimp along the coast of Texas from Port Arthur, Galveston, Freeport, Port Lavaca, Aransas Pass, Corpus Christi, Port Isabelle, and Brownsville, and produced in 1952 a total production of 32 million pounds, with a value of $20 million at the wholesale level.

These production figures represent approximately 22 percent of the total production of the entire shrimp industry of the United States, which last year produced approximately 175 million pounds, with a wholesale value of $85 million. The Brownsville, Port Isabelle area, which is headquarters for approximately 400 larger trawlers, produced approximately 18 million pounds, which is 57 percent of the State, and 17 percent of the total production of the entire industry of the United States.

There is an estimated number of 450 Texas shrimp boats which fish in the international waters off the coast of Mexico in the southwest Gulf area, with approximately 80 percent of these vessels basing at Brownsville and Port Isabelle, and being of the newer and larger type, represents a tremendous investment, for these boats were built especially to develop the shrimp fisheries in this area. Should this area be closed to these boats, it would be conomically impossible to operate these vessels fishing for shrimp in Texas waters only. We are interested in just one small portion of this legislation, the four lines of section 3 (b), but in this we are vitally involved; because, if the Department of State continues to interpret the high seas policy of the United States as it has done for the past 175 years, we can continue in our business and develop new fishing grounds, but if this legislation and the submerged lands bill forces the Department of

State to change its historic policy by attempting unilaterally to expand the territorial waters off the coastlines of some States of the United States, we can reasonably expect the other nations to the south of us to move their high seas limits to wherever they choose, thereby forcing our industry to confine its fishing in its own backyard. We are informed by the Department of State that it is seriously disturbed that such a change of policy is being forced upon it.

The proclamation made by the President of Mexico in 1945 that the limits of Mexican waters could extend seaward as far as it was deemed necessary did not help this situation in the least bit, for the Republic of Mexico tried to establish this claim by the seizure of six shrimp trawlers operating in international waters off the coast of Mexico, by the Mexican navy in April 1950. The Department of State vigorously protested this seizure as evidenced by the records made before the House Committee on Merchant Marine and fisheries. At the time of seizure, these boats were operating on the advice of the Department of State, which had defined international waters limit as commencing 3 miles from shore. Mexico has repeatedly tried to establish these unlimited claims as evidenced by the 1952 seizure of 7 shrimp vessels, and by vigorous protests from the Department of State, these boats were released.

Recognizing the seriousnes of the existing conditions, and being also confronted with a large shrimp import problem from Mexico, and further realizing that the laws of Mexico were not made, nor enforced, by the shrimp producers of Mexico, and holding no animosity against these shrimp producers, it was decided to contact the shrimp industry leaders of Mexico to try and work out a friendlier working relation for these two large industries. The middle of 1951 saw the organization of the first of its kind and called the Shrimp Association of the Americas. This organization was international in scope and was composed of the Texas Shrimp Association and the Shrimp Industry of Mexico. We hoped to encourage the forming of other associations in the Latin American countries, as well as other States in the United States, and for these associations to join with the Shrimp Association of the Americas. The purpose of this organization was to try to work out industry problems which affected us all, inaugurate a long-range plan of conservation, quality controls, sanitation of plants and freezers, and to join together in a program of commodity advertising to increase consumption of shrimp, whereby these troublesome problems would cease to exist. A program of commodity advertising was mapped out and started, and by the concerted efforts of the entire shrimp industry, the demand now for this high-protein seafood has been greatly increased, and we feel that the surface has hardly been scratched. However, we know also that to be able to supply this increased demand for shrimp, new fishing grounds will have to be developed and are in the process now of searches being made.

The most recent seizure of 21 United States shrimp fishing vessels by the Mexican Government in April of this year for taking shelter during a storm, even though the testimony taken by the Department of State proves that the vessels were anchored seeking shelter, is but another try by Mexico to establish its claim seaward of its limits and is getting bolder and bolder in each seizure, for testimony proves these vessels were 10 to 17 miles from shore.

It is now a known fact that the entire Caribbean Sea area is an enormous shrimp producing area, and by being properly developed without being molested, this area should take care of the increased demands for this much needed high protein food for many years to come. This new production area of the Caribbean Sea is within fishing distance of the United States fishing boats at the present time, and at present, there are several expeditions of shrimp trawlers working in that area, as far south as the Panama Canal Zone. These boats are based at Brownsville, Tex., and will return there with their cargo. It has been proven that shrimp exist in commercial quantities off the coasts of Honduras, Nicaragua, etc., and could be properly developed if these countries did not extend their limits seaward as far as they wanted to.

The whole area in which we now fish in the southwest Gulf, and the whole area we are exploring for the establishment of new fisheries, are covered by proclamations made by foreign governments making these waters their sovereign territory. The only reason we are now able to operate there is that the United States has told these governments that they could not by their own action alone extend their bounaries out into the high seas. If the United States has attempted to do his now with its own legislation it can no longer object to what these countries have tried to do. Therefore, the shield which the United States has put around our operations will be taken away. The lawyers of the Department of State have told us that they do not know what the submerged lands bill has done to United States territorial waters policy. They will not know until Congress clarifies this point or until the Supreme Court does. During the time it will take for a case to come before the Supreme Court and be decided we will be without the protection of the United States. Therefore, we want the Congress to quickly clarify this point of law so we can stay in business.

We are now working on language to be inserted in the bill that will be suitable to cover our problem. It is not our intention to affect in any way the claims of Texas and Florida.

Senator DANIEL. May I say this, Mr. Chairman. Mr. Hardee and his group there on the gulf coast of Texas have built one of the finest and biggest new industries that we have in our State. They have built at Brownsville and Port Isabelle shrimp centers that compare favorably, if not the largest, they are some of the largest in the whole world.

Mr. HARDEE. It is the shrimp capital of the world.

Senator DANIEL. Excuse me, I did not know you were going to make that big a brag about it, but I believe the gentleman knows the facts. We are proud of the industry. I have had only one conflict with them in days gone by and that was as to our 3-league boundary. I am happy to see they do not make any contest now or wish to affect the claims of Texas and Florida, according to this statement. I do commend to the committee consideration of this matter so that on the gulf coast we will not be having any more conflicts, especially with our neighbor to the south, Mexico.

I would like to ask these questions: You say the last boats that were arrested down there were 10 to 17 miles from shore?

Mr. HARDEE. Yes.

Senator DANIEL. They were not within Mexico's old 3-league boundaries. They were anchored there seeking shelter from bad weather; but not fishing?

Mr. HARDEE. No, sir.

Senator DANIEL. You claim that the arrests were wrongful even though some of your boats might have been sheltered there within Mexico's 9-mile boundary?

Mr. HARDEE. Every one of the boats has proven that they were anchored and not fishing. They were seeking shelter from the storm.

Senator DANIEL. Is it not true whether or not you recognize Mexico's claims under the Treaty of Guadalupe Hidalgo of a 3-league (9 marine miles) boundary, you try to stay out of the waters because of the claim of the Mexican Government?

Mr. HARDEE. That is true. We are not looking for trouble. We would rather stay off because we can fish profitably offshore as well as inshore.

Senator DANIEL. Therefore your main worry in the Gulf of Mexico is to see that Mexico and the other nations do not claim over the high seas a greater area than beyond the 9-mile claim?

Mr. HARDEE. That is our problem.

Senator DANIEL. It is true that Mexico in making its Continental Shelf proclamation did not do like the United States and limit its claim to the seabed and subsoil but it extended sovereignty over the waters, too? Is that not correct?

Mr. HARDEE. I would not be positive, but I am of the opinion that they made a proclamation they could extend seaward the territorial waters as far as they deemed necessary.

Senator DANIEL. What your association needs is clarification of the law so that the waters of the high seas outside whatever are the legal territorial waters, whether they are 3 miles or 3 leagues, you want the area outside of that narrow band along the coast still declared to be the high seas?

Mr. HARDEE. That is right.

Senator DANIEL. In our legislation you want it clear that the United States recognizes that the lands outside and beyond these historic State boundaries and beyond the waters of the territorial limits are still high seas and subject to the exclusive claims of no nation.

Mr. HARDEE. That is right.

Senator LONG. How do you suggest that we persuade Mexico to go along with this, just entirely as a diplomatic matter, or do you think we ought to take counter measures to offset some of the actions she has taken against us?

Mr. HARDEE. Senator, I believe that is a problem for the Department of State.

Senator LONG. Is Mexican shrimp imported in the United States, in any quantity?

Mr. HARDEE. All of their production is imported in the United States.

Senator LONG. If this Nation would simply take the attitude that we would place a higher tariff on shrimp imported from Mexico and authorize this Government to enter into a reciprocal trade agreement, providing they cooperate with us to the same extent we cooperate with them with regard to territorial limit, the probabilities are that we could work that matter out; is that not right?

Mr. HARDEE. We had a problem there 3 years ago, a supply and demand problem. It was brought about by importing shrimp from Mexico into the United States. We started to holler import duties or tariffs or whatever it may be. We came up with a situation here that has worked out very nicely. We got with those boys down there and entered into this organization, as I set forth here, on better working conditions between us. We began to know each other better and it has worked out very nicely.

Senator LONG. The point I have in mind is that just in the matter of controlling the imports of shrimp this Nation could make it impossible for Mexico's shrimp industry to operate profitably if they chose to.

Mr. HARDEE. If they closed the doors to it, they certainly could.

Senator LONG. So this Nation certainly has the power to protect its shrimp industry if it cares to.

Mr. HARDEE. Yes, sir.

Senator LONG. I am not saying that the departments had the power themselves but certainly the Congress could give the departments the power to protect you.

Mr. HARDEE. Yes.

Senator DANIEL. I certainly think you are correct, and the international law on this subject so far bears you out as being correct in saying that the exclusive claims of any coastal nation now beyond their territorial waters, their historic boundaries, are limited to seabed and subsoil only.

Mr. HARDEE. How was that?

Senator DANIEL. I say you are correct, and in line with international law on the subject when you say that exclusive claims of a nation beyond its territorial waters, beyond its historic boundaries, are limited to the seabed and subsoil and should not cover the overlying waters or the fish in them.

Mr. HARDEE. I am not familiar with law. I am not a lawyer.

Senator DANIEL. I was just complimenting you in being in line with what the international lawyers are saying on this subject.

Mr. HARDEE. Yes.

Senator DANIEL. And in line with what our Government says, that our claims to seabed and subsoil beyond the historic boundaries do not cover the overlying waters. They are still free and open sea.

Senator LONG. What would your attitude be on this subject of freedom of the seas beyond that 3-league limit if we commence to have large numbers of boats from India and China and various other nations of the world that have large populations fishing in the Gulf of Mexico? Do you still feel we ought to maintain the principle that we would take no interest in protecting our own fishermen more than 3 or 10 miles offshore?

Mr. HARDEE. All my life I have been led to believe in the freedom of the high seas. If it is 3 miles or 3 marine miles, whatever it may be, then we would be on equal competition with any other boats that come in there.

Senator LONG. Are we not going to have to modify that concept some day? How are we going to enforce conservation practices if you pursue the policy of complete freedom of the seas? How are you going to preserve the resources of the seas beyond the 3-mile limit, looking to the immediate future and not the immediate situation?

Mr. HARDEE. That is a question there for debate, so to speak. That problem, I believe, has been taken care of in the Pacific Northwest by treaties or compacts, and so forth, that we have. The salmon industry, I believe, and the halibut industry, I think it is.

Senator MALONE. Do you have any further questions, Senator Daniel?

Senator DANIEL. Yes.

Are you familiar with the proclamation of President Truman of September 28, 1945, the same day he proclaimed the United States jurisdiction over the seabed and subsoil, and another Proclamation No. 2668 as to the policy of the United States with respect to coastal fisheries in certain areas of the high seas?

Mr. HARDEE. I am not fully familiar with it.

Senator DANIEL. You are not familiar with what he provided there? Let me read this much of the proclamation:

> In view of the pressing need for conservation and protection of fishery resources, the Government of the United States regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained by its nationals alone, the United States regards it as proper to establish explicitly bounded conservation zones in which fishing activities shall be subject to the regulation and control of the United States.

Then he goes on to say where the fishing activities have been shared by citizens of other nations, this regulation should be done by agreement with the nations from whence they come. And he says:

> The character as high seas of the areas in which such conservation zones are established and right to their free and unimpeded navigation are in no way thus affected.

What do you think about a policy of that kind being followed with respect to fisheries out in the high seas?

Mr. HARDEE. I believe possibly a policy along these lines could be worked out. It has in other segments of the industry.

Senator DANIEL. I would like to introduce in the Appendix this proclamation so that we might have it in our record.

Senator MALONE. It will be accepted and will appear in the record in the Appendix.

Senator MALONE. Are there any other questions?

Mr. Hardee, your complaint, as I understood you, comes from the Secretary of State or the State Department giving you to understand now that their plans for control of this area have been upset, is that right?

Mr. HARDEE. They just do not know exactly how to stand, neither do we.

Senator MALONE. Why do they need to tell them how to stand? They know what legislation has been passed by the Congress. It seems to me you are about a week late with your testimony.

Mr. HARDEE. All that they want is to have it clarified somewhat, setting forth in a way they can tell whether they are high seas.

Senator MALONE. You mean they want us to modify this legislation we have just passed and sent to the President through an amendment to this act which we are now considering?

Mr. HARDEE. I would say clarify it somewhat. They do not want to affect the claims in any way of Texas and Florida.

THE THREE-MILE LIMIT

Senator MALONE. I just understood you to say and I also heard testimony of a representative of the State Department, that if any State of the United States claims more than 3 miles, that is, if we went beyond the 3-mile limit, it would upset their long range, well established plan of maintaining that other nations should not extend their boundaries beyond 3 miles. Is that right?

Mr. HARDEE. It is my opinion for the past 100 years or so it has been possibly recognized practice.

Senator MALONE. Three miles out?

Mr. HARDEE. That is true, yes, sir.

Senator MALONE. Now, we have passed a law to the effect that the historic boundaries may mean 10½ or 27 miles, I suppose. Just what does that do?

Mr. HARDEE. We will just have to abide by the decision of the Congress of the United States.

Senator MALONE. But you are not satisfied with it.

Mr. HARDEE. We will have to be satisfied with it.

Senator MALONE. That is true. I mean what is your complaint now? What do you want us to do?

Mr. HARDEE. We are trying to get suitable words to go into this present bill.

Senator MALONE. The other bill is gone?

Mr. HARDEE. Yes, sir, we realize that.

Senator MALONE. There is nothing we can do in this bill to modify that one.

Mr. HARDEE. We are not concerned in any way with the submarginal land, only the sea above.

Senator MALONE. I will have to defer to the distinguished Senator from Texas, but it seems to me Texas just about owns the sea above and the sea bottom and all, do they not, under the bill we just passed?

Senator DANIEL. Let me answer it by covering something that Mr. Hardee said, too, if I may, Senator Malone.

Mr. Hardee is right, the United States has followed a 3-mile rule of territorial waters throughout its history with certain exceptions to the rule.

Senator MALONE. But within that 3 miles the marine life and everything was controlled.

Senator DANIEL. That is correct.

Senator MALONE. As it is in the bill which we just passed as far as Texas, Louisiana, and all other States.

Senator DANIEL. That is correct, and the United States has religiously followed that rule with certain exceptions. As it stated, the Department at one time would recognize 3 miles as the limit unless exceptions were made by treaty or otherwise. As far as our country is concerned, exceptions have been made in several instances, two of which of importance to the committee are the instances of Texas and Florida. Texas came in with a 3-league limit set up under its law when it was an independent republic. When the United States took us in, they took all of Texas in as it then existed with gulfward boundaries extending 3 leagues out. The United States has recognized our boundary on many occasions.

It does not mean that the United States has gone back on its 3-mile rule. It just happens to take in a country that extended farther out than 3 miles. There is an exception to the rule.

The same way with Florida. When the Congress approved Florida's constitution after the Civil War, Florida set 3 marine leagues as its boundary on the west coast in the Gulf of Mexico. That constitution was approved by Congress. In the Holland bill the other day when we had that up it was clearly stated in that bill that it should apply only to boundaries of 3 miles off the Atlantic and Pacific and not more than 3 leagues in the Gulf of Mexico, recognizing that a difference exists in the Gulf of Mexico.

Another exception the United States has made to this territorial limit of 3 miles is in the Treaty of Guadalupe Hidalgo with Mexico. There the 2 countries agree that their common boundary in the Gulf of Mexico would be 3 leagues from shore. The location from the treaty, of course, is before us in this hearing. The map is in here opposite page 312 where the State Department surveyed out the 3 leagues in the Gulf of Mexico.

So I say that Mr. Hardee is right as to the general policy followed, and exceptions have been made by our Nation in the Gulf of Mexico. In those areas where exceptions have been made the claims cover water and fishing rights, as well as the subsoil and seabed.

Senator MALONE. As a matter of fact, our legislation just passed made the exceptions. Under the Supreme Court decision the exception was not made. The Supreme Court fixed the boundary all right.

Senator DANIEL. No, sir, it did not fix the boundary at all. It did not comment on the boundary except to follow the boundaries that we had established. It was only as to ownership of the land that the Supreme Court rendered its decision. It did not pass on the boundary.

Senator MALONE. That is right. The land belonged to the Government instead of the States. What you are complaining about it is that if we take 27½ miles or 3 miles, we are going beyond the 3-mile limit and therefore every other nation can do the same thing; is that what you are complaining about?

Mr. HARDEE. That is what we are afraid will happen.

Senator MALONE. We cannot very well pass legislation now that will take this away from you.

Senator DANIEL. We can pass legislation now that will make it clear that beyond the 3 miles on the Atlantic and Pacific and 3 leagues on the Gulf coast that the water shall remain high seas. That is the way I understand he is asking for it.

Senator MALONE. In the case of Texas. What about Louisiana?

Senator LONG. Louisiana is going to be in court about that. They will probably claim 10 miles. That is a question of whether their boundary actually goes out 10 miles.

Senator MALONE. You are claiming more than 3?

Senator LONG. Yes.

Senator DANIEL. The Holland bill limits Louisiana and everybody else on the gulf coast to 3 leagues. That is the most they can claim.

Senator MALONE. That is what you are complaining about. We broke the 3-mile limit and therefore Mexico could do it.

Mr. HARDEE. We are not complaining about that. That is an exception.

Senator MALONE. Is that not what Mexico says, they are an exception, too?

Mr. HARDEE. I am not an attorney. The policy of the United States, as I understand it, has been as far as the high seas is concerned with the balance of the world, the 3-mile limit.

BREAKING A PRECEDENT

Senator MALONE. The point that you are complaining about is that we have now broken the 3-mile limit. Therefore, it gives Mexico or any other nation an equal right or at least a loophole to not only claim maybe 10½ miles but to claim any amount they want to claim. They just say the 3-mile limit no longer applies.

Mr. HARDEE. The way I understand it is that we have not yet broken it because the claims of Texas and Florida have to be established, so to speak, but we are afraid that possibly the other countries, essentially South America, will take advantage of their proclamation as they already have and extend their limit out to 100 miles; and who in the world is going to protect us?

Senator MALONE. Then let me rephrase this. What you have just said was that the Supreme Court recognizes the claims of Louisiana and Texas out to 10 miles. If we do recognize beyond the 3-mile limit, it turns the other nations loose.

Mr. HARDEE. Yes, sir.

Senator LONG. May I make this point for the record here? If my State boundary goes beyond the 3 miles, it is not the action of the State government but the action of the Federal Government that is responsible for it. For example, the act that we passed gave the States the historic boundaries that were established and recognized by the Congress of the United States. Here is a map based on the Treaty of Guadalupe Hidalgo——

Senator MALONE. If we had not passed the legislation, perhaps the 3-mile limit would have remained intact.

Senator LONG. That is the point I am getting to. Here is a map based on the Treaty of Guadalupe Hidalgo. As Senator Daniel pointed out, when Texas was admitted to the Union the United States was claiming a 3-mile limit. The United States guaranteed the Texas boundary of 3 leagues. When the United States negotiated with Mexico for their boundary, they were instructed to negotiate for a 3-league boundary between the United States and Mexico in recognition of the previous act of the Texas Legislature that had fixed this boundary at 3 leagues while Texas was an independent nation.

So later when our State Department protested that Mexico was seizing shrimp boats within the 10-mile limit, Mexico replied we had recognized the 3-league limit and bargained for it. My understanding was that Mexico at the time we were negotiating this treaty had not up to that time claimed the 10½-mile limit. So it was actually the United States of America that bargained with Mexico to fix a boundary line at 3 leagues in the sea.

Mexico pointed out that it was our idea, not their idea—this 3-league boundary. So Mexico to this day tells the United States that we have

no right to complain about their 10½-mile boundary because we were the ones that negotiated that, not the State but the Federal Government.

Senator MALONE. They have something there.

Senator LONG. Yes; they have a treaty to show it. Now, someone in the State Department under recent date attempted to argue that is not what it meant. They say it does not mean what it says, that the only purpose in fixing the 3-league boundary out there was for certain customs purposes or something of that sort.

Senator MALONE. It looks to me like you are 10 days late. We already passed that legislation. I do not know how we can recall it. The President probably would not even send it back if we asked for it.

Mr. HARDEE. We are not asking for that legislation to be changed. We are asking for some way it can be clarified to take us out.

Senator DANIEL. Senator, you see, even if you assume that the Holland bill confirms 3 leagues as the boundary in the Gulf of Mexico, which it does, for the States that had them established there at the time they entered the Union or as approved by Congress, and that Mexico under the Treaty of Guadalupe Hidalgo is right in claiming a 3-league boundary that covers only 3 leagues, or 10½ miles, since then Mexico asserted claims way on out to the Continental Shelf to the waters beyond this 10½ miles. At least we can meet his request that our legislation be fixed so that it does not declare a United States policy of exclusive rights in the high seas beyond 10½ miles.

Senator MALONE. I see your point perfectly. But we could not do anything with Mexico once we broke loose. They will say, "Now, you have started out. You have gone out 100 miles. Give us 100 miles, too."

Senator DANIEL. They have precedent in the Gulf of Mexico, nobody claiming more than 3 leagues. When the United States claimed out to the outer edge of the Continental Shelf, it limited its claim to the seabed and subsoil and said that the waters above shall remain high seas. That is what we think Mexico should do.

Senator MALONE. Well, you think the Secretary of State is perturbed because he does not understand this situation? Maybe you could explain it to him. The record will be available to him.

Mr. HARDEE. Unfortunately, I am not of a legal mind.

Senator MALONE. I do not see how we can do much with legislation we have already passed. You see, if we had not passed this legislation, then that would be a little bit different. We passed that legislation. Even I give it up now.

Mr. HARDEE. Could it be inserted in this Cordon bill?

Senator MALONE. Whether they would be bound by that or not would be Mexico's business.

Mr. HARDEE. Certainly it would give us a little ammunition, more so than we have now.

Senator MALONE. Your testimony is in the record now and it will be available to Senator Cordon tomorrow, who is now in the Appropriations Committee. You can discuss it with him. You can see what the situation is. If the committee can see its way to clarify it, it will.

Senator DANIEL. For the sake of the record, Mr. Hardee, who are the people in the State Department that gave you this information that you testified about, not knowing what the policy is now, as set by Congress?

Mr. HARDEE. Some people are concerned about this; there is one man that we come in contact with, Mr. William C. Herrington.

Senator DANIEL. Is he located here in Washington?

Mr. HARDEE. Yes.

Senator DANIEL. Have you talked with him about it?

Mr. HARDEE. I have talked with him about it, yes.

Senator DANIEL. What other officials or lawyers of the State Department have told you this?

Mr. HARDEE. Told me what, Senator?

Senator DANIEL. On page 4 of your prepared statement you say the lawyers of the State Department have told you that they do not know what the submerged-land bill has done to United States territorial-waters policy. It is down at the bottom of page 4.

Mr. HARDEE. I think that what they really meant was that it was not clarified enough for them to go ahead and take the same position.

Senator DANIEL. Who were those lawyers of the State Department, anybody in addition to Mr. Herrington?

Mr. HARDEE. Mr. Herrington is not in the legal department over there. I am trying to recall the fellow's name.

Senator LONG. Would that be Mr. Tate?

Senator DANIEL. Well, Mr. Herrington would know who else had communicated with you.

Mr. HARDEE. Yes.

Senator DANIEL. Did they communicate with you by letter?

Mr. HARDEE. No; it was just a roundtable talk and so forth.

Senator DANIEL. Did you contact them or did they contact you on it?

Mr. HARDEE. Mr. Herrington is very close to the fishing industry. That is one of the duties he has. When I got in Washington I contacted him and let him know I was in town, and so forth. From there we have been together a couple of times.

Senator DANIEL. Had he previously contacted you on the subject by phone or letter?

Mr. HARDEE. Mr. Herrington?

Senator DANIEL. Yes.

Mr. HARDEE. No, sir.

Senator DANIEL. When was the first that you knew that the State Department lawyers were worried about this matter? After you got here to see Mr. Herrington or before?

Mr. HARDEE. On this paticular matter?

Senator DANIEL. Yes.

Mr. HARDEE. Because the State Department has been, I would not say worried but rather vague on what their duties were for quite some time, even on this last seizure.

Senator DANIEL. I am talking particularly about the effect of the bill we just passed and the State Department attorneys in view of that bill not knowing exactly what had been done as to the United States territorial water rule. When did you first learn that they were in doubt about it?

Mr. HARDEE. After I arrived in Washington.

Senator DANIEL. Have you talked with anyone, or did you have any communication from or with the State Department officials before you got here in Washington, since January of this year?

Mr. HARDEE. On this particular problem?

Senator DANIEL. Yes.

Mr. HARDEE. My only communication with Mr. Herrington has been since the first of the year, was on this seizure last month. I contacted him on that.

Senator DANIEL. Now on page 2 you say:

We are informed by the Department of State that it is seriously disturbed that such a change of policy is being forced upon it.

Who informed you of that? I want this for the record so we might know with whom to check in the State Department on this.

Mr. HARDEE. I have been in contact all the time with Mr. Herrington. I do not know what his official capacity is over there, but he represents the fishery to a great extent.

Senator DANIEL. He has told you they are seriously disturbed about it?

Mr. HARDEE. Yes.

Senator DANIEL. About a change of policy as to the 3 miles in the Gulf of Mexico, is that right?

Mr. HARDEE. As to being affected by the change of policy on the high seas as we know it on a world basis, not specifically the Gulf of Mexico but the balance of the world.

Senator DANIEL. Through any means did you know they were disturbed about anything we had passed before you got here?

Mr. HARDEE. Speaking of the tidelands bill?

Senator DANIEL. Yes.

Mr. HARDEE. No, sir.

Senator DANIEL. Anybody else in the State Department you think we should contact on this subject?

Mr. HARDEE. I do not know of anyone.

Senator MALONE. Any further questions?

A letter has just been called to my attention from the Assistant Secretary of State, Thruston B. Morton, in response to a letter from the chairman of the committee, Senator Butler. It is dated March 4. It starts out:

Reference is made to your letter of January 28, 1953.

Then skipping the first part of the letter which is not pertinent to your question, in the third paragraph, picking up the pertinent parts of it—

And it is becoming evident that its fishing interests depend in part, and may come more so to depend in the future, upon fishing resources in seas adjacent to the coasts of foreign states.

That is your point?

Mr. HARDEE. Yes.

Senator MALONE. The next paragraph:

Pursuit to its policy of freedom of the seas, this Government has always supported the concept that the sovereignty of coastal States in seas adjacent to their coasts (as well as the lands beneath such waters and the airspace above them) was limited to a belt of waters of 3 miles width, and has vigorously

objected to claims of other States to broader limits. In the circumstances, the Department is much concerned with the provisions of Senate Joint Resolution 13 which would permit the extension of the seaward boundaries of certain States of the United States beyond the 3-mile limit traditionally asserted by the United States in its international relations.

Such an exension of boundaries would compel this Government, now committed to the defense of the 3-mile limit in the interest of the Nation as a whole, to modify this national policy in order to support the special claims of certain States of the Union, for obviously, the territorial claims of the States cannot exceed those of the Nation.

Likewise, if this Government were to abandon its position on the 3-mile limit it would perforce abandon any ground for protest against claims of foreign states to greater breadths of territorial waters. Such a result would be unfortunate at a time when a substantial number of foreign states exhibit a clear propensity to break down the restraints imposed by the principle of freedom of the seas by seeking extensions of their sovereignty over considerable areas of their adjacent seas.

A change of position regarding the 3-mile limit on the part of this Government is very likely, as past experience in related fields establishes, to be seized upon by other states as justification or excuse for broader and even extravagant claims over their adjacent seas. Hence a realistic appraisal of the 3-mile limit until such time as it is determined that the interests of the Nation as a whole would be better served by a change or modification of policy.

It should be noted, moreover, that the interest of the United States in resources in the high seas has nowise been affected by its adherence to the 3-mile limit of territorial waters. The Claim of the United States in the President's Proclamation of September 28, 1945, to jurisdiction control of the natural resources of the suboil and seabed of the Continental Shelf beyond the limit of its territorial waters has not been questioned. These resources were thus secured without recourse to an extension of its territorial waters and as a result, navigation in the high seas off its coasts remains free and unimpeded as befits this country's dedication to the principle of freedom of the seas and in sharp contrast to the actions of some foreign states which sought the same result by assertions of sovereignty over immense areas of the high seas.

It is the view of the Department, therefore, that the proposed legislation should not support claims of the States to seaward boundaries in excess of those traditionally claimed by the Nation i. e., 3 miles from the low-water mark on the coast. This is without reference to the question whether coastal States have, or should have, rights in the subsoil and seabed beyond the limits of territorial waters.

I think you have made yourself clear, Mr. Hardee. The evidence is before the committee and it will all be considered when a bill is written up. We thank you kindly for your appearance here.

Mr. HARDEE. Thank you, sir.

Senator MALONE. If you have nothing further to offer, you can submit a further memo as part of your testimony.

Mr. HARDEE. I think there will be some other witnesses from the industry.

Senator LONG. Do you know of any conflict between the fishing industry and the oil industry at the present time with regard to the development of the outer Continental Shelf.

Mr. HARDEE. No, sir, to my mind there is no conflict whatsoever.

Senator MALONE. Then we stand adjourned and will meet here at 10 o'clock tomorrow morning.

(Whereupon, at 1:20 p. m., a recess was taken until 10 a. m. tomorrow, May 21, 1953.)

OUTER CONTINENTAL SHELF

THURSDAY, MAY 21, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met pursuant to recess at 10:15 a. m. in the committee room, 224 Senate Office Building, Washington, D. C., Senator Frank A. Barrett presiding.

Present: Senators Eugene D. Millikin, of Colorado; Thomas H. Kuchel, of California; Frank A. Barrett, of Wyoming; Clinton P. Anderson, of New Mexico; Russell B. Long, of Lousiana; Henry M. Jackson, of Washington; and Price Daniel, of Texas.

Also present: Senator Lyndon Johnson of Texas; Kirkley S. Coulter, chief clerk; Stewart French, staff counsel; and N. D. McSherry, assistant chief clerk.

Senator BARRETT. The meeting will come to order, please.

The first witness will be Mr. Fred LeBlanc, the attorney general of Louisiana.

Will you please give the reporter your full name and title?

STATEMENT OF FRED S. LeBLANC, ATTORNEY GENERAL OF THE STATE OF LOUISIANA, ACCOMPANIED BY ASSISTANT ATTORNEY GENERAL JOHN L. MADDEN, BATON ROUGE, LOUISIANA

Mr. LEBLANC. My name is Fred S. LeBlanc. I am the attorney general of the State of Louisiana. My residence and official domicile is in the city of Baton Rouge, La.

Mr. Chairman and gentlemen of the committee, I have a prepared statement here which I want to offer for the record.

Senator LONG. I wish you would present your statement, Mr. LeBlanc, because I have not had a chance to read it.

Mr. LEBLANC. Mr. Chairman, if it meets with the approval of the committee, I will attempt to summarize my statement in order to save time. If you would rather that I read it, Senator, I would be happy to do so.

Senator LONG. I would like you to go over it because I want to ask you some questions on it. I do not believe it is too long.

Senator BARRETT. Would you prefer to read your entire statement and answer questions after you have read it?

Mr. LEBLANC. I would prefer that and if it meets with the approval of the committee, I would like for Mr. John L. Madden, my assistant, who has been the legal adviser of the State mineral board for perhaps the last 8 years and Mr. C. J. Bonnecarrere, secretary of the State

mineral board, to be seated at my side here because I can anticipate that possibly there will be many questions asked of me which I will not have personal knowledge of and these other two gentlemen will have.

Senator BARRETT. That will be perfectly satisfactory. Will you come forward, Mr. Madden and Mr. Bonnecarrere?

Senator ANDERSON. Is there an extra copy of the Texas testimony yesterday? We heard where all the States waived their claims to the Continental Shelf except for policing. I understand the Texas testimony was quite different from that yesterday and I assume that the Louisiana testimony is going to be different today. I would like to have a copy, if you have an extra copy.

Senator BARRETT. We have a copy. I do not think you will find anything in the statements to that effect.

Senator ANDERSON. Thirty-seven and a half percent of the royalty which is the most anybody ever heard of them asking for. Isn't that correct?

Senator BARRETT. I think the testimony yesterday, to be fair about it, was to the effect that while they think that would be fair and equitable, nevertheless they would much prefer that the States had the power to exercise their police power and conservation power, whether they received any compensation or not. Am I right?

Senator LONG. Yes.

Senator ANDERSON. The Honorable Overton Brooks put into the record yesterday a statement indicating Louisiana's point of view. I am very anxious to know whether what Mr. Brooks put in the record is Louisiana's point of view or is not and who does present the Louisiana point of view.

Senator BARRETT. You will have an opportunity to interrogate three of these gentlemen.

Senator ANDERSON. Are you in a position to present the Louisiana point of view or is somebody else in a position?

Mr. LEBLANC. I can only answer your question this way: I am chief legal adviser of the State of Louisiana. Under the constitution it is my duty to protect the interests of the State at all times. I give my views here in that capacity.

Senator ANDERSON. Does Governor Kennon hold different views?

Mr. LEBLANC. I do not think he does. I believe it is his intention to appear before this committee at this hearing to testify.

Senator BARRETT. Mr. Madden, will you give the reporter your full name?

Mr. MADDEN. My name is John L. Madden, assistant attorney general of the State of Louisiana, with personal residence and official domicile at Baton Rouge, La.

Senator BARRETT. Now, Mr. Bonnecarrere.

Mr. BONNECARRERE. I am C. J. Bonnecarrere, secretary of the State Mineral Board of Louisiana, and also reside at Baton Rouge, La., where my official domicile is located.

Senator BARRETT. Mr. LeBlanc, you may proceed with your statement.

Mr. LEBLANC. Mr. Chairman and members of the committee, I am Fred S. LeBlanc, attorney general of the State of Louisiana, with personal residence and official domicile at Baton Rouge, La.

With your leave, Mr. Chairman and members of the committee, I would like Mr. John L. Madden, my assistant, and Mr. C. J. Bonnecarrere, secretary of the State Mineral Board of Louisiana, to sit at my side and assist me in answering such questions that you might see fit to propound in connection with my testimony. I not only wish to facilitate the answering of your questions by having them present but I hope that our collective appearance will be a means of saving the committee appreciable time.

We do not appear here as opponents of the proposed legislation but subscribe fully to the underlying philosophy of S. 1901. We join with all other States of the Union in urging this committee to report a bill which, if enacted by Congress and approved by the President, will make the orderly development of natural resources in the outer Continental Shelf a long-awaited reality. Realizing the magnitude of the task which confronts the committee and desiring above all to assist the committee as much as possible in the effort you are making to find both a practical approach and a legal solution to the grave problem involved, we sincerely hope that our appearance shall be regarded more in the light of overall helpfulness than a gesture to promote the peculiar interests of the State of Louisiana.

At the time of preparing this statement, some 4 or 5 witnesses, in addition to the 3 of us, have been placed in readiness to speak for Louisiana. Not only are we hopeful that time will permit of their testimony but that the hearings will continue long enough for this unprecedented piece of legislation, dealing as it does with a new concept of national sovereignty, to be thoroughly considered.

Inasmuch as we propose, with leave of the committee, to offer expert witnesses in the fields of maritime jurisdiction and international law, respectively, we shall strive to confine the legal phases of our discussion to the general pattern and scope of State-made law with which we are more familiar.

Perhaps the first, but not the most important, thing we should do is to clarify 2 or 3 points that have been brought to the committee's attention. We refer to the imposition of severance taxes on natural resources extracted from submerged lands lying off the Louisiana coast, and to the inclusion of minerals, generally, in oil, gas, and mineral leases granted by the State of Louisiana.

Permit me to assure the committee that the discovery of oil and gas in areas seaward of the Louisiana coast did not inspire the State to levy severance taxes. That form of taxation was provided for in 1921 when our last constitution was drafted and approved. Such taxes are imposed on timber, sulfur, other minerals, oysters, and shrimp, and apply to products severed from all lands and water throughout the limits of the State, whether publicly or privately owned. The revenues from such taxes have been the means of furnishing free schoolbooks and supplies to schoolchildren and have enabled both the State and its parishes to construct many public buildings.

Senator LONG. Are those mainly school buildings?

Mr LEBLANC. To the best of my knowledge, Senator, that is correct.

Senator LONG. Is not all your severance tax on oil and gas in Louisiana dedicated to education?

Mr. LEBLANC. I do not think that is correct.

Senator ANDERSON. These are not all public-school buildings. As a matter of fact, all types of public buildings are financed from this.

Mr. LEBLANC. Yes.

Senator ANDERSON. In other words, it is just a general State use of the money.

Mr. LEBLANC. I would say a larger portion of it has gone to finance the supplying of schoolbooks and school supplies.

Senator ANDERSON. That might be true anywhere, but the point is that the building of public buildings is a State responsibility and this has been used out of the State pocketbook.

Mr. LEBLANC. That is true to some extent.

Senator MADDEN. Mr. Chairman, may I add to what the Senator has said? I think that he is substantially correct, but the way it is broken down is that a portion of the funds are returned to the parishes within which the products are severed and as you say, they build public schools. They might build a courthouse or they might build so-and-so. Then the State uses a portion of that money. My understanding is that when the new buildings of LSU, Louisiana State University, were constructed, the State used a great deal of that money toward that construction. Then another portion is dedicated to take care of schoolbooks and supplies free to schoolchildren.

Senator ANDERSON. Now, under what theory do you return a portion to the county from which the oil was severed?

Mr. LEBLANC. Simply on this basis, I assume, Senator, that inasmuch as these products came from that particular parish, they were there, then on that theory, they being severed and causing a depletion in that particular area, then it would seem just that a portion be returned to those parishes.

Senator ANDERSON. I am glad to hear you say that because the severance tax you are collecting on the Continental Shelf is land belonging to all the United States, and it would be as just to return the severance tax to the United States in that instance as to return it to the county from which it was severed. I am glad to have that assurance that is the basis on which it is done.

Senator LONG. Does the property from which this oil and gas is severed in Louisiana belong to the parish in that instance?

Mr. MADDEN. No, not necessarily.

Senator ANDERSON. Not the mineral rights?

Mr. MADDEN. The mineral rights may be leased to the private persons and it may be State land or it may be private land. It is very much like the action taken by the conservation commission in dealing with allowables and proration on any land regardless of whom it belongs to. Now, I would say this, it could be that some of the lands from which these natural resources are severed belong to the parish.

Senator ANDERSON. But you did not do it on that basis at all. You did it on the fact it was a geographical area in there whether the land belonged to the parish or individual. Since it was severed within that parish, you return the money to the parish?

Mr. LEBLANC. That is correct.

Senator ANDERSON. Beyond the seaward boundaries where it is solely the dominion of the United States on what theory would you hold that?

Mr. LeBlanc. I would not hold that.

Senator Anderson. You are holding it.

Mr. LeBlanc. Senator, when we are getting along with this statement, and this is why we said we wanted it clarified, I think you will see what we are doing now and have attempted to do since the decree in the Louisiana tidelands case.

Now, we might say this, that inasmuch as the Supreme Court held that the State of Louisiana had no title to, or proprietary interest in, certain lands but the United States had paramount rights over it, then of course when that was done and said, decreed, then we could not any more legally collect a severance tax there than you could collect rentals and royalty.

Senator Anderson. But you are collecting it to this very day.

Mr. LeBlanc. I do not think so, Senator.

Senator Anderson. What makes you say you do not think so when the oil companies are willing to stand here and testify you are collecting it every day. Why do you say you do not think so?

Mr. LeBlanc. The statement will bear that out here as to what our understanding is.

Senator Anderson. The representative of the Humble Oil Co. was here. I asked him the direct question, also and some representatives of other oil companies. Their answer is entirely uniform, "We are now, today, paying severance taxes to the State of Louisiana," and everybody in Louisiana knows it. Why do you not know it?

Mr. LeBlanc. I do not think that that is—I say this, I am using the word "opinion"—I do not think that that is correct.

Senator Anderson. Who can testify?

Mr. LeBlanc. That is the point I want to suggest. I will be very happy, if you wish, Senator, the Chairman, to have the collector of revenue of the State of Louisiana prepare a statement.

Senator Anderson. He can testify, can he not? You cannot read that letter in this record and tell what he means. I have made the statement openly several times that the State of Louisiana today is collecting this revenue. The representative of the Humble Oil Co. stood here and said today it is paying this tax to the State. We can bring in any number of oil companies that will say that. Why will you not let somebody from Louisiana testify on this?

Mr. Madden. I will tell you what we can do, Senator. I think if the chairman will send a telegram to Mr Rufus W. Fontenot, Collector of Revenue of the State of Louisiana, and ask that he appear here and give testimony in that regard, I feel sure he will come. I rather think it might be a little more appropriate for the committee chairman to send a wire than it would be for Mr. LeBlanc or I to send it.

Senator Anderson. But you do not know of your own knowledge whether the State is now collecting severance tax?

Mr. LeBlanc. I do not of my own knowledge, because I have not seen the books and records of that particular department.

Senator Anderson. Do the leases call for payment of severance tax?

Mr. LeBlanc. No, sir.

Senator Anderson. They do not?

Mr. LeBlanc. No, sir. That is just a part of the law, just like you do not write the conservation laws in the leases. Now, I want to say this, too. You might say why do you not know more about that par-

ticular thing. The reason for that is that very largely is that bonuses, royalties, and rentals under State leases are collected by the register of State land office. The Attornel General and his staff exclusively handle the work of that particular State officer. We know always very closely about what is going on because so many problems come to us.

Now, the Department of Revenue of the State of Louisiana has an attorney and only in some isolated circumstances will he call upon us for information or views on matters of that sort. That is why we are not quite as familiar with the Department of Revenue.

Senator BARRETT. You asked for the privilege of reading your statement entirely before being interrogated. Is the committee agreeable?

Senator ANDERSON. I did not understand that.

Senator KUCHEL. I wonder in the interest of time since the text of the statement is before us—I have had an opportunity to skim through it—whether we might have it filed in the record, Mr. Chairman, and proceed to develop some of the points that are alluded to in the statement.

Senator LONG. I have not had occasion to read it. If the chairman wants to follow that procedure, he can, but up to now every witness has presented his statement.

Senator BARRETT. We will permit him to proceed without interrogation so he can get through with it.

Senator ANDERSON. I had not understood that he had made that request. Go right ahead.

Mr. LEBLANC. No justifiable complaint can be made that such taxes impose too heavy a financial burden on the oil and gas industry. Section 21 of article X of the Louisiana Constitution provides for the levy of taxes on natural resources severed from the soil or water. We quote the first sentence appearing in the second paragraph of said section:

> No further or additional tax or license shall be levied or imposed upon oil, gas, or sulphur leases or right, nor shall any additional value be added to the assessment of land, by reason of the presence of oil, gas, or sulphur therein or their production therefrom.

As far as we know, Louisiana has collected severance taxes on oil and gas severed from submerged lands seaward of our coast to the same extent and for the same duration of time that the State has collected bonuses, rentals, and royalties under oil, gas, and mineral leases affecting such areas; that is to say, as far as our knowledge goes, the State made no more effort to collect severance taxes than it did to collect rentals and royalties, affecting lands over which the Federal Government held paramount rights, after the decree of the United States Supreme Court in the so-called tidelands suit brought by the United States against the State of Louisiana.

It may be observed additionally that severance taxes are imposed upon the working interest which only, in most cases, represents a seven-eighths interest. Obviously the State pays no severance taxes on its portion of the oil and gas extracted from the soil and its royalty is not lessened at all. We know of no instance in which bids for State oil, gas, and mineral leases have been affected by the imposition of severance taxes. An oil company gives about as much consideration to that factor in acquiring an oil, gas, and mineral lease as a prospec-

tive homeowner does in purchasing a building lot abutting a street which may be paved eventually causing assessments to be made against the lot and improvements on a front-foot basis of cost contribution.

It can be pointed out, however, that many of our State lessees will reap substantial benefits, never anticipated before the decree in the Louisiana tidelands case, if section 6 of S. 1901 remains the same and is accepted as an integral part of any bill which Congress adopts on the general subject. Having accepted such leases, knowing that severance taxes would have to be paid on oil and gas severed from the areas leased, they would be completely liberated from that character of taxation in the event of future discovery and production of oil and gas in the outer Continental Shelf. There could very well be production in areas only a half mile or a mile apart off the Louisiana coast where severance taxes would be eligible in one of such areas and not collectible in another.

It was brought out in the hearings on Monday, May 18, 1953, that Louisiana leases, as distinguished from all or most leases with which section 6 of S. 1901 deals, cover other minerals in addition to oil and gas. This is entirely true, except that our office has rendered opinions to the effect that "all other minerals" excludes those on the surface of the land, of which sand, gravel, and shells are examples, but do cover and apply to all minerals which are found and produced by drilling or mining.

Except that the State, following the general form of private commercial lease instruments, saw fit to prescribe by statute that all other minerals in addition to oil and gas be included in its leases, no good and sound reason can be found for making State leases so comprehensive as to rights conferred. Indeed, we can visualize impractical results in granting that type of lease. Due to statutory requirements affecting the offering of bids, a Louisiana lease of the character mentioned must include oil, gas, and "other minerals." If, for example, a prospective bidder is only interested in sulfur rights, he would be obliged in most instances to offer a substantial cash bonus for oil and gas rights in order to acquire sulfur rights.

This leads us to make the following observation. While we take the position that State laws should apply to drilling and production areas of the outer Continental Shelf, unless such laws conflict with those of the United States or the regulations to be prescribed by the Secretary of the Interior, certain littoral States may see the wisdom of changing their laws in certain respects, within constitutional limits and without injuriously affecting State policy and its general welfare, in order to approach greater uniformity of State laws applying in such areas as a whole and in order to aid the Federal Government in carrying out the fundamental philosophy of the development program to be launched in the outer Continental Shelf.

Many important factors appear to dictate the advisability, if not the absolute necessity, of applying as much State law as possible to drilling and production operations in the seabed of the outer Continental Shelf. Experts in maritime law and international law, respectively, have explored this field in prior testimony and will discuss as the hearingss progress, certain questions which relate to the legal possibility of extending State laws and the jurisdiction of State courts to such areas, and we shall not go into those questions and prefer, for

lack of experience in such jurisdictional matters, not to be questioned on such phases of the general subject.

Mr. William Murray, a member of the Texas Railroad Commission, has heretofore stated sound reasons to the committee in support of the proposition that State conservation laws, under State direction and enforcement, should be extended to cover the areas heretofore mentioned.

The very fact that bases on the mainland initiate, direct, and make operations possible suffices to show that the application of State laws generally in such areas is highly advisable. We have reference in part to sanitary codes, health regulations, and other elements of police power. It does seem incongruous and irrational that scores of workmen should be subjected to a miscellany of Federal laws, stretched out of proportion to cope with a new concept of national sovereignty and the exercise thereof, part of a week or a 10-day period and then be governed by State law for the remainder of the week or a 10-day period.

It is our contention that the general pattern of State laws is better suited to operations of the character to be conducted and to the everyday lives, human relationships, and conduct of the workmen involved. If this assertion inspires doubt, let us ask ourselves what would happen, if, all of a sudden, State laws should be abolished on the mainland where oil and gas well are being drilled or where such products are being extracted, to be superseded entirely by Federal laws? The question is not irrelevant, for the same general character of operations would be conducted, the same objective would be sought, and laborers would work there and reside with their families beyond the drilling or production area.

While we have announced the positive intention of staying clear of the interpretation of maritime law and international law, respectively, we would like to discuss problems of venue and the jurisdiction of courts and a brief and superficial manner, assuming that Mr. Peter W. LeRoux, assistant counsel of this committee, and certain lawyers of the Federal Government have correctly explained section 4 of S. 1901 and the legal implications and consequences thereof.

There is no doubt but that the draftsmen of section 4 of S. 1901 have done an excellent job of legal research and use of appropriate language, and we think that Mr. LeRoux is deserving of high commendation for his memorandum to this committee and for the exceeding candor with which he answered questions put to him by the committee. But pretermitting such abnormal reckoning as making a drilling platform a "vessel of the United States" and of making the drilling of an oil well, far at sea, the same character of work and employment as that of unloading cargo at harbors and ports on the mainland, we pause to discuss, briefly and superficially, questions of venue and jurisdiction of courts.

Truly, Mr. Chairman and members of the committee, this is a relief bill for admiralty practitioners, provided they can find out the court or courts in which they must practice, and we feel certain that hereafter, if S. 1901 is adopted as drafted, such landlubber students of law as I once was will study maritime law with zest and enthusiasm and not with the purpose in view of merely passing the course as one of the requirements for a certificate to practice law in Louisiana.

As section 4 of S. 1901 has been explained to us, certain misunderstandings resulting from the development of natural resources in the outer Continental Shelf, abutting the maritime belts of Texas and Louisiana, could put courts to work in Delaware, New York, California, Washington, Oregon, Massachusetts, and divers other States, if not simultaneously, then separately. But conceding, for argument sake, that litigation of controversies would not overburden those particular courts, we have cause to wonder how the four hard-working judges of the United States District Court for the Eastern and Western Districts of Louisiana are going to react to S. 1901, if, as drafted, it is enacted into law. We do not think that they would like the prospect of conducting a veritable "police court," even with assurance given, and we doubt that it will be that their number is to be multiplied by 2, 3, or 4.

We come now to consider the economics of the proposed legislation. We consider it highly possible that the littoral States may be called upon to aid the Federal Government in the ambitious leasing program envisioned. The application of State law and the enforcement thereof involve something more than the national welfare. True, existing agencies of the States can apply and enforce State laws at less expense than the Federal Government. But in the spirit of fairness, should only one State; namely, the State of Louisiana, beyond whose abutting limits oil and gas have only been discovered in the outer Continental Shelf, foot a substantial portion of the bill to make the development program in the outer Continental Shelf a successful undertaking for the entire Nation and all of the people thereof?

We want the responsibility of aiding the Federal Government in this ambitious program. Indeed, we fail to see that we could escape that duty, appreciating as we do the unity of the States and their people in the community of interests.

Apart from the cost of administering State laws in the areas affected, there are certain definite contributions which the States are bound to make to the overall program contemplated, whether State laws be applied or not in the areas affected.

As time goes on thousands of workmen in the outer Continental Shelf will bring their families with them to Louisiana. Placing wives and children in comfortable homes, if available, and in adjusting them to Louisiana's benevolences will be the first thought of the workmen in this area.

Oil companies will use our highways and roads to transport heavy machinery and equipment to supply bases.

This will materially increase the cost of construction and maintenance of thoroughfares, particularly in marsh territory where road and bridge building and maintenance involve costs which stagger the imagination. Louisiana excels in charity hospitals and free hospitalization. Families of workmen and the workmen themselves will use those facilities. Such hospitals are not going to inquire into the impecunious circumstances of workmen and their families when accidents occur, immediate medical care is essential, and the saving of precious lives is necessary.

There is another thing sure. If more judges are not named to the benches of the United States District Court in Louisiana to handle a

substantial increase in civil and criminal matters, the State of Louisiana must increase the number of district judges of State courts and prepare to pay the salaries of such judges.

Substantial increases in the number of school children will impose a tremendous burden on our school system and the State finances. At this point we would like to file a letter in the record of these hearings, addressed to Hon. Hugh Butler, chairman of this committee, from Mr. George B. Benton, Jr., supervisor of finance, of the Louisiana Department of Education. I ask permission to read the letter.

Senator BARRETT. Without objection, you may do so.

Mr. LEBLANC (reading):

MAY 15, 1953.

Hon. Col. HUGH BUTLER,
Chairman, Senate Interior and Insular Affairs Committee,
Washington, D. C.

DEAR COLONEL BUTLER: At the request of the Honorable Fred S. LeBlanc, attorney general of the State of Louisiana, I am submitting information concerning the educational program in the State of Louisiana.

The cost per pupil of average daily attendance for instructional purposes amounted to $216.53 (white and Negro) for the fiscal year 1951–52. It has been estimated by this department that the cost per pupil (white and Negro) for the current session (1952–53) will be approximately $235.

These figures do not take into consideration anything for capital outlay; including equipment, supplies, and physical facilities. Today many of our parish school boards are in dire need of additional classrooms due to the tremendous increase in the number of children enrolling in our schools. According to the surveys which have been made by this department, this increase will continue on the upgrade until approximately 1960. The parishes that will be directly affected by the offshore drilling have taxed their people the full millage allowed under the State constitution, therefore, they are not in a position to provide additional housing facilities sufficient to take care of the continuing increases in enrollment unless additional help is obtained from some other source.

There exists today a shortage of qualified teachers in the elementary schools and this number will no doubt be increased in those parishes bordering on the gulf in view of the fact that new families will be moving in when the actual drillings begin.

If we can provide any additional information or statements, please let me know.

Sincerely yours,

GEORGE B. BENTON, Jr.,
Supervisor of Finance.

Mr. Benton failed to say in his letter that the State of Louisiana is required to furnish free schoolbooks and supplies to all schoolchildren. If we are deprived of severance taxes in the outer Continental Shelf, which normally would serve this financial need, we must either draw upon the revenue derived from severance taxes imposed in all areas within the States boundaries, or look for other sources of revenue.

The House of Representatives, appreciating our problem to some extent, made it possible under its recently enacted bill to reimburse the States for costs. This was a magnanimous gesture except that specific costs were not mentioned in the bill or any basis upon which the reimbursement of costs could be predicated.

Assuming that the committee will appreciate the aforementioned prolems of the contributing States, we can only suggest three possible solutions: (1) Authorization to the several States to levy severance taxes in such areas; (2) a reasonable share in the proceeds from leases and production; or (3) the payment of a definite sum of money periodically.

Before we conclude, we think it advisable to lay some stress upon paragraphs (2) and (3) of section 6 of S. 1901. With no intent to penalize lessees of the State or to impede the Federal Government in its development program, caution is given that some difficulty may result from that provision in S. 1901 which requires a State official or agency to certify that a State lease was in force and effect on June 5, 1950, in accordance with its terms and provisions and the law of the State issuing it.

We have already had definitive litigation in the Supreme Court of Louisiana in which a decision was rendered that oil and gas lessees of the State could not be given judicial relief from rental payments and other obligations under their leases, pending action by Congress. We feel certain that no agency of the State of Louisiana will certify to the validity of any State lease covering submerged lands in the outer Continental Shelf as of June 5, 1950, unless, first, annual rentals due under the lease contract were paid to the State of Louisiana on that date, and, second, the lease was kept in effect by reasonable development. Beyond all this it is fairly certain, under the decision and decree in the Louisiana tidelands case, that no oil, gas, and mineral lease covering submerged lands in the outer Continental Shelf beyond State boundaries was valid and effective prior to December 21, 1948, or on June 5, 1950, under Louisiana law.

We are not undertaking to scare oil companies who, in good faith, have paid substantial sums of money to the State of Louisiana for oil, gas, and mineral leases. On the contrary, we say in their behalf and for the purpose of making section 6 of S. 1901 workable, that it might be more appropriate for Congress to validate invalid leases than to expect the State of Louisiana to certify that leases were valid and in full legal effect on some particular date in accordance with State law and the terms of the lease contracts.

We can appreciate that certain legal argument can be made to sustain the contentions of the lessees involved that certain leases were, in fact, valid on the date mentioned above; however, the Louisiana agency or agencies to be called upon for certificates are not likely to encroach upon the judiciary. We are not going to certify that the court would take any particular view or views.

In conclusion, we express our deep appreciation for the kindness and patience of the committee.

Now, in connection with my testimony, Mr. Chairman and gentlemen of the committee, I would like to offer a written statement by Mr. C. J. Bonnecarrere, secretary of the State mineral board. In order to save time, we merely offer the statement. We are not asking that Mr. Bonnecarrere be permitted to read it at this time.

Mr. MADDEN. The reason it is prepared is because the committee has appeared to want to find out some of the practical problems of operations out there in this area. So I think that is testimony that is something along the line of that which was given a few days ago by the engineer of the Humble Oil & Refining Co. We felt that that might be helpful to the committee.

Senator BARRETT. Without objection, the statement of Mr. C. J. Bonnecarrere will be received.

(The statement referred to follows:)

STATEMENT OF C. J. BONNECARRERE, SECRETARY, STATE MINERAL BOARD OF LOUISIANA

Mr. BONNECARRERE. Mr. Chairman and members of the committee, I am C. J. Bonnecarrere, secretary of the State Mineral Board of Louisiana. I reside at Baton Rouge, La., where my official domicile is located.

The State mineral board is an agency of the State which has been created by statute to lease State lands for oil, gas, and mineral development and to supervise such leases when granted.

The State of Louisiana, since the early 1900's, has been engaged in leasing for oil, gas, and minerals all of the lands and water bottoms within its historic boundaries, and during the period extending from 1915 to April 1953, has awarded 2,330 leases.

During the period extending from 1928 up to and including October 1948, the State of Louisiana has leased extensively in the southern or coastal area of Louisiana. Many leases were awarded in the period 1928 to 1936 in the coastal area extending from the Sabine River eastward and northward to Chandeleur Sound and extending outward to the limits of the Louisiana domain. During the same period, portions of these leases were found to be productive of oil, gas, and sulfur. No serious attempt was made to establish production in the unsheltered portions of the coast and the production was confined mostly to bays lying considerably inland of the gulf coast bordering the State of Louisiana, except State Lease No. 194 off Cameron Parish, La., on which production was established in 1938. There are various reasons, but it might be noted that the main drawback to active development could be charged to the inaccessibility of these areas from known roads and rail centers, the difficulties in drilling of these unprotected waters insofar as the weather element was concerned and the known drilling and geophysical methods at that time, which served to make such ventures a bad economic risk. As the methods of geophysical explorations and interpretation improved and roads were constructed into these practically uninhabited areas, there was considerable improvement in the drilling methods, the market value of the oil, as well as the demand for such products. The oil companies then began to move farther and farther outward into the coastal bays and even into the Gulf of Mexico along the outer Continental Shelf.

Production of oil and gas in Louisiana in the early 1900's was confined principally to the extreme northwest part of the State where drilling could be done with cable tools and the oil and gas in place, subsurface, rarely exceeded a depth of 3,000 feet.

In the early and middle 1920's the focal point of activity began moving steadily southward and the drilling depth increased to as much as 6,000 to 8,000 feet.

Substantial new reserves were established which spurred the industry on southward out into the marshes but the fear was then, as it is today in the Continental Shelf, that such an endeavor might not be economically feasible.

Most of the activity at that time in the coastal regions lying inward of the Gulf of Mexico were attributed to major oil companies and such development was necessarily slow and tedious.

It must also be noted that the workmen engaged in this industry moved to the point of activity and there was a general increase in both the skilled and technical class as well as the unskilled labor force in the particular area where the activity was in progress.

The State mineral board began receiving applications in 1945 to advertise for leasing, 5,000 acre blocks in the Continental Shelf. The State mineral board did not limit the number of applications nor the number of leases and amount of acreage awarded to a single company, for it was felt that the competitive system of bidding on all State leases could not best be served in limiting the lessees in any extent. The board did and does now reserve the right to reject any and all bids. The board, as a matter of policy, does not lease any lands or water bottoms unless there is evidence by a bona fide applicant that the interest shown by said applicant merits such advertisement and leasing. During this period beginning August 1945 through October 1948, some 1,260 blocks containing approximately 5,000 acres each were laid out and advertised for leasing. This was done at the request of various applicants and no attempt was made at that time, nor has yet been made, to establish the edge of the Continental Shelf, nor the historic boundaries, nor the coastline of Louisiana in the form of an actual surveyed line.

It might be readily seen from the available maps which I would be most happy to submit on request, that the problems of accessibility and operations in practically all of these leases were similar in nature and it was felt that much time and effort would be saved in blocking off the areas rather than changing the descriptions and locations of the blocks each time an application was received for leasing in these areas.

The total acreage in the aforesaid 1,250 blocks constituted some 6 million acres. As a result of the advertisement, sealed bids were submitted and leases awarded to the highest bidder. Some 757 such leases were awarded containing 2,500,000 acres and at one time approximately 40 percent of the total acreage was under lease. The State leases awarded offered an average bonus of approximately $11 per acre though some bids were received and leases awarded well out on the shelf for as much as $100 per acre.

Immediate operations were begun in 1946 to establish production in the area along the Continental Shelf, and after the litigation operations and leasing virtually ceased in 1948. The first well was completed under this new endeavor in November 1947 (exclusive of 9 wells producing in the Creole field, Cameron Parish, La., which has produced since 1938 and is still producing) and up to and including January 1953, 233 wells have been drilled resulting in the discovery of 27 oil and/or gas fields, which at the present time are producing approximately 22,028 barrels of liquid hydrocarbons. Of the 233 wells drilled, 120 were completed as oil wells, 25 as gas wells and the remaining 88 were abandoned. The total cumulative production has amounted to 19,942,713 barrels. Because of the litigation and the Supreme Court decision, operations proceeded, as stated before, at a snail's pace, although many millions of dollars had been invested in expensive equipment and installations by the various lessees and for all practical purposes could not be used in any way. At the present time much of the floating marine equipment is tied up in the bayous of Louisiana and exposed to the elements.

I would like to discuss the disposition of the funds as well as the present situation in regard to the leases in existence in the aforesaid areas. After the Supreme Court decision in December 1950, the leases were placed in five categories by the various lessees:

1. Rentals paid to the Federal Government;
2. Rentals paid by the State;
3. Rentals paid jointly to the State and Federal Government (double rentals);
4. Leases producing royalties paid to State;
5. Leases producing royalties paid to Federal Government.

The State of Louisiana did not participate in the decisions of the lessees and the payments were made in accordance with the decision of the various companies who were the lessees. Of the original 757 leases awarded there are 349 leases remaining on which some payment of rentals are being made at this time or are capable of production.

We note that on 60 of these leases, the State of Louisiana is presently receiving rentals or royalties; 33 on which double rentals have been paid; that is to say that the entire rental is submitted to the State and the entire rental submitted to the Federal Government for each year of the primary term of the lease since 1950. On the 33 leases, the Federal Government has been paid $896,012.93 rentals and the State of Louisiana has received an equal amount. This is for the period 1950 to 1953. The remaining 27 leases are located principally in Breton Sound and Chandeleur Sound, and to the best of our knowledge within this area the Federal Government has not asserted any claim of ownership. There are 232 leases classified as nonproducing from which the Federal Government has received full rentals and the State of Louisiana has received no rentals since December 1950. On these 232 leases the Federal Government has received $10,126,028.80 for the period 1950 to 1953.

There are some 57 leases which are capable of production or which are presently producing oil and/or gas and in a few instances, although productive, rentals have been paid and the Federal Government has received additional $186,700.34 on such leases.

Since 1947, 17 fields have produced 19,942,713 barrels of oil. The State has received royalty on 200,000 barrels of oil in Breton Sound and on 5,450,000 barrels of oil from the Main Pass and Bay Marchand Fields, principally, prior to December 1950, but since 1950, the Federal Government has received royalty on 14,099,036 barrels of oil, which means that the State has received for all practical purposes no royalty since December 1950. The only income which the State has received has been approximately $500,000 to $600,000 per year, the majority of which has been received on leases in Breton Sound, obviously not contested and the few remaining rentals received by the State have been paid equally to that of the Federal Government. The State of Louisiana has granted no leases in the contested area since October 1948.

It is necessary that the State of Louisiana receive or share some revenue from the outer Continental Shelf. This necessity is predicated on past experience as to the problems with which our State must deal when leasing and operations continue in this area.

We are not prepared to say how soon sizable activity will be in progress but we know that oil and gas as well as other minerals exist in the outer Continental Shelf. The progress of the industry in the past

leaves no doubt that the problems existing are not insurmountable. Sometime in the future, as quickly as the problems can be solved, commercial production of oil and/or gas in the Continental Shelf in substantial quantities will result. How then will this affect Louisiana and its people?

The moneys bid on good geophysical prospects in the outer Continental Shelf under new and profitable methods of operations would in our opinion materially decrease the revenue the State of Louisiana might derive from its own leases within its historic boundaries which are not now so nearly attractive because many of and possibly most of the first-rate prospects have been drilled in this area.

In order to support an expensive leasing and development program on the outer Continental Shelf and major operators might well pass up secondary prospects along and inside our boundaries for more lucrative prospects farther out so that the millions of dollars of royalty, bonuses and rentals collected within our historic boundaries would be materially decreased and a possible drop in production would result in many more millions of dollars of loss to the State in severance taxes now collected and constituting a main backbone of our governmental economic structure.

Yet the State of Louisiana would be required to expand its services, as stated above, and it would hardly seem fair to deprive our State of much-needed fair compensation.

I have stated that at least a portion of the Continental Shelf is estimated to contain as a minimum some 5 million acres, although it could contain considerably more since the State mineral board did not attempt to lease to the extreme edge of the Continental Shelf and no official determination has been made as to how far the Continental Shelf might extend.

From the number of wells drilled under limited operations (some 233) approximately two-thirds of the number of wells drilled have resulted in wells capable of producing oil and/or gas commercially or proving up subsurface structures.

Due to the various problems involved in this type of drilling, it is necessary to construct platforms from which wells may be drilled directionally. This is necessary because the cost of a platform for a single well would be prohibitive from an economic standpoint.

Under full development of the Continental Shelf we are reliably informed it is entirely possible that in one 5,000-acre tract, it would be necessary to build at least 3 platforms to properly develop the 5,000 acres, if found productive. In any case, 1 or 2 platforms would be required to drill exploratory test wells in order to establish such information to either disapprove or prove oil-bearing structures on a 5,000-acre lease.

It is entirely possible from a conservative estimate that under reasonable development as many as 100 to 150 platforms would be constructed and operations proceed therefrom.

Conservative figures furnished the State Mineral Board by companies operating in the offshore area, estimate that 200 men would be directly engaged in the locating and drilling of an exploratory test. If we assume that there may be at one time 150 such operations, the number of men engaged in this type of operation would be approximately 30,000. While the men themselves would be working mostly

beyond the shores of the State of Louisiana, their families would be living in Louisiana and the State of Louisiana would be required to expand their various governmental functions and services to meet the required needs of these people.

There is another and equally important factor to take into consideration. The oil industry must of necessity move very rapidly and much of the equipment required for exploration and drilling of wells in the Continental Shelf must be moved over Louisiana roads. For example, much of the equipment used from the Grand Isle area in Jefferson Parish is moved from Raceland by truck over a Louisiana road which is built in the marshlands where the foundation of the road is most unstable. The maintenance on such a road might even well exceed its original cost over a period of years.

There are very few rail connections readily available for this type of operations and though some of the equipment might be moved by water, this is extremely slow and most of the streams leading out into the bays and the Gulf of Mexico are comparatively shallow necessitating the dredging of canals or channels which is expensive when compared with moving of such equipment by truck over Louisiana roads.

Let us consider first the small drilling platform and just how much materials would be needed for drilling a well from just such a platform.

The steel beams, plates, drill, pipe, and decking used in the construction of such a platform would weigh approximately 650 tons. Next, the rig, casing, tubing, drill pipes, drilling mud, cement, and other equipment and supplies necessary for drilling operations would weigh approximately 670 tons. The total weight of equipment and installations in this drilling operation would be approximately 1,320 tons for one exploratory well.

In addition to the drilling platform there would have to be a smaller and lighter platform to hold supplemental equipment and material such as a stiff-leg derrick, drill pipes, casing, and so forth. This platform, construction material, and so forth, would weigh in the neighborhood of 350 tons or we might say that the overall weight of such equipment would be approximately 1,670 tons.

If trucks, traveling over our coastal highways carried approximately 20 tons each, the trucks for loading the equipment and the moving of such equipment, would require 84 separate loads.

If the well is productive, possible two more platforms would be necessary. At least 1 of these platforms would be 4 or 5 times as large as the small one mentioned above and would be 4 or 5 times the weight of the small platform.

On the platforms of this type would be located small storage tanks to contain the oil produced to be delivered to the barges for shipping to the shore base.

The movement of this equipment woud require at least 420 or more truckloads. The size and shape of some of this often creates a hazard on a normal single-lane highway with the result that possibly the width of the present highways would have to be increased to minimize the danger of crowding the private citizens traveling these roads.

The construction and maintenance of highways adjacent to the coast are many times more expensive than the construction and maintenance of highways in the central or northern part of Louisiana, where the roadbeds are more substantial.

One person might lift 10 pounds to a height of 5 feet many many times but if 90 pounds is added to this load, one could lift it very few times. So it is with our highways, and in addition to this, each person working in this type of operation would conceivably add one more car for private traffic to the present load assigned to the highway system in these areas due to offshore operations.

This is in addition to the equipment required to build and maintain docks and storage facilities on the shore as is the case in two of the larger fields already in production and adequate storage, especially for a large field, involves many, many more tons of steel and pilings.

It is certainly evident that development of oil and gas reserves as well as other mineral resources on the outer Continental Shelf will pose many problems too numerous to mention, and Louisiana will be required to share in the ultimate solution of them.

Louisiana is entitled to fair consideration and its share of these revenues, not as a gift, but just compensation for services rendered.

Senator LONG. I want to look this statement over and see if I would like to ask some questions based on that, Mr. Chairman. I believe first that some members of the committee might want to ask Mr. LeBlanc some questions about his statement.

Senator BARRETT. Senator Kuchel, do you have any questions?

Senator KUCHEL. Yes. We have a question here of what law should apply to a piece of property which, I suppose it is conceded "appertains" to the United States? Specifically, recommendation is now made by the State of Louisiana that the laws of conservation of that State be applied to the portion of the property which abuts the State of Louisiana. Do you recommend that the rental provisions of your State laws likewise be applied?

Mr. LEBLANC. I do.

Senator KUCHEL. Then there will be very little distinction in your mind between the property outside your boundaries and property within the jurisdiction of the State of Louisiana after the President signs the bill recently passed?

Mr. LEBLANC. That is correct.

Senator KUCHEL. How would you, from a legal standpoint, effect or carry out the provisions of State law in that area? Are you here urging Congress to provide in this legislation that State law should apply fully?

Mr. LEBLANC. I will answer that this way, Senator. I am recommending that the Congress legislate in that direction, but I can well contemplate that it will be a joint endeavor. The State of Louisiana will have to enact laws to implement or supplement the Federal laws so as to make that situation effective in that area.

Senator KUCHEL. Now, I asked this question the other day because I am sure that all members of this committee are interested in preparing legislation that is going to be susceptible to proper administration. If your recommendations were adopted, then the State of Texas would have a part of the administration problem of this area

and the State likewise would have part of that problem to apply its own State laws.

I assume that the laws of Texas and the laws of Louisiana are not entirely similar. Do you feel that there would be any problems involved in having this piece of the Continental Shelf administered under several different bodies of State law?

Mr. LEBLANC. I would say this, that it is true there is some difference, not a substantial difference, I do not believe, between the laws of the State of Louisiana and the laws of the State of Texas relative to drilling and production of oil wells and gas wells and conservation laws, but in practice, since our States adjoin—as somebody expressed it rather facetiously, I believe, that Texas is the largest State in the Union and Louisiana is next to the largest, of course that is geographically speaking—but we have not had any problems there that are not easily solved in practice. Our experience has been that we have had no trouble whatsoever.

Senator KUCHEL. I will give you an example of what I am thinking. Suppose your recommendations were adopted by the committee and written into this bill and suppose A company entered into an oil lease under the laws of the State of Louisiana and thereafter breached some applicable State law. Of what would the A company be guilty, a violation of State law, a violation of Federal law, a violation of both State and Federal law?

Mr. LEBLANC. If the State law applies in the area, legislation covers that except where it conflicts with Federal law. If there is no conflict with the Federal law, the State law of the particular State where this area extends out from, the projection of the State line, would apply in that case.

Senator KUCHEL. It just seems to me that it would be highly questionable to urge that an offense against the State took place on an area that was not within the sovereign jurisdiction of that State. I begin to think that it would be with extreme difficulty that this committee would try to resolve those problems. Now, I certainly am not qualified to discuss them, but I wish that we could have a little legal advice here as to just what the situation would be.

Now, I can see that the State of Louisiana might act as an agent for the Federal Government and to that extent when any breach of a law took place you could probably work out a theory that it was a Federal matter and that a State employee was acting as a Federal agent in enforcing a statute. But it is a very involved situation. I would like to have some of the representatives of the State make their specific recommendations as to just what statutes ought to apply and how they would apply and what the jurisdiction would be. Now, it would be easy to pass a bill here providing that the Continental Shelf should be piece by piece within the jurisdiction of the coastal States, but that would do considerable violence to a theory of Federal development.

I have not yet heard or have not yet had presented anything specific from a legal standpoint as to how you could apply these various State laws and do it legally and do it in a manner that would not result in a pretty heavy administrative headache. Do you see what I am talking about?

Mr. LEBLANC. I appreciate your question, Senator, I would say that in that connection we have an expert who is going to testify on behalf of the State of Louisiana. I think maybe he can throw some light on your question.

Senator LONG. Might I just make this point in connection with that?

Just a short time ago a man came to me and said he had a solution for the whole tidelands controversy, that all Louisiana had to do was to go out there and instead of erecting a rig, put a dredge out there, pump up some soil and make an island and that the island would be within the boundaries of the State of Louisiana. If there were an island instead of a structure, there would be no doubt in anyone's mind that the local State law should be applicable just like the law of California is applicable to Catalina Island, would it not be?

Senator KUCHEL. Are we talking about inside or outside of our State boundaries?

Senator LONG. The Louisiana Enabling Act says that our territory includes all islands within 3 leagues of the shore. If we were held to 3-mile limit and an island would be 3 leagues out, it would be obviously within the State boundary, the State law would be applicable. I assume that the State legislature would probably take action to designate that island as being within the boundaries of a particular parish.

Mr. LEBLANC. I think that would be logical.

Senator LONG. Any matter of local law would be subject to the jurisdiction of parish court.

Mr. LEBLANC. Yes.

Senator LONG. Just as it would be subject to the jurisdiction of the county court in other States.

Senator KUCHEL. If I understand you correctly, I agree with you entirely that within your State boundaries, whatever they are, State law has complete jurisdiction. That is implicit in the bill that is going to be signed here, I suppose, in another day or so. But what about going further out?

Senator LONG. We have the same situation with regard to Hawaii. We are not talking about taking in an island like Palmyra that is a thousand miles off. We are talking about a platform that has 40, 50 or 100 people, erected 25 or 30 miles out in the sea. In fact, it is a platform from which the people from day to day commute back and forth to the State of Louisiana. Those are Louisiana people. Rather than their being subject to some maritime jurisdiction in some place where no one has any concept of which court it will be, it would make better sense in my judgment to treat that as though that is a little spot of sovereignty of the United States under the traditional concept of the American Government that that person has loyalty to two governments, his State government and his Federal Government.

Of course, admiralty law would apply while he was on a ship going back and forth between those two points, but it would fit completely within our pattern of American law to treat that as though it were an island. I know if it were an island that this Congress would take action to put that within the boundary of one of the States. You would not create a separate State government out there. You would simply attach it to one of the States. No one ever thought of making

a separate State out of Catalina Island. When you apply the State law, all the problems of domestic government are automatically solved. You have a whole body of law, the experience you have had with regard to administering the law between California and Catalina Island and everything, every legal question you have involved out there.

Senator KUCHEL. I make a distinction between those two because Catalina Island and the other islands off the coast of California presumably were made a part of the State of California in the approval of the State constitution by the Congress. And I speak of the seaward Continental Shelf, seaward of the State boundary. That is what we are talking about here. That is Federal property. How could a State exercise sovereign jurisdiction over land which is not within its boundaries and do it constitutionally? Maybe you could. I am just raising the question.

Senator LONG. The point I am making, Senator, is that for purposes of domestic law, and I am not speaking about international law and all that, it is purely a domestic decision as to what division of sovereignty will be made between the Federal Government and the State government and whether the State will exercise any element of sovereignty over that area whatsoever. It is our statement that the traditional concept of American government should apply and that the State and local governments should administer the local and domestic needs rather than the Federal Government attempting to go into that field. We are not doing a job in the District of Columbia and we would have much less interest in what happened in domestic law affecting those people if we attempted to have Congress legislating on it.

The chances are we would never pass another law with regard to it. You would have great difficulty having anybody but the Senator from Louisiana sitting on the committee making laws on some domestic matters that might occur out there.

Senator KUCHEL. Would your thought be tantamount to the inclusion of the Continental Shelf as additional property of the State for local purposes? Would it be about the same as that?

Senator LONG. Senator Kuchel, we believe the problem of any revenue or consideration to the State is completely separable.

Senator KUCHEL. I am talking about jurisdiction.

Senator LONG. From jurisdiction and application of domestic law. To us it is important that the State of Louisiana should be in a position to administer domestic law to the people of the State of Louisiana.

Now, we have an open-end question as to what extent a State can enforce its law upon its citizens when they are beyond the boundaries of a State. We would like to eliminate that question by simply saying that when you erect a platform, a permanent structure in the sea, that the domestic law should apply to it, and thereby you would solve many of the local problems you have involved.

For one thing, you would know where your jurisdiction is. It would be set in the State for Federal purposes. It would be set in the Federal court of that particular judicial district, either the eastern or western judicial district of Louisiana. For application of the police court type thing, that would be the local State district

court or it could be right on down to the little local justice of the peace who would administer those local domestic needs of the people.

Senator KUCHEL. Unless that Continental Shelf area were ceded in some way to the abutting State, I would seriously raise the question of the State's jurisdiction, to exercise any authority over acts committed outside its boundaries.

Senator LONG. Please keep in mind that if we depart here from the concept that the boundary of a State and the boundary of the United States is identical—so far as I know, this will be the first time we have done it.

Senator ANDERSON. The Holland bill does it, the Holland bill does it completely. The boundaries of the United States go out 3 miles and the Holland bill says pay no attention to the boundaries.

Senator LONG. I completely disagree. The Holland bill says where Congress has taken upon itself to extend the State boundary beyond 3 miles that that boundary is to be recognized, but that is again to say where the Federal Government and the States have both agreed that the State boundaries are beyond 3 miles it goes beyond 3 miles.

In carving out all the States of this Nation the Federal Government retained vast amounts of property, but in retaining vast amounts of property, it did place them within State boundaries for jurisdictional purposes. There is no reason why that concept should not be applied here so far as I can determine. Some Senators want to argue about the revenue.

Senator KUCHEL. Lay the revenue question aside.

Senator LONG. On the jurisdictional question, to give our people the same rights of domestic government that the ordinary American has, it makes sense to put this within the boundaries of a State when you create these fixed structures in the sea.

Senator KUCHEL. If I break the law of California at a time that I am in another State, California has no jurisdiction over me.

Senator LONG. I do not know, Senator. If your wife has cause for divorce based on some conduct here in Washington, she could sue you in the State of California for divorce.

Senator KUCHEL. That is a little bit different.

Senator LONG. It is not likely to happen, I admit.

Senator KUCHEL. Let the record show this is entirely hypothetical. That is a bit different because you are talking there about that theory of arrest and a court having jurisdiction. Again, that is civil, as distinguished from a penal, matter.

My point is, on what constitutional authority could a State invoke jurisdiction over an individual who is located outside the State boundary?

Now, it may be that we can do it, but I do not want to be a party to something that is going to be subject to successful attack.

Senator LONG. The question you are asking is the kind of question we are attempting to resolve and trying to avoid, because we are trying to urge that we should not have that problem. That is, when we erect a fixed structure of there, that it would be regarded just as though it were an island and that Congress would undertake to say that when you create these islands there on the Continental Shelf seaward of the historic boundaries of the State, these structures would

be regarded as being within the State boundaries. That at least is my concept of it and solves all your domestic problems.

Senator KUCHEL. But they would either be or not be factually or legally within State boundaries. The question would be where does the boundary line run? But let us stipulate for the purpose of this discussion that such an island is located seaward of the State's boundary, then what constitutional right does the State have to exercise jurisdiction over that structure which is outside its boundary?

Senator LONG. Only such right as Congress gives it to exercise jurisdiction there. That is my answer to it. That is the only answer I see.

Senator KUCHEL. If Congress said, "We will provide that the penal laws of the State shall apply," the State under that congressional action would have the authority to exercise jurisdiction over a person outside its boundaries.

Senator LONG. The property of a State and the property of the United States need not necessarily be contiguous, nor need the property of a parish be contiguous, nor the property of a county be contiguous. You are well familiar with the argument we have had about Palmyra Island, a thousand miles away, being part of the city limits of Honolulu. It need not be contiguous; it can be separated by a body of water. But if it is a part of the jurisdiction of that particular governing body, the legal effect is the same.

Mr. LEBLANC. I would like to say this, Senator, that it is my thought that I do think it would require some enabling or implementing legislation on the part of the State or States after Congress has legislated on this subject because, for instance, in criminal cases—you mentioned criminal cases—our constitution provides that a person accused of a commission of a crime must be prosecuted in the parish where the crime was committed. Our parishes abutting the gulf in my opinion would have to be extended seaward out to the Continental Shelf.

Senator KUCHEL. Out to the farthermost edge of the shelf?

Mr. LEBLANC. Out to the farthermost edge of the shelf in order to satisfy this question of venue for the trial of criminal offenses. I do believe that. I do not know whether the Senator was here when a map was shown by Mr. Bascom Giles of the State of Texas on which was projected lines extending the counties of Texas out to the outer edge of the Continental Shelf.

Senator KUCHEL. I am afraid you are right. I am afraid that is the only way it can be done.

Senator LONG. Now, that would make simple some of the problems of administration of laws. I have in mind the Grand Isle situation. There we have the Parish of Jefferson. From the beach at Grand Isle you can see three platforms erected in the sea. The people who work there live on Grand Isle, which is in Jefferson Parish. Now, if you are able to extend the parish lines as well as the State boundary, it would be logical that that property should be within the parish of Jefferson. And the same sheriff, the same justice of the peace, would exercise jurisdiction in that area, would they not?

Mr. LEBLANC. That is correct. We have an example in point. It is not very comprehensive.

Insofar as the enforcement of State conservation laws, this legislation provides that parish lines shall be extended out into the gulf to

the extent of State boundaries out there. As you know, Senator, justices of the peace in our State do not have criminal jurisdiction but under this statute they were given civil jurisdiction to impose what they call civil fines for the violation of conservation laws. That law is on our books. Violations of the conservation laws in that area out in the gulf are being handled by the justices of the peace courts along the gulf area.

Senator KUCHEL. Even outside your State boundaries, 25 miles out to sea?

Mr. LEBLANC. No, Senator, that is not true. It is within State boundaries. That was a civil statute, however. I would like to differentiate that because I think if that were dealing with criminal matters that would be unconstitutional insofar as the fixing of venue for the commission of crimes.

Senator KUCHEL. But in civil matters you find no question of constitutionality involved.

Mr. LEBLANC. No, I do not. I think the legislature could legislate on that subject, particularly if Congress also legislates. I think it will take a joint effort.

Senator KUCHEL. I do not want to belabor this point.

Senator ANDERSON. Mr. LeBlanc, on page 4 of your statement you point out, in the latter part of it—

> Having accepted such leases, knowing that severance taxes would have to be paid on oil and gas severed from the areas leased, they would be completely liberated from that character of taxation.

You think that would be a windfall to them? Quite obviously.

Mr. LEBLANC. I rather think so.

Senator ANDERSON. It is true then that an oil company which bids for a lease that carries a severance tax regards that as somewhat different from an oil and gas lease that does not carry a severance tax?

Mr. LEBLANC. I could well imagine that. Of course all our leases in Louisiana carry a severance tax.

Senator ANDERSON. It is equivalent in some respects to an override—of a 10-percent override is that right?

Mr. LEBLANC. I am not certain of a percentage.

Senator ANDERSON. Is your severance tax not approximately 10 percent in the outer Continental Shelf?

Mr. LEBLANC. It is graduated, Senator.

Senator ANDERSON. It is 26 cents a barrel; is it not?

Mr. LEBLANC. It depends on the gravity of the oil.

Mr. BONNECARRERE. I think it would average 24 cents a barrel. It is on a sliding scale.

Senator ANDERSON. Whether it is averaging or not, it is running 26 cents a barrel; is it not?

Senator LONG. That is the top.

Mr. BONNECARRERE. That is the top. It would average out 24 from the figures I have seen.

Senator LONG. The severance tax runs on not a percentage basis but on a flat charge based on the gravity of the oil, based on the theory that when someone drills for oil, he has as good a chance for finding the high-gravity oil as he has of finding low-gravity oil, and based on the type of unit he has he will pay the higher tax. If he finds the lowest gravity, I believe that starts at 18 cents.

If he finds the highest gravity of oil that runs it up to about 26 cents. Mr. Bonnecarrere estimates it would probably average out 24 cents. That would work to a little over 9 percent of the gross that a person is presently receiving.

Senator ANDERSON. I said 10. It is within a hair of 10; is it not? It is 26 cents in many instances; is it not?

Mr. BONNECARRERE. Yes, sir.

Senator ANDERSON. What is the price of oil down there in the field?

Mr. BONNECARRERE. That also is graded by gravity, Senator.

Senator ANDERSON. I am not unfamiliar with that fact, but about what does it run?

Mr. BONNECARRERE. It runs from about 22 gravity oil from the statements we have seen, the royalty that has been paid to the State, about $2.50 a barrel, up to gas condensate—this is liquid hydrocarbon produced from a gas well of high gravity sometimes in excess of 60 degrees—to about $2.75 and even $2.85 a barrel.

Senator ANDERSON. That is right. But we do not recognize that as ordinary oil that people find. The average is $2.50 a barrel and if the tax is 26 cents, it is roughly 10 percent.

Mr. BONNECARRERE. I have not computed it.

Senator ANDERSON. You know that 26 cents is about 10 percent of $2.50. If it is roughly 10 percent, how does that compare with ordinary royalty that an owner gets, that the Government ordinarily gets. What is the Government's flat going rate?

Mr. BONNECARRERE. One-eighth.

Senator ANDERSON. Twelve and a half, so you are getting 80 percent of the normal royalty by means of this severance tax on this area lying seaward of the State boundaries; is that correct?

Mr. BONNECARRERE. It would mean that you have revenue coming into the State.

Senator ANDERSON. You could not possibly develop a right to have a severance tax on land which does not belong to you or over which you have no territorial jurisdiction. Therefore, the only thing which you can call it is a royalty payment. The operators are paying roughly 80 percent of the normal owner's royalty into the treasury of the State of Louisiana today; is that or is that not correct?

Mr. BONNECARRERE. I am not an expert in severance taxes, sir. We handle the leasing. The figure would come close to that.

Senator ANDERSON. Mr. Fontenot, the collector of internal revenue, has been talking over the phone to Mr. French. He says that some of the leases have been paying taxes to the State from operations beyond the 3-mile limit. Others are not. In response to my question, he said the State probably would take action against those companies that were not returning taxes to the State from the outer shelf area. Mr. Fontenot said he could not make an estimate as to the number of companies that were making returns to the State as contrasted with those who were not. I have requested him to make a rough estimate and telegraph it for the record.

I think that is a very worthwhile service in getting an answer that quickly. Is that not somewhat alarming that a State official does not know who are delinquent and who are not?

What is your responsibility in that respect? Have you any responsibility for the enforcement of the severance tax?

Mr. LEBLANC. I have no responsibility.

Senator BARRETT. Before you answer the question. To be fair about it, Mr. Fontenot said he did not know offhand.

Senator ANDERSON. I am not trying to be unfair to him, but that is part of his responsibility, is it not, if he has a lease out there that is supposed to be paying a severance tax?

Mr. LEBLANC. He is supposed to collect it if it is a lease within the territorial jurisdiction of the State.

Senator ANDERSON. If he collects it from one company, ought he not collect it from all?

Mr. LEBLANC. I think that question answers itself.

Senator ANDERSON. How does it answer?

Mr. LEBLANC. It is his duty to collect all sums of money due the State.

Senator ANDERSON. That is right, and the testimony we had from the representative of Humble Company the other day was that they were paying it. There is no question about the fact that most of the companies are paying a severance tax on the outer Continental Shelf beyond the historic boundaries of the State of Louisiana.

Mr. LEBLANC. I cannot answer that question because I do not know.

Senator LONG. Is it not true that the court told you in the Louisiana case that they would not determine whether or not a State could extend its boundaries? Is that not correct that they said they would not pass upon the question of whether or not a State could extend its boundaries?

Mr. LEBLANC. That is right. That question was not passed on.

Senator ANDERSON. But did they not also say, because the answer would be meaningless, they could not possibly acquire title to that land down there so what difference did it make if they extended their boundaries or not? Was that not the rest of the decision?

Mr. LEBLANC. I think maybe that was the court's reasoning.

Senator LONG. But did the court not also say in that case that the question they had before them did not require them to determine whether or not the State could extend its boundary?

Mr. LEBLANC. That is right.

Senator LONG. Now, has Louisiana been collecting severence taxes on Federal property within the boundary of the State?

Mr. LEBLANC. Federal taxes?

Senator LONG. No, State severance taxes from oil extracted from Federal property within the boundaries of the State?

Mr. LEBLANC. I do not know that of my personal knowledge, but I would think the answer would be yes.

Senator LONG. Do you know whether or not you have been collecting severance taxes from our national forest?

Mr. BONNECARRERE. I can say this: I have seen the statements submitted on royalty payable to the State of Louisiana in a field which is unitized with Federal Government lands, that field being Romere Pass and severance taxes are collected on that field, sir.

Senator LONG. Is there not a lawsuit pending at the present time between Louisiana and the lessee of Barksdale Field on whether or not he should pay the severance tax there?

Mr. MADDEN. That is true, yes. I discussed that with Mr. Duncan the other day and I think that statement is true.

Senator LONG. So even if it is entirely Federal property, unless and until the Supreme Court tells you that your act extending your boundary 27 miles will not validate, there is still an open question as to whether you have the right to collect severance tax on Federal property within the extended boundaries of the State. Would that be correct?

Mr. LEBLANC. I think that is absolutely correct.

Senator ANDERSON. That is what I was trying to get to in another way. All through the discussion on the floor many of us were intrigued by the statement of the author of the bill that the boundaries fixed by the Holland bill were 3 miles in the case of all the States except Texas and the west coast of Florida, where they ran 3 leagues. Here you come, as a justification for your collecting the severance tax, by saying no decision has ever been reached that this land outside 3 miles is not within your boundaries. I do want to get on to this question of leases in a little while. You say there is some question about this lease matter.

You say:

> If we are deprived of severance taxes in the outer Continental Shelf, it is going to be hard on our schoolchildren.

But we heard in the discussion of the bill there is practically nothing out there anyhow, 41 cents a schoolchild over the country.

Senator LONG. Divided among about 20 million school children.

Mr. LEBLANC. It would help the children in our State immensely.

Senator ANDERSON. I realize that. You said you want to lay some stress on paragraphs 2 and 3 of section 6. I am reading from page 12:

> With no intent to penalize lessees of the State or to impede the Federal Government in its development program, caution is given that some difficulty may result from that provision of Senate 1901 which requires a State official or agency to certify that a State lease was in force and effect on June 5, 1950, in accordance with its terms and provisions of the law of the State issuing it.

Is there some doubt in your mind which leases were in effect on June 5, 1950?

Mr. LEBLANC. I am able to answer, but Mr. Madden is more familiar with it than I am. I request that he answer.

Mr. MADDEN. I think, Senator, there would be some doubt in this respect: If the language as it reads in there now provides that an agency must certify that the State leave was in force and effect on such a date, it goes on and says in accordance with items terms and provisions and the laws of the State issuing it. Those leases, if you do not pay the lessor, the prescribed rentals timely, the lease is gone. That is just private law and any kind of law in Louisiana.

Senator ANDERSON. If the lease is gone, would you not so certify it?

Mr. MADDEN. I think Mr. LeBlanc is trying to point out in his statement that it may be possible that we are getting on the assumption that the State is going to certify to most all these leases. Now, I do not know which ones they will and which ones they will not. Now, that may not be a problem.

Senator ANDERSON. Now, I am advised by the Senate Parliamentarian that the last day the President can act on the Holland bill is

midnight of May 26. If nothing is passed in the meantime, what happens to all these leases, are they all void?

Mr. MADDEN. No; the Holland bill will take care of that situation.

Senator ANDERSON. Take care of a lease?

Mr. MADDEN. It does this. it provides that all of the lands within that area belongs to the State.

Senator ANDERSON. Yes. We are not talking about the lands that belong to the State. We are talking about the lands that lie seaward of the State boundaries. Would there not be a lease in there that under any possible imagination would not be valid? The Supreme Court says you do not own it. The Federal Government affirms your right in the State area. Of what value is the State lease?

Mr. MADDEN. I wonder if we have the decision in the Louisiana tidelands case.

Senator ANDERSON. It does say that the State of Louisiana has no property interest in there, or property right thereto.

Mr. MADDEN. I want to read the decree in the case.

Senator ANDERSON. We have rehashed and rehashed these Supreme Court decisions a hundred times. I am trying to find out under what theory your State law would be any good.

Mr. MADDEN. I will undertake to give you my views on that as soon as we get the decree. I want the language.

Senator ANDERSON. I am trying to find out if there is a single lease outside the boundaries of the State of Texas, or single lease outside the boundaries of Louisiana, that really is any good as soon as the President signs the Holland bill.

Mr. MADDEN. I understand your question and I will undertake to answer it only when I get the decree because I do not want to misquote the language of the Court.

Senator LONG. If I understand that situation, the point is that there is not a single good lease there unless Congress wants to make them good.

Senator ANDERSON. That is right. In order to make them good, we have to give 37½ percent to Texas and here is the Governor of the State of Texas, Bascom Giles, Commissioner of the General Land Office, and Attorney General, asking for 37½ percent. During the executive hearings we got into this question. I kept claiming that the States would be in here claiming ownership of the outer shelf. Senator Daniel, and this is page 1292, said:

> As to Senator Anderson's statement that the States would be in here claiming ownership of the outer shelf, as you know, I did not propose that. And I will not be in here claiming any ownership beyond our original boundaries or any management of leasing beyond our original boundaries.

Is that what Texas is asking for? Senator Daniel then added:

> With regard to the matter of a division of the revenues, I said in my testimony before the committee it is a matter that I would not press before this committee, trying to get a division of the revenues. It is a matter that could be determined later on, as far as I am concerned. I do not want it to appear, or at least leave unanswered, the intimation by Senator Anderson, that we will be in trying to claim ownership beyond our original boundaries, because at least that is not the intention of the junior Senator from Texas.

Senator LONG. That is completely consistent with the statement of Texas.

Senator ANDERSON. That they do not want any management?

I will not be in here claiming any ownership beyond our original boundaries or any management of leases beyond our original boundaries.

Senator LONG. I have not heard a single Texas witness ask, or a statement where Texas is asking, that they own that property nor have I heard a Texas witness nor seen a statement that Texas wanted to manage the property. I have understood them to say that they thought the State conservation laws should apply and that they should enforce the conservation laws and administer the conservation laws.

Senator ANDERSON. On what theory would they get 37½ percent?

Senator LONG. On the same theory your State gets 37½ percent on your federally owned lands within the State.

Senator ANDERSON. Within its boundaries. This has nothing to do with boundaries. This is land out in the middle of the ocean.

Senator LONG. We believe they should be considered within the boundaries of the States.

Senator ANDERSON. When it is not within the boundaries of the State. I mean it is considered for revenue purposes only.

Senator LONG. We think it should be within the boundaries of the States. We think the States supply every bit as much service to the people who develop these resources as your State supplies the people who develop your resources, Senator.

Senator ANDERSON. Do you really?

Senator LONG. Yes, sir, we do.

Senator ANDERSON. We maintain police power, we build roads across it. We have courts that sit in jurisdiction.

We do all these things that you are talking about in the outer Continental Shelf that you would like to do.

Senator LONG. We think every comparable service should be supplied by the people of Louisiana to its citizens.

Senator ANDERSON. Would you admit that my prediction about the States coming in for part of this is at least true?

Senator LONG. If you are ready to put the federally owned lands, the minerals under federally owned lands in New Mexico and other public lands of the State, in the same category as our submerged lands, to go and split them among the people of the Nation, I will join you. If you argue for one concept for New Mexico and a different concept for Louisiana, one that favors New Mexico and one that discriminates against Louisiana, I cannot support that.

Senator ANDERSON. We are talking about a severance tax in Barksdale Field which is within your boundaries. Now you switch over and talk about things out in the middle of the ocean that have no connection with State boundaries. I am not surprised by this. I have been saying all the way through this was going to happen.

Senator LONG. There is no doubt in my mind any property that could have been found there at the time Louisiana came within the Nation would have been included within the boundaries of the State of Louisiana. That is not to say that the State of Louisiana would have owned that property. But it would have been put within the State's boundaries for jurisdictional purposes. If that had been there at the time your State received 37½ percent off public lands with

minerals extracted from them, it would have received the same consideration with regard to my State. We do receive such consideration from public lands within our State. When the Federal Government came and claimed that land, the revenues to be taken for the Federal Government, we urged that the State should be entitled to some share of the revenue for the purposes of police power, administration of the domestic needs of the people as your State receives, and the revenues are derived from public lands there.

We have no interest in your oil and gas and the revenues derived in New Mexico. We only ask that you be as considerate of us as our people would like to be of you.

Senator ANDERSON. You do have an interest. You get five-eighths.

Senator LONG. We do not get anything.

Senator ANDERSON. You get five-eighths.

Senator LONG. We do not get a single cent out of the reclamation funds.

Senator ANDERSON. Anybody that does not recognize that a contribution that goes into the Federal Treasury goes to the benefit of all States just will not look at the record, that is all.

Senator LONG. We do not want to be a reclamation State.

Senator MILLIKIN. Mr. Chairman, I wonder if we might give the question to the witness and give the witness a chance to answer. The witness is waiting to answer. I would like to hear the witness' answer.

Senator ANDERSON. So would I.

Mr. MADDEN. I think you have an entirely different situation in this bill that you are now considering.

Senator ANDERSON. You want to refer to the record here in this case.

Mr. MADDEN. I did. That is one answer I want to give, but I was reversing the manner in which I was trying to answer.

Senator ANDERSON. Go ahead the way you wanted to.

Mr. MADDEN. It is all right. The decree in the Louisiana case describes the property and it says——

Senator ANDERSON. Where are you reading from? Is that page 1198?

Mr. MADDEN. Yes, it reads:

> 1. The United States is now, and has been at all times pertinent hereto, possessed of paramount rights in, and full dominion and power over, the lands, minerals, and other things underlying the Gulf of Mexico, lying seaward of the ordinary low-water mark on the coast of Louisiana, and outside of the inland waters, extending seaward.

and so forth.

Senator ANDERSON. Read the next sentence,

> The State of Louisiana, its privies, assigns, lessees, and other persons claiming under it, are hereby enjoined from carrying on any activities upon or in the submerged area——

Mr. MADDEN. That is true, but the point is that you have to read the exclusion in there. This says that you are not dealing with lands that are within the inland waters of the State. Now, a great many of those leases we think are within the inland waters of the States.

Senator ANDERSON. We are not arguing about those. We are talking about the lands that are outside of that. You are confused on

my question. I said beyond the State limits, not waters that are in the State.

Mr. MADDEN. When it comes to leases, under the Holland bill or under this bill, if you had leases out there that are beyond the boundaries of the States, I think that that is correct.

Senator ANDERSON. That is all we were talking about. Now, on what theory do you claim a severance tax beyond the boundaries of your State?

Mr. MADDEN. Senator, the thing about that is that I do not believe—I have not consulted the collector of the State, I have not discussed it—but I do not think the State of Louisiana has the right to collect the severance tax out there as the law is out there.

Senator ANDERSON. Neither do I. Tell me how the leases are valid out there just as soon as the President signs this bill which he must do by Tuesday? Isn't every State lease out there invalidated?

Mr. MADDEN. Beyond the Continental Shelf?

Senator ANDERSON. Beyond the historic boundary.

Mr. MADDEN. I am inclined to believe that there is some merit in that. That is why we are saying in the statement that there might be some difficulty in saying that the lease was valid.

Senator ANDERSON. I could not agree with the statement more. I think there is great difficulty in saying the lease is valid. I think there is an absolute lack of any validity in the lease out there. There is no possibility that the lease is valid. Under what theory could it be valid?

Mr. MADDEN. That is the very point I tried to bring out in my statement.

Senator LONG. Might I clarify this by making this point? The problem you have involved here is that knowing presently that the leases are not valid beyond the State's boundaries, you would like to know which leases are going to be valid beyond the State's boundaries if this bill passes. I believe Mr. Bonnecarrere pointed out to me that this bill proposes to validate State leases that were in existence and valid under State law at a certain time. Assuming that the States had the right to grant the leases, this will propose to validate such leases that were valid at a certain time.

Mr. Bonnecarrere's question to me was, which leases does the Senator mean? Because under State law some of these leases would be valid and some of them probably would not be valid. Would you mind explaining what you have in mind?

Senator ANDERSON. I wish you would, because I think they are all invalid.

Senator LONG. That is, if your bill passes.

Mr. BONNECARRERE. These leases were laid out similarly to what was explained by Mr. Bascom Giles yesterday, in blocks. The leases were awarded under a system of competitive bids and granted to the highest or most advantageous bidder. The State collected, up until December 1950, the rentals and the royalties.

Senator ANDERSON. And the bonuses.

Mr. BONNECARRERE. Of course, they got the bonus at the time the lease was awarded. Now, those leases now fall into several categories. We did not make those categories. The lessees themselves. I do not know whom they discussed their problems with, but we have evidence

in our files that of the 752 leases awarded, first of all 27 new fields have been discovered in this area I am speaking of, and I do not know where one begins and the other ends, those leases have commercial production on them.

Then we have rentals paid to the Federal Government. These were submitted to the Federal Government and a receipt was given to the company who submitted those rentals after December 1950. Those leases were in number 232.

Senator MILLIKIN. Would you mind restating that, this last category of leases you are talking about?

Mr. BONNECARRERE. The rentals paid to the Federal Government. After December 11, 1950, we have a record of 232 leases out of the original 752 granted in which the rentals have been paid to the Federal Government. That a sum amounting to $10,126,028.80, according to our records for the period 1950 to 1953——

Senator MILLIKIN. That was by stipulation?

Senator ANDERSON. No.

Senator LONG. No; they just thought they ought to pay it to the Federal Government to protect themselves.

Senator ANDERSON. I would just respectfully state that the decree of the Supreme Court said:

> The State of Louisiana, its privies, assigns, lessees, and other persons claiming under it, are hereby enjoined from carrying on any activities upon or in the submerged area——

It was because they got an injunction against them going out there. But the State of Louisiana continued to collect in the face of the injunction; did it not?

Mr. BONNECARRERE. I want to explain that situation in regard to the leases.

Senator ANDERSON. Did it not continue to collect in spite of the injunction?

Mr. BONNECARRERE. Not on the bonuses and rentals and royalties. Because there were no leases granted in this area after October 1948.

Senator MILLIKIN. What did you pay on? What did you collect on?

Mr. BONNECARRERE. In my statement, sir, I have it set out. We had 752 leases, as I had previously stated. We note on 60 of these leases the State of Louisiana is presently receiving rentals and royalties. There are 33 of these 60 leases on which double rentals have been paid. I mean by that, sir, that rentals have been paid, a full rental has been submitted to the State of Louisiana and a full rental has been submitted to the Federal Government.

Senator ANDERSON. Are those outside your historic boundaries?

Mr. BONNECARRERE. I wish to point out that these fall in an area which is known as Breton Sound.

Senator LONG. That is an area where you can argue it either way. It can be inland waters or high seas.

Senator ANDERSON. I would think under those circumstances that is a very wise thing.

Mr. BONNECARRERE. We have only one field in that area that is producing commercially and the State has received royalties on some 200,000 barrels of oil produced.

Now, in the producing leases, except the one I just mentioned, the royalties have been paid to the Federal Government since December

1950. Royalties have been paid to the Federal Government on some 14,099,036 barrels up to and including January 1953.

Senator ANDERSON. Has the severance tax also been paid to the State?

Mr. BONNECARRERE. I cannot testify as to the severance tax, sir. My job is to keep up with the rentals and the royalties and the bonuses. That is a separate department of the State.

Senator ANDERSON. You do not report to the other agency of the State government? In an ordinary operation, in the payment of Federal and State income taxes, they have an opportunity to ask each other's records so they will know if a man is paying the right amount. It is your testimony that you do not tell the man who is collecting the severance tax what the royalty comes to?

Mr. BONNECARRERE. I might point out that the State mineral board does not collect rentals and royalties.

Senator ANDERSON. Who does?

Mr. BONNECARRERE. The Register of the State Land Office collects it. But the Mineral Board has jurisdiction over the lease and therefore it is the duty of the Mineral Board to see that the rentals and the royalties are timely paid. But we have nothing to do with the severance tax.

Senator LONG. You have no right to cancel the lease if they do not pay the severance tax?

Mr. BONNECARRERE. That is right.

Senator LONG. That is the duty of the collector of taxes to sue them?

Mr. BONNECARRERE. That is right.

Senator LONG. That is not one of the conditions of holding a lease, that they pay the severance tax?

Mr. BONNECARRERE. No, sir.

Senator ANDERSON. When the President signs this bill, as I assume he is going to do, it would be your feeling then that there is not a valid State lease in the area?

Mr. MADDEN. No, sir.

Senator ANDERSON. What would validate a State lease?

Mr. MADDEN. Those leases out there are not in my opinion just ipso facto void but they might be voidable.

Senator ANDERSON. Now, would you reduce that down to layman's language? Tell me how in an area where the State never had title, could not possibly have title, where they continued leasing after the Supreme Court decision, how can you keep them valid as soon as the the President signs the Holland bill?

Mr. MADDEN. I am fairly certain, Senator, that whether legislator is passed, I, as least, anticipate there will be State legislation on this matter. That would place the lease back in a legal status. Now, this is another point, that I do not think that we have called upon any lessees in that area to surrender the lease because they did not pay their annual rental. If we thought something like this might pass, we would go out there and say, "You did not pay your rental on time and you have a lease; you surrender it."

Now, we had a decision in the Louisiana Supreme Court in which 18 different oil companies brought suit against the State of Louisiana, the State Mineral Board and Register of the State Land Office, asking

for relief upon these obligations of paying rentals and royalties, and so forth. For a while that matter was pending in Congress.

Senator ANDERSON. What happened?

Mr. MADDEN. The court held that that was a legislative matter for the State to consider and it is not a matter for the court because the court could not make a lease, he could not make a contract, he could not validate a lease or matter of that sort. The thing about it is it may be, and I have talked with one or two attorneys of the major oil companies, they said that "We have a theory now on which if we go back in court as situations are now and can show we are virtually stopped, and it was stopped, from drilling out there, then it might be that the Supreme Court of Louisiana would say, "Well, it would not have done you any good to pay your rental, and so on, that lease may be good'."

Senator ANDERSON. They hope to get a favorable result now from the Supreme Court of Louisiana?

Mr. MADDEN. Yes, and they wanted a favorable one before.

Senator ANDERSON. In other words, the decision of the Supreme Court would be altered by the fact that now there is a chance to validate these leases by action, is that right?

Mr. MADDEN. Not by action of the passage of this bill or the passage of the Holland bill but because of the fact here is we have a decree now of the Supreme Court which had an injunction, they could not go out there and do anything without the consent of the Federal Government, as I understand.

Senator MILLIKIN. Mr. Reporter, can you find the question of Senator Anderson?

Senator ANDERSON. I am asking him if in his opinion the minute the Holland bill is signed there is any reason why there should be any validity to any of these State leases beyond State boundaries?

Senator MILLIKIN. Can we have an answer to that question?

Mr. MADDEN. I will say I cannot answer the question yes or no. They may be legal and valid or they may not be.

Senator JACKSON. What is your opinion?

Mr. MADDEN. My opinion is that unless there is some legislation there or the Court definitely changes our mind about it, then there is a probability that those leases will be invalidated.

Senator MILLIKIN. You drew a distinction a while ago between a void lease and a voidable lease.

Mr. MADDEN. Yes.

Senator MILLIKIN. Would you state the circumstances under which a lease might be considered as voidable rather than void?

Mr. MADDEN. There may be provisions in a lease, and obligations in a lease, which would provide that if certain things are not done that this lease would be void, but that lease would have to be surrendered or we would have to make demand on the lessee to correct the situation before we could just say that this lease is void. In other words, we might bring suit to annul the lease, but we would not have the power ourselves to annul the lease.

Senator MILLIKIN. If the right to grant leases were to be so changed that you no longer had that right, and theoretically you never did have that right, would you draw a distinction between a void and

a voidable lease? What right would you have to argue a voidable rather than a void lease?

Mr. MADDEN. I would think this, Senator, I had not given any serious study to this matter until it came up the other day. I have not given it enough study to answer your question intelligently.

Senator MILLIKIN. I do not think you should answer it offhand. I think Senator Anderson has asked a very critical question and should not be answered offhand.

Senator ANDERSON. There are some side factor in here. He has suggested 2 or 3 alternatives to make these leases good. He testified that they did not collect the rentals or else did not threaten to cancel for nonpayment. I do not know how people can come in and claim they have good-faith leases when they have had an understanding with the State that the State would not even ask them to pay the rentals.

Secondly, he said the State legislature might act to reinstate and make all these leases good. We are acting here on the assumption, or we thought we were, that these people were going along carrying some burden. If the State Legislature of Louisiana is just going to pass a law that all these leases are in good force and effect, that makes some mockery out of what is inside this bill.

Next you pointed out the supreme court, when these 18 oil companies filed an application for relief, had rejected them and turned them down and said the court could not handle it. Then you testified if you passed this legislation so that leases are good, that your supreme court might turn around and make them good to qualify them under this law.

Mr. MADDEN. I did not intend to say that, the last part of it, the statement that you made in connection with the testimony. I am not saying what the Supreme Court of Louisiana might say as a result of this, of the passage of the Holland bill. I am saying that those lessees out there who were forbidden to do this and to do that, they could not carry out their obligations under the lease. There might be an enforced moratorium, so to speak. There might be a condition under which these oil companies would suffer because they could not do that which they had bound themselves to do.

Senator MILLIKIN. I would like to suggest for the purpose of this committee, this committee might well hear evidence as to the equities of the States as distinguished from legal title as far as these wells are concerned. If I were acting as a special pleader on either side here, I would suggest that considerable attention be given to that because we have the power to recognize equities even though the legal title might not support the equity from a strict legalistic standpoint.

Senator ANDERSON. Let me read you your testimony here or rather the testimony of the attorney general and I hope Senator Jackson will listen to this section. It is on page 13:

> We are not undertaking to scare oil companies who, in good faith, have paid substantial sums of money to the State of Louisiana for oil, gas, and mineral leases. On the contrary, we say in their behalf and for the purpose of making section 6 of S. 1901 workable, that it might be more appropriate for Congress to validate invalid leases than to expect the State of Louisiana to certify that leases were valid and in full legal effect on some particular date, in accordance with State law and the terms of the lease contracts.

You propose that the Congress, knowing these leases are invalid, shall proceed to validate them?

Mr. MADDEN. I do not say what Congress should do. I say that here you are dealing out there with property that is outside the boundaries of the State, perhaps. I do not think that the State of Louisiana should decide whether or not a lease is good. I think that the Federal Government should decide whether or not the lease is good in that area because that seems to be within the province of the Secretary of the Interior or the National Government.

Senator JACKSON. If the State did not have any authority to issue these leases, in other words, they were invalid, as lawyers we know, ab initio from the very beginning, how can the Federal Government validate that which was void? Will you answer that question for me?

Mr. MADDEN. I do not know, sir.

Senator JACKSON. The Federal Government can take care of a voidable lease, but how can we validate that which does not exist?

Mr. MADDEN. I can say this, that if a lease is invalid ab initio, and I am not saying any particular leases were, then there is a serious question if Congress could come in here and validate as you say something which never existed.

Senator JACKSON. But you are saying in your statement on page 13:

> On the contrary, we say in their behalf and for the purpose of making section 6 of S. 1901 workable, that it might be more appropriate for Congress to validate invalid leases than to expect the State of Louisiana to certify that leases were valid and in full legal effect on some particular date, in accordance with State law and the terms of the lease contracts.

It follows logically you cannot validate something that never existed. You do not have to be a lawyer to follow that. You say in your statement that you are asking the Congress to validate something that never existed, that is what an invalid lease is, the same as if it never existed, will you explain how you accomplish that legally?

Mr. MADDEN. We are not asking Congress to do anything in that particular about those leases. If those leases are outside the State of Louisiana and we have no interest in it, why should it matter to us?

Senator ANDERSON. Then as far as the State of Louisiana is concerned, we can wash out those provisions of the attempt to validate those leases?

Mr. MADDEN. We can say this, that the spirit of this particular sentence here in the first place——

Senator JACKSON. Would you not want to change your language and say voidable leases?

Senator MILLIKIN. The gentleman has made that point.

Senator DANIEL. Would you not want to change your statement there to say that Louisiana does have some holders of these leases who bought in good faith and paid Louisiana the lease money for the contract?

Mr. MADDEN. Shall I answer the question? I think we might amend our statement in particular, of course, where these oil companies have paid these sums of money to the State of Louisiana before the decision of the Supreme Court.

Senator ANDERSON. Before the decision or the filing of the case?

Mr. MADDEN. I say before—there would be some question there. I think it would be at the time of the filing of suit, perhaps up to the

decree, you see. Afterward, the court knew exactly where we stood, we did not have it. I think there is no conflict between saying that it might be appropriate for Congress to take some action to validate the leases that are simply voidable and then to say that we would be interested and concerned in Congress doing that on the basis of the equities that these oil companies have. That is because they have paid these tremendous sums of money.

Senator LONG. Did the Supreme Court order the State of Louisiana to account for any funds that the State received from these leases prior to the actual judgment of the Court and the order of the Court that you had laying down injunction against the State granting any further leases?

Mr. MADDEN. The decree provided for accounting to begin at the date of the decree.

Senator LONG. Did that not in effect recognize that prior to the time that the Federal Government had undertaken to actually obtain an order of the court preventing the State from exercising certain activities out there, that the State would not be ordered to account for the various resources that it had taken or permitted to be taken under authority of the State prior to the actual judgment of the Court

Mr. MADDEN. I think that is correct.

Senator DANIEL. There is no doubt about it being correct, because the Government asked that the Court make the States pay all the moneys they had collected since the California decision. But the Court refused to order that and required us to account only from the date of the judgment in our own cases. Is that not correct?

Mr. MADDEN. That is correct.

Senator LONG. At the time I asked the Attorney General of the United States why he did not sue the other States to take possession of their resources either within or beyond their historic boundaries. He took the attitude that those States had the right to take certain resources as long as the Federal Government did not see fit to assert its paramount power with regard to those particular resources. Are you familiar with that testimony?

Mr. MADDEN. Yes, and I am familiar with *Toomer* v. *Witsell*, decided in 1948, found in 334, United States Reports, in which it said the State shall exercise powers until the Federal Government enters that field and asserts that power.

Senator LONG. So the question here is that there are obviously certain equities that the oil companies have a right to urge by virtue of the large amounts of money and the expenditures they have undertaken to develop in this area; is that correct?

Mr. MADDEN. I think so. And the pioneering endeavor they have made out there.

Senator LONG. How far does the Congress care to go in validating leases that could be validated or in making State leases good, where today those State leases are not valid leases of the Federal Government on Federal territory?

Mr. MADDEN. I think that is a question for Congress to decide, yes.

Senator LONG. Now, it is important for Congress to know then what the situation is with regard to these leases. That is what Mr. Bonnecarrere was giving us before we got off on the question of void

and voidable leases. I would like to ask Mr. Bonnecarrere to give us a breakdown of the categories in which these leases follow.

Senator ANDERSON. With the understanding that at some reasonable time I will get a chance to go back to my question.

Mr. BONNECARRERE. Of the 757 leases awarded there are 349 leases remaining according to our records, on which some payment of rentals are being made at this time or capable of production, and commercial production is being derived therefrom.

Senator LONG. May I ask you to give a breakdown of the earlier leases for the benefit of Senator Jackson, who just came in? Would you start out with the first 752 leases and explain into what categories they fall?

Senator ANDERSON. Do you mind if he did it according to when they were granted so we will know if they did this after the suit was filed against California?

Mr. BONNECARRERE. The State mineral board started leasing and held its first lease sale on August 14, 1945, at which time 27 leases were awarded and some 8 or 9 of those leases are still being maintained according to our records by some rental payment. However, the rental payment has been going since 1950 to the Federal Government.

Senator JACKSON. Where are these properties located?

Mr. BONNECARRERE. These properties are located—it depends on where you are going to draw the line. But they are well out on the Continental Shelf area.

Senator MILLIKIN. Are they outside your historic boundaries?

Mr. BONNECARRERE. That is a good question.

Senator ANDERSON. Are they beyond 3 miles?

Mr. BONNECARRERE. I would say one of them or several of them are definitely out on the edge of the Continental Shelf.

Senator JACKSON. Do you have a map so that you can locate them specifically in order to avoid confusion as to what leases we are talking about under the bill just passed or the one that is before the committee?

Senator MILLIKIN. Have you got that broken down so that you can make your case in terms of what is clearly within your historic boundaries, what is in a doubtful area, what is clearly without the historic boundaries? Can you make your case that way?

Mr. BONNECARRERE. Senator, I haven't attempted to establish the boundaries. When the mineral board receives an application for a lease, we consult with our engineers.

Senator MILLIKIN. Is the answer to the question then that you are not prepared to break this down the way that I have suggested, to wit, tell us about the wells within your clearly defined historic boundaries; tell us about the wells which are in the doubtful area; tell us about the wells which are clearly outside? Are you prepared or any of your witnesses prepared to give us that?

Mr. BONNECARRERE. Not in its entirety. But if you observe this map you will have to note there are many leases that are well out in the Continental Shelf area. Some of those leases are productive. Some of them are rentals being paid on; so they are definitely some of those leases that will lie in that category. How many I am not prepared to say.

Senator MILLIKIN. Our principal inquiry here has to do with what is outside your historic boundaries. Can you take some of those as examples or tell us about as many of them as clearly come within that category as to just what you have been doing about those?

Senator LONG. Mr. Chairman, if I might attempt to help the witness on this, because I am an attorney and he is not, there are all sorts of conflicts between the State and Federal Government on historic boundaries. For example, the witness mentioned 33 leases upon which rentals were being paid to both the Federal Government and State government because the companies did not know themselves whether or not this would be regarded as inland waters of the State of Louisiana or whether they would be regarded as high seas. The actual boundary line of the State is very difficult for anyone to determine.

Senator MILLIKIN. Are there any wells here which everyone will admit are outside the historic boundaries?

Senator LONG. Yes.

Senator MILLIKIN. Can we not be told what has been the treatment of the State toward those particular wells?

Mr. BONNECARRERE. I was coming to that, sir, because they were the older leases of these leases that I mentioned, located right in this area, the Eugene Island area, and are productive of oil and gas.

Senator MILLIKIN. Can you tell us about the State relationship toward those particular leases you are talking about?

Mr. BONNECARRERE. This distance here, sir, represents approximately 27 miles.

Senator JACKSON. What is the relationship, as the chairman asked, what is the relationship of the State of Louisiana as to the administration of those wells?

Senator MILLIKIN. Tell us about that, please.

Mr. BONNECARRERE. I can tell you only what we have done with the leases. There are witnesses with the department of conservation than can go into that phase of it because they handle that insofar as the proration and production are concerned. However, I will say in regard to the leases that the State of Louisiana received the rentals and the royalties, and there were very few royalties because production really did not get started until 1948, but the State did receive those revenues until December of 1950.

Senator MILLIKIN. Did it receive any after that so far as these particular wells are concerned?

Mr. BONNECARRERE. No, sir; none at all.

Senator MILLIKIN. Did it receive severance taxes?

Mr. BONNECARRERE. I do not know, sir. I do not have the records on severance taxes.

Senator MILLIKIN. Is anyone here capable of testifying on that?

Senator BARRETT. I might say, Mr. Chairman, that the witness has told us that some official in the State could give us that information. The clerk of the committee phoned down there, and the official indicated over the phone that they had received severance taxes on some of the wells producing in the outer Continental Shelf. Perhaps these are the wells. I am not sure.

Mr. BONNECARRERE. They could be, but there are several other leases that are producing, sir, and it is very possible that they might not have received——

Senator JACKSON. When were these leases granted?

Mr. BONNECARRERE. August 14, 1945.

Senator LONG. The payment of the severance tax would not affect the validity of the lease as far as the State is concerned.

Mr. BONNECARRERE. As far as the State mineral board is concerned and its jurisdiction over the lease.

Senator MILLIKIN. Senator Long, can you get for us the information we are trying to get?

Senator LONG. I believe I can. The breakdown I wanted is to show the category of these leases. You said 752 were leases under which the State had received rentals and royalties up to the present time. You said there were 33 of those leases under which there were double rentals aid royalties paid, that is, paid to both the Federal Government and the State Government and that those leases were in the Breton Sound area. Then you said there were 232 other leases that fell into a different category. Would you mind repeating for the record what those categories were?

Mr. BONNECARRERE. The 232 leases?

Senator LONG. Yes.

Mr. BONNECARRERE. Those are nonproducing leases to which the record refers in the manner in which the rentals were paid to the Federal Government in 1950 and the State received no income whatsoever from those leases.

Senator LONG. The Federal Government is receiving rental on those funds?

Mr. BONNECARRERE. Yes, sir.

Senator LONG. How about the remainder of the leases?

Mr. BONNECARRERE. The remainder of the leases are producing leases on which the Federal Government is receiving the royalty and the State of Louisiana is receiving nothing since December 1950.

Senator LONG. How many are there on which the Federal Government has been receiving rentals and royalties and the State receiving nothing?

Mr. BONNECARRERE. All but 60. In other words, the Federal Government is receiving the revenue on all but 60 of these leases.

Senator LONG. And on those leases the State is receiving revenues?

Mr. BONNECARRERE. The State is receiving the revenue in the manner that 33 of them; they are paying double rentals, both to the State and to the Federal Government.

Senator LONG. Are we to understand that on all of these leases revenue is being paid either to the State or to the Federal Government?

Mr. BONNECARRERE. That is right.

Senator MILLIKIN. May I inquire what is the point of this particular testimony?

Senator LONG. I am trying to develop the categories of these leases because the testimony of the Attorney General is that under the law of the State of Louisiana there is a question in his mind as to whether they could certify to the Federal Government that these leases were valid as of a certain date under State law.

Senator ANDERSON. The statement was also made there were areas where they have not canceled for nonpayment and your testimony

is directly contrary to that. I think the three of you ought to get together, really.

Mr. BONNECARRERE. May I answer that question?

Senator ANDERSON. Was his testimony right or wrong?

Mr. BONNECARRERE. I can only speak from the standpoint of the records of the State mineral board.

Senator ANDERSON. You do not collect the money. You testified that yourself.

Mr. BONNECARRERE. We keep a record of it. We searched the records of the Land Office because it is the duty of the mineral board to have supervision over the leases and we checked the records to get whatever other information we could find in those records.

Senator ANDERSON. And they show all these leases are paid up?

Mr. BONNECARRERE. That 349 of the leases in the categories I mentioned, sir.

Senator LONG. If you treated payments to the Federal Government as though they had been paid to the State government, would you have any difficulty then in certifying these leases were valid under State law?

Mr. BONNECARRERE. If I understand your question, Senator, you mean that if the Federal Government is receiving rental, that the State should receive an equal amount?

Senator LONG. No, I mean if you took the leases where the revenue is being paid to the Federal Government and with regard to that revenue you assumed that the Federal Government being rightly entitled to it anyway, that a State should credit that payment as though it had been paid to the State for purposes of validating a lease issued by the State Government, would you have any difficulty then in certifying that these leases were valid according to State law?

Mr. BONNECARRERE. I would not think so, Senator. I would not think so.

Senator ANDERSON. Does that apply to 757 leases or 349 leases?

Mr. BONNECARRERE. It applies to 349.

Senator ANDERSON. What happens to the other three hundred and something?

Mr. BONNECARRERE. That is a good question.

Senator ANDERSON. I think it is, too. What about them?

Mr. BONNECARRERE. On many of those remaining leases—I am only referring to the records I have and I only quote 349 leases because those are the only leases I have records of that some revenues are being received therefrom.

Senator ANDERSON. I will be much interested in this record when I have a chance to look at it because I am quite sure Senator Long had referred to the 700 leases just prior to your testimony.

Mr. BONNECARRERE. The remaining leases, rentals were paid on many of those leases until and after 1950.

Senator ANDERSON. By number, please, how many?

Senator LONG. Would you say all of them?

Mr. BONNECARRERE. No, not all of them. I would say that we received some revenue from about 85 percent of them besides the bonus. They carried it beyond the first-year term. Many of these leases carried extremely high rental, Senator. Some of the leases went for as

much as $500,000, a little in excess of that for one 5,000-acre block well out on the Continental Shelf.

Senator ANDERSON. Not bonus payment but spread over a long period of years?

Mr. BONNECARRERE. That was bonus cash submitted at the time the lease was awarded, sir.

Senator ANDERSON. $500,000 for a 5,000-acre lease?

Mr. BONNECARRERE. That is correct.

Senator DANIEL. That meant the rental was how much?

Mr. BONNECARRERE. $250,000 per year.

Senator ANDERSON. Is that lease still in effect?

Mr. BONNECARRERE. Well, the company felt that it—I mean some of the companies felt—they have expressed themselves off the record to me that they had no permission to go out——

Senator ANDERSON. Is that lease still in effect?

Mr. BONNECARRERE. I do not know, sir.

Senator ANDERSON. Are they paying $250,000 per year?

Mr. BONNECARRERE. I wanted to make my point, Senator, and then I will try to answer.

Senator MILLIKIN. Why do you not answer that question. That is a fair question. If you cannot answer it, please say that you cannot answer it, and you will not be pressed any further. Answer that question and then make any explanation you want.

Mr. BONNECARRERE. As far as our records reveal, I do not think we are receiving any rental payment on those leases, sir, but I would like to point out——

Senator LONG. Is the Federal Government receiving the $250,000?

Mr. BONNECARRERE. My records do not show it.

Senator DANIEL. There is one pertinent question. Is there production on it?

Senator ANDERSON. I would like to get my question in.

Senator DANIEL. Is there production on the lease that would hold the lease without payment of rental?

Senator ANDERSON. Will you furnish us the description of the lease so that we can find out if the Federal Government is getting the $250,000 a year?

Mr. BONNECARRERE. I can, sir.

Senator ANDERSON. Now, you started out with 757 leases and you gave an explanation on 349. I am not wholly satisfied with it, but I am going to pass it for the moment. That leaves 408. Now, what about the 408? How many of them are today paying dollars, the full amount provided by the lease, to the State of Louisiana?

Mr. BONNECARRERE. Sir, I have no access to the Federal Government records.

Senator ANDERSON. I did not ask you about the Federal Government. I asked you about the State.

Mr. BONNECARRERE. The State of Louisiana, I have stated that our records reveal that 60 State leases originally granted, the State of Louisiana is receiving some revenue therefrom either in rentals or royalties.

Senator ANDERSON. Well, you have me confused again by 60. So we will have to start with 757. I asked you about the 408. Start with the 757 again, would you, please?

Mr. BONNECARRERE. 757?

Senator ANDERSON. It is 757 on the testimony on page 4. Can you agree that you leased that many leases?

Mr. BONNECARRERE. Yes.

Senator ANDERSON. How many of them are being held by production?

Mr. BONNECARRERE. I would say some 27 or 30, close to that figure.

Senator ANDERSON. Twenty-seven or thirty held by production?

Mr. BONNECARRERE. That is right.

Senator ANDERSON. How many are being held by payment to the State of Louisiana?

Mr. BONNECARRERE. Sixty, sir. But you look at that 60. Thirty-three of those leases the Federal Government is receiving an equal amount.

Senator ANDERSON. On 33, that much is going to the Federal Government. I think those people are in good shape. If 27 are being held from production and 60 are being held by payment, what has happened to the rest of the 757?

Mr. BONNECARRERE. Two hundred and thirty-two leases, the rentals are being submitted to the Federal Government, sir.

Senator ANDERSON. Two hundred and thirty-two are paying to the Federal Government?

Mr. BONNECARRERE. And nothing to the State, I might point out. Now, that of course is since December 1950.

Senator ANDERSON. Now, that makes somewhere in the neighborhood of 315.

Mr. BONNECARRERE. There may be a few more producing.

Senator ANDERSON. Out of 757?

Mr. BONNECARRERE. That is right.

Senator ANDERSON. What happens to the other 425? They will all be validated by this bill apparently.

Mr. BONNECARRERE. I cannot answer that question.

Senator ANDERSON. We are going to have to get an answer to that before this bill can ever get to the floor of the Senate.

Senator MILLIKIN. The witness says he cannot answer it.

Senator ANDERSON. Who can answer it?

Senator DANIEL. Will you let me volunteer a suggestion? If the rentals have not been paid to anybody and if there is no production on the leases, they have expired. This bill would not validate those leases, would it?

Senator ANDERSON. The suggestion has just been made in your absence that the State Legislature of Louisiana will act and could act rather and that they could decide that since these leases were under a cloud that they would give them all a blanket IOU and say that is fine.

Senator DANIEL. No bill before the Congress would do that. If they have expired under State laws, there is no bill before the Congress that would do that unless it was an expiration at the end of the primary term where a man was prevented from drilling because of this injunction. He could not keep his lease in effect.

Senator ANDERSON. But they have testified here they have not asked the cancellation for nonpayment. Therefore they are alive.

Senator DANIEL. On all the leases I am familiar with, oil and mineral leases, if the lessee fails to pay the rentals, that is the end of them. They expire. You do not have to cancel them. What about your leases in Louisiana.

Mr. MADDEN. That is true, Senator. But then you have some other matters. For instance, lack of development, we will say. We have a clause there.

Senator DANIEL. Wait. We are just talking about not paying rentals or getting any kind of development. Do your leases end if they fail to pay the rental?

Mr. MADDEN. That is correct.

Senator DANIEL. They go out?

Mr. MADDEN. I am inclined to think so, and I have said so.

Senator ANDERSON. But if the legislature of Louisiana passed this law that you are referring to they would be hotter than a firecracker and alive.

Mr. MADDEN. I think you misunderstood me on that point. I do not say the State of Louisiana can validate a lease that never did exist. I simply say if there is a voidable lease that the legislature might take some action to place the lease in a legal effect.

Senator DANIEL. You are not talking about leases that are dead under Louisiana law for failure to pay rentals or production?

Mr. MADDEN. I am not.

Senator DANIEL. In Texas there is quite a bit of area we originally leased on which, after doing some more shooting, the companies did not pay any more rental, and failing to pay rental in any 1 year or failing to obtain production in the required time, these leases are dead and this bill will not give them life.

Senator LONG. When a man paid rentals and he tried to drill but he was restrained from drilling and could not drill, he paid his rental for the whole 5 years and the Federal Government stopped him from drilling, what has happened to those people?

Mr. MADDEN. That is a matter that has been under discussion there. It is a legal question involved. It might have to go to the court. I do not know.

Senator ANDERSON. Who restrained him?

Mr. MADDEN. The decree in the Louisiana case.

Senator LONG. Did the legislature not then pass some law to try to extend these leases for the people who had tried to drill and could not drill because of the litigation?

Mr. MADDEN. I do not recall any such statute as that. I know it has been discussed.

Senator LONG. Does Mr. Bonnecarrere know?

Mr. BONNECARRERE. In 1950 the State Mineral Board was given the right by the legislature to extend the primary term of leases in the contested area for 2 years.

Mr. MADDEN. Yes. But I am speaking of the rental payment, payment of rentals as provided for in the lease.

Senator ANDERSON. They waived the performance did they not?

Mr. MADDEN. I am not prepared to say.

Senator LONG. In other words, the legislature undertook to regard this as a valid lease insofar as they could regard it as a valid lease if the people continued to pay the rentals.

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Mr. MADDEN. Or to get production on the leases and perpetuate it by that method.

Senator LONG. Of course, they could not get production because they were restrained from drilling.

Senator ANDERSON. Mr. Chairman, I have to leave. I guess everybody has to leave. I do not know how long it is going to go on. I think it would be very interesting if we could have from the State of Louisiana a list of the 27 or 30 that are held by production, a list of the 60 that are held by payment, of which 33 are being held by joint payments as well to the Federal Government, a list of the 232 that are now paying to the Federal Government and a list of whatever additional leases they have which they regard as dead.

Senator MILLIKIN. Can that be produced for the committee?

Senator LONG. I cannot produce it. It will have to be the mineral board or Attorney General.

Mr. LEBLANC. I do not think we should, Mr. Chairman, attempt in a report to show which leases are valid and which are invalid.

Senator MILLIKIN. No; that was not the question.

Senator ANDERSON. I asked that because I subscribe to what the Senator from Texas said a minute ago. I said that as to a company that took a lease and has kept paying rentals to the State, I have a great deal of sympathy for such a lessee, particularly where he paid large bonuses, but I do not want to bring to life 425 leases that normally would be regarded as dead. I was afraid there was testimony here indicating that is what we would be doing here.

Senator MILLIKIN. If they supply the information they have promised to supply, you will then have your argument.

I just want to say every single member of the committee is not committed whatsoever. From the moment that the President signs the bill that is before him, from that moment on as far as the Continental Shelf is concerned this committee will have nothing to deal with except equities, equities of the people who have wells out there and equities of the States if they can show them. From my standpoint, I do hope we will have a clear showing of what are the equities as distinguished from the claims of title of the States and of the operators.

Now, that to my mind is a turning point, is the real issue of this hearing. I would not say for a moment that the States would not show equities. Maybe they can, maybe they cannot. But I think there ought to be a clearcut showing not as to legal title but as to equity.

A State which has encouraged leasing mistakenly, that has developed oil mistakenly, obviously can make an equitable claim. If a man comes on my oil property, trespasses on my land, nevertheless causes exploration to be made and oil comes in, I have the right to say, "You are a trespasser. You have no right here whatever. You don't get a thing. I am much obliged to you for bringing oil on my land."

On the other hand, he could take an equitable view of it and say he is entitled to something. The oil companies obviously have equities there. I believe in the end this committee will recognize equities which are strongly sustained. I doubt whether it will recognize equities which will not be sustained, but I think it is a horrible mistake

to mess this hearing up with claims of legal title when there will not be any legal title, at least from this committee's standpoint, after the President signs the bill.

Senator ANDERSON. I want to make a suggestion only as to the type of testimony that I think is important in this, the administration policy, that the statements made by the Secretary of State and the Attorney General seem to indicate that they were questioning the extension of State sovereignty and how easy it would be to apply State laws. Most of the testimony we have been having is in favor of extension of these State laws. I do not complain about that. I just say it has been. I think the committee ought to ask the Attorney General, ought to ask the State Department, and these witnesses from the administration to stand up and say why they have recommended what they do recommend if they still recommend it.

Senator BARRETT. I think that is a good suggestion.

Senator ANDERSON. I was very much impressed by the statement made by the Attorney General of the United States when he appeared before our committee. I thought his testimony made a great deal of sense. I endorsed it, even though I did not find myself always in the majority. I am interested in having his point of view on this piece of legislation.

Senator BARRETT. There is one suggestion I would like to throw in. It has occurred to me that there might be some difficulty with reference to allowing the States to impose a severance tax on this area. I doubt if there would be any legal problem involved if we were to increase the royalty from the customary 12½ percent to, say, 15 percent, or 2½ percent overriding royalty, and then make that payment to the States for the services which they might render in connection with the conservation laws and such as that. Would there be any great objection if some system like that were worked out? Then there would not be any windfall involved anyway, partially so anyway. As I figure it out, at 2½ percent overriding royalty, it would be equivalent to about 6¼ cents a barrel on high-gravity oil selling for about $2.50 a barrel. So it would probably amount to 6 cents as against 20 cents or $20\frac{6}{10}$ for Louisiana or about 10 cents for the State of Texas; is that right?

Senator ANDERSON. I think for Texas the tax is less.

Senator DANIEL. It is about 5 percent.

Senator BARRETT. We have to set some figure there.

We could not make it equivalent in all States, but we could set some figure. You might consider a proposal like that if there are expenses that would total about that figure.

Senator ANDERSON. Mr. Chairman, I want to say that I think some suggestion along that line is going to have to be adopted. I do say that these States are going to have to do some work out there and they are entitled to be recompensed for it. They are going to have to do as the witness said, build roads, going to have to provide schools. They are going to be increasing the wealth of the country by doing it and it is not fair to leave them in that position. I have great doubts about a severance tax. That may be the easiest way.

I do think these States have some rights. I am particularly anxious to try to recognize those rights. I have great faith in the ability of some of these States to handle this matter of conservation. I think

the Federal Government can cooperate. But I do think the suggestion made by the acting chairman is one worthy of much consideration. I think we ought to have some answers to it.

Senator DANIEL. I want to say this: I appreciate the statement made by both the acting chairman and Senator Anderson. There is no disposition on my part and I am sure it is true of Senator Long, to delay this legislation by trying to work out this matter of compensation to the States. As far as I am concerned, as long as the matter is not completely closed against us, we might study it further. I think there is a type of bill that can come out of this committee that would not have to settle that matter of whether the States are going to receive anything for their services. I do not know whether we can settle all the problems in one bill. Senator Anderson said the other day that we might pass out of the committee a bill that would not attempt to settle everyhing. I just want to say that I am in line with that kind of suggestion, that we do not want to hold this thing up all throughout this session of Congress to try to settle everything. That applies to what the States get, if anything, out of the area.

Senator LONG. Senator Daniel, I know, has been involved in this controversy for a long time, but having sat here in the Congress for 4 years and on this committee for 3 years, I surely would like to see Congress settle these things if we can. If we cannot settle it, we will have to wait, I recognize that.

Senator BARRETT. At the request of Senator Cordon, the acting chairman of the committee in the temporary absence of Senator Butler, I direct that the following telegrams be copied into the record of the hearing. These telegrams all are pertinent to the issue before us.

(The telegrams follow:)

SEATTLE, WASH., *May 19, 1953.*

SENATOR GUY CORDON,
Interior and Insular Affairs Committee,
Senate Office Building, Washington, D. C.:

This organization representing halibut vessel operator in North Pacific urges amendment of S. 1901 or any other bill covering similar subject to indicate that purpose of legislation is not to affect navigation or fishing outside 3-mile limit. This statement of purpose need in order to prevent further confusion over fishing right in offshore waters in all parts of the world.

FISHING VESSEL OWNERS ASSOCIATION.

SAN PEDRO, CALIF., *May 19, 1953.*

HON. GUY CORDON,
Senate Office Building, Washington, D. C.:

Submerged Lands Act passed by Congress still leaves grave doubts as to status of United States policy re territorial waters. Essence of your statement on this subject during debate should be basis of amendment to pending legislation on Continental Shelf completely dispel any doubts on United States position. Dr. W. M. Chapman of American Tuna Boat Association authorized to represent us on this matter.

FISHERMEN'S COOPERATIVE ASSOCIATION,
JOHN J. REAL.

SAN DIEGO, CALIF., *May 20, 1953.*

HON. GUY CORDON,
Senate Office Building, Washington, D. C.:

Fishermen of Pacific coast desire language in S. 1901 which will clearly define territorial waters at 3-mile limit. Clarification of historical boundaries necessary for State Department in their attempt to define same. Any extension of this boundary past 3-mile limit will be invitation of foreign governments either to extend or continue extension of their boundaries resulting in great American fishing fleet. Will appreciate your assistance. Best regards.

MASON CASE, *Chairmain,*
Pacific Coast Fish Producers Institute.

SAN DIEGO, CALIF., *May 19, 1953.*

HON. GUY CORDON,
Senate Office Building, Washington, D. C.:

Suggest inclusion of statement in S. 1901 clarifying territorial waters at 3-mile limit. This most important to fishermen of this region.

FIVE STAR FISH & COLD STORAGE.

SEATTLE, WASH., *May 20, 1953.*

Senator GUY CORDON,
Interior and Insular Affairs Committee, Senate Office Building, Washington, D. C.:

This organization favors amendment to present legislation on offshore tidelands to indicate that purpose is not to affect navigation or fishing outside of 3-mile limit. Our vessels fish off shores of other countries and any legislation without requested amendment will do untold harm to our relations with friendly adjacent countries.

BERT G. JOHNSTON,
Secretary, Fisherman's Cooperative Association.

Senator BARRETT. We will adjourn until 10 o'clock tomorrow morning.

(Whereupon, at 12:45 p. m., the hearing was adjourned, to reconvene at 10 a. m., tomorrow, May 22, 1953.)

OUTER CONTINENTAL SHELF

FRIDAY, MAY 22, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met, pursuant to call, at 10 a. m., in the committee room, 224 Senate Office Building, Washington, D. C., Senator Frank A. Barrett, presiding.

Present: Senators Eugene D. Millikin, Colorado; Guy Cordon, Oregon (acting chairman); George W. Malone, Nevada; Arthur V. Watkins, Utah; Thomas H. Kuchel, California; Frank A. Barrett, Wyoming; Clinton P. Anderson, New Mexico; Russell B. Long, Louisiana; Henry M. Jackson, Washington, and Price Daniel, Texas.

Also present: Senator Spessard Holland, Florida; Kirkley S. Coulter, chief clerk; Stewart French, staff counsel, and N. D. McSherry, assistant chief clerk.

Senator BARRETT. The committee will come to order, please.

The first witness will be Mr. John B. Hussey, of the State of Louisiana, commissioner of conservation.

STATEMENT OF JOHN B. HUSSEY, COMMISSIONER OF CONSERVATION OF THE STATE OF LOUISIANA, ACCOMPANIED BY EDWARD A. ALBARES, ENGINEER

Mr. HUSSEY. My name is John B. Hussey. I am the commissioner of conservation of the State of Louisiana. I am an attorney, a graduate of Georgetown University here in Washington, and a member of the bar of Louisiana, and a member of the bar of Texas.

At the outset I should like to give you the position of Louisiana among the oil-gas producing States in the Nation.

In the matter of total production Louisiana is the second in the production of gas and the third in the production of oil. The two States, Texas and California, which outrank Louisiana in the production of oil, and the State of Texas which outranks her in the production of gas, are very much larger in size. Cutting them down to size and comparing us by area, that is square mile per square mile, Louisiana produces more oil and more gas than any other State in the Nation.

Senator LONG. That is per acre?

Mr. HUSSEY. Per acre. Despite the fact that acre per acre Louisiana produced more oil and more gas than any other State in the Nation, we increased our oil reserves during 1952 more than any other State in the Nation and we increased our net gas reserves more than any other State in the Nation except Senator Anderson's State of New Mexico.

On the gross increase we had the greatest amount, but taking away the production we had much more production than New Mexico and New Mexico had greater reserves left, or greater increase in reserves for that year.

Now the increase in these reserves, despite the great production from the State, we attribute a great deal to the modern conservation practices and the modern conservation statute which we have in our State. We have one of the most modern statutes and we employ all of the modern conservation practices.

We have had oil production, we have been a major producer of oil, since 1901; a major producer of gas since 1905; and we have had conservation legislation since 1908.

I have read the statement of Mr. Murray of the Texas Railroad Commission. He made a very fine statement regarding the east Texas field, which is one of the largest oilfields in the world, and the secondary recovery methods they are using there are very fine.

Now those conservation practices are commonplace in Louisiana. We do not brag about them; we just perform them.

We have learned with the other States the necessity of making maximum use of the natural energy in a field which produces oil in order to recover the ultimate maximum recovery from the field.

We have learned to supplement those in fields in which secondary recovery methods would be feasible. We have 70 such projects in effect in Louisiana now. We have more in prospect and we are encouraging and securing more year by year.

To give you samples, the Haynesville field, which is principally in Louisiana with a small portion in Arkansas, is using both waterflooding for pressure drive and gas cycling, the two most used methods for secondary recovery. There will be recovered from that field for operators, in addition to what would be the normal recovery with primary conservation practices, some $225 million additional for the operators and $33 million additional to the royalty owners.

The Delhi field is very comparable to east Texas. It is a monoclinal structure with a water drive.

We are instituting at the present time a secondary recovery project there where they are putting water in the edges, the same as they are in the east Texas field.

We expect to recover from that, in addition to what would be recovered by usual primary methods with good conservation practices, an additional 90 million barrels of oil. That is just like going out and finding a brand new oilfield with 90 million barrels of production; we take the oilfield we have and get 90 million more barrels of oil out of it.

Senator LONG. That is the system of pumping water under the oil to keep pushing it up. When you have extracted as much as you can get out, you pump the water under the oil and get more oil out?

Mr. HUSSEY. That is correct. At the same time it maintains the pressure so that the gas does not drop out in solution. If the gas drops out in solution, the fluids wet the sands and remain underground. That is what we call underground waste when you do not recover from the ground. Actually the oil is there. Now, there is one field, which I would prefer not to mention, because it is in an adjoining State—and I do not want to be critical of that State; it is not the State of

Texas—and that field came up in the flush periods of production when the promoters used to flow the oil over the top of the dirt in order to prove that they had a gusher. They had to prove that they had oil to their stockholders.

By the wasteful practices there, there was left underground 500 million barrels of oil that will never be recovered because they did not use conservation practices. They did not know the practices at that time. But they have since gone down and taken core analyses to find out how much was left undeground.

Now true conservation is getting that oil to the top of the ground. If you leave 60 percent of your oil underneath the ground, then you have created greater waste than if you got the oil to the top and you cut a hole in your tank.

Senator MALONE. I was going to ask you at that point, is there a method of using natural gas in the conservation of oil in that manner by pumping the gas or forcing the gas back down in the dirt?

Mr. HUSSEY. Yes, that is what we call gas cycling or gas pressure maintenance, depending on the nature of the reservoir and the purpose for which you are using it. Of course, I am a lawyer and not an engineer, and I could not express it in the technical terms that an engineer might, but when the pressure is released from gas or from any liquid hydrocarbon, it goes into a gaseous stage. The liquids drop out and stain the formation. They remain in the sands and do not come out. Now we use this gas injection for two purposes. One is to maintain the pressure to a point at which this condensation will not occur, and the liquid will not drop out. The other is to wash the formation and wash out that part which is remaining in the portion.

Senator MALONE. Do you use the gas in connection with this water treatment, or is it separate entirely?

Mr. HUSSEY. In the Haynesville field they are using it in connection with it.

Senator MALONE. Is it better when the gas is used in connection with the water?

Mr. HUSSEY. It depends on the nature of the reservoir. Every oil pool you get into is different in some way. You have to study the characteristics of the reservoir.

Senator MALONE. Is that because of the porosity of the sand?

Mr. HUSSEY. Because of the porosity and permeability of the sands, the nature of the sands, what sands, limestone, ash, or what kind of container, you might say, you have for oil.

Senator MALONE. Do you have occurring in your area limestone formations where there is no sand cavity in the limestone?

Mr. HUSSEY. We have a great many of those. I think we have in Louisiana just about every type of oil and gas production you will find.

Senator MALONE. You do not have very much trouble getting the oil out of that kind of structure, do you?

Mr. HUSSEY. It depends a great deal on the structure and the nature of the cavity. They have a system of using acids to open up these structures in the limestone and hydrocracking. They have many scientific methods they use to open up the limestone. The limestones ordinarily will not yield their oil the same way as the sands will.

Senator MALONE. I was in Abadan in 1947. I saw all the oilfields, I guess, and practically all the oil wells. They told me that they have that limestone structure there and that is where they get that enormous production of more than 40,000 barrels a day from 1 well with no danger to the well at all because it is a rigid structure with cavities and does not have the sands at all. It is not a dangerous production operation. Would that obtain here in the same manner if that is the same structure?

Mr. HUSSEY. It would. We have approximately the same thing in the Caddo field in Shreveport.

Senator MALONE. Then you would not need to exercise the same conservation methods as you do where sand is present and the less porous structure, being movable, might stop up the extracting process.

Mr. HUSSEY. I would not say that you would not need conservation. You definitely need conservation. You do not need the same type or you could not use the same type of secondary recovery methods we use in sand fields.

DRILLING IN LIMESTONE AND SAND FORMATIONS

Senator MALONE. What would you use for secondary recovery methods if you have the open cavities? Would you use the acids to open up the cavities?

Mr. HUSSEY. To open up the connections between the cavities.

Senator MALONE. How would you conserve?

Mr. HUSSEY. Conservation would be getting to the ground more of the oil that is underneath. You see, if that oil is left underneath the ground it is lost to us.

Senator MALONE. Conservation is opening up these cavities so you get the oil which is in there?

Senator BARRETT. You are producing as much of the oil as in the sands?

Senator MALONE. They are limestones and they are movable. But I want to find out about your conservation. You have already explained that does not seem applicable to the limestone, except that you open up the cavities. Once they are opened up, you could produce as fast as you wanted to without danger to the structure? What is the difference between limestone in one place or limestone in another place? Is it a disintegrated lime of some kind?

Mr. HUSSEY. It is a lime which has a certain amount of porosity and has cavities in it.

Senator MALONE. But it is a solid lime?

Mr. HUSSEY. Well, every time you get into a field you have a different situation.

Senator MALONE. I understand that.

Mr. HUSSEY. Ordinarily it is not the solid lime.

Senator MALONE. I want to know what this limestone is like.

Mr. HUSSEY. Let me tell you first, of course, that I am a lawyer, and you are getting into an engineering problem.

Senator MALONE. I understand that, but you are explaining it.

Mr. HUSSEY. The problem is getting the majority of the oil to the surface, or as much of the oil to the surface as possible, so that it will not remain underground. Now the scientific methods of getting it to the surface are being increased every day.

Senator BARRETT. It seems to me you are talking about a situation that exists in the Middle East.

Senator MALONE. That is what he said exists here.

Senator BARRETT. Wait a minute, there is no comparable condition in this country.

Senator MALONE. He did not say so.

Senator BARRETT. I think that is the fact, I am sure.

Senator MALONE. He said it was limestone.

Senator BARRETT. That is all right. There is limestone, and there is limestone. There is different limestone all over the world. The situation in the Middle East is not comparable, as near as I can find, to any condition that exists in this country, because the deposit over there is in about 1,500 feet of saturation. They have not pierced but a matter of a few hundred feet in the last 45 year. So the richness of that deposit over there raises entirely different problems. Whether it is true conservation or not is questionable.

Senator MALONE. Let met ask you one other question now, Mr. Hussey. Is there sand beneath this limestone strata, when you drill through it, which will rise up and fill these cavities, or is this purely limestone you are in?

Mr. HUSSEY. The source beds of the oil industry and the source beds of the oil are the lost horizon that the oil industry is still looking for. It is still a mystery exactly where that comes from, although it is supposed to come from some source bed. In the folding of the area it is trapped in some portion. If you have a limestone in which you have a particular cavity, you have the question, first, of how many wells are necessary to drain from that particular cavity, or that particular limestone, the efficient rate at which they should be produced in order not to let the gas escape too quickly or let the oil turn into gas, and you have to have your efficient rate of production, your determination of the number of wells that are there, and you have to have the other matter of conservation as to the proper pipe, the proper strength of casting, and the proper method of producing it. In the Caddo field which I mentioned, that field was discovered in Louisiana in 1904.

Senator MALONE. Where is that?

Mr. HUSSEY. It is in Caddo Parish, north of Shreveport, near the Texas line and near the Arkansas line.

Senator ANDERSON. It has no connection with Caddo sands?

Mr. HUSSEY. It has no connection with Caddo sands.

Senator ANDERSON. I was going to ask you how far down the Caddo sands are in Louisiana, but now it does not matter.

Mr. HUSSEY. This is a very shallow limestone formation I think in the neighborhood of 1,500 feet. My recollection may not be accurate on that.

Senator MALONE. How deep is it necessary to drill before you reach the limestone?

Mr. HUSSEY. About 1,500 feet is the top of it.

Senator MALONE. How thick is the lime? Do you go through it?

Mr. HUSSEY. It varies in thickness as you go across. It is not a very thick stand and it is not a big producer like the big fields of Saudi Arabia. We have a sort of allergy when you mention foreign oil.

Senator MALONE. Now that you mention that allergy, I want to go into this. You have opened up a very interesting subject here. Do you go through this lime before you produce that, or do you stop in the lime?

Mr. HUSSEY. You look for a break, as we call it, in the limestone, which would be a crevice or anything in the lime which would be porous enough to hold the oil. The lime itself ordinarily is not porous enough.

Senator MALONE. You drill through the lime?

Mr. HUSSEY. We just drill into the brick.

Senator MALONE. Is there sand in this limestone?

Mr. HUSSEY. The crevices that are there are not just wide open crevices. They are filled with some formation. I am not particularly qualified to discuss this.

Senator MALONE. That is all right. I am sorry. I will not pursue that any further. Is there anyone here who understands this structure so that it may be clarified?

Senator BARRETT. We can get Mr. Duncan to testify on that. As I understand, there are two different things. One is sand and the other is limestone.

Senator MALONE. There is sand in the limestone.

Senator BARRETT. I do not think so.

Senator MALONE. Just cavities?

Mr. HUSSEY. Why not let me send you privately or to the committee, if you like, a discussion of the Caddo field?

Senator BARRETT. That will be very fine. We shall be glad to have you do that.

Mr. HUSSEY. They were discovered in 1904 and they are still drilling productive wells in that same formation.

Senator MALONE. They do not have the same trouble getting all the oil where the formation is sand?

Mr. HUSSEY. They do not have the identical problem in that they do not use the identical method, but they do have a problem, and a problem to which conservation should be addressed, in the maximum efficient rate of production and the number of wells.

Senator MALONE. You want to be sure that you open up all the cavities and get out all the oil; that is what you want to do?

Mr. HUSSEY. We want to get the maximum amount that can be recovered economically. Of course, we would like to open up all the cavities, that is true.

Senator MALONE. I was just following your line of thought. But when it costs too much to open up the cavities, then you think the field is exhausted. I am trying to establish for the record, if I interpret your testimony correctly, that there is an entirely different conservation problem in the limestone formations, and that your conservation methods in the sand, in an ordinary field, do not apply to it at all.

Mr. HUSSEY. There is a different problem in every field, whether it be two sand fields.

Senator MALONE. What is the difference between sand fields?

Mr. HUSSEY. That is the difference in the geology of the field.

Senator MALONE. I am talking about your conservation methods.

Mr. HUSSEY. Whether it is traversed by faults, whether there are ceiling barriers in the formation, whether it is sufficiently porous and permeable to accept the particular type of supplementation of reservoir energies which you intend to use, and whether or not you would use water flooding because there might be an effective water drive in the field, whether you would use gas cycling or gas repressuring due to the nature of the substance in the area. Do you think we need to go on with that particular thing, or shall I go on with conservation?

Senator BARRETT. Would you mind yielding for a moment?

Senator MALONE. I yield.

Senator BARRETT. I think the main point to be developed here is the matter of percentages. Can you tell us the history of your records there in Louisiana with reference to the amount of oil that was taken from the various sands and limes in New Mexico and Louisiana 25 years ago, roughly speaking?

Mr. HUSSEY. No, I cannot. Of course, it varies between lime formations and sand formations.

Senator BARRETT. I know, but I think it is around 25 percent. Am I right about that?

Mr. HUSSEY. I think that is a good average.

Senator BARRETT. Now the oil companies have put in very efficient systems for extracting more fuel in the last 25 years, and they have established an admirable record and used these water drives; they have used the gas repressuring, and gas cycling, and the solution system and they have increased the yield to what, 50 or 60 percent?

Mr. HUSSEY. In some cases as high as 80 and 85 percent. I would say 50 and 60 would be the average.

Senator BARRETT. Now, then, I know that you say that in one adjoining State they produced the oil at a very inefficient rate and in much larger quantities than they should have, and as a result they lost a considerable amount of oil in the sands. That has been true in the early days in Pennsylvania, and have they not gone back now and used the water-drive system in Pennsylvania and recovered more oil?

Mr. HUSSEY. They are using it and increasing the recovery. They are not getting the recoveries that they would have gotten, of course, had they had that type of secondary recovery at the inception of the field. Of course, we had some in Louisiana in the early days similarly. We grew with the industry; we grew with the States. All of us have learned conservation along with the industry which we serve.

Senator BARRETT. There is one other point I would like to develop. Is it not a fact that the records of the industry show that with the primary production in most of the fields in the United States, where the modern methods of secondary recovery have been followed and practiced, they have recovered more oil through the maximum efficient procedure such as recycling, gas pressuring, water drive, and solution drive, than they did originally on their first production?

Mr. HUSSEY. That is entirely correct.

Senator BARRETT. I think it is of record that it is all to the credit of the oil companies that spent millions and millions of dollars to perfect the recovery methods, and to the credit of the conservation officers of the various States.

Senator ANDERSON. Did the conservation officers develop gas re-

pressuring? Did they develop waterflooding? Or did the oil companies do that?

Mr. HUSSEY. It was developed in cooperation between the two of them. Now, I want to say to you that in many instances the oil companies have had to be prodded into these by the conservation departments. We have many instances where we have almost insisted that they do it. We have the power in Louisiana to insist upon cycling.

Now they had a field in one of the States that they shut down. It caused nationwide concern when the field was shut down because they were losing gas from the field. They had lawsuits. The lawsuits went through the district court and their commission was sustained. It went into the court of appeals and the commission was overruled and they are now in the Supreme Court. Thirty days before that field was shut down we shut one down in Louisiana. I am sure you never heard of it. The reason you never heard of it is because they know that we have the authority to do it. We have convinced the royalty owners and the operators of the advantages that can be secured from this practice.

We have not had a single complaint from a single royalty owner, a single operator, or from anyone connected with the field. We have that field shut down awaiting the construction of a plant and the construction of facilities for the recycling and cycling of gas in the field. Now in Louisiana we have authority to order that, and in many cases those secondary recovery programs have had their inception in our department.

Senator DANIEL. May I interject something there?

Senator BARRETT. Senator Daniel.

Senator DANIEL. I happen to be familiar with those orders in Texas. Seventeen fields were ordered to shut down their production of oil until they could find a market or a useful purpose to which they could put the gas that was being flared, burned up in the air, with the production of their oil. The operators did contest the orders in our State, but we were successful finally all the way through with all 17 fields, making them discontinue their production of oil until they could get their pipelines in to make use of the gas. So I believe the authority is established in both Texas and Louisiana now for such conservation practices.

Mr. HUSSEY. Understand, I was not trying to be critical of Texas. I think the commission in Texas does a wonderful job with the statute that it has.

Senator WATKINS. I noticed that you said a moment ago you almost insisted on their doing it. What do you mean by "almost insisted"?

Mr. HUSSEY. If I said "almost insisted," I would like to correct it. We do insist that it be done. I meant almost order that it be done without their cooperation. Now we first, of course, ask for their cooperation and endeavor to get them to do all of the work necessary in the compilation of the data which they have in their files.

Senator WATKINS. In other words, you use the full statutory authority you have to make them do it if they have not done it willingly?

Mr. HUSSEY. We would have.

Senator BARRETT. I do not know what the record is in Texas or Louisiana, but I would like to establish this fact: Is it not true that the overwhelming majority of the oil producers of the country voluntarily

do these various things you speak of and that it is a relatively few number of companies that you have to apply any pressure on to do that?

Mr. HUSSEY. That is true. I am not critical of the oil industry. The situation occurs principally where you have numerous companies with individual rights where they need a little urging in order to get together and surrender individual rights, or rather, pooled individual rights.

Senator BARRETT. Is it not also true that there are other practices, such as unitization of a field and other cooperative practices, like a large number of companies operating in the field establishing a repressuring plant there and using this gas continuously, the same gas, that they can put it back into the ground and lift the oil out and get it out of the sand, and water driving and solution?

Mr. HUSSEY. Yes, sir. We have 70 such projects already in effect in Louisiana right now.

Senator BARRETT. To come down to brass tacks, while this is all very interesting, it seems to me the only question is what effect it has on the outer Continental Shelf. Is that not right?

Mr. HUSSEY. Yes, sir. The question was asked of Mr. Murray as to whether his board or commission had regulated the Federal lands within its jurisdiction and whether the Federal Government had accepted that regulation. Of course, Texas was an independent republic at one time and has never ceded its public domain to the United States and they do not have the public domain that the other States have. We have many lands owned by the Federal Government in Louisiana and we treat the Federal Government just like any other royalty owner where they have only a right of proportion at withdrawal from the field, and that has been accepted by the Federal Government.

As a matter of fact, for the past 5 years we have been regulating the production from these tidelands. We have been practicing conservation on these wells drilled in the Gulf.

TIDELANDS DISTINGUISHED

Senator MALONE. When you speak of tidelands, of what lands are you speaking?

Mr. HUSSEY. That is one of the most indefinite terms that I know of, Senator.

Senator MALONE. Of course, I do not agree with you that it is indefinite. It is between mean high tide and mean low tide. The way you speak of it, do you mean submerged lands or seabottom lands? It is not indefinite; everybody knows what tidelands means. What lands are you talking about?

Mr. HUSSEY. I am talking about the wells that have been drilled offshore.

Senator MALONE. That is beyond the mean low tide?

Mr. HUSSEY. Of course, the tides affect some of the rivers even.

Senator MALONE. I am aware of that. Where are these wells located, beyond mean low tide or between mean low tide and mean high tide?

Mr. HUSSEY. Outside of the sheltered waters.

Senator MALONE. They are submerged seabottom lands?

Mr. HUSSEY. Yes, sir.

Senator MALONE. This is just to keep the record straight.

Mr. HUSSEY. We have been practicing conservation there. If you want to know our authority for that, we feel that even though we have heard that the Federal Government makes some claim of paramount dominion over those lands, until the Federal Government itself institutes conservation practices there, we feel that it is the obligation of the States to continue those conservation practices.

Senator ANDERSON. What will you do after President Eisenhower signs the bill today? Will you still try to regulate in a field where you know you have no right to regulate?

Mr. HUSSEY. We have never regulated in a field in which we had no right to regulate, and if we continue to regulate those fields after the President signs the bill, I do not think we will be continuing without right; I think we will be continuing an obligation which is upon the State to regulate them until such time as the Federal Government does actually take over the regulation, if they do. They should be regulated. I would like anyone who thinks that they should not be regulated, whether he be a member of this body or anyone else, to speak up and say so.

They should be regulated. I intend to regulate them until such time as someone in the Federal Government tells me either that I have not the authority, or that I do not have the obligation, because I feel that I have the obligation until the Federal Government does take over the tidelands and actually practices conservation practices there. I think they should be, and I can give you a practical illustration of it.

Senator BARRETT. Suppose we did not do any regulating up in Wyoming, would you think it was your duty to come up in Wyoming?

Senator ANDERSON. That is what I was going to get to. What is the difference between the lands that lie outside your boundaries in the ocean and the lands that lie across country in the State of Mississippi, or Alabama, or Texas, or any other State? Would you attempt to regulate in the State of Texas?

Mr. HUSSEY. I would not attempt to regulate in Texas.

Senator ANDERSON. Why not?

Mr. HUSSEY. Because that is out of our jurisdiction. It is regulated by others.

Senator ANDERSON. If they did not regulate, would you feel obligated to come into Texas and regulate?

Mr. HUSSEY. No.

Senator ANDERSON. Then why do you feel obligated to go out to the Continental Shelf where you do not have a right to regulate?

Mr. HUSSEY. For the reason that all underground strata are connected in some manner.

Senator ANDERSON. Is not the same underground strata in Texas connected with Louisiana?

Mr. HUSSEY. We would ask Texas to go ahead and regulate it.

Senator ANDERSON. But if they did not, you would go right ahead and regulate it?

Mr. HUSSEY. You are posing an academic question. It is possible, we might.

Senator ANDERSON. It is possible?

Mr. HUSSEY. Yes.

Senator ANDERSON. Brother, I would not advise it.

Mr. HUSSEY. Let me ask you a question: Do you advise us to quit regulating those tidelands at the present time?

Senator ANDERSON. Ten and a half miles, three leagues out, yes. I think 3 miles out, you ought to stop.

Mr. HUSSEY. Do you want to leave them completely without regulation at all?

Senator ANDERSON. I want to leave them completely without any regulation at all, because that will be way to get the Federal Government to do what it ought to do and should have done long ago; namely, pass a bill for the regulation. And until they do, you have no more right to move into that field, or the navigation field, or anything else that is under the Federal Government.

Mr. HUSSEY. We did not move into that field. We have been in that field since its inception.

Senator ANDERSON. I am trying to find out what you are going to do when you know you have no right in that field.

Mr. HUSSEY. How are we going to know we have no right? We have the obligation until such time as the Federal Government takes over.

Senator WATKINS. By what law?

Eenator ANDERSON. Yes, by what law?

Senator WATKINS. By what legal justification?

Mr. HUSSEY. Let us put it on a moral basis.

Senator BARRETT. No. What law?

Senator WATKINS. I am in favor of the Ten Commandments, but in some places they are not enforced and I have no right to go out and enforce them and tell you it is the moral law.

Mr. HUSSEY. Because of the fact that the boundaries have not yet been established. I do not mean to be critical of this committee, nor of the bill which has been passed, but I will say this: that the boundaries as set are the most indefinite description I have ever had the privilege of reading in 25 years of practice of law.

Senator ANDERSON. I am thankful for that because some of us said that on the floor of the Senate. Our position did not prevail. There is an amendment in there that says in no event shall the boundaries be more than 3 miles on the Atlantic or Pacific coast or 3 leagues in the gulf.

Leaving out the consideration of the question of whether it is 3 miles for Louisiana, or 3 leagues for Texas, under what law would you regulate it beyond 3 leagues.

That is what Senator Watkins and I want to know.

Mr. HUSSEY. It is beyond 3 leagues from what? It may be beyond 3 leagues from here, or it may be beyond 3 leagues from the Capitol or the White House. Now until you establish that coastline; that coastline as established by the Coast Guard is far different from the coastline that is established by you. If you take that Coast Guard line, you are going to find that the majority of these are not outside of our jurisdiction.

Senator DANIEL. Before this witness goes, I would like to say something about the legal justification for regulation beyond their lines.

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Senator BARRETT. Would you like to know what legal justification he would have to go into the State of Texas and attempt to administer the conservation laws of Louisiana over there?

Senator DANIEL. I do not understand he claims he has any such right.

Senator BARRETT. Yes.

Mr. HUSSEY. I did not claim I had the right. I said that was an academic question.

Senator DANIEL. Not in the State of Texas.

ESTABLISHING THE LOCATION OF THE COASTLINES

Senator MALONE. Let him answer the question. Now you are talking about the coastline. Let us establish the coastline wherever it should be located and then the State boundaries can be located accordingly from there. That is the legal justification about which Senator Watkins wants to know.

Senator WATKINS. I am not just trying to be facetious in this matter. What I am trying to find out is if there is any substantial legal reasoning why you feel you should take care of that, and have the right to take care of it.

Mr. HUSSEY. I have not gone into the legal problem for the reason it has never been questioned as long as I have been there.

Senator WATKINS. You have a new situation now, of course.

Mr. HUSSEY. I do not mean to be avaricious and try to take over your jurisdiction. Do not misunderstand me at all. Any time you want the jurisdiction, as far as I am personally concerned, you can come down and take whatever jurisdiction the law gives you. But, until you take jurisdiction, do you not feel that we should exercise conservation practices in those area?

Senator WATKINS. I want to ask you this question in connection with that, that has a bearing on it: I understand that by reason of the conduct of these conservation practices in the oilfields that by gentle persuasion, by insisting on doing certain things, and the people knowing that you had the power, you have brought about a cooperation among the oil companies in conservation practices. That is true, is it not?

Mr. HUSSEY. That is entirely true; yes, sir.

Senator WATKINS. For instance, there will be a short period of time between the time the President signs this law today and the time we get a bill passed here. Do you not think during that period of time the spirit of cooperation and so on that you folks have taught these people and they have worked up themselves would take care of it without your attempting to take over?

Mr. HUSSEY. It would, except as between the others. Now if you will ask these oil companies, I think you will find out that they welcome the opportunity to ask people whether they can do certain practices. If I might give you a practical illustration of what a working man in the oil industry said—and understand, it is not meant as a criticism of any government, State or Federal—we had a man come in to us, who had one of these offshore wells. He was a tool pusher. He was a man who was in charge of getting things done. He was drilling out there on one of these platforms.

Senator ANDERSON. A tool pusher is in the drilling operation.

Mr. HUSSEY. Drilling operation.

Senator ANDERSON. He did not have a well; he had a wildcat.

Mr. HUSSEY. They drill wells as well as wildcats.

Senator ANDERSON. He did not have a well until he got the oil.

Mr. HUSSEY. He did not have a producing well, but he had a well.

Senator ANDERSON. He had a hole.

Mr. HUSSEY. It is technically termed a well in the oil industry whether it is productive or whether it is not. It is technically termed a well. Anyway, he is a workingman in the industry. He represents the workingman's viewpoint. He had a well out there on which he had a rig which cost him between one thousand or fifteen hundred dollars a day. He called into our district manager by radio and asked for permission to do a thing which was necessary to be done.

Senator ANDERSON. What was necessary?

Mr. HUSSEY. It was a perforation job in this particular instance. He asked if he could perforate in a particular strata. He had lands here and an adjoining company had lands here. In order to maintain between them those equities, those adjoining leases, the equities they should have, someone has to regulate how much they should produce, where they perforate, and other things like that.

He said to us when he called in and got an answer in a very short time, "Now what in the hell would I have done if I had had to call Washington and get a decision on this matter?" That was his statement to us as to his idea of Federal regulation of that particular thing.

Senator ANDERSON. Was he outside in the Continental Shelf beyond State boundaries?

Mr. HUSSEY. Let me give you this.

Senator ANDERSON. Was he beyond State boundaries?

Mr. HUSSEY. Let me give you the answer that I had not thought of a minute ago.

Senator ANDERSON. How far was he from the shore?

Mr. HUSSEY. I do not know in that particular instance. I cannot give you in that particular instance. Of course, the shoreline has never been established.

Senator ANDERSON. Where was his well?

Mr. HUSSEY. It was an offshore well.

Senator ANDERSON. How far out was it?

Mr. HUSSEY. It would be in what you probably consider to be federally owned land. Of course, do not misunderstand me when I say that, Senator. I am not trying to be facetious. I have no jurisdiction over the establishment of that boundary.

Senator MALONE. Do you claim 27 miles out?

Mr. HUSSEY. The State of Louisiana passed a statute which says 27 miles out, and that is the legal authority for my position.

Senator ANDERSON. When President Eisenhower signs one that says you cannot possibly have more than three leagues out, what will Louisiana do?

Senator LONG. That says the historic boundaries are three leagues. It says the historic boundaries in no instance are beyond three leagues. That is not present boundary. It says the State has title within its historic boundaries.

I would like the Senators to realize that you have definitely a serious problem here. The Supreme Court refused to hold, when it was offered the opportunity, that a State could not extend its boundaries and it did not decide that. It said it preferred not to decide that question.

Senator ANDERSON. Because it has no connection with it.

Senator LONG. That was the Louisiana case. They said insofar as what the Federal Government is seeking here, we do not have to determine whether the State can extend its boundaries. So they did not decide it. They said the Federal Government had paramount rights in this area. Now in the State of Louisiana, on all land located within the State, the conservation department, administered by Mr. Hussey here, is regulating conservation on Federal lands.

In many cases you have production on Federal lands and on private land adjoining the Federal land. The only way you could effectively regulate the field would be to regulate the Federal land as well as private land for conservation purposes.

Senator ANDERSON. There is no question about that. But here is a fellow who calls him up and asks the question and he tells him whether to go ahead to perforate or not to perforate, and he has no more authority than the janitor of this building has.

Senator LONG. Unless the Supreme Court tells him he does not have that authority, he has the right to go ahead and regulate conservation.

Senator ANDERSON. Of course, he does not. Do you suppose the Governor of New York, because Massachusetts has not passed a sales tax, can go out around with a tincup and start collecting the State tax in Massachusetts?

Senator LONG. He is operating within the boundaries of Louisiana set by his State legislature, and set by the authority of his State. Now it has been held that the Federal Government has paramount right over this property. It has not been held that this property is beyond the State's boundaries.

Senator ANDERSON. No, because that question has never come before a court.

Senator LONG. Unless and until the Federal Government seeks to prevent him from exercising conservation there, he can exercise it. Now the Federal Government can prevent it. I agree with you the Federal Government can prevent it.

Senator BARRETT. Gentlemen, we would like to conclude these hearings sometime in the foreseeable future. Cannot we confine this witness' testimony to what kind of legislation he wants this committee to recommend on the outer Continental Shelf as to conservation, police powers, and so on?

Senator DANIEL. Mr. Chairman, I would like to get my word in here. I know all of us want to be fair with the witness regardless of our views. I would like to just state this: An area off the shores of a State that is not claimed by any other State or any other nation is quite different from an area which is claimed by another State. And the Supreme Court of the United States said in *Manchester* v. *Massachusetts* that insofar as it could be done under international law, a State, the State of Massachusetts, had the right to extend its boundaries on the sea the same as if it were an independent nation.

Later the Supreme Court came along in the *Skiriotes* v. *Florida* case (313 U. S. 69 (1941)), and said this:

> If the United States may control the conduct of its citizens upon the high seas, we see no reason why the State of Florida may not likewise govern the conduct of its citizens upon the high seas with respect to matters with which the State had legitimate interest where there is no conflict with acts of Congress. Save for the powers permitted by the Constitution to the Union, the State of Florida has retained the status of a sovereign power.

That was a case in which Florida was regulating the method of taking sponges. It was a conservation regulation beyond the 3-mile limit. I say the courts always have recognized that on this adjacent seabed and the resources of the sea adjacent to a State, the State has certain rights to go out there in the absence of contrary assertions by the Federal Government.

Senator BARRETT. I agree with you, but now we are trying to write the bill.

Senator DANIEL. That is true. I was trying to clear up, though, the justification for this witness saying he would regulate there in the absence of Federal law.

Senator BARRETT. Let us not argue about that. We are trying to write the law now. After we write the law, and it is passed and signed by the President, then everybody admits he would not have any authority.

Senator DANIEL. On that basis, it is all right, but I understood the witness was being pretty severely criticized for saying he would continue to regulate conservation laws after the other bill is signed today.

Senator MALONE. Mr. Chairman, I think he is regulating the oil out there just like the White Pine County sheriff who took the man out of Utah.

Senator WATKINS. There is a matter I want to clear up. I think it is an interesting matter. If we follow the contention that they do not have any authority out there after the President signs this bill today, then I would like to know from the witness, who is in a position probably to tell us, will delays of 30 to 60 or 90 days seriously impair conservation measures? Will it seriously impair that field?

Mr. HUSSEY. You are getting into the matter of conjecture there.

Senator WATKINS. I know. You have been pointing out what conservation has done in the past. You have some kind of opinion as an official. What will the delay I have mentioned do to the situation?

Mr. HUSSEY. I think very definitely such delay would seriously impair conservation measures?

Senator ANDERSON. Why?

Mr. HUSSEY. You would have the companies so confused that they would not know what to do. The companies look to conservation, the conservation departments, and I think any one of them will tell you that they look to the conservation department for rules and regulations which will act equally upon them all and not unjustly upon any particular one. If they have a rat race out there, many things could happen.

Senator WATKINS. How many drillers are there out there? How many wells are there, out there in this area, that will be affected?

Mr. HUSSEY. Again you are getting back to the question of where the line is, and I tell you very frankly I do not know. Let me say this

to each of you: I am not trying to evade your question. We have made in our department a study of offshore wells, an 85 page study, with a plat which shows every offshore well that was drilled, every well that has produced, the entire amount of production, those that were not productive, and we will be very happy to make those available to you and you can draw your own conclusions as to whether they are inside our lines, or whether they belong to the National Government.

Senator ANDERSON. The interesting part of this testimony to me is that just as I thought, they are going to try to insist that regardless of the limitation in the Holland bill, that you had the right to extend your boundaries out 27 miles.

Under that claim any law that the Congress will pass will have this conflict and the man will be just as confused as he always has been, because many people will believe beyond 3 leagues you do not have authority, but you are going to assert it out 27 miles.

Senator WATKINS. Let us get an answer to this practical question.

Mr. HUSSEY. Let me answer it this way: I know exactly what you mean. I think I can give you an answer without trying to be evasive, or without being any more evasive than necessary under the circumstances. Under the illustration we gave between the boundaries of Texas and Louisiana you have an established and uncontested boundary. Between New York and Massachusetts you have the same. Until such time as the Federal Government goes down and places its line and until such time as that has become final, no one knows. I am not trying to be evasive. I will give you the facts and you can make your own conclusions from them.

Senator BARRETT. Let me make a suggestion that we go on to write this bill. That is, the quicker we can get the bill written, the quicker we can resolve these problems. He has not testified on the bill yet. We have taken an hour here with the witness, and he has not yet made his statement.

Mr. HUSSEY. Let me ask the Senator one question.

Senator BARRETT. This committee does not desire that you question us. We are trying to get you to present to the committee your position on this outer Continental Shelf beyond your historic boundaries. I think we had better get down to it. I am going to rule that we go ahead and do it that way. We are not going to talk all day about some incidental question we have been arguing for months.

Mr. HUSSEY. I apologize to the chairman that it got in.

Senator WATKINS. May I make a statement as to what I was trying to accomplish?

Senator BARRETT. All right.

Senator WATKINS. I was trying to accomplish this:

If there is danger of losing something by nonregulation and abandonment of conservation practices, we ought to know it, because we will either step up the speed with which we get this bill in effect, or if there will be a big loss we ought to pass a resolution doing something while we are finishing up the job. It has all to do with legislation on this bill.

Senator BARRETT. I do not take any stock in that at all.

Senator WATKINS. You may not, but I do.

Senator BARRETT. The oil companies in this country have enforced voluntarily conservation practices all over the Nation. They are not going to waste any oil out there. I think they have taken the lead. I do not think it is fair to say that the States have forced them to do it. I think they have done it under their own compulsion. They have done it for economic reasons, because they wanted to recover all the oil they possibly could from a field.

Senator DANIEL. When other things are injected, though, just like I injected something that you objected to the other day about Wyoming, I think we ought to clear it up for the record. When you say you do not have to force them to do it, is it not a fair statement to say we had to force them to comply in the 17 Texas lawsuits? I had to make them comply to stop wasting gas in 17 Texas oilfields.

Senator BARRETT. He said 85 percent of the people cooperated in his State.

Senator MALONE. I congratulate the witness. Any time Louisiana does not want him, Nevada will take him. I believe, myself, that he has done a good job from what he says. Those States are connected with the area under discussion and you can rob one area by drilling another area. I thing regulation is necessary there. He is the kind of citizen we ought to have.

Senator BARRETT. When he gets through maybe we will agree with him on how to enforce the conservation laws in the outer Continental Shelf. We have not heard from him on that. I assume he came up to testify on that.

Senator WATKINS. Am I ruled out that I cannot find out what the situation is there?

Senator BARRETT. Go ahead, Senator.

Mr. HUSSEY. I can answer your question.

Senator WATKINS. I want to get for the record what are the practicalities. If there is going to be a big waste, all right. I do not think there is going to be. I do not know. You are the witness.

Mr. HUSSEY. I think there is a great possibility of it and had there not been conservation practices out there, since 1950, in the 3 years that you have done nothing, I am sure there would have been.

Senator WATKINS. As a matter of fact, in 90 days there is not likely to be much damage done. These companies have learned how to take care of themselves, as the chairman suggests. Is that not true?

Senator LONG. Tell him about the Pure Oil fire.

Senator WATKINS. Let him answer the question, please.

Mr. HUSSEY. I shall be happy to answer the question. I think they can do it, but I do not think they should be left wide open. I think they should be under some regulation to do it.

Senator WATKINS. Suppose we take the theory that Senator Anderson and some others have suggested here, if the Federal Government takes over as of today when the President signs the bill, in other words, they do not have any authority from that moment on, what is going to be the loss? I want to know because if it is important we can probably cut out a lot of this hearing and pass an act.

Mr. HUSSEY. I would like to recommend to this committee in answer to your question that this committee advise us what fields we do not have jurisdiction over and the committee tell us whether they want us to keep jurisdiction, or not.

Now, you understand, I said I would do that until there was objection from the Federal Government.

Senator MALONE. This committee has no authority, either.

Mr. HUSSEY. I will address it to the committee, and we will let anyone in the Federal Government, who has the authority, who wants to stop conservation practices in any particular offshore well, if you will tell us which wells those are and you tell us to stop it, then we will consider whether or not we think they are within our jurisdiction, and answer the problem specifically without quibble and without trying to evade it.

Senator WATKINS. All right. Answer this without any quibble: How many producing wells are there in the area, whether it is in the area that the State might claim, or in the disputed area on out in this Continental Shelf that we are trying to talk about? Just as a practical matter: Let us not split any hairs as to where they belong. Let us find out what the practical situation is. That is what I would like to know.

Mr. HUSSEY. I will furnish a copy of this report, which shows all those wells, and then you can draw your own conclusions.

Senator WATKINS. Do you not have any idea in round numbers?

Senator ANDERSON. Does the report show as to whether they are 3 miles or 10 miles out?

Mr. HUSSEY. The report shows where they are located.

Senator WATKINS. Do you have an idea about how many there are? Are there any producing wells out there?

Mr. HUSSEY. Yes, there are.

Senator WATKINS. That is what I want to know. Now, how many?

Mr. HUSSEY. There are wells capable of producing out there. Some of them do not yet have a market, but there are wells capable of producing, and more wells will be drilled.

Senator MALONE. Are they producing?

Mr. HUSSEY. They are capable of producing. Some of them are producing. If you are going to practice conservation, you have got to conserve from the date that the permit is issued.

Senator WATKINS. All right. Please give me the number of wells, if you know.

Mr. HUSSEY. I do not know the number of wells.

Senator LONG. Here is the number of all producing fields. Where you see a white dot on that map there, there is an actually producing well.

Senator WATKINS. Let us just get it from the witness. If there is not any hope of getting an answer to my question, I will withdraw it.

Senator LONG. According to the Geological Survey, there are 25 producing wells beyond State boundaries.

Senator WATKINS. Senator Long has stated that according to the Geological Survey, there are 25 producing wells in that area.

Senator LONG. Beyond what the Geological Survey would consider to be State boundaries.

Senator WATKINS. Do you know anything about the amount of production that is coming in from those?

Mr. HUSSEY. If you give me the wells, I can give you that.

Senator LONG. The analysis tells what the production is.

Senator WATKINS. Is this a copy of their report? I suggest that this be made a part of the record. It gives me an indication of the problem. If we have a problem, all right. If there are not any wells producing, then we are quarreling about nothing.

Mr. HUSSEY. I don't think that you are, Senator, because conservation does not agree with production, and I think your Federal men will agree with me. It begins with the drilling of the well.

Senator LONG. I would just like to state this for the record, because this is more responsive to the information that Senator Watkins wanted: that in the area beyond what the Geological Survey has considered to be State boundaries, there are 25 producing wells.

Senator WATKINS. What are you reading from, Senator?

Senator LONG. This is the chart presented by the Geological Survey on our previous hearings on the submerged lands bill, that is, on the Holland bill.

Senator WATKINS. I hope, then, that this may be made a part of the record, and I am asking the chairman that this be made a part of the record, in response to my questions. If I get that, I will quit.

Senator LONG. I would just like to summarize this. In October 1952, there were 156,403 barrels of oil produced. The accumulated production from those wells, I assume, since the judgment in the Louisiana case, has been 4,401,242 barrels of oil.

Senator WATKINS. As shown on the chart you have in your hand?

Senator LONG. Yes, and in the table.

Senator WATKINS. I ask that that material be made a part of the record.

Senator BARRETT. Without objection, it is so ordered.

(NOTE.—The material presented by the Geological Survey, to which Senator Long referred, is carried in the appendix.)

Senator BARRETT. Now, on page 617 of the hearings on Senate Joint Resolution 13, Mr. Cosgrove, chairman of the board of the Continental Oil Co., testified, and I quote:

> Thirty-six of the producing wells outside of the traditional State boundaries are producing at a daily average rate of approximately 5,030 barrels and have produced a total of approximately 4,135,000 barrels.

Is that about right?

Mr. HUSSEY. I think that is correct. Now, I would like to explain this: that I was called at 4 o'clock in the afternoon and asked to come up here. I had to travel all night to get here. And I did not have an opportunity to assemble a great many figures. If there are any figures you want that I can assemble, I am not trying to be evasive, and we well be very glad to get them to you.

Senator BARRETT. Thank you, Mr. Hussey.

Mr. HUSSEY. Every time a well is drilled out there, every time we have issued a permit for it, since 1950, we have required that the operator get a letter from the Federal Government authorizing the drilling of the well and the issuance of a permit at that point. We are not trying to run over the Federal Government. I hope I have not created that impression. I feel like some regulation is needed out there and is needed at the present time, and it has been needed for some years back.

Senator MALONE. You asked the Federal Government for that letter concerning all the offshore wells? Or at what point did you start?

Mr. HUSSEY. We started asking for that in December of 1950. We asked for all of them.

Senator MALONE. What distance from the shore at low tide?

Mr. HUSSEY. Outside of the sheltered bays.

Senator MALONE. Well, that would be inland waters.

Mr. HUSSEY. Inland waters, yes.

Senator MALONE. Anything outside of inland waters, then.

Mr. HUSSEY. Anything outside of inland waters. We have asked that for the reason that we did not want any question of conflict or any argument that we were going to be a Nevada sheriff.

Senator MALONE. I would still like to have you for a citizen.

Senator BARRETT. Now, Senator Long, would you mind telling us just what testimony you would like to have developed by this witness here?

Senator LONG. I would prefer that the witness go ahead and give us the thoughts that he had in mind concerning this problem, and then any questions could be asked.

Senator ANDERSON. Can we stay on these 25 wells for just a minute? How deep are these 25 wells that are producing out there?

Mr. HUSSEY. If you can give me the particular wells, I can tell you.

Senator ANDERSON. They are at Grand Isle, some of them. They are in block 16 and block 18. What I am trying to get at is that they are running about 7,000 barrels a month. How is the proration figured on that?

Mr. HUSSEY. We have had several hearings on the allowables for offshore wells. Now, for the purpose of figuring the proration for these wells, there was brought out in the testimony at those hearings the extensive costs of those wells, and in addition to that the deterioration of their equipment, due to the drilling in the salt water. And an allowance has been made for that in the allowables attributed to that well provided it did not exceed the maximum efficient rate of production that the offshore wells are granted on what we call a depth bracket allowable.

We have in Louisiana what we call a depth bracket allowable, that a man who digs a more expensive well, a deeper well, that costs him more—as long as he can stay within his maximum efficient rate of production, we allow him to recover more oil than someone else in order to get his costs back quicker. And we have done that same thing with regard to these offshore wells.

Senator ANDERSON. Maybe I had better start again. These are about 6,000 feet, somewhere in that neighborhood, let us say. You are allowing 250 barrels a day, 30 days in a month.

Mr. HUSSEY. That is correct.

Senator ANDERSON. Now, at the cost in Texas at the present time, I think they are running 19 days. Suppose you applied 20 days against this. It would be something in the neighborhood of 350 barrels.

Mr. HUSSEY. Now, are you talkin gabout Texas offshore wells or Texas inland wells?

Senator ANDERSON. I am trying to get the dry land comparable to this out here. What would you allow on a dry-land well that was of comparable depth?

Mr. HUSSEY. It would be less than that and it would be restricted by its efficient rate of production and other factors.

Senator ANDERSON. About how many are you allowing from six to nine thousand feet? How many barrels and how many days per month?

Mr. HUSSEY. Well, the days per month make no difference. It is the total overall production.

Senator ANDERSON. You tell somebody that is producing oil that it does not make any difference how many days he produces 40 barrels?

Mr. HUSSEY. But Texas uses the day system. They do not make them produce it during those particular days.

Senator ANDERSON. Do it any way you want to.

Mr. HUSSEY. Let me explain it to you so that you will understand it, Senator, if you please.

Senator ANDERSON. I think I do.

Mr. HUSSEY. They give them during a month 19 days' production, but they don't keep them shut down for the balance of the days. They give them 19 times a certain amount. It may be 20 barrels or 50 barrels or whatever happens to be the efficient rate of production. But they can produce that through the whole month. Now, that is just another way of cutting down the monthly production using that number of days. We do not use days as a factor in our proration. If we used days as a factor in our proration, you would have a comparable figure.

Senator ANDERSON. Now, we will go back and start over again. How many barrels per month on land would you allow for a well that was six to nine thousand feet deep?

Mr. HUSSEY. Each thousand feet has a difference. The allowable on a 6,000-foot well is 143 barrels, provided that is within its maximum efficient ratio of production. Now, if it cannot produce it, and it is not within its maximum efficient ratio, then we reduce it.

Senator ANDERSON. You mean that the well is allowed to run wide open?

Mr. HUSSEY. No; not wide open.

Senator ANDERSON. Well, you say if it cannot produce it.

Mr. HUSSEY. Well, a lot of wells are deficient in their production.

Senator ANDERSON. Well, it would have to run wide open, if it could not produce it. Then it is not a question of cutting down production.

Mr. HUSSEY. It has to be the first within its maximum efficient rate. It has to be within a certain oil and gas ratio. It has to be within market demand.

Senator LONG. You have not explained what the maximum efficient rate of production is.

Mr. HUSSEY. The maximum efficient rate of production is the rate which allows the natural energies of the reservoir to be used at their most efficient rate. In other words, if you let the well produce wide open, then it would draw the water into the formation quicker and you would leave water underground. We do not permit that, even though the depth bracket allowable would give him an amount. We do not

let them produce wide open unless they get into what we call the stripper stage, where they are either pumpers or the energy from the field has already been virtually dissipated.

Senator ANDERSON. One hundred and forty-three barrels per day, then.

Mr. HUSSEY. That is right.

Senator ANDERSON. And you would let them produce at sea 350 barrels or something like that?

Mr. HUSSEY. Yes, sir.

Senator ANDERSON. Three hundred and fifty barrels?

Mr. HUSSEY. 355 it is.

Senator ANDERSON. 355 at 6,000.

Mr. HUSSEY. Provided, of course, it meets the other factors which we have mentioned.

Senator ANDERSON. And how did you arrive at that 3X factor, or practically that?

Mr. HUSSEY. That was arrived at on the basis of the life of the equipment in the well.

Senator ANDERSON. Does casing deteriorate faster?

Mr. HUSSEY. That salt water in the sea just eats it up. And they have got to get the oil out faster.

Senator ANDERSON. How quickly does it eat it up?

Mr. HUSSEY. I can get you the figures on that. Unfortunately, I didn't bring them. I can give you the whole hearings we held on that. We held public hearings on that.

Senator ANDERSON. I am only trying to get to this one question. You are in 60 feet of water. Below that, you have been telling us about this land formation. The sea water does not go down there and eat up the casing, does it?

Mr. HUSSEY. The salt water penetrates below that. Now, you understand the question you are asking me is, to a certain extent, unfair from my standpoint.

Senator ANDERSON. If it is a 6,000-foot well——

Mr. HUSSEY. Let me explain it to you. I am a lawyer. I am not an engineer. I did not come here prepared to answer that question, because I came here on very short notice. But I will get you that information if you want it and show you the reason for the division in those allowables.

Now, I was not the commissioner when they were established, and for that reason I cannot give you that answer.

Senator ANDERSON. But on a 6,000-foot well, that is in 60 feet of water, 5,940 feet of casing is not in seat water. Is that not true?

Mr. HUSSEY. That is true, but when the top of it comes off, it doesn't make any difference, if any part of it gives way. If any portion of that from 6,000 feet to the surface gives way, it is just the same as if the whole thing had given way.

Senator ANDERSON. You mean they would have to replace the entire casing?

Mr. HUSSEY. They can't replace the casing, because the energy would be lost. They would have to plug it down below.

Senator ANDERSON. Are you sure about that?

Mr. HUSSEY. Well, now, I am not an engineer, as I told you.

Senator ANDERSON. I would like to have an engineer testify as to whether or not you cannot plug that well down and replace the top 50 feet or 60 feet of that casing.

Mr. HUSSEY. Now, that depends on lots of things, and how much pressure you have got in your well, and it depends upon an awful lot of factors. You cannot apply a general rule to it. When you get these gas wells that have three and four and five thousand pounds of pressure, that is something that the engineers themselves do not completely understand. Like the Pure Oil Co. blowout which occurred down there. That occurred to a certain extent because of the sea conditions over which they had no control and about which they had no knowledge. And it was a very disastrous thing.

Senator ANDERSON. One of your factors is market conditions?

Mr. HUSSEY. One of our factors all over the State of Louisiana is market conditions.

Now, let me explain market conditions to you. Market condition has no relation to price. We do not consider price at all in fixing market demand. We consider storage of oil. Now, if oil is stored underground, left underground, to be produced at a later date, it does not deteriorate. If that oil comes to the surface and is kept in surface storage, it deteriorates. It will evaporate. It is subject to loss by fire. And there will not be sufficient facilities of the pipeline companies to take it.

Now, we do that on the ground of physical waste, that if more oil is above ground in storage than can reasonably fill the transportation facilities and the market which will absorb it until they will remain within the capabilities of the transportation facilities, there will be physical loss of that oil, actual physical loss. If you will go out on a tank and look at it on a hot day, you will see the vapors of oil rising up from it anywhere it is stored in the United States. The United States has a certain amount of storage in which it can keep oil. And if we permitted the companies to produce in excess of that amount, they would have to build the additional storage, or they themselves might be forced, because of their incapability, to accept the oil into storage, to enforce proration, pipeline proration.

Senator ANDERSON. Now to get directly to the bill: What is there in the handling of this offshore oil that the United States Geological Survey could not handle from a proration standpoint? The United States Geological Survey would be able to take your report, go down through this list, and they would find that in Grand Isle you had 5 wells producing 35,000 barrels in a month. What is going to be the disaster that Senator Watkins was asking you awhile ago about if the Geological Survey has to ask these people to do it voluntarily just as you would have to do it voluntarily? Does not California operate under a sort of a voluntary basis?

Mr. HUSSEY. California, as I understand it, has no proration statute, for the reason that California is beyond the Rockies and is a market in itself. It is cut off from the rest of the United States market by the natural barrier of the Rocky Mountains. And it has always been deficient in its production of oil. California is not considered, in the United States market, by any of the economists, in fixing the United States market, but it is completely separate, just

like it was a different country. They have been deficient both in gas and oil all of the time.

Senator DANIEL. You mean by that they have not met the market in their particular area?

Mr. HUSSEY. In their own State they have not met the market.

Senator ANDERSON. What would that have to do with the useful life of an oil well?

Mr. HUSSEY. In California?

Senator ANDERSON. From a conservation standpoint.

Mr. HUSSEY. You asked me about California, and I told you about California.

Senator ANDERSON. That is not the reason why there is not any particular law there; is it?

Mr. HUSSEY. I don't know why they haven't got a law there. They are doing it voluntarily.

Senator ANDERSON. Whatever conservation practices they have there are voluntary?

Mr. HUSSEY. Well, I can cite you evils of the California practices.

Senator ANDERSON. So could I. Why could you not do the same thing voluntarily in this outer shelf? Senator Watkins tried to find out from you what the tragedy was going to be. Why cannot the Geological Survey do this for these next 90 days on a voluntary basis?

Mr. HUSSEY. I am not familiar with the capabilities nor the experience of the Geological Survey in proration practice, and I am not prepared to say that they could not do it or that they should not have done it 3 years ago. But they have not done it, and certainly it should be done. Now, we will be very happy to cooperate with them to any extent that we can to assist them in that regard.

Senator ANDERSON. He tried to find out what awful thing was going to happen in these next 60 days. I am not trying to quote him too closely, but that, I think, was it.

Senator WATKINS. If there was such a danger, I thought maybe we ought to pass some kind of a resolution permitting you folks to go ahead prior to the passage of an act.

Mr. HUSSEY. I think you should have somebody down there doing it. Now, whether it is us, whether it is the Geological Survey, or whoever it is, I think and sincerely recommend to you that there be someone there. Actually, you are talking about the operators that are there.

Senator WATKINS. That is right; what is going on now.

Mr. HUSSEY. You are not talking about the wildcat type of operators we have in the oil industry, who would be there or who could be there within that particular line?

Senator WATKINS. They will not get there, unless they get leases, if it is Federal land, and it has been decided it is, and that is it.

Senator ANDERSON. They cannot get a lease. There is no leasing administration. There might be a question whether the Government could lease, but is there any question as to whether the Geological Survey could establish proration if it desired?

Mr. HUSSEY. Well, do they have the authority at the present time, statutory authority?

Senator ANDERSON. I think they do. Don't you think they do? You are a lawyer.

Mr. HUSSEY. If they do, I have never seen it.

Senator ANDERSON. You have not?

Mr. HUSSEY. No, sir. And I would like to recommend to you that something be done about it. If you don't think we have got the authority, or if you think we are usurping authority, or if you think we ought not to be there, we would like you to tell us. We would like someone in the Federal Government to tell us about it.

Since the date of 1950, when the Supreme Court handed down the decision, the Federal Government has not done one single thing to preserve or conserve these offshore reserves. They have not taken one single step toward it. They have in every instance allowed it to go on with State conservation.

And if you think we do not have the authority, I wish you would say so. I wish someone with the Federal Government would say so. And I wish someone with the Federal Government would tend to their own business if they think we shouldn't be tending to their business for them.

Senator ANDERSON. Have you ever seen this book called Code of Federal Regulations, Title 30, Mineral Resources, Chapter II, Geological Survey, Part 221, Oil and Gas Operating Regulations, which the Geological Survey has put out?

Mr. HUSSEY. I have seen the entire Code of Federal Regulations.

Senator ANDERSON. Have you seen anything in there about water shutoffs, pollution, and so forth?

Mr. HUSSEY. I have seen no evidence of its being enforced, if it is there, in these particular wells.

Senator ANDERSON. The question is whether they had authority to operate in these areas?

Mr. HUSSEY. I said if they have it, I don't know of it.

Senator ANDERSON. Would you go into some of the States and find out if they have participated; in the State of Wyoming, or the State of New Mexico, for example, in helping to work out proration?

Mr. HUSSEY. They have on those lands up there which are federally owned lands within the State. Now, that Code of Federal Regulations applies to the instance, or I think it applies to the instance where the Federal Government has authorized or given the leases.

Senator ANDERSON. No, I do not think it does.

Senator MALONE. Until the President signs that bill, these are Federal lands you have been fooling with there within the State boundary.

Mr. HUSSEY. Do you think we are wrong in having conserved during that period?

Senator WATKINS. Well, whether it is an illegal act or not, that is not the question that I am concerned with at the moment.

I think if you actually conserved them, probably it has been a good thing, whether it is legal or illegal.

Senator DANIEL. And may I say, Senator Watkins, that that is why Mr. Perlman testified to our committees that he had not challenged the extension of State jurisdiction in regulatory matters because there were some things that needed to be regulated. And for the 3 years since the decision that we do not own the land, all through those years the Federal Government has permitted the States to continue with their regulatory powers.

And I want to say this, further: that at no time in all this fight has there been any contention by the administration that the States should not extend their jurisdiction for conservation purposes. It has been in bill after bill as to the outer shelf. And as much as the Truman administration fought the States on ownership, they came in and said we had a wonderful conservation system and they never objected to the State conservation laws applying to this area the same as where you have other Federal lands.

Senator WATKINS. Of course, from the standpoint of law, we will have a different situation after the President signs this bill.

Senator DANIEL. No, it will be the same.

Senator WATKINS. There is a matter of law on the ownership.

Senator DANIEL. No, the ownership has been in the Federal Government as to the outer Continental Shelf ever since the 1950 decisions of the Court.

Senator WATKINS. Well, there has been some dispute, and you folks have been out there on the theory that you probably owned it.

Senator DANIEL. No, sir; not since 1950. Since 1950, we have not had any ownership and have not claimed any ownership beyond the historic boundaries, and we have been out there only in a regulatory capacity, only in the capacity that the Attorney General of the United States and Solicitor General Perlman said should continue unless Congress is going to enter the field.

Senator WATKINS. I do not think you should be criticized for that. I do not voice any criticism for what you have done under those circumstances.

Senator BARRETT. Do you think we should enact legislation providing that the Secretary may delegate to your office in Louisiana the right to extend your conservation laws to the outer Continental Shelf beyond your historic boundaries?

Mr. HUSSEY. I think very definitely you should.

Senator BARRETT. Now, why?

Senator JACKSON. Before you proceed any further on that, do you feel that under the Constitution we could do that, delegate to the States?

Mr. HUSSEY. I haven't gone thoroughly into that question and am not prepared to give you a legal opinion on the question of the constitutional authority, and didn't know that would be asked. But I certainly feel that conservation is necessary, and I don't think that anyone will argue that premise.

Now, whether it is necessary to have the regulation immediately or not may be a matter of opinion. It is my opinion that we should. Because these companies there who have the wells offshore, where their equipment disintegrates more than it does inshore, who have the market themselves for that oil, and who are having to buy other people's oil elsewhere, could take more oil than would be proper conservation. I don't mean to accuse any particular oil company nor any particular producer of oil of having any such schemes or machinations, but the possibility exists. So long as the possibility exists, I think there should be regulation.

The States have been in conservation work for years, and certainly at least until you take over there should be someone who is experienced in that line.

I agree very thoroughly with Mr. Murray that your regulation and your leasing powers should be administered by different bodies. We do that in the State of Louisiana. We, as the conservation department, have nothing to do with the granting of leases. The State Mineral Board grants those leases. But the State itself as a royalty owner has it administered by us in the same capacity as any other individual royalty owner, and we feel that same thing should be done by the Federal Government.

One of the reasons that the industry is reluctant to work with the Federal Government in certain instances is that you have the same jurisdiction established for that in the Federal Government. The Federal Government sometimes becomes a partnership with them in their operations, and they are not a disinterested party from the standpoint of conservation; and from the standpoint of conservation, if there ever was an instance where someone would look at it completely in a disinterested fashion, there you will find the greatest necessity. And I very strongly recommend to you that you have separate agencies.

Now, as to your Geological Survey——

Senator ANDERSON. I want to come to that, but I will read you something before I come to that. Because there surely would be the question as to whether the Federal Government had the right to delegate to the State its functions in that field. But I would just like to read you a few words from what is labeled here 221.3 out of these regulations.

Drilling and producing operations, handling and gaging of oil and the measurement of gas or other products, determination of royalty liability, receipt and delivery to those entitled thereto of royalty accruing to the lessor and paid in amount of production, determination of amount and manner of payment of damages assessed under authority of the regulations in this part for default of noncompliance with duties by the lesee and, in general, all operations subject to the regulations in this part are under the jurisdiction of the supervisor for any district as delineated by the Director. As to producing leases of Indian lands, the officer in charge, and as to lands within naval petroleum reserves, the supervisor, shall determine rental liability, record rentals, royalties, and other payments, and maintain lease accounts.

Is this land not within a naval petroleum reserve?

Mr. HUSSEY. You mean the offshore land?

Senator ANDERSON. Yes.

Mr. HUSSEY. I understood it was put in a naval reserve by Executive order, and you probably know more about it than I do, but I understand that that Executive order was held not to be effective.

Senator ANDERSON. Oh, I think it would be interesting if you would read what was held. It was not effective as to administration. Congress has to act for administration.

Mr. HUSSEY. Well, if there is a question in your mind as to which one of the Federal services would have the right of administration of the conservation measures, I think that would be even more reason why we should continue it until you straighten out your own affairs.

Senator WATKINS. I would like to suggest, Senator Anderson, if I may, that when we get into these constitutional questions, these legal questions, it is not quite fair to the witness nor to the committee to ask of these men who are not prepared particularly on these questions that they answer them. We could spend days and days in argument back and forth. There are people who will spend the time necessary to

get us that information and get us an opinion which is reasoned and which comes as a result of research. It is not an easy matter to answer. I personally raised the question here the other day, but I do not want to pursue it with these men who come in. It is quite unfair to them, obviously, to ask what their opinion is on this and that. It is just like a lawyer being asked as he goes down the street, "What do you think about this?" or, "What do you think about that?" Until he has made some research it would be a curbstone opinion.

Senator ANDERSON. I think so. But he has said he believes the State can go out there and regulate. I would like to know the basis for his belief. Why does he think he can take a Federal function and, by delegation, proceed to administer that Federal function out in this area where the State has no jurisdiction?

Senator WATKINS. Well, you want to remember this. He is a State officer, and under his duty to uphold the laws of the State of Louisiana, he can be proceeding with at least a show of legal right, because under the law of his State, the territory goes out so far. And he could be acting wholly within his duties to enforce the laws of Louisiana. If Louisiana, by act of its legislature, said that belongs in Louisiana, he has to follow that or violate his own oath of office.

Senator LONG. The point being: What right does he have to presume that an act of his State legislature is unconstitutional and so in conflict with the Federal Constitution as to be null and void, when the point was presented to the United States Supreme Court and the United States Supreme Court declined to hold the act unconstitutional? That is the point.

Senator WATKINS. Well, they declined to rule on it one way or the other.

Senator ANDERSON. That is it. They declined to rule.

Senator LONG. At the suggestion of the Federal Government itself, they declined to hold that the State could not extend its boundary. It was the testimony of Solicitor General Perlman last year here, and again this year, that as an agent of the Federal Government it seemed to him and to those associated with him that it might be desirable for the States to exercise police power beyond their historic boundaries. Police power could include this regulation, Senator.

Senator ANDERSON. But that was not why they did not pass on the boundaries.

Senator LONG. That is what he said. Now, might I complete the statement? He said that it occurred to him that it might be desirable for the State to exercise police power beyond their historic boundary, and for that reason, they asked the Supreme Court not to hold against the States on the State's right to extend its boundary. In other words, as far as he was concerned, it might be the best thing for the State to exend its boundary, and it might be entirely legal for them to do so. So the Supreme Court did not hold that. They held that the Federal Government had paramount rights over this area; which is to say that the State did not have proprietary rights. The Federal Government had the paramount rights, which included the right to administer the taking of these resources here, but it did not say that the State could not enforce certain laws and use certain powers of conversation in this area. They could have held it. But the Federal Government did not want it held that way.

The actual agents of the Federal Government themselves, speaking now of Mr. Perlman and his group who pled the case, did not want it held that way. And so the Supreme Court, perhaps upon their urging, perhaps of its own motion, held that it would not hold the State's extension of boundary to be unconstitutional.

I submit as an agent of the State of Louisiana, as an officer under the State constitution, this officer has no right to presume that a State statute is unconstitutional, in violation of the Federal Constitution, when the Supreme Court declined to so hold even upon the urging of the Federal attorneys.

Senator ANDERSON. Then you would go a step further and say that in the State of Texas they should go out 150 miles?

Senator LONG. Senator, the point is that the question of ownership, the question of title, the question of, "To whom do these resources belong," is not at all the question involved when you say, Does a State have the right to regulate conservation in the area?

Senator ANDERSON. But the same logic that would permit Louisiana to go out 27 miles would permit Texas to go out 150 miles. It passed the same kind of a statute. Is that not right?

Senator DANIEL. If there was anything to be regulated that far.

Now, Mr. Chairman, may I make one other suggestion as to why the Federal attorneys did not ask the Court to declare Louisiana's extension of boundaries invalid?

Senator ANDERSON. Or Texas, because they were both involved.

Senator DANIEL. Because the Federal authorities knew that occupation of this area by any State or agency of the United States would help the Nation's claim to the land. And here is what the United States Supreme Court said in the Louisiana case:

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

In other words, Louisiana's claim has helped the claim of the United States to this area.

Senator DANIEL. We should not be criticized for doing it. We are not claiming ownership any longer; and if you do not want to give any regulatory powers to the States, I say it would be a mistake. But let us not wipe off of the books what the States have done toward helping the Nation get this area of land.

Senator BARRETT. Well, I think we should have the witness tell us in as brief a time as he can what he thinks of the provision in the House bill under title 3, page 3, which reads as follows:

> 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. * * *

Have you the force down there, and are they equipped? Have they been working out there, and are they ready and willing and able to do a good job on the enforcement of your conservation laws, if they had the power to do it?

Mr. HUSSEY. Yes, sir; we have. And so far I have heard no criticism from anyone as to the manner in which it has been accomplished up to date. Now, when you are speaking about the Geological Survey, geologists are not the only ones necessary for conservation. We maintain staffs of engineers. We have a complete geological survey in Baton Rouge.

Senator ANDERSON. Do you think the Geological Survey does not?

Mr. HUSSEY. I don't think they maintain the engineers and are equipped with the knowledge of south Louisiana and offshore conservation that we have. And I think it will take them many years, or a long time at least, to acquire that. Conservation in Wyoming and in the public lands States is a completely different problem from conservation in the offshore areas. And also, Wyoming is a very new State in conservation, and some of the others, and they have learned a lot and taken many of their conservation statutes from what has been developed by the other States, including the State of Louisiana.

Senator JACKSON. In that connection, I would like to ask a question, Mr. Chairman, at this point.

Senator BARRETT. Senator Jackson.

Senator JACKSON. If we can legally delegate to the States the regulation and conservation of the resources in the outer Continental Shelf, which I have some doubt about in my own mind, as to constitutional authority, is it not true that the States logically, where we have Federal operation today, supervision over Federal property, where oil is being drilled, then have the right to come in and say, "We should supervise the Fedeal properties as well as our own"?

Senator BARRETT. Senator, would you mind if we waited until after recess for an answer to that? Some of us have appointments and must leave right now if we are to be on time.

If there is no objection, we will adjourn until 3 o'clock.

(Whereupon, at 11:59 a. m., the hearing was recessed until 3 p. m., this same day.)

AFTERNOON SESSION

The hearing reconvened at 3 p. m., upon the expiration of the recess.

Senator MILLIKIN. The meeting will come to order.

Have you finished your testimony, Mr. Hussey?

Mr. HUSSEY. I believe there was a question asked me at the close of the session.

Senator MILLIKIN. Let me suggest that we put Mr. Brown on the stand. You can remain here until Senator Jackson comes in and we will find out what his question was.

Mr. HUSSEY. Thank you.

Senator MILLIKIN. Mr. Brown, will you identify yourself for the reporter, please.

STATEMENT OF RUSSELL B. BROWN, GENERAL COUNSEL, INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

Mr. BROWN. My name is Russell B. Brown. I am general counsel for the Independent Petroleum Association of America. This is an association of independent producers of crude petroleum, with membership throughout the oil-producing areas of the United States.

I appear before this committee at the invitation of your chairman, Senator Cordon.

I will confine my observations to the questions of leasing for exploration of the natural resources under the outer Continental Shelf of the United States and the administration of the development of these resources.

Since this problem of development of the outer Continental Shelf is a procedure with which our membership has little actual experience and has adopted no formal recommendation, I must confine my testimony to a discussion of the theories of such development, based on our experiences with actual developments in the interior oilfields of the United States, where we have had much experience with the Federal Government in the development of oil and gas beneath the public lands and with State governments in the administration of conservation.

Since the exploration for oil and gas, the Continental Shelf surrounding the United States has already established the presence of some oil and gas; in our judgment it is important that every encouragement to the fullest exploration for and development of these resources should be had.

The controversy over the ownership of these areas has long delayed this development. It is believed that the earliest return to the full exploration and development of these areas is desirable.

Senator MILLIKIN. Mr. Brown, there is quite a lot of theory among those who have not had experience in the oil business that you can turn oil and gas reserves off and on as you would an electric light switch, that reserves which you think you have can be put into production overnight. Would you mind making some comments illustrating the fact that you do not have oil until you have it and that it takes a long time to get it after you get it; it takes a lot of time to have development that is useful for the national defense or for any other purpose?

Mr. BROWN. That is quite true, Senator. Unfortunately, our science has not developed to the point where we can actually assure ourselves of the presence of oil. We do know certain formations that are favorable to the occurrence of oil. Our geology and our seismographic work is constantly in search of those formations. That is what we think of when we first discover and get a desire to develop. After that begins, normally it takes from 5 to 8 years before we can reduce that to possession so that we can turn on the valve of which you speak.

The process is this, that first you get the possible area of exploration. Then you go in and develop your leases and your ownership and your right to develop them. Then you begin, often in an area of probable development, you will drill a great number of wells before you actually find the deposit of oil.

Senator MILLIKIN. In other words, is it not true that the mere fact that by your scientific means you find a structure which might contain oil it does not mean it does contain oil? You have to find out whether it does contain oil?

Mr. BROWN. That is correct.

Senator MILLIKIN. Is it not true that many times a structure that looks favorable does not contain oil?

Mr. BROWN. Some of our most favorable structures have proven to have no oil. Often we find everything in the structure that we expect to find, except oil.

Senator MILLIKIN. Is it not true that within a structure in which you make a discovery oftentimes you will have a dry hole next to a producing well and you do not know whether you have a reserve until you have developed the reserve?

Mr. BROWN. There is no means of measuring the reserve except through wells. Then, when you get the well and test the well, you have a fairly good idea and then you must have more than one well, because we have often found that the first well looked like the presence of a large pond, left by itself.

Maybe in a very short time we drill other wells which prove that that was a very limited area of production and what we thought when we found it was naturally that this whole structure would produce, but soon we would find that offset wells, as you say, are often dry.

So the actual finding and getting of an area into a producible, a measurable, producible area, is a long process.

Senator MILLIKIN. Ofttimes the structure is not a regular structure. It will be characterized by faults. Do you find an entirely different performance between fault blocks and in fault blocks? Is that correct?

Mr. BROWN. That is true. In sand we expect to produce, we find that sand there all right, but we find the formation either so tight that it will not produce, or we will find it is a formation which may at one time have had oil, but it migrated and is gone.

Senator MILLIKIN. So that ofttimes when you hear fantastic figures about an oil reserve, it is a reserve that is hoped for as distinguished from a reserve that is proven; is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. Proceed, Mr. Brown.

Mr. BROWN. In order to insure this development and to preserve the equities existing at the time of the origin of the controversy as to the ownership of these areas, it is our judgment that proper leases taken in good faith should be recognized through whatever process may be established for the leasing and development.

Since the processes of development have already begun, it is our judgment that some method of conservation practices should be established at the very earliest possible time to avoid the wasteful consequences of improper development.

Therefore, the first new problem that would seem to require the consideration of this committee would be the administration of the leasing of these areas.

For the last half century or more, the leasing and development of public lands of the United States has been a gradual process of legislative provisions recognizing the experience which takes into account the primary objective of the development of the public lands and applying the experience of the Government and industry.

It would seem advisable to take advantage of this experience and for the time being—I say for the time being because I assume this will present problems with which we have had no experience whatsoever—apply to the leasing of these new areas the laws and regula-

tions that have been developed for the leasing of the public lands in the interior areas of the United States.

It may be that because of the nature of the area some adjustment in acreage limitation may be desirable, but, beyond that, I believe that objective of the Government would be best served by the application of present leasing processes.

Through these processes the primary objective has always been the development of the country and the long-range benefits that flow to the Government from such development rather than the expediency of obtaining the most money at the time of the leasing of the property. Through the history of this process the Government has obtained greatest benefits to our country.

The provision for leasing public lands not on proven geological structure to applicants without public bidding has permitted many persons and groups to participate in their development.

In order to assure the application of the greatest experience in our conservation program it would seem to be advisable to avail ourselves of the conservation programs that have been developed by the various States through operation of their police power over the conservation of our natural resources. The conservation program has been the outgrowth of trial and error and long experience.

Use of the police powers of the various States has permitted the development of a conservation program within the United States by the industry and by the States concerned that has brought the fullest development and at the same time preserved our natural resources, particularly with relation to oil and gas.

Through this process the greatest ultimate recovery of our oil and gas reserves has been assured. This has made available the greatest quantity on a reasonable price basis. This also has assured the greatest ultimate use of these resources.

Therefore I believe for the time being it would be to the advantage of our Government to extend the adminstration of conservation programs to these areas wherever possible through the administrative bodies already in existence.

In most areas the Government could have the benefit of the vast experience of the States, and at the same time the operation could be such as not to destroy the present conservation programs within the respective States.

Those are the only two questions that I thought to address myself to at this time.

Senator MILLIKIN. Have you given any thought to the legal implication of conservation practices outside of the historic boundaries of the States under the direction of the adjoining States?

Mr. BROWN. I have not examined that. I recognize the possibility of the presence of difficulty. Yet just as a horseback opinion, and only that, the conservation laws are exercised under the police powers of the State. I think we do have a lot of history where police powers that exist in the State and many places have been made available to the Federal Government in our various operations. That is an offhand opinion. I believe I can verify that, but I have not examined that.

Senator MILLIKIN. The unique quality of this is that those police powers you mention are exercised by the States within the States. Here the suggestion is that they be exercised without their borders.

Mr. BROWN. Yes; that is true. I was impressed this morning by an illustration that Senator Daniel gave of such exercise that impressed me with being in harmony with what I thought to be the case.

Senator JACKSON. In the administration of the resources the State would not be exercising a police function; would it, Mr. Brown?

Mr. BROWN. That is my interpretation of it.

Senator JACKSON. It would seem to me more in the nature of a proprietary function.

Mr. BROWN. If I may make my point clear, I am referring only to the conservation practices of the State. Now the leasing of the land is the proprietary function.

Senator JACKSON. I was referring to the policing operation.

Mr. BROWN. I do not see how you could delegate that to State. I make a distinction there.

Senator JACKSON. I will put this question to Mr. Brown, as I put it to the previous witness. Am I correct in understanding that at the present time there is a cooperative arrangement in the various Western States where we have oil leases involving Federal property and oil leases involving State property? Is that correct?

Mr. BROWN. You mean cooperation between the Federal Government——

Senator JACKSON. In the conservation of the resources.

Mr. BROWN. I think there is only to this extent: The Federal Government in its thesis that it issues on the public lands sets out and recognizes certain conservation programs, but I think in the actual administration of them the Federal Government submits itself as another member of the State party.

That is the way they work.

Senator JACKSON. I am trying to find out the situation. In other words, the administration of the Federal Mineral Leasing Act is, of course, under the Department of the Interior. As I recall it, it is under the Bureau of Land Management.

Mr. BROWN. That is right.

Senator JACKSON. Now, my question relates to the conservation practices, this proration business that has been discussed here, and so on.

Is there a cooperative arrangement between the Bureau of Land Management which administers the public domain and the State conservation organizations in the various States that have a State conservation law relating to the extraction of oil?

Mr. BROWN. I am quite sure. I am not fully advised on that.

Senator MILLIKIN. Is Mr. Duncan in the room? Will you check me please, Mr. Duncan?

Take the Salt Creek field in Wyoming. As I understand it, the Salt Creek field is unitized by the agreement of the lessees in the north two-thirds of the field, including section 36, which is owned by the State of Wyoming. The State of Wyoming has yielded itself to that unitization. Then the managers of the unit cooperate with the Federal Government, which is the lessor of most of the land, and in that way you

have cooperation between the Federal Government, private owners, and State owners. Am I correct in that?

Mr. DUNCAN. I am sorry, Mr. Chairman, I was discussing a point with Senator Anderson.

Senator ANDERSON. I do say that Mr. Brown's testimony is in error, and Mr. Duncan at this point can straighten it out.

Senator MILLIKIN. I have suggested in the Salt Creek in Wyoming the field is unitized, it is unitized by the assent of the lessees in the field. The lessees include a lease of the State of Wyoming. The State of Wyoming owns section 36, at least it used to be a very valuable section of that field.

Then the management of the unit cooperates with the Federal Government in reaching the proper conservation practices in the field. Is that correct?

STATEMENT OF HAROLD DUNCAN, CHIEF, CONSERVATION DIVISION, UNITED STATES GEOLOGICAL SURVEY—Resumed

Mr. DUNCAN. That is correct.

Mr. BROWN. I think the Federal Government in its lease anticipates this very thing of developing areas on a unitized basis. They have gone far in that.

Senator JACKSON. Following the same line of thought, which law or practice would apply in a given State where there is a conflict, we will say, between the policy of the Bureau of Land Management administering the Federal leases program and a State law that may have some substantial differences insofar as conservation practices are concerned?

Mr. BROWN. I cannot cite you an example. I can say this: The entire program of conservation would be impractical if it were not one administrative body. I think in every instance it has been the State. I do not thing there is any exception to that.

Senator JACKSON. I am trying to lead up to what the precedent has been. I am trying to find out as objectively as I can what the situation is at the present time where you have a State program under way and where you have a substantial Federal program in the same State and where there might be a conflict of interest.

Senator MILLIKIN. Mr. Brown says he does not know.

Mr. Duncan, did you hear that question? Do you know of any instances where there is a conflict between the Federal Government over land owned by it which it has leased and privately owned lands or State lands within the State?

Mr. DUNCAN. Mr. Chairman, I do not know of any conflicts. There may have been disputes though that have been settled amicably with the State authorities.

Senator MILLIKIN. So far, aside from what may be the legal reality, it has been worked out on the basis of cooperation? Is that your impression?

Mr. DUNCAN. That is right.

Senator JACKSON. May I pin this down? What is the Federal policy? Suppose you have in a given State no State law on the books dealing with conservation of oil and the fields, oil fields, are predomi-

nantly Federal. Is there a Bureau of Land Management policy on the subject of oil conservation?

Senator ANDERSON. United States Geological Survey policy.

Senator JACKSON. I will broaden it, the Department of the Interior policy, whether it is Geological Survey, Bureau of Land Management, or whatever agency within the Department of the Interior.

Mr. DUNCAN. The Department of the Interior issues the leases and the Conservation Division supervises the activities.

Senator JACKSON. The Conservation Division of the Geological Survey?

Mr. DUNCAN. Yes.

Senator JACKSON. They are the administering agency?

Mr. DUNCAN. They are the supervising agency after the lease issues.

Senator JACKSON. The Bureau of Land Management issues the leases?

Mr. DUNCAN. Issues the leases; yes, sir.

Senator MILLIKIN. Let us go back to the Salt Creek field. Prior to the time that field was unitized, the Federal Government exercised rather direct supervision over its lessees in the way they plugged their wells, in the way they handled the water, with reference to gas problems; is that not correct?

Mr. DUNCAN. In the Salt Creek field, starting in 1920 and following the leasing act, the supervisory powers of the Government went into effect and the State of Wyoming adopted the regulations as published and applicable to Government lands.

Senator JACKSON. They adopted Federal regulations based on Federal statute?

Mr. DUNCAN. That is right, and the engineers of the Survey now exercise complete control over that field because it is unitized. The State has stepped out of any supervisory right. Now we have no police power. If they would not elect to give us that right, we could not do anything.

Senator JACKSON. Let us get down to the crux of the thing. Could you give to the committee the statutory authority for the Department of the Interior to administer conservation practices and what it is, not by citation, but in general terms?

Mr. DUNCAN. Section 32 of the Mineral Leasing Act of February 25, 1920, provides that the Secretary can make such rules and regulations as are necessary to carry out the purposes of the act.

Senator JACKSON. He may make them.

Mr. DUNCAN. He may make them. He has approved regulations, the latest revision being June 1, 1942, and they are approved by the Navy and the President of the United States.

Senator JACKSON. Suppose you get into a State where the rules laid down by the Department of the Interior are in conflict with the State conservation laws and you do not have a unitized arrangement, but it is helter-skelter, where there is a conflict which can result in a loss, we will say, of oil through practices that are in conflict, conservation practices that are in conflict, thereby resulting in a loss of oil; now what is the situation in that case?

Mr. DUNCAN. The only place we would have in that would be to enforce our regulations in accordance with good conservation practices on the Government leases.

Senator JACKSON. Under the present law have you delegated to State conservation authorities the right to regulate or to administer for conservation purposes lands that you have leased for oil purposes?

Mr. DUNCAN. I would not say that we have delegated. We have not objected in areas where there are small pieces of Government lands to a State agency enforcing their rules and regulations in such areas.

Senator JACKSON. How small, just very minor?

Mr. DUNCAN. It might be 10 percent of a field, or 20 percent of a field, say, in Oklahoma, where some of the Indian leases are small, such as 40 acre- or 160 acre-tracts in a unit.

The delegation would refer primarily to the rate of prospecting and the rate of production.

Senator JACKSON. Do you have stautory authority to delegate that to the State? Has it ever been tested out?

Mr. DUNCAN. I might say this: The only reference I can find to any opinion or decision is in a letter of May 1, 1950, to the Attorney General from the Solicitor of the Department stating with reference to a pending suit in New Mexico State Court as follows:

> This Department is, of course, interested in the prorationing, spacing, and other orders issued by the Oil Conservation Commission affecting oil and gas operations in that although recognizing limitation on State authority to control operation on Federal lands, there are practical considerations which make it desirable generally in the interest of conservation to require that operations on Federal lands conform to State orders applicable to adjacent and nearby non-Federal lands.

Senator JACKSON. Yes, but I would just say offhand in the absence of a cession statute, that is, a statute passed by Congress deeding to the State of Oklahoma in this case, authority to administer the police functions, I doubt very much whether it could be done. Do you have anything in the statute?

Mr. DUNCAN. Section 30 of the Mineral Leasing Act states in part:

> Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property, a provision that such rules for the safety and welfare of minors and for the prevention of undue waste as may be prescribed by said Secretary shall be observed.

Then, omitting a part, the section reads:

> For the protection of the interest of the United States, for the prevention of monopoly and for the safeguarding of public welfare, provided that none of such provisions shall be in conflict with the laws of the State in which the leased property is situated.

Senator JACKSON. That is right, but what part of that section gives you authority to delegate to a State conservation organization?

Mr. DUNCAN. I do not think you can say we delegate. We simply agree that we will go along with the State when there is no conflict of opinion. If there is, the Secretary always has the right to come in and exercise his authority. Take, for instance, in California, there was a gas waste at one time in a field. The question came up whether the Secretary would go along with a 10-percent waste. He did go along with that waste as reasonable at the time in view of the operating conditions in the field.

Senator JACKSON. But then you change your regulations so that your leasehold, the lessee of the lease, must comply with the State law. But in order to make it effective, would you not have to change

your regulations so that in case of the enforcement of the regulations you could bring him in under the Federal act?

Mr. DUNCAN. I do not think that the Secretary is delegating any power. He just says that he will go along with the State orders unless they are in conflict with what he wants to put in for conservation purposes.

Senator JACKSON. In other words, your lessee is under your jurisdiction?

Mr. DUNCAN. That is right.

Senator JACKSON. If he violates it, violates the terms of the lease, you are the one that has to bring the action?

Mr. DUNCAN. That is right.

Senator JACKSON. Now, the State cannot bring it in the absence of authority given by you to the State, ceding your jurisdiction?

Senator MILLIKEN. Senator Jackson, I do not quite see that there is any question involved for this reason; the Federal Government has a certain set of interests which it cannot relinquish under the law. It says that as long as under State operation this set of interests is protected, we are agreeable to State operation. The moment this set of interests is not protected, then we can step in and exercise our Federal rights. Is that not correct?

Mr. DUNCAN. That is right.

Senator MILLIKIN. So I do not see that it would require a change of law or anything else. They just say, "We are going to look after the Federal interests." The Federal interests consist of observance of practices A, B, C, and D. "As long as they are observed, we are not interested. When that is not observed, we step in."

Senator JACKSON. You could not incorporate by reference State regulations and say they are State regulations?

Senator MILLIKIN. No.

Senator JACKSON. What law would bring the lessee in for violation?

Senator MILLIKIN. Bring him under the Federal law.

DISCRETION IN DETERMINING ALLOWABLE WASTE

Senator MALONE. I have listened very carefully, Senator. I think your inquiry is proper, but perhaps you two are not together, your minds have not met on it. If I understand it, and this is not the first time I have run into it, they have latitude enough in the law itself to meet certain State regulations. So the law is not specific as to 10 percent waste, 5 percent, or 50 percent, but it is left to the judgment of the Secretary. If he has latitude enough to meet what the State wants to do and agrees to it, then they are no longer interested. If they do not agree, then the Government steps in again, if that makes it any clearer.

Senator JACKSON. My only point is that if the Secretary of the Interior promulgated regulations pursuant to the statute, stating in effect that the Federal regulations in this particular State we are talking about, we will say, are in full force and effect, then, of course, the violation could be prosecuted by the Federal Government because it violated Federal regulations.

That was my only point. I was trying to pinpoint the action that would be brought, whether it would be brought under State law or under Federal law.

I have just one more question. I take it, then, Mr. Duncan, that it has been the policy of the Federal Government where there is a small amount of leasehold interest on the part of a Federal Government in a given area, to delegate that to the States in effect for overall police supervision and carrying out sound conservation practice, to delegate it to the State?

Mr. DUNCAN. I think it is only safe to say it is in areas that have been unitized where we have the right to accept the State delegation.

Senator DANIEL. And you are talking about proprietary operations?

Mr. DUNCAN. Yes.

Senator DANIEL. You are not talking about any delegation of governmental or police powers to the State?

Mr. DUNCAN. They have no authority to cancel or issue a lease, or anything like that.

Senator ANDERSON. Can we get back to Mr. Brown's testimony of a while ago about the fact that the Government is in there just as any other landowner?

Senator LONG. Might I ask Mr. Duncan a question while he is testifying?

Senator JACKSON. I just want to finish this thought: I am trying to get some clarification as to our past policy in administering these programs. Now in connection with the matter that we have before the committee, we have a situation where we have a large area of Federal land, submerged land, Continental Shelf, that requires administration. If we were to follow past policy and precedent, this would be a matter for the Federal Government to supervise, would it not, based on past precedent?

I am not saying whether we should, on this case.

Mr. DUNCAN. On the basis of past precedent, I think the Government would have complete authority over the whole thing and as delegated by Congress to some secretary.

Senator MALONE. You could deal with the State if it worked out to your satisfaction?

Mr. DUNCAN. Well, I do not know. That is a legal question. I do not know that the Government would delegate the leasing procedure and responsibility.

Senator DANIEL. That is the thing that is being mixed up here, if I may say it, proprietary capacity and the regulatory capacity.

Senator JACKSON. Let me finish this other question that is on my mind.

I have asked the question about the precedent. The question that is on my mind is: What authority do we have to delegate to the States either proprietary or police functions beyond the historic boundaries of the State?

Senator MILLIKIN. The witness has said there is no real delegation. It is an acceptance of the practice of the State which the Federal Government does not concern itself with until the Federal Government's laws are violated.

Now do you want to ask him what the power will be as to an actual delegation?

Senator JACKSON. Yes. What would be the power as to an actual delegation of authority?

Mr. DUNCAN. I do not know, I think that would have to be spelled out by congressional action. Speaking as a layman, I do not believe the Secretary could delegate anything other than that he would accept regulatory powers if he had reviewed them and decided they were acceptable.

I might answer your proposition of supervision and delegation. In North Dakota at one time they had no regulatory agency and they asked us to enter into a cooperative agreement for which there would be a slight repayment. In investigating it and considering it, we decided we could not do it, because if anything required enforcement that was a function of the State, we would be unable to carry through and we would have to then turn it back to the State, and it would not make a reasonable supervisory operation.

Senator LONG. I want to know if the answers you gave to the limitation of State power to regulate conservation also apply to all Federal acquired properties, which are considerable in my State, having in mind the national forest, air bases, and things of that sort.

Mr. DUNCAN. Any military or air base is not subject to the Acquired Land Act or the Public Domain Act. The only way they can be leased is through the Attorney General's opinion in 1941 which gives the right to a secretary to protect the interests of his agencies owning land.

So we draw up, as I have offered you today, a form of a lease which embodies the general terms that we wish to put into that lease. Then we have tied into it the Operating Regulations of June 1, 1942.

But the Acquired Land Act does not apply to military installations.

Senator LONG. At that point do your lessees comply with State conservation laws with regard to those military bases?

Mr. DUNCAN. As far as I know, they do.

Senator LONG. Is there any reason why they should not?

Mr. DUNCAN. Unless we were in complete disagreement on some proposition of the law, or proration or spacing. For instance, the spacing program in the Barksdale Field is being argued now, even as late as with Mr. Hussey this noon, on what is the proper spacing order. He wanted to know if he could have our help, and we wanted to know if we could have his help to establish a practical spacing order so that we could regulate the take. That is the way most of the problems are handled.

Senator LONG. Does it result in your lessees complying with State conservation laws?

Mr. DUNCAN. Yes.

Senator LONG. With regard to acquired lands, would your answer be the same as it was with regard to public lands, or is there some difference?

Mr. DUNCAN. As far as our administration is concerned, we make no difference over acquired or public lands. The oil and gas regulations, June 1, 1942, apply.

Senator LONG. Do you know of any instance in the State of Louisiana where there are considerable Federal holdings where your lessees are not complying with the State conservation laws?

Mr. DUNCAN. I know of no instance at this time. It might be that a State official could tell us, but I know of none.

Senator LONG. To the best of my knowledge, they comply entirely with State conservation laws and produce by the same standards. Do you know of any case where there is an exception to that?

Mr. DUNCAN. I know of none.

Senator LONG. Do you know of any case where you have been unable to reach an agreement with State authorities on conservation practices?

Mr. DUNCAN. We do not have too much acreage, public land acreage, in Louisiana. We are beginning to get more and more acquired lands.

Senator LONG. I am speaking generally, going to all your problems. Do you know of any case where you have been unable to reach agreement with State conservation agencies?

Mr. DUNCAN. I know of none.

Senator MILLIKIN. Senator Anderson.

Senator ANDERSON. I want to return to this subject that we were discussing as to whether or not the United States Government on its federally owned land was there just as an ordinary owner of that royalty, or whether you were there as a partner in the regulation business. If you are not actively engaged in trying to control, yourself, why do you have regulations which deal with the waste of oil and gas? Do you not actually participate in the operation of these fields yourself?

Mr. DUNCAN. We participate in every public land lease, in every Indian lease, in establishing waste and obtaining records and approving the drilling of wells.

Senator ANDERSON. Do you have a section dealing with well spacings? Do you have anything to say about well spacing on public lands?

Mr. DUNCAN. We certainly can establish any well spacing on public lands we desire.

Senator ANDERSON. Does the State tell you what to do, or do you defer to it?

Mr. DUNCAN. It is a cooperative arrangement.

Senator ANDERSON. It is cooperative; you are not there just as another landlord, are you you?

Mr. DUNCAN. No, sir.

Senator ANDERSON. It is quite different from that. I am very sure you are wrong, Mr Brown, because I do know the operation in our State.

Mr. BROWN. Let us see if I was. Here is what I stated: The Department has regulations under which they lease the land. They usually embody the regulations right into the lease. Then the owner of that lease becomes an operator. The Government does not operate this way. I know of no instance where the Government is operating, actually drilling on this land. So it does it by lessee, as a lessor to that extent. But it preserves in the lease whatever regulations it sees fit and usually they are rather elaborate. Then the owner of that lease enters into the development of the lease, and I know of no instance where the owner of that lease has not conformed to State regulatory laws in the development, that is what I say, the same as any owner of the land.

Senator ANDERSON. You can put it on another foot and say you do not know of any case where the Federal regulation has not been affected by the State on Federal land.

Mr. BROWN. No, but I know the development must necessarily be uniform throughout the State.

Senator ANDERSON. Let us come back to the Wyoming field. Is the field unitized?

Mr. DUNCAN. Eighty percent of the field is unitized.

Senator ANDERSON. Who runs the operation? Does the State of Wyoming run it?

Mr. DUNCAN. As far as I know, the State of Wyoming has never entered into it. It is handled by the supervisor at Casper. There is an office also in the field.

Mr. BROWN. There is a State.

Senator MILLIKIN. May I interrupt to draw this distinction? Those who operate the field are the managers of the unit and you exercise the supervisory power over the management of the unit, and so do the State officials.

Senator ANDERSON. Do the State officials exercise supervision?

Mr. DUNCAN. The State has relinquished supervision of that field.

Senator MILLIKIN. The supervisors of the field operate it, and they operate it under the standards which I assume were State standards, were agreeable to the Federal Government. It all works out.

Senator ANDERSON. I am trying to say that they are not State standards; they have been Federal standards from the beginning. Is that correct, Mr. Duncan?

Mr. DUNCAN. That is correct.

Senator LONG. You are speaking of one field in Wyoming?

Senator ANDERSON. That is right. Then you can take it in many areas where the same thing is true. What happened to the recent lease in Alaska? Did the Territorial government up there decide on the lease in Alaska, or did the United States Geological Survey advise the Secretary of the Interior on the handling of that lease?

Mr. DUNCAN. Those were noncompetitive oil and gas leases that were filed.

Senator ANDERSON. If oil is found, will the supervision of that field be done by the Territorial officials of Alaska, or by a State official, if statehood should be granted, or will it be done by the United States Geological Survey?

Mr. DUNCAN. It will be done by the United States Geological Survey. We worked out the million-acre drilling provisions in there which require considerable testing.

Senator ANDERSON. Do you have lease terms and regulations and all those things that apply to that area?

Mr. DUNCAN. The same standard, public-land lease, applies other than a slight difference in rental and royalty conditions.

Senator ANDERSON. Do you have well spacing regulations?

Mr. DUNCAN. We have not established any.

Senator ANDERSON. If they succeed in finding production, will you have well potentials and permissible flow fixed under your regulations?

Mr. DUNCAN. We have complete power to do all of that in the regulations.

Senator ANDERSON. You have power, but will you be doing it if oil is discovered off the shores of Alaska?

Mr. DUNCAN. Those are still tidelands. That is still in the tidelands area. I mean submerged-land areas. There is a difference there. Anyway, anything that the Department of the Interior would issue a lease on, under the Public Land Mineral Leasing Act, or the Acquired Land Act, as far as I know, the Geological Survey has been delegated the right to supervise the operations and establish and carry out the terms and conditions of the lease and regulations, which relate to conservation, either in amount of production or the rate of prospecting, well spacing, or the potential.

Senator ANDERSON. Is it your understanding that if the State comes out with one potential and you feel that another potential is desirable in an area where you represent large property interests, that you must abide by the State potential?

Mr. DUNCAN. It certainly is not.

Senator ANDERSON. You certainly are not bound in the State of New Mexico by the State conservation commission, are you?

Mr. DUNCAN. No, sir. The State of New Mexico in our unit agreements still maintains its rights on its lands and fee lands.

STATE HAS POLICE POWER OVER PUBLIC LANDS

Senator MALONE. I would like, then to ask just one question. I think you have made this very clear.

The State at all times, within its boundaries, whether its boundaries take in some of the submerged lands or take in, as in our State of Nevada, 60 million acres of public land, has police power over that area even though the Federal Government would regulate the oil and gas leases.

Mr. DUNCAN. In my personal opinion, the State does not have police power over a Federal lease.

Senator MALONE. I am not talking about the lease at all. I am talking about a situation when there is trouble in that area, the State has police powers?

Mr. DUNCAN. Right.

Senator MALONE. Let us make clear what I mean.

The sheriff and the State police and everyone legally delegated by the State legislature is empowered to keep peace.

Mr. DUNCAN. That is correct. Even our own men have no more rights than anybody else.

Senator MALONE. That obtains within the boundaries regardless of the status of the land.

Senator MILLIKIN. Senator Long.

Senator LONG. Mr. Duncan, in your experience, do you know of any occasion where the Geological Survey or the Interior Department has ever required of a lessee that he produce more oil or gas than State conservation regulations would permit him to produce?

Mr. DUNCAN. No; I do not. I know of cases where we have required or asked the State to reduce for conservation purposes.

Senator LONG. To produce less?

Mr. DUNCAN. Yes.

Senator LONG. But in no instance do you know of a case where you have required them to produce more than the State conservation law would permit them to produce?

Mr. DUNCAN. I know of none.

Senator LONG. Now have you ever superseded a State conservation law in order to permit a lessee to take fewer precautions than a State regulation would require him to take to prevent blowouts and prevent waste?

Senator LONG. Well, California has no conservation law, but State regulations and State laws make certain requirements of lessees, for example, to prevent a blowout of a well which might lose the whole field if all the minerals escaped, and State laws make certain requirements of lessees for conservation purposes, requiring precautions for safety purposes and various other reasons of conservation.

Now, do you know of any case where you have felt that a State was exceeding it authority in taking excessive precautions under its conservation laws and, therefore, the Federal Government has superseded State conservation laws in order to permit one of your lessees, in effect, to violate the State conservation laws?

Mr. DUNCAN. I cannot recall any difficulties along that line.

Senator LONG. Do you know of any need of your being able to do that?

Mr. DUNCAN. I think definitely there should be the right of that review, because there are two schools of thought in such an industry as oil and gas, conservation in my opinion is not fixed yet.

Senator LONG. As yet you do not know of a case, however, where you feel that the States have been so strict that your lessee should not have complied with the State law, that is, to limit his production, or to take precautions that the State law requires him to take?

Mr. DUNCAN. The question of proper completion of well or methods of drilling is a field problem left to the individual supervisor in the field. He has complete jurisdiction.

Senator LONG. Here is the point I am getting to: Is it not a fact that any landlord can require his tenant or his lessee to take greater precautions than required by law, or to take more conservation measures than required by the law of the State in his lease?

Mr. DUNCAN. If he writes it into his lease, he could.

Senator LONG. Do we not in effect write that into Federal leases by regulation?

Mr. DUNCAN. It is written in there by reference to these regulations.

Senator LONG. If we did not have the regulation, you could still write it in the lease, could you not?

Mr. DUNCAN. Yes.

Senator LONG. In order to protect the Government interest. The point I have in mind is, can you show me where you have done anything that a prudent landlord could not have done for himself even though he were a private citizen?

Mr. DUNCAN. I think the answer to that is that a small landlord would not be interested in the conservation practices.

Senator LONG. I am talking about a landlord large enough to be well advised. Can you show me anything you have done that a well

advised and prudent landlord could not have done to protect himself with regard to all of your leasing policy?

Mr. DUNCAN. I hesitate to answer.

Senator LONG. Now, if he wants to supply this for the record, I would like to have this. I have never found a case where you needed to assert the paramount powers of the Federal Government to protect the proprietary interest of the Federal Government.

Senator ANDERSON. Your question was asked just the reverse.

Senator LONG. No. I have this point in mind: You do not need to be the Federal Government. All you need to be is a large landlord or a large owner of land to write in all the regulations and stipulations that you have in your regulations there to protect your interest on any land you lease.

You do not need to be the Government. You could be just a large landlord requiring that very scrupulous and careful conservation practices be pursued and that in the event that the State did not have strict enough conservation laws, you could write additional rights in there as the landlord to protect your interest from waste.

Mr. DUNCAN. If I made an operating agreement as an individual landowner and wrote in an operating agreement the terms and conditions which were different from the State laws, other than proration and the rate of prospecting and the well spacing, it might be that most of those would have to be complied with.

But I do not think that the State requirements on conservation or preservation of underground minerals or productive horizon could be disregarded by a contract if in violation of a State law.

Senator MILLIKIN. Let me interrupt just a moment. The Chair has some responsibility for keeping the hearing to the point. The Senator from Louisiana started out to find out whether, if State requirements were harsher than the Federal Government thought they should be, the Federal Government could protect itself.

You have been talking in terms of practice. Now let me talk to you in terms of power.

If you found that State regulations were such that they impeded, in your view, the proper protection of a Government lease, would you abide by the State law or would you do those things necessary to protect what you thought were the Federal interests?

Mr. DUNCAN. We would do what we thought was best for the Federal interest and we have done it time and again on casing programs, drilling requirements and production practices.

Senator LONG. What I sought to find out, Mr. Chairman, and I wish to make this point for the record, is that there is no showing that there has ever been a case or experience in this country where the Federal Government as the landlord had any cause to object that a lessee or tenant under a Federal lease was complying with the State conservation laws.

Senator ANDERSON. May I challenge that one?

Senator LONG. If you want to produce that case, go ahead and produce it.

Senator MILLIKIN. Just a minute. What does the witness say?

Mr. DUNCAN. I cannot point to a case. We are not bound by any State regulation at all. We operate as a conservation group on public lands. We do follow the State regulations wherever possible. For

instance, Wyoming, Colorado, and Montana did not require under State regulation, even though they accepted our regulation, a certain amount of surfacing casing cemented to the surface, or blowout preventers, but we did require it.

Senator LONG. You required more protection than the State law required?

Mr. DUNCAN. More cement, longer setting of cement.

Senator LONG. I am in complete agreement that you have that right.

The point I am making is that any landlord who is familiar with the oil and gas business can make the same requirement as a part of his lease.

Senator ANDERSON. Mr. Chairman, when you get to read this record, I think you will find that the original question asked by Senator Long was, was there ever a situation where you were in favor of a practice that was less of a conservative practice than in the State?

Senator LONG. No.

Senator ANDERSON. I am sure you will find it. I tried to object to it 2 or 3 times. You will find out instance after instance where they are more careful than the State.

Senator MILLIKIN. Where the State requirements are harsher and heavier and more exacting than the Federal requirements, you can accept those if you want to, but if you find they are obstructing the proper development of your lease you can step in and assure the proper development of your lease; is that not correct?

Mr. DUNCAN. That is correct.

Senator MILLIKIN. If the requirements of the State are more slack than your requirements, you can protect your lease by requiring observance of what your consider to be the proper practice; is that not also correct?

Mr. DUNCAN. That is correct.

Senator MILLIKIN. I think that answers both sides.

Senator LONG. The point I want to make, Mr. Chairman, and I think the witness has answered my question to make the point I have in mind, is that the State conservation laws always relate to certain minimum requirements as far as protecting conservation interests.

So far as I can determine the State laws have never been so harsh that the Federal Government felt it should undertake to relieve its lessees of the responsibility of complying with State laws.

Senator MILLIKIN. The witness has not given an example. You ask him those questions in practice. I think he has not given you an example.

Senator LONG. We have no objection to the Federal Government making more exacting requirements of its lessees than the law requires. But we do contend that they should be no less than the State law would require. So far as I can determine there is no conflict there.

Mr. DUNCAN. I think definitely that there are many fields where we have required 1 sand per well, and there are many wells where we have allowed 2, where States have allowed 1, we have allowed 2, and vice versa, but we do not follow anything except what we think, from a good engineering viewpoint, results in conservation either

of materials or natural resources, helps to make a well a paying well, increases ultimate production, or prevents the chance of damage.

Senator MILLIKIN. Senator Anderson.

Senator ANDERSON. Are there instances where your regulations are more strict than the State's, on casing, and so forth?

Mr. DUNCAN. For years it was true in the Rocky Mountain area.

Senator ANDERSON. That is right. Now in a case where a State was allowing dual completions and you were not allowing dual completions you were more strict in that sense than the State was then, were you not? You have required production from one sand only?

Mr. DUNCAN. We have required separation in any number of cases.

Senator ANDERSON. That is right. Now there are instances, you say, where you have allowed dual separations where the State has only allowed single completions from one hole?

Mr. DUNCAN. Yes, that is correct.

Senator ANDERSON. In the same State?

Mr. DUNCAN. In the same State, yes.

Senator ANDERSON. In the same field?

Mr. DUNCAN. Hardly in the same field.

Senator ANDERSON. But in the same State?

Mr. DUNCAN. Yes.

Senator ANDERSON. Would that not be an illustration where your regulations are less severe than those in the State?

Senator MILLIKIN. It would depend on what is considered a proper practice. There you have a difference of opinion.

Senator KUCHEL. I want to make a one-sentence correction. My friend from Louisiana, Senator Long, suggested that California has no conservation statutes. Now, while it is true that we do not have a proration statute in California, I think it is true that we do have a multiplicity of conservation statutes which, if it were relevant to this discussion, I would be happy to supply.

Now, we are dealing here with an area upon which today there is no law whatsoever. We are dealing with the Continental Shelf which appertains, however that word might be decided, to the Federal Government. It is within the boundaries of no State of the Union.

In determining to what extent, if at all, abutting State statutes should be applied, this committee ought to have some guidance from your deparment as to what its views would be with respect to having the Continental Shelf development partly under the conservation statutes of one State, and partly under those of another.

Can you give this committee your opinion as to whether any administrative problems would result if the bill we pass were to spell out that you should be guided by the conservation statutes in the abutting States?

Mr. DUNCAN. Senator, I do not believe that I should be asked that because the Secretary has not come out one way or the other.

Senator KUCHEL. In other words, you cannot speak for the Department?

Mr. DUNCAN. That is right.

Senator KUCHEL. We should have some Department official, however, who could supply that, Mr. Chairman.

Senator ANDERSON. We are going to have testimony from the Department of the Interior and the Attorney General.

Senator KUCHEL. Before this committee?

Senator ANDERSON. Yes.

Senator KUCHEL. So that Mr. Duncan's position here today is merely to supply the committee with the history of development of Federal properties within State boundaries?

Senator ANDERSON. Yes.

Senator MILLIKIN. Senator Daniel.

Senator DANIEL. Let us take New Mexico as an example. As I understand, the Federal Government actually owns a great percentage of the land. About what percentage of land inside New Mexico is owned by the Federal Government?

Mr. DUNCAN. I do not know exactly, but I can furnish the information. I would say 50 percent.

Senator DANIEL. Now, then, your leases by the Department of the Interior would be applicable, of course, on that half of the land in New Mexico; is that correct?

Mr. DUNCAN. That is right.

Senator DANIEL. Your rules and regulations which are issued and directed to your lessees would be applicable to that half of the land in New Mexico?

Mr. DUNCAN. Yes.

Senator DANIEL. Does the Federal Government have any conservation rules and regulations that apply to any lands or any lessees other than on Federal lands?

Mr. DUNCAN. No, sir.

Senator DANIEL. Therefore, if you have a body of conservation law that applies equally to an entire State or similar area, it is something more than just your Federal rules and regulations applying to your own lessees; is that not correct?

Mr. DUNCAN. As to area extent?

Senator DANIEL. Yes, as to area extent.

Now in New Mexico, what body of conservation laws in the State of New Mexico apply to all lands within New Mexico with reference to spacing and allowable production and other conservation policies?

Mr. DUNCAN. The State of New Mexico has a conservation board or committee. I believe it is made up of a State geologist, a member of the land board, and the Governor.

Senator DANIEL. It is the law of New Mexico and the State conservation board that applies conservation laws equally to all lands within New Mexico; is that correct?

Mr. DUNCAN. No; they would set a proratable allowable.

Senator DANIEL. For the entire State?

Mr. DUNCAN. For the State; on a per-well basis.

Senator DANIEL. That is where they operate on lands owned by the Federal Government or by private individuals or by the State?

Mr. DUNCAN. By cooperation with the State officials. So far as I know we have very seldom objected. We have appeared as individuals for the protection of the Federal interest at their State hearings. They ask us to be there at their State hearings when they are establishing allowables for new fields or spacing, and so on.

Senator DANIEL. As a matter of fact, you read an opinion of the Solicitor of the Department that indicates on statewide allowables which are assigned per well production per day that your depart-

ment does cooperate and go along with those State allowables. Is that not correct?

Mr. DUNCAN. That is the general position.

Senator DANIEL. Now as a matter of fact, if you required one of your lessees to produce more oil than the State conservation body provided that he should produce from his well and he attempted to transport it in interstate commerce, he would be in violation of the Connally "Hot Oil" Act, would he not?

Mr. DUNCAN. We have found one case of that in New Mexico.

Senator DANIEL. I want to read here from the Connally "Hot Oil" Act, or I can cite it to the committee and we can just refer to it.

Mr. DUNCAN. Senator, could I say I stated a while ago that we do not ask them to go above a fixed rate established for proration. It is only below.

Senator DANIEL. Right.

Senator ANDERSON. How can you require a man to produce more than the conservation law?

Senator DANIEL. I do not think you can; I do not think the Government can do that even on its own leases.

Senator ANDERSON. The question is completely out of order. I would think there is no way in the world you can compel a man to produce more oil.

Senator DANIEL. Than the State allowable; yes. I think you are right, and that applies to the Department of the Interior, as well as anybody else.

Senator ANDERSON. And applies to the State of Texas.

Senator DANIEL. Correct. You cannot force them to produce more than the State conservation commission says they shall produce. If they do produce more, they are in violation of the Connally "Hot Oil" Act (15 U. S. C. 715) if they transport it across State lines.

Mr. DUNCAN. We have always gone before the State officials if we wanted to produce less per well on Federal leases.

Senator LONG. You mean more.

Senator ANDERSON. Less. You cannot compel a man to produce more than he wants to produce, no matter what the allowable is.

Mr. DUNCAN. There are several fields where we are repressuring. We have agreed with the lessee, Federal and fee, that it would be to the best interest of everybody if we could reduce the established rate of production per well.

We could not enforce it if the fee owner of the fee lessee wanted to continue it, if the State allowed it.

Senator DANIEL. I want to bring out, Mr. Chairman, that that is just one field of conservation that the State conservation agencies administer. As to Federal leases and all other leases, the area in the outer Continental Shelf needs to be brought somewhere within the pattern for fixing allowables and proration of production. Does the Department of the Interior fix proration allowables in any area now that you know of in the continental United States?

Mr. DUNCAN. I think so; yes, in the individual fields, but it is not according to any State law.

Senator DANIEL. What I mean, Do you have charge of fixing allowable, irrespective of State law, in any area within the continental

United States? Do you have any system of setting up proration or allowables in any area that is covered by State laws?

Mr. DUNCAN. We have no system in any State that has a proration law.

Senator DANIEL. Do you have any statutory punishments provided for violating the rules and regulations of your Department on conservation?

Mr. DUNCAN. I believe that question was answered the other day by the Assistant Solicitor, that there were no punitive damages.

Anyway, all we can do is cancel the lease or we can suspend production, stop him from drilling.

Senator DANIEL. In other words, the only laws in New Mexico, or any other State where there are public lands, where a punishment can be laid on someone who violates these conservation laws, is under State laws?

Mr. DUNCAN. In our operations, I would say mostly through the Rocky Mountains, we have been able to order suspension of production to obtain compliance with rules and regulations.

Senator DANIEL. But you did not have any other way of punishing those who violate your rules and regulations?

Mr. DUNCAN. No; there is nothing but cancellation of the lease.

Senator MILLIKIN. Have you finished, Senator Daniel?

Senator DANIEL. That is all.

Senator MILLIKIN. Senator Malone?

Senator MALONE. Right on that point I have become a little confused. Suppose a man wanted to produce more oil than he is then producing and you allowed him to do it, and it is more than the State conservation law allows under the Connally Hot Oil Act. That is a Federal act.

Senator DANIEL. It provides for transporting across State lines.

CONGRESS CAN MODIFY EXISTING LAW

Senator MALONE. It is something that Congress passed and could repeal or modify it any time. If that is true, Congress has full control through anything it wanted to pass now.

If they wanted to make the National Leasing Act applicable to this area out there, as has been suggested a time or two here, all it would have to do to have full authority, if they want to be an authority, would be to say that it was modifying an existing law.

Is that not true?

Mr. DUNCAN. I am not a lawyer.

Senator MALONE. I thought you were. I am sorry. I am not a lawyer, either.

Congress could modify the Connally Act if it so desired under certain conditions.

Senator DANIEL. Certainly.

Senator MALONE. We passed the law. We can repeal or modify it?

Senator DANIEL. Yes.

Senator MALONE. So what I get out of all this, and I think it has been very good to bring it out, is that the Federal Government can do anything it wants to do on its own lands if it so desires and if it lacked anything, Congress could pass an amendment to the law.

Now at every opportunity you cooperate with the State when it is humanly possible?

Mr. DUNCAN. That is true.

I do not see any other way to carry on public business in the United States without cooperation.

Senator MALONE. Of course there is not.

Now, as a final question, regardless of any State law, whether Congress should say the Mineral Leasing Act is applicable to these lands, or whether it should pass an entirely new act, it could modify an existing act to the extent it cares to, and whatever it directs you to do you can do regardless of the State law or regulations, or if it is left open to you to cooperate with the State adjacent to it, whatever latitude you have you can exercise; is that right?

Mr. DUNCAN. We can exercise any right delegated to us by Congress to the Secretary and to us.

Senator MALONE. Without regard to the State at all?

Mr. DUNCAN. That I would not want to answer. I just do not know the answer to that.

Senator MALONE. I would like to have some attorney answer that. Suppose the Federal Government decided to do something with the public land in Nevada and the State of Nevada passed an act that would contravene this act under certain conditions, and this was clearly on public lands and we have no argument with the Government there—60 million acres belong to them—would not the Federal law, as a matter of fact, prevail on the Federal land?

Senator DANIEL. Are you asking me, Senator?

Senator MALONE. Yes.

Senator DANIEL. If it was a matter over which State police powers for protection of the entire lands of the State and the economy of the State were passed, I would say that the laws of the State would apply as to that Federal land the same as to other lands, not as to any proprietary rights, but as to regulatory rights, because you will find in the Constitution that the only way the Federal Government has exclusive governmental powers over any area within a State is by cession from that State to the Federal Government.

This business a minute ago, talking about the Federal Government ceding to the State some powers on regulatory matters is, of course, contrary to the whole theory of Federal-State relations in the Constitution.

If any State has ceded exclusive jurisdiction over an Army base or some other place, then State laws will not apply there, only Federal laws. But in this area in Nevada where you have public lands owned by the Government, the Government holds them in a proprietary capacity and your State still has jurisdiction over the land for police powers and regulatory powers, in my opinion.

POLICE POWER AND THE PUBLIC LAND

Senator MALONE. That is correct. We proved that in our Grazing Act. I explained that to you the other day. That was exercising the police power to prevent trouble which might be caused by competitive grazing.

Now, when you come to regulating something under the ground where there is no physical trouble, it just seemed to me that the police power would not apply to the amount of oil you are going to allow to be pumped out of the ground. There is no trouble there. It is a simple proposition. It is not a situation where two people are trying to pump oil out of the same well, like trying to run two herds of cattle or sheep on the same land. There you get into real trouble. That is the reason we had to exercise the police power. But to extend the police power to Government land in order to regulate how much gold can be taken out of the mine that a fellow develops after he locates his mining claim and goes to work, or how much oil can be taken out of a piece of Federal land seems to me to be stretching the police power although sometimes we would like to stretch it.

Senator DANIEL. Conservation laws have been held to come under the police powers of the States. For instance, if you have a 10-acre lease from the Federal Government, and if you were allowed to go in there and produce oil without applying any State regulations at all, you would eventually be draining oil from under your neighbors' land on every side.

Therefore, under our Constitution the Supreme Court has held that the States under their police powers may provide that you not produce it at such a rate that it will harm your neighbor's land or drain away his oil. That is the theory of it.

Senator MALONE. That is the reason they started drilling on adjacent land in California.

Senator MILLIKIN. I would like to suggest to the witness that he have the Solicitor of the Department give this committee a memorandum opinion as to the conflict between conservation practices, State conservation practices and Federal conservation practices, if there should be a conflict, as to which would prevail, and so forth.

Senator LONG. As a matter of fact, Senator Malone, with regard to the point you are making—and I wish Mr. Duncan would hear this—I do not believe within the continental United States the power of the Federal Government is any more complete than it is on military bases of the Federal Government. If I recall correctly, the law with regard to minerals on those reservations is that they can only be leased when you have drainage from under those lands. Is that correct, Mr. Duncan?

Mr. DUNCAN. There is no law that provides for the leasing of a military reservation. There is an Attorney General's opinion—I do not know whether it is April or not but it is 1941—that says an officer of the Government has the right to protect the Government's interests.

Senator LONG. Do I understand that the effect of that means that you would not lease these military bases unless someone is producing alongside of them and draining the resources out from under them?

Mr. DUNCAN. That has been the entire history of leasing military land owned by the Federal Government that is not subject to lease under the Acquired Land Act or Mineral Leasing Act. We have several leases near Corpus Christi within military installations, and in the Barksdale field, where drainage occurs.

Senator LONG. With regard to those cases, in every case where you are leasing those military bases and the Federal post offices and things of that sort, it is a situation in which there are also private lessees

who are participating in the same production, so there is a need in all those cases for some overall pattern to work out a ratable take for all those who are producing those resources?

Mr. DUNCAN. That is true. I think the modern concept of rightful possession today is that you should not just sit beside a man and take his natural resources away from him without offering some protection.

Senator MILLIKIN. Do you think that the Solicitor's opinion that you have is on the point of conflict between State conservation practices and Federal conservation practices and which will prevail? If so, please offer it for the record. If it does not go to that point, please get us such an opinion, will you?

(The information referred to follows:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington 25, D. C., June 5, 1953.

Hon. GUY CORDON,
Committee on Interior and Insular Affairs,
United States Senate.

MY DEAR SENATOR CORDON: During the hearings on May 22, 1953, before the Senate Committee on Interior and Insular Affairs on S. 1901, a bill to provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes, Senator Millikin requested that "the Solicitor of the Department [of the Interior] give this committee a memorandum opinion as to the conflict between conservation practices, State conservation practices and Federal conservation practices, if there should be a conflict; not policing practices, but conservation practices, as to which would prevail, and so forth." (Typewritten transcript of hearings, p. 821.)

This question was asked as the result of a discussion as to whether State conservation laws could be extended to lands in the outer Continental Shelf, which in turn led to a discussion of the extent to which State conservation laws are applicable to public lands owned by the United States in the upland area of the States. It is believed that Senator Millikin's question encompasses such matters as well spacing, proration of production, prohibition of waste, and other such regulatory measures.

This opinion, therefore, is addressed to the following question: With respect to public lands of the United States which are leased for mineral development pursuant to the Mineral Leasing Act, as amended (30 U. S. C., 1946 ed., sec. 181 et seq.), in the event of a conflict between conservation practices applicable to such lands prescribed by Federal and State laws, regulations, or orders, which would prevail, the Federal or the State laws, regulations, or orders?

It is well established that Congress has exclusive power over the public domain both in a sovereign and proprietary capacity, and can control the occupancy and use or prescribe the conditions upon which rights may be acquired in the public domain. This proposition is based not only upon article IV, section 3, clause 2 of the Constitution, which provides that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States * * *," but also upon the implied power of the United States to protect its property. *Utah Power & Light Co.* v. *United States*, 243 U. S. 389 (1917); *Hunt* v. *United States*, 278 U. S. 96 (1928); *Camfield* v. *United States*, 167 U. S. 518 (1897); *Griffin* v. *United States*, 168 F. 2d 457 (8th Cir., 1948); *Shannon* v. *United States*, 160 Fed. 870 (8th Cir., 1908); *Forbes* v. *United States*, 125 F. 2d 404 (9th Cir., 1942).

It is also well established that the exercise of the power of the Congress over public lands cannot be interfered with by the States and that any inconsistent State legislation must give way to Federal legislation or action. Thus, in *Hunt* v. *United States*, supra, it was held that the United States, acting through the Secretary of Agriculture, could permit the killing of surplus deer in a national forest and national game preserve in numbers and in a manner violative of the State game laws. In *Griffin* v. *United States*, supra, it was held that the defendant could not graze livestock on certain public land which was declared by a board of county commissioners to be open range but which was administered

by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U. S. C., 1946 ed., sec. 1010 et seq.) and had been included in a grazing lease issued by the Secretary to another. See also *Shannon* v. *United States*, supra; *United States* v. *Thompson*, 41 F. Supp. 13 (D. C. Wash., 1941); *King* v. *Edward Hines Lumber Co.*, 68 F. Supp. 1019 (D. C. Ore., 1946).

Except for the King case, which concerned the authority of a State to extend its traffic laws to a road constructed and maintained by the United States on public land in a forest reserve, the cases just cited involved measures taken by the United States for the conservation of its lands, i. e., the protection of the timber and forage resources of public lands. The regulation of the drilling, spacing, and abandonment of oil and gas wells on public lands is likewise in the interest of conservation. See *Forbes* v. *United States*, supra, in which an order to an oil and gas permittee under the Mineral Leasing Act to plug an abandoned well was sustained as a valid exercise of power vested in the Secretary of the Interior by the act. Consequently, there is no doubt that, if Congress so desired, it could enact legislation relative to conservation practices in the development of the mineral resources in public lands which would take precedence over any inconsistent State legislation, regulations, or orders which might otherwise be applicable to public lands. Any administrative regulations or orders authorized by such legislation would also take precedence over conflicting State legislation, regulations, or orders.

However, in the enactment of the Mineral Leasing Act, Congress has provided that certain provisions in mineral leases shall not be in conflict with the laws of the State in which the leased property is situated. Section 30 of the act (30 U. S. C., 1946 ed., sec. 187) provides in part as follows:

"* * * Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by said Secretary shall be observed, including a restriction of the workday to not exceeding 8 hours in any one day for underground workers except in cases of emergency; provisions prohibiting the employment of any boy under the age of 16 or the employment of any girl or woman, without regard to age, in any mine below the surface; provisions securing the workmen complete freedom of purchase; provision requiring the payment of wages at least twice a month in lawful money of the United States, and providing proper rules and regulations to insure the fair and just weighing or measurement of the coal mined by each miner, and such other provisions as he may deem necessary to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare; *Provided*, That none of such provisions shall be in conflict with the laws of the State in which the leased property is situated."

This proviso therefore limits the extent to which the administrative discretion of the Secretary of the Interior may be exercised in prescribing provisions of the kind enumerated in section 30 for incorporation in leases, to provisions consistent with State laws.

It is my opinion, therefore, that, except as limited by the proviso in section 30, the provisions of the Mineral Leasing Act and all administrative regulations and orders issued under the act with respect to conservation practices on public lands take precedence over any conflicting State laws, regulations, or orders which may be applicable to such lands.

Sincerely yours,

CLARENCE A. DAVIS, *Solicitor*.

Senator LONG. With regard to that question, where you are leasing a Federal post office because there are some minerals beneath it, the only body that could regulate the fair amount that each one of these landowners would take or that each one of these lessees would take would be the State Government because the Federal Government would have no power to regulate the amount that the neighboring owner could take, would it?

Mr. DUNCAN. We make it subject to the oil and gas regulations.

Senator LONG. Of the State?

Mr. DUNCAN. No. Here is a lease that we are offering at Barksdale field within the month. It was advertised yesterday. The reason it is being leased is that these gas wells to the north recently were completed. We could not offer it before because there was no threatened drainage. Now, with offset wells, the Department of the Air Force has approved authorization to the Secretary of Interior to lease. It is now advertised. It provides for what we hope will be the spacing pattern for the field.

Senator MILLIKIN. When you say they authorize, do you include the Secretary of the Interior?

Mr. DUNCAN. The Department of the Air Force.

Senator LONG. The point I have in mind is that you have production on three sides of Barksdale Field in Louisiana under private leases. The Federal Government, to protect the Federal interests, proceeds to lease for the minerals under the Federal property. But, if everyone opened his well wide open to get all the resources out as quickly as possible to protect his own personal interest, there would be enormous waste. In that case, the only agency that can fairly protect the interest of all those concerned in that area is the State Government because the Federal Government has no authority there to fix allowables on these privately owned lands that adjoin Barksdale Field.

Mr. DUNCAN. That is true. We could not. But we are working now with the State to establish a spacing program for this Sligo field that will take care of the ratable take. It has not been established. It is one of the oldest fields in the State. As far as I know, there is no State spacing order in that field.

Senator LONG. There has been a State spacing order with regard to gas?

Mr. DUNCAN. Not in this field.

Senator LONG. I believe you will find there is.

Senator ANDERSON. Is there? Let us have testimony.

Mr. HUSSEY. There is no State spacing order—State proration.

Senator ANDERSON. With regard to oil or gas?

Mr. HUSSEY. With regard to gas. We are conducting hearings right now and we have been discussing with them the matter of the proration of the entire field.

Senator LONG. Why has there not been State proration laws?

Mr. HUSSEY. There are State proration laws affecting it. They are the State statutes under which it is prorated.

Senator LONG. There is no State spacing law?

Mr. HUSSEY. There is no State spacing law for the reason it was developed prior to the time that our statute permitted that. The principal portion of the field was developed prior to the time of our statutes.

Senator LONG. There is a State proration law?

Mr. HUSSEY. There is a State proration law and we expect to put it in a State spacing law under our present hearing at the present time.

Senator LONG. Can you tell me whether any private landowner in that area would have the same right to request that there be a State spacing regulation put into effect?

Mr. HUSSEY. Yes; they would and there has been one and there has been a public hearing on it. We will issue an order upon that very thing.

Mr. DUNCAN. I would like to go a little further on that. There are several instances in the State of Louisiana where we have asked the lessee to go to the State authorities and ask for spacing orders or for allocation of acreage to a well, where the Federal lessee did not have enough acreage for a regular location but we had estimated the lease contained productive territory.

Senator LONG. I think you will find with regard to that field, if I might complete the picture, that up until you started leasing the Federal property there were only two pipelines that would take any gas from the field. In effect, unless a person was able to sell to one of those two pipelines, he could not get his gas taken. When he sold to the pipelines, the contract spelled out the amount of gas which he was entitled to sell, which was a ratable amount with regard to the amount sold to that particular pipeline.

Mr. DUNCAN. I can assure you we would not countenance overproduction on the Federal wells unless it was necessary to meet offset production.

We would certainly fight that idea of overproduction.

Senator LONG. I had the impression for some time there was a State proration law in that field. That is the case, I take it, there always has been?

Mr. DUNCAN. I think in that field, and I am not sure—Mr. Hussey probably can answer it—that their acreage attributable to a well is different than what the standard would be at this time. Is that not right?

Mr. HUSSEY. I do not know that I understand your question exactly.

Mr. DUNCAN. A lessee might make up a drilling block, add acreage on the edge of the structure and attach it to the well for a proration allowable.

Mr. HUSSEY. The field up to the time we had the hearing upon it was covered by voluntary agreement. We strongly suspect that but I cannot testify to it from my personal knowledge.

Senator ANDERSON. You mean inside the State of Louisiana?

Mr. HUSSEY. Inside the State.

Senator ANDERSON. And it has voluntary proration?

Mr. HUSSEY. No, sir. It has voluntary spacing. It has statutory proration.

Senator MILLIKIN. A while ago I asked the witness, Mr. Brown, to remain on the theory that someone would want to question Mr. Brown.

Senator MALONE. I do. I have to go to another meeting, also.

Senator MILLIKIN. Senator Malone.

Senator MALONE. Mr. Brown, you are counsel of the Independent Petroleum Association of America?

Mr. BROWN. Yes.

Senator MALONE. I want to say to the committee that I have known Mr. Brown for many years and I am fairly familiar with the operation of the Independent Petroleum Association of America, that is, watching it opperate, and I know a large number of independent operators as well as the major operators.

I value Mr. Brown's testimony very highly because I know he has had this personal experience.

Now, Mr. Brown, unfortunately I did not get to hear the forepart of your statement, but I have reviewed it very quickly. I have mentioned many times before the committee that we have a National Mineral Leasing Act of 1920 for gas and oil. That is true, is it not?

Mr. BROWN. Yes.

Senator MALONE. Has that act been fairly satisfactory on public lands throughout the area, throughout the States where we have extensive Federal lands?

Mr. BROWN. That is our experience. Of course, there have been occasions when it needed amendment and those amendments have been provided.

Senator MALONE. There has been no trouble about that?

Mr. BROWN. No.

Senator MALONE. In other words, whenever the oil company has come in and the interested parties, the amendment was simply adopted without very much difficulty?

Mr. BROWN. That is right.

Senator MALONE. Now, Mr. Brown, my interest in this Mineral Leasing Act goes back quite a ways. One thing is the public lands of the United States and, of course, you have heard all of the arguments lately, we are not going to open up any argument, that is all over now, about the public lands within the States, submerged or sea bottom lands, whatever they were, they belong to the States. I understand the President signed the bill today.

Now, we have then only the problem of the public lands, which, of course, are public lands, beyond the State boundaries, wherever they may be located. I do not intend to get into any argument whether they go out 27 miles, 400 miles, or 10 miles, or whatever number of miles, but, for the purpose of the record, I want to ask you a question.

I am sure you are familiar with the ruling announced by the Secretary of the Interior concerning these lands beyond mean low tide, inside the State boundaries, wherever they are located, immediately after the Supreme Court of the United States ruled that the Federal Government had the paramount interest in these lands which the dictionary says is the highest title. Of course, they were public lands up until the President signed the bill, but when the Supreme Court said that California did not own these sea-bottom lands out there in the Pacific Ocean but that these public lands from mean low tide to the State boundaries belonged to the Federal Government, the Secretary immediately, I think within 40 days, ruled that the Mineral Leasing Act was not applicable to these lands.

To me they were very weird reasons. Nevertheless, he was Secretary of the Interior; the junior Senator from Nevada was not holding that office. And it was binding on everyone until something could be done about it.

Now, the applicants, about 400 of them, under 11 applications which have been made a part of the record during the hearings, sued him in the Federal court of the District of Columbia to reverse his decision.

In other words, they had filed on a number of these lands prior to 1934 and set all that out in the argument. They have argued the case and it is ready for decision, and presumably, this court is ready to render its decision whenever the Supreme Court of the United States determined the boundary between the inland waters and the open sea.

They appointed a master to make a finding on this matter and he reported that they had not yet accepted or amended his report.

Therefore, this decision has not been rendered.

The question I want to ask you is: If the decision had been favorable to the applicants, then, of course, the sea-bottom lands would be open to location under the National Gas and Oil Leasing Act, and if that decision is unfavorable, a simple amendment to that act would make it applicable to any submerged land. Do you consider that to be true, Mr. Brown?

Mr. BROWN. I do not know the implications involved in these controversies. But certainly on all lands that were subject to the Leasing Act I assume that the provisions of the Leasing Act could apply.

Senator MALONE. The Secretary of Interior just ruled, and he apparently had that authority, that the Mineral Leasing Act was not applicable to the sea-bottom lands.

Mr. BROWN. I would not know about that.

Senator MALONE. But even if it were not applicable because of some technicality, it could easily be made applicable because it has been proven feasible to drill in certain depths of water and secure this oil, has it not?

Mr. BROWN. I assume that Congress can make such laws applicable to this new area as they see fit.

Senator MALONE. Yes, this area now beyond the 3-mile limit of California and beyond whatever it finally sets for Louisiana and Texas, that is what the legislation we are now discussing would be applicable to. My contention is that since 1920 the revenue from such lands has been divided, 10 percent to the Government, which is ample proof that the Government did not want to profit by these lands at all.

Thirty-seven and a half percent went to the State in which these lands were located, which applies to Colorado public lands, Nevada public lands, Wyoming, and all others, which, of course, would not be applicable out here because they are not in any State. That would have to be taken care of.

But 52½ percent of the revenue, whether it was 12½ percent royalty or whether it was 50 percent royalty, 52½ percent on these lands would go to the reclamation fund just the same as the 52½ percent from all public lands of Wyoming, Colorado, Utah, and all others, has been accruing to this fund since 1920. Would that not be true?

Mr. BROWN. I would say that would be a matter for the determination of Congress.

Senator MALONE. I say if we did not change it, we just applied the law to it, and then disposed of that 37½ percent and there has been ample evidence here that some police power will have to be exercised by somebody that will cost money, Congress could easily say 37½ percent or 20 percent or 30 percent would go to the adjacent State.

But, nevertheless the Mineral Leasing Act could be made applicable to these lands. Do you see any reason why it would not apply if the Congress said so?

Mr. BROWN. You are speaking now retroactively?

Senator MALONE. No. I am looking ahead.

Mr. BROWN. In an area that is in what we call the outer Continental Shelf?

Senator MALONE. The Continental Shelf would be public land at this time. Now, we are trying to think what to do with it.

Mr. BROWN. My interpretation was that is what this committee is deciding and if you decide it, certainly you have the right to make whatever decision you see proper.

Senator MALONE. In other words, the Mineral Leasing Act could be made applicable. In your opinion, would it be just as fair as it has been on any other mineral land?

Mr. BROWN. I do not know; there might be some different situation, because the public lands have all been within the borders of some State, the physical border of a State.

Senator MALONE. That is true.

Mr. BROWN. You are now dealing with a piece of public land that I understand will be outside of the border, the physical border, of any State.

Senator MALONE. That is true.

Mr. BROWN. There might be an entirely different rule applied to that.

Senator MALONE. If Congress applied it, there would be.

Mr. BROWN. As to equities, yes.

Senator MALONE. If Congress applies the same rule, the Secretary of the Interior could offer it for bids, then the Congress should dispose of that 37½ percent, leaving the other as it is, or rearrange the whole thing. Do you see any reason why it would not be a workable proposition?

Mr. BROWN. I have not gone in with what you do with the part that is going to the State. Congress would have to do that. I think Congress has the power to make such distribution of the income from that area as it sees fit, if that is what you are asking.

Senator MALONE. That is true. Now, forget the revenue. We could make that 5 percent to the Government or 15 percent to the Government, 10 percent or 37½ percent to the adjacent State, and leave the 52½ percent as it is or change it, but forget the revenue. Congress, as you say, could do what they please there. Do you see any reason why the Mineral Leasing Act, if Congress said so, would not be just as applicable to these lands in the regular manner of developing and marketing oil as it has been in the past, and just as satisfactory?

Mr. BROWN. I think the Mineral Leasing Act certainly under conditions as we now understand them, could be made applicable for the time being. You may find new conditions just like we have had to amend the Mineral Leasing Act in the past. We have had to amend it. The principle of the Mineral Leasing Act could be made applicable so far as disposition of the leases.

Senator MALONE. In other words, if we found then that there are other minerals, and the Mineral Leasing Act now takes in sulfur, phosphates, and many other minerals that from time to time have been found advantageous to add, we add them to it, either now or in the future. But the principle of the Mineral Leasing Act could be made applicable there or just as satisfactory for one of your companies or anyone else to operate under?

Mr. BROWN. I think so.

NO NEW LEGISLATION NECESSARY

Senator MALONE. Mr. Chairman, I have made this point all the way through. I wanted to clarify it here because Mr. Brown has had probably more experience, at least an observation of what you might call independence before they strike oil any place, wildcatters. Of course, we all know they are the ones who mostly keep us in business. As far as I am concerned, Mr. Chairman, I can see no reason for new legislation at all. If we want to amend the present law and pay the State of Texas or the State of Louisiana or the State of California a certain percentage of the revenue for policing, and certainly you cannot do a policing job for nothing, it could be easily accomplished.

The precedents are already set. There is no argument about it. The debate has brought out with clarity, it seems to me, that you have your legislation. We have settled all this other business. Wherever the boundary of a State is, that is settled. You own that land. That is not in controversy any more. We are only talking about land everybody admits the Government owns.

ALL MINERALS MUST BE INCLUDED

I would just leave that with the committee. That is my position on it, that we are taking in a lot of area here under the proposed act, yet we do not take in all the minerals. I have offered an amendment that sulfur might be included. That is the only 1 of 5 or 6 minerals. And everyone I know of has testified here that it does not interfere with an oil and gas lease to drill for sulfur; or, if it did, the prior one would prevail.

Mr. Chairman, you and I are on a committee that is wrestling with a problem now that has come up where there seems to be no way, without some change in the present law, of getting the uranium out of the ground where you now have leases under the Mineral Leasing Act of 1920.

It seems to me we very easily could, in our rush here, and we seem to be in an awful hurry every time anybody wants to make a change in the law, get ourselves in a lot of trouble that we are not in now and would not be in if we just made the proper amendment to the present law which has been tested by Supreme Court decisions.

I want to thank Mr. Brown for taking this time to come here. I want to again emphasize his competency as a witness. I happen to know something about him and I think he knows what he is talking about.

Senator MILLIKIN. We excused Mr. Hussey temporarily, because the Senator who wanted to question him was not here. Does someone now want to ask Mr. Hussey some questions?

Senator LONG. I would like to ask Mr. Brown one more question, and then I hope we can finish Mr. Hussey's testimony. May I ask Mr. Brown one more question?

Senator MILLIKIN. Yes.

Senator LONG. I cannot completely go along with you on the idea of leasing this property without public bidding. I suppose it is because in my State we have been so pleased with the results we get

with public bidding. We receive a large amount. Have you given any thought to help the independents to compete with the larger concerns in bidding at public bidding so that they might be able to have a better chance to compete on these very costly operations?

Mr. BROWN. I have worried a lot about that because that is one of our problems. I remember I had the same worry the first time I got into a poker game where I had a limited amount in an unlimited poker game where the other fellow had more money than I had. I never have figured out how to win in such a game. I have earnestly tried to find, and may some day find, a way where we can go in, where you throw these open to public bidding, and I can understand the difference in the State point of view and the Federal point of view on that. I can see where your State profited by it. I think the State has a right to profit by it. I have never been able to understand the concept of a Federal Government as a landlord as such.

In my schooling, I understood that the Federal Government could own only what the States gave them. They gave them post offices for the purpose of administering postal business, but anything else I looked on it as a trustee for the citizens of the State, of the country as a whole.

The objective of public land was to get contribution to the development of this Nation, and the way you get it developed is to get people on it and to get people to do something with it. So they have made it as easy as possible to move these people into areas of public lands because the minute a man gets on a piece he wants to do something about it.

Senator MILLIKIN. You do not know the answer to the Senator's question on how to give the little fellow an equal break with the big fellow?

Mr. BROWN. No.

Senator MILLIKIN. Any other questions to the gentleman?

Senator DANIEL. I would like to understand that you think it would be better practice for the State conservation laws of the adjacent States to apply over this area rather than setting up a new Federal regulatory body for that purpose?

Mr. BROWN. That is my judgment.

Senator DANIEL. Has there ever been a Federal regulatory body to handle conservation matters within the continental United States?

Mr. BROWN. Not to my knowledge.

Senator DANIEL. Was it proposed several years ago that the Federal Government take over regulations of the oil industry?

Mr. BROWN. Yes, that has been the subject of considerable hearings and discussions and there were long hearings held on it. One committee, I remember, spent a lot of time on that. William Cole was chairman.

Senator DANIEL. As I understand, all the way through our court decisions and all, the conservation problem has been left with the State?

Mr. BROWN. That is my understanding.

Senator DANIEL. Whatever conservation system is set up for the outer Continental Shelf, do you think that it would have to be integrated with the conservation system in the adjacent States where the oil and gas are brought to market?

Mr. BROWN. There must be some area of understanding or integration or else one would fail, one of the two would be weak.

Senator DANIEL. How do you think that the State of Texas, for instance, could enforce its hot-oil law, the law against anyone using or producing oil in excess of the allowable set by the State, or how could the Federal Government enforce the Connally Hot Oil Act against shipping such oil in interstate commerce, if from the outer Continental Shelf the oil brought in to the shore is not accounted for in some way to the State agencies so that they can be sure and know whether or not it is legally produced oil?

Mr. BROWN. I know of no way that could be done. I think if you are going to control your conservation, you have to control the elements that go into the problem.

Senator DANIEL. Have we had experience of the States regulating conservation on lands owned by the Federal Government?

Mr. BROWN. I assumed that it always had. My memory tells me that the State when they have a lease from the Government subjects itself, within the terms of the lease, to the conservation laws of the State when it operates. I thought that was the general practice. I was amazed to find it was not.

Senator DANIEL. Have you ever heard of any difficulty or any unfair treatment to lessees of Federal land because they are regulated in conservation practices by the State government?

Mr. BROWN. I know of none.

Senator KUCHEL. When you suggest in your language to extend the administration of conservation programs to these areas wherever possible, through the administrative bodies already in existence, do you mean that you recommend the bill before us provide that the Secretary of the Interior in administering this Federal outer Continental Shelf area would have part of the enforcement of conservation statutes placed in the State officials in the abutting States?

Mr. BROWN. What I meant by that was that so far as the police power, that is purely the conservation enforcement, that should be in accordance with the State regulatory bodies where they have them.

Senator KUCHEL. In accordance with them, but administered by whom?

Mr. BROWN. By the State regulatory bodies, until some other method is found. I use the words "for the time being." I know of no other method as yet.

I base that on this: I think it to be bad to start drilling out there until you have some known practice or regulations because waste and sometimes disaster might follow. So, until you get that, I think the adjoining State regulation might well apply and that should be enforced by the State body.

In my experience, I do not know how you can have 2 sovereigns in 1 area of operation. That is what I am trying to say. You must have someone who is sovereign.

Senator KUCHEL. That provokes some question in my mind because today you have one sovereign in that area, the United States Government. Now, if you close another sovereign to it, a State, with some authority outside its own State boundaries, then I wonder if we would have some administrative questions. I am just seeking information.

Mr. BROWN. I do not know. My opinion would be that there is no

question about the sovereignty of the United States as to the land. They have a right to do what they want. In other words, you people are not delegating your sovereignty beyond the question of delegating the police activities. I think there is experience with that.

Senator KUCHEL. But when you use the word "police," you imply that in the Federal area any breach of the State police activities would result in a State offense rather than a Federal offense, so you have the anomalous situation of a State offense being committed on non-State but Federal property.

Mr. BROWN. Whatever penalties for that may be provided, I do not know. It is a difficult problem.

Senator DANIEL. We have the situation you know on 24 percent of the land in the Nation now.

Mr. BROWN. We have very large experience in the interior.

Senator KUCHEL. So that I can understand, is it not a fact that the distinction remains, that when property, no matter by whom owned, is located within a State boundary, to some extent there is State jurisdiction over it, whereas here we are talking about some property to which the word "appertain" was used when the proclamation of the President was issued, and certainly it was without the State boundary.

Mr. BROWN. I have recognized that as a distinction. I have not found the answer to it. But I felt that better than to have no conservation, this conservation should run out because I am afraid of the conflict until it works out.

Senator MILLIKIN. Thank you very much, Mr. Brown.

Senator DANIEL. Mr. Chairman, I have one more question. If the State laws were extended, subject to applicable Federal laws and subject to the regulation, such regulations as the Secretary may adopt in the field, then there would be no occasion for any conflict, would there?

Mr. BROWN. I see no room for conflict there. In fact, we work together pretty well on that.

Senator MILLIKIN. Thank you very much, Mr. Brown.

Now, are there any further questions of Mr. Hussey?

Senator LONG. I would like to have Mr. Hussey finish his statement.

Senator MILLIKIN. I just want to say that Mr. Hussey was not taken off through any intended discourtesy. The Senator who wanted to question him was not here at the time. So, it was understood that he would retire until we called him back.

Senator CORDON (presiding). Who desires to interrogate Mr. Hussey?

STATEMENT OF JOHN B. HUSSEY, COMMISSIONER OF CONSERVATION OF THE STATE OF LOUISIANA, ACCOMPANIED BY EDWARD A. ALBARES, ENGINEER—Resumed

Mr. HUSSEY. I believe Senator Jackson asked the question of another witness. I think he directed the question to Mr. Duncan and Mr. Brown and he got an answer finally.

Senator CORDON. Have you completed your statement as a whole?

Mr. HUSSEY. No, sir. I did not come here with a prepared statement because I did not receive the invitation until a short time before and I had to travel all night to get here.

I would like to state to the committee very definitely and very sincerely that I do not think any property, if you are to be a proprietor, should be unregulated. When I say unregulated, I mean unregulated by conservation practices and good conservation practices.

The Federal Government has not taken any action in that regard since 1950. We have done our best to accomplish conservation there, regardless of whether we were accomplishing it for the State or the Federal Government.

My personal recommendation to you is that it be continued regardless of how you continue it. It is my thought that we now have the personnel to continue it and we would be happy to do so.

We have 6 district offices located in Louisiana, 4 of whom have jurisdiction over those portions of the land which are now portions of the tidelands which now definitely belong to the State of Louisiana and who have been exercising jurisdiction over those lands if for no other reason than that there was no jurisdiction exercised over them.

Senator DANIEL. You mean on the outer Continental Shelf?

Mr. HUSSEY. I mean on the outer Continental Shelf.

On the point raised here as to whether or not the Federal Government was subject to the regulation by the State on lands owned within its boundaries, it is my personal opinion very definitely that where the Federal Government owns lands in a proprietary capacity which gives it the right only to a proportional withdrawal from a reservoir lying within the State, that it is the same as any other royalty owner with respect to that particular reservoir for proration and conservation purposes.

We do have the personnel in our offices located along the boundary. The boundary of Louisiana along the gulf is probably 350 miles. If you had to have inspectors along that area, you would have to have more inspectors than it would warrant. We can accomplish it with the personnel that we have as it presently exists. If you had inspectors there working on that particular production and the development in that area, you could not service the long boundary line of Texas and the long boundary line of Louisiana and the other States on which there may be further development with the personnel that you have in the Federal Government at the present time; nor could it be adequately done with the present production, efficiently done with the present production, and give the service that is necessary to the oil and gas industry efficiently because they would have too much territory to cover to keep them busy for the length of time for which they would be employed.

The oil comes into the State when it is produced in the gulf and it comes in subject to our jurisdiction. We have the facilities to administer it after it gets in on the land. We have already set up the proration rules and regulations governing it.

If the Federal Government would go out there now and take over, I feel reasonably sure that they would adopt, as they always have, the regulations which we have put into effect there.

We have never had even a suggestion from the Federal Government or from any of its representatives that they thought we were exceeding our jurisdiction in the administration of it, nor that they felt

like it should not be administered during the intervening period until Congress gave some specific authority to some specific agency, whether it be our agency or an agency which they create themselves.

I again assert that I think it needs administration and if the Federal Government feels that we are administering it improperly, or that it should not be administered by us, we would like them very definitely to say so. I believe that is all I have.

Senator CORDON. Thank you very much.

Senator LONG. I would like to ask Mr. Hussey 1 or 2 questions. You are going to have a period of time before the boundary line between the State and Federal jurisdiction will be definitely established. Is that not true?

Mr. HUSSEY. Yes, and in my opinion, it will be a lot longer than most of the Senators realize. I feel personally that unless it can be established through administrative agreement between the State and the Federal Government, that almost every segment of land will have to be determined, the title will have to be determined by the decision of the Supreme Court of the United States.

So I do not think you are looking at any very short period of time until you get to this boundary line definitely established. It is going to be a long period of time.

Senator LONG. Now, even when you have the boundary line established, if you try to fix a precise line of inland waters and high seas and try to measure out from that point, there will still be fields that fall on the boundary line?

Mr. HUSSEY. There probably will be. I do not know of any which would be right on the exact boundary line at the present time, but taking it according to the law of averages, we have fields between us and Texas, we have fields between us and Arkansas, we have a field which extends from Texas through Louisiana into Arkansas, and we have fields between Louisiana and Mississippi. Certainly the fields do not follow property lines, either State or private.

Senator LONG. If the State conservation laws are applied, you would eliminate one possibility of conflict between Federal and State jurisdiction inasmuch as the State conservation laws would be applicable and if the Federal Government cared to, it could request that the conservation laws be more strict if they desired them to be more strict?

Mr. HUSSEY. You would eliminate that and you would also eliminate a duplication of effort, a duplication of work.

Senator LONG. Can you tell me whether or not the administration of conservation in this area would be more costly to the State of Louisiana? What is your experience, based on the administration of conservation beyond your historic boundaries, just based on what your conception of historic boundaries might be?

Mr. HUSSEY. It would definitely be more costly because it is a water operation. It would be more costly to the State of Louisiana to carry on the conservation but I believe the State of Louisiana could carry it on more economically than the Federal Government could. I believe very definitely it could if you had a division of jurisdiction.

Senator LONG. Where you had a division of jurisdiction you would have some costs that would arise because of the various conflicts of jurisdiction, would you not? In other words, trying to control the question of hot oil, you would have to try to determine what oil was

produced within the State and what oil was produced without the State, to determine whether or not the State allowable has been exceeded and you would have certain questions of that sort arise?

Mr. HUSSEY. Very much so.

Senator LONG. You are also going to be administering State leases to submerged lands bordering all this area even if it were excluded from State jurisdiction. In other words, if the lands subject to the paramount rights and ownership of the Federal Government were excluded from regulation of State conservation laws, you would still be administering over a vast amount of submerged land that borders it which would be State property?

Mr. HUSSEY. That is correct. We would be administering the conservation laws.

Senator LONG. Now, with regard to allowables that would be fixed and practices that would be followed, would it not be more reasonable and more fair that the lessees would be treated the same regardless of whether they fell in the 3-mile limit or whether they were 10 or 15 miles at sea?

Mr. HUSSEY. I think they should be uniform. We feel there should be uniform treatment among all producers and among all landowners. That is one theory of conservation. Conservation is for the purpose of conserving resources and in addition seeing that each tract gets its just and equitable share. That is the reason I say that when the Federal Government owns lands in which they have only a right to a proportionate take within a pool entirely within the State of Louisiana, we feel they are subject to our proration of that field just like any other royalty owner.

Senator LONG. Now, you have agreed with the position taken by the Railroad Commission of Texas that the agency administering conservation should be independent of the landlord and lessee relationship between the property owner and the oil operator on the property.

Mr. HUSSEY. I think very definitely it should be.

Senator LONG. You feel he should be in a position to be the third party between those two interested not in the revenue that is derived but interested in preventing waste and following proper conservation practices?

Mr. HUSSEY. Solely in the prevention of waste and I think he should be or the agency should be completely independent from any proprietary ownership.

Senator CORDON. That is not true in the case of Louisiana and Texas, is it——

Mr. HUSSEY. It definitely is true.

Senator CORDON. Will you please wait until I finish my question? It is not true in the case of Louisiana and Texas to the extent that they are State-owned lands, the State makes the law, the State appoints the Board, and it is all in the sovereign State of Louisiana or Texas, is it not?

Mr. HUSSEY. In Louisiana, it is absolutely true. We have different agencies which administer the different problems.

Senator CORDON. And they are agencies of the State of Louisiana?

Mr. HUSSEY. They are agencies of the State of Louisiana.

Senator CORDON. Very well. The land is owned by the State of Louisiana. Is that true?

Mr. HUSSEY. The State owns land within our jurisdiction.

Senator CORDON. The question is would that not be exactly the same as though the lands were owned by the United States and an agency of the United States did the job. Would there be any difference?

Mr. HUSSEY. If they were separate agencies, there would except this, that your Federal agencies are subject to the jurisdiction of the Secretary of the Interior. I, as the department of conservation, am subject to no appellate jurisdiction except that of the judiciary.

Senator CORDON. You are subject to the law of the State of Louisiana.

Mr. HUSSEY. Subject to the law of the State of Louisiana. In other words, you mean that they could abolish the system that they have now?

Senator CORDON. Including you.

Mr. HUSSEY. The system that exists makes me not subject to review except through the judiciary.

Senator CORDON. Exactly, but nevertheless it all rests in the sovereign State of Louisiana and you are made independent by virtue of the law of the State of Louisiana.

Mr. HUSSEY. That is right. That is the way we think it should be done in any instance. You are talking about making a law. We are making the suggestion to you with regard to the law that you should make based on our experience and based upon the type of law that we have lived under.

Senator CORDON. Are there any other questions?

Senator LONG. I have no more questions.

Senator DANIEL. I would like to ask some questions, if I may. I believe your recommendation is the same as Mr. Murray's, that the Federal Government, though owning the land and having jurisdiction over it, if it sets up its own conservation system, should assign such duties to a separate agency from the leasing agency?

Mr. HUSSEY. Yes, sir.

Senator DANIEL. In Louisiana and Texas there are two separate agencies handling those two separate fields of endeavor?

Mr. HUSSEY. I think that is the ideal proposition, and I would recommend it to the Federal Government very sincerely.

Senator DANIEL. Now, did I understand you to testify that you have larger allowables of production per day in the wells on the outer Continental Shelf because of their expensive development than you do on shore.

Mr. HUSSEY. We have larger top allowables. Now those allowables are subject to other restrictions, maximum efficient ratio, rate of production, and gas-oil ratio, and so on, but we do allow them a larger top allowable on their depth bracket than we do for the depth bracket on inland wells.

Senator DANIEL. Now, as to fields that might be discovered part on the Texas side of the line of the outer Continental Shelf, let us say the Secretary of the Interior drew a line out on the Continental Shelf, extended it out for administrative purposes on a field discovered astride the extended line between Louisiana and Texas, how would the State conservation agencies work out a conservation system for that field?

Mr. HUSSEY. In the same manner we have followed at Rodessa.

Senator DANIEL. What is Rodessa?

Mr. HUSSEY. Rodessa is the field I spoke of a moment ago, which begins in Arkansas, goes through Louisiana, and down into Texas. We have cooperative proration laws in those fields.

Senator DANIEL. Do the two State agencies, for instance, where you have a field on the Texas-Louisiana line, work out the proration schedules and their other rules for the field jointly?

Mr. HUSSEY. We adopt the same.

Senator DANIEL. Have you met and worked that out?

Mr. HUSSEY. That was before my time.

Senator DANIEL. Have you ever figured up about what it would cost for a Federal agency to duplicate your State agency and your employees if they do set up a separate conservation area for the outer Continental Shelf?

Mr. HUSSEY. No, sir; I have not figured the exact figure because that would be difficult to say. If they administer it the way we do, I could calculate it.

Senator DANIEL. Would you calculate an approximate cost of setting up a Federal agency to handle for the outer Continental Shelf the work that you are now doing for the outer Continental Shelf with your own employees and send it to the committee, just an estimate?

Mr. HUSSEY. Yes; I would. But you understand, of course, that I feel you would have to have almost the same number of employees that we have in those lower districts, for the reason when a well gets to a critical stage you have to have your inspector there ready 24 hours a day and you have to maintain a staff.

Senator DANIEL. I understand.

Mr. HUSSEY. Now, if the Federal Government duplicated our staff, if they did the same job we do, they would have to completely duplicate our staff to do that job and the jobs which we are accomplishing.

Senator DANIEL. I understand from Mr. Duncan that his division in the Department of the Interior has two employees in Louisiana now and none in Texas. So therefore, with that in mind, if you would let the committee have your ideas of what it would cost to set up a separate agency to carry out the functions that you say the State is willing to carry out with its present employees, it would be helpful.

Mr. HUSSEY. Could I furnish that to you at a later time?

Senator DANIEL. Yes; but as soon as possible.

Senator CORDON. Will you also include the number of employees in your conservation work, the total number in Louisiana?

Mr. HUSSEY. Yes.

Senator CORDON. Having to do with this particular aspect of conservation, I should like to have that also from Texas, Senator Daniel, if we can get it.

Senator DANIEL. Yes; including in your cost of such an agency, your equipment, anything else that it takes to duplicate your operation.

Mr. HUSSEY. Thank you.

(The information referred to follows:)

AUSTIN, TEX., *June 1, 1953.*

Hon. PRICE DANIEL,
United States Senator,
Senate Office Building, Washington, D. C.:

Difficult make estimate cost to Federal Government of duplicating State conservation staff for administering conservation regulations for outer Continental Shelf without being given some assumptions on extent of development of outer

shelf. Since there is no development on Texas outer shelf at present, it might be assumed no conservation staff necessary. But imperative that skilled, experienced personnel be acquired in advance of development otherwise tremendous waste, expense, and hazard of lives may be incurred.

Texas Railroad Commission presently spending approximately $1 million annually administering conservation regulations. Estimate at least 25 percent of this amount would be required by Federal Government to duplicate our system of conservation regulation even though production from Texas outer Continental Shelf remained insignificant. However, extra cost to Texas Railroad Commission for administering conservation regulations for outer shelf would not be large as long as production remains small. This statement only refers to Texas outer shelf and no estimate is made of cost of administering Louisiana outer shelf where development has already occurred.

W. J. MURRAY, Jr.,
Member, Railroad Commission of Texas.

Senator CORDON. We have some other witnesses here, including particularly the gentlemen who are representing the fishing interests. I understand that there is one gentleman here who desires to get away. We will hear Dr. Chapman at this time.

STATEMENT OF W. M. CHAPMAN, DIRECTOR OF RESEARCH, AMERICAN TUNABOAT ASSOCIATION

Senator CORDON. Mr. Chapman, the hour is late, and this is quite a sizable statement. Let us make it a part of the record at this point, and if you will highlight it for us, it will be appreciated.

Mr. CHAPMAN. Yes, sir.

My name is W. M. Chapman. I am the director of research for the American Tunaboat Association, an organization of the owners of commercial fishing vessels fishing for tuna by the live bait method. For the purpose of this hearing I am also representing the organizations listed in the sheet appended to this statement. These organizations represent all phases of California's fishing industry, including boat owners, fishermen, cannery workers and canners.

Our concern with this bill is confined to the four lines of section 3 (b), but our concern with that small segment of the bill reaches to the vitals of our industry.

We earnestly solicit that these four lines be amended so as to clarify the legislative intent in the Submerged Lands Act and this bill.

The effect we would want from such an amendment would be to make clear that the Congress has not intended to affect the traditional policy of the United States with respect to the breadth of the territorial sea pertaining to the United States as that policy affects the nationals of other sovereign countries, that is, that the waters and their contained resources to a breadth of 3 geographical miles from the low-water mark, with the customary exceptions long recognized by the United States in international usage, pertain, to the United States and that the waters outside these limits are the high seas and pertain to the international community.

Our reason for wanting this clarification is this. Nearly all of the waters in which we tuna people now fish, and those in which the direction of our expansion lies, are covered by a proclamation by some foreign nation taking those waters into its national sovereignty. A good example is that of Peru which has proclaimed that all seas within 200 miles of its shores are its sovereign territory. We fish extensively off Peru between 10 and 80 miles from her coast. We fish inside this

claimed area because the United States has informed Peru that it does not recognize any power of regulation by Peru, to which the United States has not previously agreed, over vessels of the United States beyond 3 geographical miles from Peru.

The essential point here is that a nation cannot unilaterally extend its boundaries out into what has been traditionally known as the high seas. This is a policy which the United States has held around us, that shelters us and permits us to fish in areas covered by such unilateral claims as that of Peru. If the United States withdraws that shield we come at once under the jurisdiction of other nations, who may wish to exclude us.

If the United States itself seeks to extend its boundaries by its unilateral action into what it, itself, has previously considered to be the high seas, it, of course, can no longer hold this shield around us. If it, the champion, breaches this policy it certainly cannot complain further if another nation does so.

There is only one small section of the high seas adjacent to the coast of the United States which an amendment such as the one we desire could in any manner affect. That is the waters in the area between 3 geographical miles and 9 geographical miles of the coasts of Florida and Texas in the Gulf of Mexico. The amendment we seek would have no effect whatever with respect to the submerged land and its contained resources under this narrow area of high sea. The amendment would have no effect with respect to the claim of either the State of Florida or Texas to dominium over this narrow area of sea and submerged land. The amendment would only clearly enunciate that the Congress in the Submerged Lands Act and in this bill did not intend to affect the character of this narrow strip of sea with its contained resources, whatever that character may be.

We believe that neither the Submerged Lands Act sought nor does this bill seek to affect sovereignty over this narrow band of sea nor in fact do they do so. Among our reasons for so believing are the following:

(1) The Submerged Lands Act specifically reserves to the Federal Government (as does the Constitution) all powers of regulation and control over lands and waters affected by the act needed for the conduct of international affairs:

"SEC. 6. Powers retained by the United States:

"(a) *The United States retains all its* navigational servitude and *rights in and powers of regulation and control of said lands and navigable waters for the constitutional purposes of* commerce, navigation, national defense and *international affairs,* all of which shall be paramount to, but shall not be deemed to include. * * * [Italics supplied.]

This committee has left no doubt as to what is meant by this section. Senator Cordon (page 2714, Congressional Record, April 1), reporting for the committee, said:

The purpose clearly is to enunciate as emphatically as can be done that the paramount rights of the *Federal Government* in its constitutional field of controlling and regulating rivers, in national defense, and *in international affairs cannot be interfered with by* any situation created under *the resolution. The resolution seeks to* transfer, establish and *vest in the States interests which* in themselves *are proprietary* in character *but in no sense governmental. These interests are made subordinate to the paramount rights of the United States.* [Italics supplied.]

It appears to be plain that this committee sought in the Submerged Lands Act to transfer to the coastal States dominium over the contiguous territorial sea and seabed which pertained to the United States but to reserve imperium over these areas to the United States. That is, in fact, all it could do under the Constitution.

We propose to show below that the United States has found it needful in the conduct of its international affairs repeatedly to assert to other sovereign nations in the past that the waters and their contained resources outside an area of 3 geographical miles in width from the low-water mark of its States, Territories, and possessions were high seas, did not pertain to the United States, and did pertain to the international community. We propose to show below that it is needful for the United States in the conduct of its international affairs to continue this policy without interruption into the foreseeable future.

Accordingly, we assume that the Submerged Lands Act did not affect the ability of the United States to continue operating under this policy with respect to the nationals of other sovereign countries.

Should there arise at some future time, when the legal issue mentioned in point (2) below is resolved, a conflict between a State and the Federal Government over a fishing vessel of foreign registry entering the zone between 3 geographical miles and 9 geographical miles, contrary to regulations issued by the State, but under this policy of the Federal Government, the Federal Government has several avenues open to it for the protection of the foreign-flag vessel from molestation by the State authority. One such avenue would be for the Federal Government to exercise its right of eminent domain and to indemnify the State. This, however, is a question for the future when the legal issues concerning the location of the western boundary of Florida and the marine boundary of Texas are resolved.

Point (3) below also bears on this point.

(2) The Submerged Lands Act does not, and does not seek, to establish where the Gulf of Mexico boundaries of the State of Florida or the State of Texas are. It deliberately and intentionally leaves those issues moot. The pertinent language is from section 2 (b):

> The term "boundaries" includes the seaward boundaries of a State or its boundaries in the Gulf of Mexico or any of the Great Lakes as they existed at the time such State became a member of the Union, or as heretofore approved by the Congress, or as extended or confirmed pursuant to section 4 hereof, but in no event shall the term "boundaries" or the term "lands beneath navigable waters" be interpreted as extending from the coastline more than 3 geographical miles into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues into the Gulf of Mexico.

And from section 4:

> Any claim heretofore or hereafter asserted either by constitutional provision, statute, or otherwise, indicating the intent of a State so to extend its boundaries is hereby approved *and confirmed, without prejudice to its claim, if any it has, that its boundaries extend beyond that line. Nothing in this section is to be construed as questioning or in any manner prejudicing the existence of any State's seaward boundary beyond 3 geographical miles if it was so provided by its constitution or laws prior to or at the time such State became a member of the Union, or if it has been heretofore approved by Congress.* [Italics supplied.]

The provisions of the last sentence of section 4, of course, apply only to section 4 as stated.

The intent of the legislators to leave this question moot is clearly shown in the following citations from the written report of the Senate

Committee on Interior and Insular Affairs to the Senate, and the statements made by the acting chairman, Senator Cordon, in reporting the bill on the Senate floor.

(*a*) On page 18 of its report the committee says:

* * * The elimination of the language, *in the committee's opinion*, is consistent with *the philosophy of the Holland bill to place the States in the position in which both they and the Federal Government thought they were for more than a century and a half, and not to create any situations with respect thereto.* [Italics supplied.]

Emphasis must be given to the word "both" in the above quotation. The committee is deliberately not furthering any unilateral claim by a State.

(*b*) On page 2714, Congressional Record, April 1, Senator Cordon states:

In short, Mr. President, the purpose of the joint resolution is to create by law a status and condition which existed, in fact, up to the time of the California decision.

(*c*) On page 2714 (loc. cit.), occurs this colloquy:

Mr. HILL. Is it possible today to know what the historic boundaries of the various coastal States are?

Mr. CORDON. The Senator from Oregon cannot say whether it is or is not. The Senator from Oregon says only that the committee and the Congress found a situation existing which had existed for some 150 years or so as to the older States, and for half a century or more as to the other States. As to where the lines are, the Senator from Oregon will say that in his opinion, in many instances, either there will have to be agreement between the United States and the States in question, or the boundary will have to be determined by litigation.

This joint resolution does not create any necessity for litigation. Neither does it attempt to offer a substitute for that type of decision. [Italics supplied.]

(*e*) On page 2717 (loc. cit.), occurs this colloquy:

The States of the United States have legal boundaries. It is not a part of the power or duty of Congress to make determination with reference to those boundaries, or where those boundaries should lie. It is a matter for the courts to determine, or for the United States, through Congress and the legislative organizations of the several States, to reach an agreement upon. The pending bill does not seek to invade either province. It leaves both exactly where it finds them. Whenever a question arises as to a boundary, it will be determined exactly as any other question in law is determined, and the boundary will be established.

The pending measure does not seek to prejudge that issue, or to determine it. It is not within the province of Congress to change the present boundaries of Texas without the consent of the State of Texas. [Italics supplied.]

(*e*) On page 2717 (loc. cit.), occurs this colloquy:

Mr. DOUGLAS. What is the Senator's understanding about the paramount rights under this joint resolution of the State of Florida on the west coast of Florida, out in the Gulf of Mexico. * * *

Mr. CORDON. That question can be determined and should be determined in 1 of 2 ways, either by agreement through a resolution adopted by the Legislature of the State of Florida and by Congress, or by a decision of the Supreme Court of the United States. * * * *The resolution before the Senate does not deal with a determination of the boundary lines of the States.* Those boundary lines do exist, but the Senator from Oregon will not usurp the prerogative, either of the Supreme Court of the United States to make a judicial determination, or of the legislative bodies of the States in question to make a legislative determination. [Italics supplied.]

(*f*) On page 2730 (loc. cit.), Senator Cordon states:

Mr. President, I submit that whether it be difficult or simple to delimit inland waters, or difficult or simple to determine State boundaries, the fact is that the

problems are with us. They are with us without regard to the proposed legislation, and they will be with us in any other legislation which may be suggested in the field. These problems are not created by the pending joint resolution; the joint resolution does not solve them and cannot solve them.

The boundaries of the States cannot be changed by Congress without the consent of the States. We cannot do anything legislatively in that field and we have not sought to do so in this measure.

I think that answers all and every one of the discussions with reference to boundary lines of the States, including whether they are measured from low-water mark, high water, inland water, or some island. [Italics supplied.]

I believe that these citations make it abundantly clear that it was not the intent of the legislators in any manner to affect the claims of Florida and Texas to extended boundaries on their Gulf of Mexico sides.

If those claims are valid, the Submerged Lands Act did not affect that validity; if those claims are not valid, the bill did not make them valid. The resolution of these boundary questions is left by that bill to two alternative actions: (1) Joint legislation by the Congress and the legislatures of the affected States; or (2) adjudication by the Supreme Court.

For these reasons we assumed that the Submerged Lands Act does not necessitate a change in the traditional views which the Department of State has held, and vigorously and repeatedly asserted for upward of a hundred years over National and State boundaries as they affect the regime of the high seas in the Gulf of Mexico. These views are reviewed in the letter of December 30, 1949, from the Honorable James E. Webb, Under Secretary of State, to Senator Connally, printed on pages 321–323 of this committee's hearings on the submerged lands bill, and by the testimony of the Honorable Jack Tate, Deputy Legal Adviser for the Department of State on pages 1051–1090 of those hearings.

(3) The United States has long held, in international forums and in its representations to other sovereign countries, the tenet that a nation cannot unilaterally change its boundaries out into the international common of the high seas. This is a view generally and long held by the principal maritime nations and apparently by the International Court of Justice.

A most recent assertion by the United States of this principle of international usage occurs in the final act of the Conference on United States-Ecuadoran Fishery Relations, concluded April 14, 1953.

The Conference—Agrees: That it is not within its competence to resolve differences in legal dispositions and juridical concepts of the United States and Ecuador regarding territorial waters and innocent passage, *the principles of which in any event are not susceptible of bilateral determination since these principles are matters for determination only by the general agreement* of maritime States. [Italics supplied.]

It is assumed that the United States will apply at home those precepts which for many years it has attempted to have applied abroad.

(4) The United States is bound by treaty with Great Britain, Cuba, Panama, and other countries to uphold the principle of a breadth of territorial sea 3 geographical miles wide measured from the low-water mark.

The language in the pertinent convention with Panama (Treaty Series No. 707) is:

Article I. The High Contracting Parties declare that it is their firm intention to uphold the principle that three marine miles extending from the coastline out-

wards and measured from low water mark constitute the proper limits of territorial waters.

It is assumed that the United States cannot change this policy without previously having abrogated or renegotiated these several treaties.

We believe that any 1 of the 4 reasons cited above would be sufficient for preventing the United States from being under the necessity of changing its traditional policy respecting the width of the territorial sea as set forth recently by Mr. Tate before this committee. The four reasons taken together appear to us to make an incontrovertible case.

Let me tell you exactly how this issue affects us in the tuna industry.

The Department of State has given us a list of recent claims which have been made by other nations, to extend jurisdiction over sections of what has been known formerly as the high seas. To each of these claims the United States Government has made reservations. I attach hereto (*a*) an example of such claims (that of Peru), and (*b*) an example of the reservations made to such claims by the United States (that to Peru).

In brief, 9 of the 18 nations listed have laid claim to the Continental Shelf; 7 have claimed fisheries or other jurisdiction as far as the edge of the Continental Shelf; 8 have advanced claims to territorial waters ranging from 6 miles to the entire Zulu Sea; 5 have asserted rights in 200 miles of adjacent seas; and 1 (Mexico) specifically places no outer limit on its fisheries jurisdiction.

Those claims specifically affecting the tuna industry are as follows:

(*a*) On June 23, 1947, Chile proclaimed national sovereignty over the seas and their natural resources within 200 geographical miles of the coastline of Chile. We do not yet do any fishing off the coast of Chile, and perhaps will not do so until this issue is clearly resolved.

(*b*) On August 1, 1947, Peru issued a decree also proclaiming national sovereignty over all the seas and natural resources within 200 geographical miles of their coastline.

Unlike off Chile, we do operate a large fishery in the high seas off northern Peru in the area between 3 and 200 geographical miles of her coastline.

In spite of the protest which the United States sent Peru after it issued its 200-mile proclamation, it appeared last fall as if Peru were going to begin enforcing its proclamation and harass us out of the area. For example, their patrol boats began coming out and boarding our vessels on the high seas, which, of course, is illegal under international law. Then one of our vessels got involved in a shooting scrape with a Peruvian vessel and the situation calmed down again and our vessels have continued to fish there to this date. So long as the United States continues to say its vessels can operate within 3 miles of the coastline of Peru we will continue to do so.

(*c*) Ecuador, in 1951, established a baseline system of delimiting its inland waters, applied the envelope principle to the Galapagos Islands, and claimed a breadth of territorial waters 12 miles beyond those baselines. This put the territorial sovereignty of Ecuador, in Ecuador's opinion, as much as 40 miles from any point of Ecuadoran land at some points of the continental coast, and even greater distances than this is in the northern Galapagos Islands.

In the course of the last 18 months 3 of our vessels have been seized at gunpoint, detained, and fined by Ecuador while engaged in normal

navigation on the high seas. A fourth vessel was overhauled but ran for it and escaped. The United States has vigorously protested these molestations of its vessels on the high seas, and has recently held government-to-government consultations in Quito on the subject. As a consequence, our troubles there are temporarily in abeyance.

(*d*) Colombia has proclaimed sovereignty to all waters within 12 miles of its coastline. We do some fishing in the area between 3 and 12 miles off that coast, and we get shot at for so doing, the latest incident of this nature occurring in February of this year.

(*e*) The situation in Panama is confusing even to the Government officials of Panama. They have a treaty with the United States saying they will uphold the principle of a 3-mile breadth of territorial water measured from the low-water mark. But in 1946 the Constitution of Panama was amended to extend their sovereignty and fishery jurisdiction over the Continental Shelf, and, in addition, since 1948 they have included in their fishery law provisions which seek to govern our fishing in various parts of the high seas of the Gulf of Panama. At present we are continuing to fish within 3 miles of Panama as if it were high seas.

(*f*) In 1948 Costa Rica issued a proclamation claiming sovereignty over all seas within 200 miles of her land. Since she owns Cocos Island, far offshore, this would have run her sovereign territory 500 miles off her coastline. The United States protested. Costa Rica backed down.

(*g*) Nicaragua in 1950 provided that the national territory of Nicaragua included the Continental Shelf, the outlying islands, and the intervening seas. The United States protested and as yet we have not had trouble.

(*h*) In 1951 Honduras declared that its sovereignty was extended over the Continental Shelf, the outlying islands and the intervening seas. The United States protested and so far we have had no trouble.

(*i*) In the 1950 Constitution of El Salvador the national territory was declared to include the adjacent seas within 200 miles of its coast: The United States protested. As a result the El Salvadorans have put in abeyance any plans they may have to interfere with our operations off their coast.

(*j*) On October 29, 1945, the President of Mexico proclaimed that the sovereign territory of Mexico extended as far offshore as was deemed by Mexico to be necessary.

Fortunately for us in California, our friends in the shrimp and snapper fisheries of Texas, Louisiana, Mississippi, Alabama, Georgia, and Florida have taken the brunt of the developments from this proclamation and the Congress has heard repeatedly of the seizures of American shrimp and snapper vessels by Mexico in that area over the past several years. While we in California have not had this trouble to date, we are sensible that whatever is decided between Mexico and the United States on the Gulf of Mexico will be applied on the Pacific side and not only the tuna people of California would be affected. In the summer and early fall there are between two and three thousand American vessels concentrated in the high seas off northwestern Mexico fishing for albacore, tuna, jack mackerel, sardines, yellowtail, bonito, and other market fishes, and all these vessels from California, Oregon, Washington, and Alaska would be exposed to the provisions of this proclamation.

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All of these several proclamations noted above cover those areas of the high seas where nearly all of our tuna and substantial volumes of several other fishes are taken.

The only reason why these proclamations have not been enforced against us is that the United States Government has informed each proclaiming government that it recognized no right of that government to interfere with the peaceful operations of fishing vessels of the United States on the high seas, which it contends is all the oceans of the world more than 3 miles from the low-water mark of some point of land.

Now, what happens if the United States, the champion of the 3-mile limit, diverts from that policy? The house comes tumbling down on we fisheries people.

If one country, unilaterally, can change its territorial limits into the high seas even by a little bit, another country has equal right to extend its boundaries out into the high seas by as much as it thinks to be necessary to its welfare. In the exaggerated claims of Chile, Peru, El Salvador, Costa Rica, and Mexico, we have seen what distances to sea these countries feel it is necessary for them to extend their sovereignty.

More to the point, if that great and long-time champion of the freedom of the seas and the 3-mile limit—the United States—extends its boundaries out into the high seas of the Gulf of Mexico by 6 more miles, it will be the signal for all these countries to once more begin the acquisition of the high seas to their territory.

Up to this date the claims which have been made by each of these countries have been unilateral, but in the past year there have been two developments in the Americas to make such claims on a multilateral basis.

The first of these is concerned with efforts by Chile and Peru to get Ecuador and Colombia to join them in proclaiming a band of territorial waters 200 miles wide along the entire west coast of South America. The first meeting on this subject was held in Santiago, Chile, last summer, and another meeting is scheduled to be held in Quito, Ecuador, in July of this year.

We are informed by our correspondents that this movement is being pushed in these countries by the Government of Argentina through its embassies in those countries. You will remember that Argentina was the first of the American Republics to make such an exaggerated claim to sovereignty, and that her action was aimed at strengthening her claim vis-á-vis England to the Falkland Islands and a sector of Antarctica. Whether her present moves, as reported to us, are concerned solely with the furtherance of these claims by getting other nations to jointly make similar claims, or whether they also serve as tender points of policy for Argentina to sting the United States, we are unable to say.

The second of these moves along multilateral lines is progressing through the Inter-American Juridical Committee of the Organization of American States, where a firm and forceful effort is being made, so far with success, to establish a policy of extended territorial waters as the rule for this hemisphere.

All of this gets into very high-policy level indeed. These claims are concerned with sovereignty to wide areas of ocean, not jurisdiction for special reasons. I call your attention that if such a policy

as is being pressed for in the Organization of American States should become the rule of the Western Hemisphere, no United States vessel could approach the Atlantic entrance to the Panama Canal, or even enter the Caribbean Sea without obtaining the permission of some foreign government to traverse its territorial sea. Such an outcome may well seem to you to be fantastic, but there is nothing in prospect at the present time which assuredly will stop this movement.

You will remember that this whole movement of extended territorial claims in the Americas began with the issuance of two proclamations by President Truman in September 1945. One dealt with the launching of a new policy in international usage, namely, the jurisdiction by a coastal nation over the resources of the Continental Shelf adjacent to its shores. The other dealt with the maintenance of the status quo for the waters of the high seas over those submerged lands. These proclamations were clearly written, were clearly explained at the time of issuance, and have been repeatedly clarified by the Department of State over the past 8 years in official memorandums to governments, and in public statements published in this country and abroad.

Furthermore, before these proclamations were issued, the Department of State had carefully sounded out the principal maritime nations on these subjects. The Department had discovered that there was a general agreement regarding the proclamation concerning the Continental Shelf and jurisdiction over the resources of the seabed and subsoil. Since the issuance of that proclamation there have been no protests result from that action. Other countries have done the same, with no protests or trouble. Thereby a new concept has been inserted into international law that is agreeable to all hands and fills a new need. That is the way international law is created.

On the other hand, the Department of State in its original questioning of countries on these two 1945 proclamations found that no agreement could be reached among the maritime nations on any change of policy affecting the breadth of territorial waters or the character of the high seas. Accordingly, the Department did not change existing policy of the United States in its proclamation dealing with the jurisdiction over the water and its living resources. That policy was left as it had been.

Despite this careful preparation, the surgical division of the subject matter into two parts (one dealing with the submerged lands and their contained resources, and the other dealing with the water and its contained resources), and the precise and wide publicity on what was being done and why, there immediately rose a swarm of claims and counterclaims by other countries, all involving extended jurisdiction over the waters of the high seas and their contained resources. Seldom has a change in policy opened such a Pandora's box. We must guard against a recurrence of this trouble.

We know that every move made by the United States on this matter is being carefully watched by the embassies in Washington and quickly relayed to their home offices. Already we have picked up the rumblings in several capitals that arose from the Senate debate on the Submerged Lands Act.

Therefore, it seems to us that we absolutely require a clear legislative statement asserting that these two acts do not effect any change

in this historic United States policy with respect to the jurisdiction over the waters of the high seas and their contained resources. Otherwise misinterpretations will take the lid off as far as claims to control over the high seas are concerned.

I have mentioned what this means to the tuna, albacore, yellowtail, sardine, mackerel, and other fishing industries of California. Others will tell you orally or by wire that it means the same thing to the shrimp fishery of Texas, Louisiana, Georgia, and Florida, to the snapper fisheries of Georgia and Florida, to the great trawl fisheries of New England, and to the halibut fisheries, the otter trawl fisheries, and salmon troll fisheries of the Pacific Northwest. This can all be summed up in the statement that our largest and most valuable fisheries depend for their production on the high seas off foreign lands, and that these great fisheries are all expanding farther and farther from home as the demand for seafood in the United States continues to grow.

Without harming any United States interest, Federal, State, or private, we ask you to give full consideration to the logic of our appeal and thus preserve us from harm.

ORGANIZATIONS JOINING IN THE FOREGOING STATEMENT

Boatowner associations:

Fishermen's Cooperative Association, San Pedro, Calif.
American Tunaboat Association, San Diego, Calif.
Southern California Commercial Fishing Boat Owners Cooperative, Inc., Long Beach, Calif.
Pacific Fish Producers Institute, Moss Landing, Calif.
San Diego Commercial Fishing Boat Owners, Inc., San Diego, Calif.
Lower California Fishermen's Association, San Diego, Calif.

The foregoing organizations represent the owners of approximately 2,000 tuna clippers, purse seiners, and smaller vessels who fish for tuna, albacore, yellowtail, bonito, sardine, mackerel, and other fish off the coastlines of Latin America.

Labor unions:

Seine and Line Fishermen's Union (AFL), San Pedro, Calif.
Cannery Workers and Fishermen's Union (AFL), San Diego, Calif.
Cannery Workers Union of the Pacific (AFL), San Pedro, Calif.
(The foregoing three unions are affiliated with Seafarers International Union of North America (AFL)).
Fishermen's Union (Local 33, ILWU), San Pedro, Calif.

The foregoing unions represent approximately 14,600 California fishermen and cannery workers who man the above vessels and process their products for market.

Canners organizations:

California Fish Canners Association, Inc., Terminal Island, Calif.
Tuna Research Foundation, Long Beach, Calif.

The foregoing organizations represent 15 canners of tuna, mackerel, and sardines in California, who process and distribute these fish.

EXHIBIT A

EXECUTIVE DECREE NO. 781

THE PRESIDENT OF THE REPUBLIC

Considering:

That the submarine platform or continental zocle forms, together with the continent, a sole morphological and geological unity;

That in said continental platform there exist natural riches which, it is indispensable, must be proclaimed as making part of the national wealth;

That it is equally necessary that the State protect, conserve, and regulate by law the use of fishing possibilities and other natural wealth of the waters on

said submarine platform and in the continental sea adjacent to it, for the purpose that said wealth, essential to the national life, be exploited now or in the future in such way that no disadvantage may accrue to the national economy, nor to its food production;

That the wealth of fertilizer, deposited by the birds and producing guano on the islands of the Peruvian littoral, requires also for its safeguard and protection, conservation and regulation by law of the use of fishing possibilities, the fish serving as food to said birds;

That the right to proclaim the Sovereignty of the State and national jurisdiction over the whole of the extent of the continental platform or zocle, as well as the waters on it and the sea adjacent to it, over an extension necessary for the conservation and safeguarding of the riches therein contained, declarations to that effect have been promulgated by other states, and said declarations have been incorporated into the International Order (Declaration of September 28, 1945, by the President of the United States of America; Declaration of October 29, 1945, by the President of Mexico; Decree by the President of Argentina, October 11, 1946; Declaration of the President of Chile, June 23, 1947);

That Article 37 of the National Constitution establishes that the mines, lands, woods, waters and, in general, all natural sources of wealth belong to the State, except those rights thereto, legally acquired;

That, in exercising sovereignty and with due regard to the interests of the national economy, the State has the obligation to specify in an unequivocal manner its maritime domain, within which it is to exercise the protection, conservation and safeguarding of the natural wealth heretofore mentioned;

With the consultative vote of the Council of the Ministers:

Decrees:

(1) It is hereby declared that the national sovereignty and jurisdiction are extended to the submarine platform or continental zocle and insular, adjacent to the continental coasts and the insular coasts of the national territory, immaterial of the depth and extension of said zocle;

(2) The national sovereignty and jurisdiction is also to be exercised over the sea adjacent to the coasts of the national territory, immaterial of the depth and the necessary extension in order to preserve, protect, conserve, and utilize the means and natural wealth of any description to be found in or under said sea;

(3) In consequence of the aforementioned declarations, the State reserves the right to establish the demarcation of the zones of control and protection of the national wealth of the continental and insular seas which are under the control of the Peruvian Government, and to modify said demarcation in accord with new circumstances based on new discoveries, studies, or national interests of the future; and, of course, declares that it will exercise said control and protection over the sea adjacent to the coasts of the Peruvian territory over a zone lying between these coasts and an imaginary line, parallel to said coasts, drawn over the sea at a distance of 200 marine miles, measured by following the geographical parallels. Concerning the national islands, this demarcation will be traced over a zone of the sea contiguous to the coasts of said islands to a distance of 200 marine miles, measured from any given point on the periphery of said isles.

(4) This declaration does not affect the right of free navigation of ships of any nation, as per international right.

Given at Government House, in Lima, the first day of August 1947.

[SEAL OF THE PRESIDENT OF THE REPUBLIC] E. GARCIA SAYAN

EXHIBIT B

TEXT OF UNITED STATES NOTE OF JULY 2, 1948, TO THE PERUVIAN GOVERNMENT RESERVING RIGHTS AND INTERESTS OF THE UNITED STATES WITH RESPECT TO THE CONTINENTAL SHELF DECLARATION OF PERU

AMERICAN EMBASSY,
Lima, July 2, 1948.

His Excellency General ARMANDO REVOREDO I.,
The Minister for Foreign Affairs, Lima.

EXCELLENCY: I have the honor to advise Your Excellency that the Government of the United States of America has carefully studied the Decree of the President of the Republic issued on August 1, 1947, concerning the conservation of the re-

sources of the continental shelf and the coastal seas. The Decree cites the Proclamations of the United States of September 28, 1945, in the Preamble. My Government is accordingly confident that His Excellency, the President of the Peruvian Republic, in issuing the Decree, was actuated by the same long-range considerations with respect to the wise conservation and utilization of natural resources as motivated President Truman in proclaiming the policy of the United States relative to the natural resources of the subsoil and sea bed of the continental shelf and its policy relative to coastal fisheries in certain areas of the high seas. The United States Government, aware of the inadequacy of past arrangements for effective conservation and perpetuation of such resources, views with the utmost sympathy the considerations which led the Peruvian Government to issue its Decree.

At the same time, the United States Government notes that the principles underlying the Peruvian Decree differ in large measure from those of the United States Proclamations and appear to be at variance with the generally accepted principles of international law. In these respects, the United States Government notes in particular that (1) the Peruvian Decree declares national sovereignty over the continental shelf and over the seas adjacent to the coast of Peru outside the generally accepted limit of territorial waters, and (2) the Decree fails, with respect to fishing, to accord recognition to the rights and interests of the United States in the high seas off the coasts of Peru. In view of these considerations, the United States Government wishes to inform the Peruvian Government that it reserves the rights and interests of the United States so far as concerns any effects of the Decree of August 1, 1947, or of any measures designed to carry that Decree into execution.

The Government of the United States is similarly reserving rights and interests with respect to the Decrees issued by the Governments of Argentina and Chile which purport to extend sovereignty beyond generally accepted lines of territorial waters.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest and most distinguished consideration.

R. M. DE LAMBERT,
Chargé d'Affaires A. I.

Mr. CHAPMAN. I want to say first I am representing here not only the vessels of the American Tunaboat Association but also a number of other organizations of fishermen, cannery workers, and canneries on the coast, a list of which is attached to my statement, and I represent all phases of the California fishing industry.

Our concern with this bill is confined to these four lines of section 3 (b) which deal with the high seas. We wish very much to have those clarified or modified in such a manner as to clarify the legislative intent of the submerged lands act and this bill with respect to the high seas.

What we want in particular is to have it definitely asserted that the policy of the United States Government, the traditional policy of the United States Government, as it applies to the breadth of the territorial sea and the freedom of the seas remain unchanged. Whatever that policy was prior to the enactment of the submerged lands act and this act, we wish to have it remain the same after the passage of those acts.

Our reason for this is that we, as fishermen, depend entirely, or very nearly entirely, at least 90 percent, on the production of fish from off-the-coast foreign countries. If those are taken away from us, we would be out of business.

Nearly all of the areas we fish off the coast of foreign countries are covered by a proclamation of some other sovereign country stating that that country has exclusive jurisdiction over the fisheries in which we operate. The only reason we are able to operate is that we have the shield of the United States policy around us.

The United States, in the case of each of these numerous proclamations which are mentioned in my brief, has informed that particular country that it reserves all rights for its vessels to operate without molestation 3 geographical miles from those countries, except under regulations promulgated by the country which are acceptable to the United States by previous agreement.

I have attached to my statement a copy of the proclamation of Peru and a copy of the reservation entered by the United States to the claim of Peru as an example of this sort of thing. Off the coast of Peru, the Peruvian Government has proclaimed its exclusive sovereignty to all of the waters within 200 miles of the coastline of Peru and the contained resources. We operate extensively inside that claimed area. It is a material part of our overall fishery. Last fall it looked as if the Peruvians were going to test out the United States desires in this matter. The patrol boats came out and were watching our operations very closely, boarded our vessels, which is contrary to international law, but they did so, nevertheless. They were armed vessels and the situation got a little bit tense.

A shooting scrape came up between a Peruvian boat and one of our boats and this became such a critical matter that Peru backed away. And, while they still operate surveillance over our vessels, there has been no further attempt in any way to bring those vessels under their jurisdiction.

Now, the principle upon which the United States has operated in the filing of these reservations is that a country cannot unilaterally extend its jurisdiction out over an area which has formerly been considered by it or by the nations to be the high seas. If the United States violates this principle itself, there would appear to be no possibility of its maintaining its position of reservation with respect to claims of other countries because if you violate the principle a little bit, if the champion violates the principle a little bit, the others can violate the principles as far as they see fit.

Senator CORDON. May I interrupt you there to ask you a question?

Mr. CHAPMAN. Yes.

Senator CORDON. Just speaking only for the Chair, the Chair desires to do anything that it can do within the philosophy of this bill to indicate clearly it is not the purpose of the bill, nor is there any provision in the bill that limits in any wise the right on the Continental Shelf outside of the State boundaries for free fishing.

In connection with that, I would like to ask you whether you have any suggested language for the bill that would take care of the matter in question. I would particularly ask you whether this language would do the job. I am going to read paragraph (b) of section 3 on page 2 of the first bill. The language is:

> This Act shall be construed in such a 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 the navigational servitude shall not be affected.

Now, the suggested language is after the word "servitude," to add the words, "and the right to take fish therein," or words to that effect.

Mr. CHAPMAN. The difficulty then would remain with the word "outer."

Senator CORDON. All this bill affects is the outer Continental Shelf.

Mr. CHAPMAN. You see, the only item in controversy is whether or not these two bills taken together have in any manner affected the claims of Texas and Florida to their extended boundaries.

Senator CORDON. It is perfectly clear that they have not affected their claims. Their claims have neither been substantiated nor have they been denied. I can see no way that we can change this bill which has no application except as to the outer Continental Shelf, which is the shelf beyond the statutory boundaries of the States.

If it would be helpful to broaden this to the extent suggested, it could be done. The statement could be made in the report indicative of the fact that the boundaries of the States on the Gulf of Mexico have not been changed by this particular bill.

The other bill, of course, has to stand as the law of the United States. It was signed today.

Mr. CHAPMAN. The question arises, Senator, and the reason for our being here is that we noted in your report of the bill to the Senate, the report of the submerged land bill to the Senate, you were very careful and precise in stating many times that that bill did not in any way affect the validity of the claims of Texas and Florida and that if those claims had any validity before the bill was passed, they still had that same amount of validity and if they had no validity, they still had that amount of no validity.

Senator CORDON. We will be happy to make that same statement in your report here with respect to the inner boundary of the outer shelf, that it is the boundary of those States, and if their boundary is 3 leagues, then the inner boundary of the outer shelf is 3 leagues; if the boundary is 3 miles, then the inner boundary of the outer shelf is 3 miles.

Mr. CHAPMAN. The bill in itself has not affected those claims?

Mr. CHAPMAN. I think that would relieve us tremendously.

Senator CORDON. I am sure there will be no objection by this committee. I certainly feel that it is within the whole approach and philosophy of both bills and that the statement could be made.

Senator KUCHEL. Would the Chair entertain a motion along those lines? I think there is no disagreement among the members of the committee.

Senator CORDON. The Chair will be happy to do that.

Senator KUCHEL. I then move that the bill before us be amended by inserting the words which the chairman has indicated and, secondly, that the report of the committee contain a statement such as the chairman has just outlined with respect to the inner boundary of the outer Continental Shelf.

Senator CORDON. You have heard the motion. Are you ready for the question?

Senator DANIEL. Could we have it written up?

Senator LONG. Can we not look at that in writing and see what we are doing?

Senator DANIEL. Certainly we would want to talk to Senator Holland before we do anything that would in any way amend the bill.

Senator CORDON. The motion, as I understood it, went to the matter of the language in the report, and it is but a reiteration of language used before.

Senator LONG. Mr. Chairman, I would respectfully suggest that that is a question that should go to the marking up of the bill. I see

no reason why we would object to it, but I would like to write it out and see just what we have, and apply it to the bill when we undertake to mark up the bill.

Senator CORDON. It is merely attempting to expedite the proceedings of the committee in a field where the decision has already been made. But the Chair would suggest that the motion be withdrawn, under the circumstances.

Senator KUCHEL. I will withdraw it.

Senator LONG. I see no reason why I should object to it, but I would like the Chair to take a look at it, so that we are not changing the bill we have already passed. I do not perceive any controversy about this matter, but I want to be cautious about it.

Senator CORDON. Very well. Dr. Chapman has stated the Chair's feeling.

Mr. CHAPMAN. If you can do it, it will relieve all the rest of the people around the country and relieve us tremendously. The gentlemen from Massachusetts are just as much interested in this as we are on the Pacific coast.

Senator LONG. I would like to say that it was never the intention of the Senator from Louisiana or the Senator from Texas to ever interfere with our fishing industry, and we certainly would happily cooperate with any reasonable provisions to give assurance to the fishing industry that their rights are in nowise jeopardized by either the previous legislation or this legislation.

Mr. CHAPMAN. We appreciate that very much.

Senator ANDERSON. I would like you to know that there are those of us who do feel that your fishing industry is going to be in deep trouble as a result of the passage of the first bill.

Mr. CHAPMAN. If we are in any trouble at all we are in lots of trouble.

Senator ANDERSON. The extension of these boundaries is going to cause all kinds of trouble, but that is the province of the majority.

Mr. CHAPMAN. My understanding of the substance of what we have been talking about here now was that the Submerged Lands Act did not extend the boundaries of any State. If they extended the boundaries——

Senator ANDERSON. That is not an opinion shared by all members of the committee or all Members of Congress. There are at least 25 Members of the Senate, and maybe 35 Members of the Senate, that feel the bill did extend the boundaries and extended them very substantially, in contravention of 150 years of established practice by the State Department and this country.

Now, we cannot do anything about that. It has been done. The boundaries have been extended. And, in our opinion, they have been drastically extended. If Canada now extends its boundaries, and Mexico extends its boundaries, and other countries extend their boundaries, we can only say "God bless you," that is the tendency in this world, now. If that bothers the fishing industry——

Mr. CHAPMAN. That does not bother us at all. We are dead, we have no place else to fish. Tuna do not occur substantially off the coast of the United States.

Senator ANDERSON. We understand that.

Mr. CHAPMAN. I wanted to illustrate the seriousness of this. I might read for the record, Mr. Chairman, excerpts from a draft of the Convention on Territorial Waters, and related questions, which were adopted recently by the Inter-American Juridical Committee, and show you what a situation we are up against.

ARTICLE 1. The signatory states recognize that present international law grants a littoral nation exclusive sovereignty over the soil, subsoil and waters on its Continental Shelf, and the air space and atmosphere above it, and that this exclusive sovereignty is exercised with no requirements of real or virtual occupation.

ARTICLE 2. The signatory states likewise recognize the right of each of them to establish an area of protection, control and exploitation to a distance of 200 nautical miles from the low-water mark along its coast and those of its island possessions, within which they may individually exercise military, administrative and fiscal supervision of their respective territorial jurisdictions.

The remainder of the draft is along the same tenor. That was adopted over the vigorous objection of the United States and Brazil and Colombian members of the committee, but nevertheless it was adopted by a majority.

Senator CORDON. When was it adopted?

Mr. CHAPMAN. It was published in November 1952. I might submit that for whatever purpose you desire, Mr. Chairman.

Senator CORDON. We will be glad to have it made a part of the record.

(The document referred to is set forth in the appendix, together with comments by the State Department.)

Senator LONG. Do I understand that now to be a resolution adopted by the Pan American Union?

Mr. CHAPMAN. It is a draft convention adopted by the Inter-American Juridical Committee of the Pan American Union.

Senator LONG. Does that indicate that all North American——

Mr. CHAPMAN. South American—all Americas.

Senator LONG. All of North, South and Central America, with the exception of those three countries, favor that concept?

Mr. CHAPMAN. That would be what I would gather from it, except Canada. I believe Canada is not a member of the Pan American Union. I think that is correct.

Senator LONG. It has been suggested to me by at least one Louisiana attorney that looking to the future, rather than trying to maintain a 3-mile or even 3-league concept, that we were going to have to assert title to the part of the Continental Shelf that appertains to us and make agreements with other nations that we would respect certain rights with regard to their boats within our waters if they would respect our boats in their waters. Has that approach ever been suggested to you for trying to solve this fishing problem?

Mr. CHAPMAN. I think, sir, we would get in the same hopeless situation that existed prior to the 16th century, when the present system of regulating matters on the high seas was adopted. You cannot possibly get that many kinds of agreement among the many nations. The reason why this present practice with respect to the high seas being an international common, and the territorial seas being narrow—at least, whatever dimension you wish to put on them, as narrow as is practical—the reason that grew up was because there was impossibility of getting agreement as to how the affairs of international com-

merce and defense and fishing could be arranged under a system of agreement among the nations.

Senator LONG. I understand that question very well now, or at least that answer, but there was the point made by this professor from Columbia—and I wish I could recall his name—that you are never going to get your full potential yield out of the sea until you begin to farm it, until you begin to systematically develop those resources.

Now, if we are ever forced to try to derive enough food from the sea that we must begin to undertake to apply conservation methods far out into the sea, and to farm the sea—to use his term—we would almost have to extend the jurisdiction of some nations out there in order to provide conservation methods, would we not?

Mr. CHAPMAN. No. You see, we have proceeded very far along that direction on the Pacific coast already.

Senator CORDON. Along with the Atlantic coast.

Mr. CHAPMAN. Yes, and I might say in the gulf coast, too.

Senator LONG. Will you give us the ideas that you pursued.

Mr. CHAPMAN. Yes. I might say in the halibut fishery in the North Pacific, in its entirety, it is covered by the International Fisheries Treaty, the treaty establishing the International Fishing Commission between ourselves and Canada.

Senator LONG. That is as far as you and Canada are concerned, but what do you do when some ships from vastly overpopulated nations like China or Japan or India begin to sail into those waters and take your resources? That is, your fish and marine life that is beyond the 3-mile limit?

Mr. CHAPMAN. We have encountered that problem and have met it.

Senator LONG. How do you meet it?

Mr. CHAPMAN. All of the fisheries of the north Pacific Ocean are now covered by a convention between the United States, Canada, and Japan. It could be entered into with others, where there are others fishing in the area.

Senator LONG. How are you going to get them to enter into the agreement?

Mr. CHAPMAN. They already have.

Senator LONG. You mean Japan has?

Mr. CHAPMAN. Yes.

Senator LONG. Has India agreed to it, or China agreed to it.

Mr. CHAPMAN. They do not fish there. Japan and Canada and ourselves are the only people in the north Pacific who are vigorous fishing people. The Russians, as yet, have not reached out far into the sea. The three of us are vigorous fishing people, and go long distances. No others do.

Senator LONG. Of course, there has never been much difficulty in getting an agreement between the United States and Canada, except with regard to the St. Lawrence seaway. That matter has been the subject of considerable controversy. But on most matters we have been able to work with the Canadians. We understand them and they seem to understand us.

When did the Japanese agreement come into effect?

Mr. CHAPMAN. I think, as a matter of fact, it will not come into effect for another month or so.

Senator LONG. Was that not more or less a phase of negotiating the Japanese Peace Treaty?

Mr. CHAPMAN. No, it was subsequent to the negotiation of the peace treaty and it was a fair and open negotiation. The Japanese got the most of what they wanted.

Senator LONG. But that was at a time when the United States and Japan were very closely tied to one another by strong mutual bond, was it not?

Mr. CHAPMAN. That is so, and that is still the condition that exists, but it is a very fair treaty with respect to the Japanese.

Senator LONG. If the Chinese Communists started fishing in those waters we might have greater difficulty in arriving at an agreement?

Mr. CHAPMAN. I think that is quite true, although I might say that we are engaged in a similar convention regulating the taking of whales, to which the Soviet Union is also signatory, and I might say that we just have not had any trouble with the Russians in that particular field. They appear to take that as being a technical matter, and not a political matter, and act on it in a technical sphere. They send technicians and not political officers to the meetings. And that particular convention, I think there are 22 whaling nations signatory to it, has worked quite satisfactorily, governing the whaling in all the high seas of the whole world.

Senator LONG. I only wish that things had worked as smoothly with regard to the United States and Mexico, as far as the rights of our shrimp fishermen are concerned. We have had our people arrested out 17 miles at sea. Then we have had them arrested, I believe, in one case, they allege they were 25 miles out at sea. They tell me what they have attempted to respect Mexico's 3-league claim and yet when they come in to seek haven from rough water they treat them as law violators.

Some time back the Louisiana people were complaining about Mexicans coming too close to their shoreline.

Mr. CHAPMAN. No.

Senator LONG. Now they are having trouble the other way around.

Mr. CHAPMAN. I do not believe the Mexicans ever came close to our shore. I believe, in fact, they have very seldom gone out as far as 8 or 10 miles off their own coast on the Gulf side.

Senator ANDERSON. There is another State that comes over in Texas waters. I am serious.

Mr. CHAPMAN. That is correct. There was an altercation between Louisiana and Texas. I wanted to mention something that came up in discussion in the record the other day, when Mr. Hardee was talking. I think Senator Daniel mentioned that the State Department, while it had told the fishing industry of Texas that they could fish with propriety and without regulation by Mexico outside the 3-mile limit that they also cautioned them they might get picked up. As a result of that cautioning, the Texas shrimp people had issued orders to their skippers to stay three leagues out. I might say that we inquired of the State Department the same way, as to what was the area in which we could fish in the eastern tropical Pacific. They informed us also that we could fish under the rights of the United States vessels, within 3 marine miles of the low-water mark of any country, and they informed us also that if we did so within certain limitations, we were likely to

get picked up. In the ensuing trouble it would cost us money before the claims could be settled.

Texas shrimp people issued orders to their people to stay out for the reason that there are very little shrimp inside three leagues. They do not care about them, they do not amount to anything, the ones three leagues off the Mexican coast. As far as we are concerned, however, all of our operations, or nearly all of our operations, are inside some claim. We told our boys to go to it. If you lose a boat you lose a boat. As a matter of fact, we have had three vessels picked up off the coast of Ecuador, to the extremely serious economic distress of those owners of those vessels. In fact, I think one of those may lose his vessel on account of the loss of money that ensued, not so much the fine, but the fact that he was held for 22 days, and that, with us, amounts to about $1,000 a day of operating expense.

Now, to indicate what the seriousness of the matter is, it is a generally recognized law every place in the world that innocent passage of vessels through the territorial waters, even, of a sovereign nation, is recognized as a right of vessels passing through. All three of these cases off the Ecuador coast were cases of innocent passage, and so recognized by Ecuador. The vessels were not accused of fishing, but they were denied the right of innocent passage through there. It is very serious, as far as we are concerned. The whole life of our industry depends upon it.

I might say, an industry that produced about $150 million worth of tuna a year is involved. My own organization has vessels operating in that area that are worth about $40 million I should judge, and the other organization I represent may have $25 million or $30 million worth of vessels.

Senator KUCHEL. Do you feel the language that the chairman has in mind would solve your problem?

Mr. CHAPMAN. Not without a statement by the committee that the inner boundary of the outer Continental Shelf was as it was previously.

Senator KUCHEL. With what do you think your problem will be solved?

Mr. CHAPMAN. I would like very much to have the committee interrogate the Department of State on that question. They are the people who make the decisions, as far as we are concerned.

Senator ANDERSON. You are familiar with the Department of State's continued position?

Mr. CHAPMAN. That is correct.

Senator ANDERSON. As a matter of fact, in the hearing on Senate Joint Resolution 13 is a statement from Thruston Morton as to what the Department of State will have to do if the resolution passed, and I will read it for you:

> Likewise, if this Government were to abandon its position on the 3-mile limit, it would perforce abandon any ground for protest against claims of foreign states to greater breadth of territorial waters.

Mr. CHAPMAN. Quite correct, but there has not been a change.

Senator ANDERSON. No; it said, "if they are to abandon the 3-mile limit, perforce they abandon any ground for protest against claims of foreign states to greater breadth of territorial waters." Therefore, we will not hereafter protest the 3-league limit in Mexico or the 200-mile limit in Ecuador, will we?

Senator KUCHEL. Senator, let me recall, however, that the United States Supreme Court in 1950 held that the Government of the United States had paramount rights running 27 miles out into the gulf off the coast of Louisiana, and when the question was asked here of a representative of the State Department, whether that would affect the traditional 3-mile-limit policy of the United States the representative of the State Department said he did not know.

Now, here we have got one more problem that makes it a little more difficult, we have a Presidential proclamation of 1945, holding that this area appertains to the United States. Now, speaking as a citizen I do not quarrel with that 1945 proclamation. As a matter of fact, we had to accept what the decree of the Supreme Court was, running paramount rights, whatever they may be, 27 miles out into the gulf.

With that background we can in this piece of legislation agree to adopt the type of wording which has been suggested by the chairman, plus such comment in the report as may be necessary, and we will at least be doing all we can with respect to the fishing industry.

Senator CORDON. I wonder if we cannot stay somewhere near relevant to the matter that is under inquiry, which is the bill S. 1901, having to do with the outer Continental Shelf and implementation of the Presidential proclamation. The Chair is sympathetic with the position taken by Dr. Chapman. We cannot make that declaration here for the State Department, that is a matter for the State Department. We cannot here go back and do anything with reference to the other legislation unless we take up that legislation for the matter of amendment or repeal. That is not before the committee at this time.

If there is any language that you have in mind, Doctor, that would be helpful to you, the committee would like to have you suggest it, and I would like to have you consider the language suggested by the chairman, for what it may be worth, as well as a statement that could appear in the report, for what it may be worth.

Mr. CHAPMAN. I will give two forms of language that would be very suitable to us, Senator. I would like to make one request, if it can be done with propriety, that the State Department be requested to come up and say what the high seas are, as far as the United States is concerned, as it is included in this bill.

Senator CORDON. I do not think that is within the province of this committee in this matter. The committee has addressed a letter to the Department of State requesting their views with reference to S. 1901, or any suggestions with reference to it. There is a very considerable amount of testimony in the hearing taken on Senate Joint Resolution 13, on the general subject, and some of that testimony is not, in the opinion of the chair, of any great aid to the fishermen, but there was a statement that was made that has been made before. The situation that we have here arises, of course, from a Presidential proclamation, which has been confirmed by the Congress in the recent legislation, and will be confirmed again if this legislation, or something of similar character, be passed.

So far as can be done with respect to the outer shelf, which is that portion of the Continental Shelf outside of State boundaries, we can act here, and any language that will aid you that is consistent with the general philosophy of the bill, we would be more than happy to consider.

Mr. CHAPMAN. I am not a legislative draughtsman, but I will offer a suggestion.

Senator CORDON. That is all right, you offer a suggestion.

Mr. CHAPMAN. For section 3 (b):

This act shall be construed in such a manner that the historical policy of the United States respecting the breadth of the territorial seas and the freedom of the seas shall not be affected.

Senator ANDERSON. I just say that by implication starts to repeal the Holland bill, it seems to me, and I think we would want to have a lot of discussion of that.

Mr. CHAPMAN. I wish you would, Senator.

Senator ANDERSON. I think it is a little early to start trying to repeal the bill. If you want to get that bill repealed, I will give you that Scripture quotation: "Come with me to Macedonia." I went through several weeks of very tough testimony and, as far as I am concerned, I am through with that subject for a long, long, long time to come.

Senator KUCHEL. I want to say and have the record show that some of us would disagree with what our able friend from New Mexico says, because if the Holland bill had not passed we still would have the 1945 proclamation of the President, which makes the Continental Shelf appertain to the United States, and we would still have a decree of the highest Court in this country, running paramount rights out to sea 27 miles.

Senator ANDERSON. If we are going to start saying that that confirms at this time lands in the United States within 150 miles in the ordinary sense of title, then Ecuador is fully within its rights in going out 200 miles.

Senator DANIEL. No, sir. May I say something?

Senator CORDON. I hope we will not get completely off the matter we have at hand. We have passed a so-called submerged lands bill, a bill with respect to land inside State boundaries. And what we say here is not going to determine the law. It might water it some, but that will not be helpful to anybody. The Chair is not cutting the Senator from Texas off, or anybody else, it is just urgring that we do stay within the subject matter at hand.

Senator DANIEL. It will not take but one moment to say I disagree with Senator Anderson's statement because of the fact that our proclamation, and the United States Supreme Court's decision apply only to the seabed and the subsoil, and the United States does not claim the rights to the overlying waters of the high seas. Where these other nations of our hemisphere have gone astray was in claiming more than our Nation. Some of them are claiming sovereignty over the overlying waters of the high seas out to the edge of the Continental Shelf.

Mr. CHAPMAN. That is correct.

Senator DANIEL. That is the difference. As long as in this bill we make it clear we are not setting any precedent of claiming the high seas over the Continental Shelf outside our territorial waters, I think we will be protecting you.

Mr. CHAPMAN. That is right.

Senator CORDON. To that extent, the language suggested by the Chair, while Senator Anderson was not here, was very minor, as far as the bill was concerned.

Senator ANDERSON. I was here when you read that about the right to fish. I think we ought to give you all the help we can, Mr. Chapman.

Senator CORDON. As to whether that ought to go into the legislation, it is the Chair's view, from a legal standpoint, it does not add anything to what is already there, because the right to fish on the high seas is fully established, and we cannot make it again, but we are willing to put it in because it will not in anywise narrow the legal effect of paragraph (b) of section 3.

Insofar as the Chair is concerned, he is of the view that a statement in a report such as he indicated would be exactly in line with like statements made in the other reports, made by the chairman of the committe on the floor, and reiterated many times, and unquestionably is the view of the majority of the Senate. There are dissenting views, of course.

Mr. CHAPMAN. If the Department of State accepts your statements made on the floor of the Congress, and in reporting this bill as being the legislative intent, we have no trouble whatsoever.

Senator CORDON. There I can make you no promise and hazard no guess. Thank you very much, Dr. Chapman. I do want you to know the committee will give careful consideration to your full statement in the record.

Mr. CHAPMAN. I appreciate that.

Senator CORDON. We are happy to see Senator Holland here from the State of Florida, and we are happy to have you here, Mr. Taylor. The committee will be pleased to hear you at this time. Do you have a written statement?

Mr. TAYLOR. No, sir, because I do not have much to say.

Senator CORDON. That is all right.

STATEMENT OF FRANCIS WILLIAM TAYLOR, PENSACOLA, FLA., PRESIDENT OF THE WARREN FISH CO., PENSACOLA, FLA., E. E. SAUNDERS CO., PENSACOLA, FLA., AND STAR FISH & OYSTER CO., MOBILE, ALA.

Mr. TAYLOR. I am president of the Warren Fish Co., which operates a red snapper fleet out of Pensacola, and I am here representing the majority of the producers in our industry.

Our vessels are of the old Gloucester type of deep-draught vessels. They draw up to 15 feet. For the past 75 years or more we have been fishing in the Caribbean Sea off the coast of Mexico. Should Mexico claim the sea coast, it would naturally put us out of business. However, we did have a vessel confiscated in 1937 and the case was fought out in the Mexican courts and the vessel was exonerated on the basis that she was 10¾ miles offshore, or about a quarter of a mile beyond what the Mexicans claim as their jurisdictional waters, and I feel certain that if that case were used as a reference, that at that time certainly Mexico did not claim beyond 3 marine leagues.

Senator CORDON. Do you recall who the parties to the case were, or do you know where we could find it?

Mr. TAYLOR. It was the case of the *Mineola*, and she was taken in August, I think, 1937.

Senator CORDON. Give us a reference so we can find the case and get the data on it.

Mr. TAYLOR. Yes, sir; I will.

Senator CORDON. I want to say to you, Mr. Taylor, that insofar as the Chair understands there is nothing in this proposed legislation, at least, that could in anywise change the situation as it exists as of now, or existed, as far as that is concerned, in the Chair's contention, before the passage of Senate Joint Resolution 13. There the Chair differs from the Senator from New Mexico. There will be differences of opinion as long as men live.

Mr. TAYLOR. Thank you very much, sir.

Senator CORDON. I am happy you could be here.

Senator HOLLAND. I would like to bring out a fact or two, if I might.

Senator CORDON. We will be glad to hear you, Senator.

Senator HOLLAND. In addition to the representation of your own company, the Warren Fish Co., you are speaking also for the Wells Co., and also for the Star Co. of Mobile?

Mr. TAYLOR. That is right; the E. E. Saunders & Co. of Pensacola and the Star Fish & Oyster Co. of Mobile.

Senator HOLLAND. And between you, how many ships do you operate?

Mr. TAYLOR. Well, we operate 35, but there are about 3 more vessels out of Texas, and about 5 more out of Tampa, making a total of nearly 45 vessels fishing in the Campache area.

Senator HOLLAND. And you have anywhere from 10 to 12 men on a ship?

Mr. TAYLOR. Nine to eleven.

Senator HOLLAND. Nine to eleven. And you fish in waters of around 100 feet deep or thereabouts, for snapper?

Mr. TAYLOR. Mostly 35 fathoms. A fathom is 6 feet.

Senator HOLLAND. One hundred and eighty feet or more. You do not need to get within any boundary as has been talked about here, for the carrying on of your fishing operations?

Mr. TAYLOR. No, sir. We have the papers in an envelope with instructions printed on the back both in English and Spanish, instructing the captain not to go within 9½ miles of the coast.

Senator CORDON. That has been the practice heretofore?

Mr. TAYLOR. Yes, sir.

Senator HOLLAND. I suppose you must have 400 or 500 fishermen in the fleet?

Mr. TAYLOR. There are about 450 fishermen in all.

Senator HOLLAND. They have big refrigeration places also. It is a substantial and permanent business, dating back before my time, out of Pensacola, particularly.

Senator ANDERSON. If I were you I would not worry too much about your business. If I were in the shrimping business and had to get closer to the coast, and in the tuna business and had to get closer to any coast, I would think the next few months are going to be interesting.

Mr. TAYLOR. We had one confiscated back in 1909.

Senator HOLLAND. That was when your predecessors were operating the shores?

Mr. TAYLOR. My grandfather, of course, operated the same company.

Senator HOLLAND. When you are talking about these businesses, you are talking about businesses three-quarters of a century old, as to which the relationship between them and the Mexican Government and all has been on a friendly but businesslike basis. All they want is fair treatment.

I thought maybe there would be some questions you gentlemen would like to ask. I have been on the boats and I have eaten their fish and partaken of their hospitality, and I wanted to be here and hear what he had to say.

Senator CORDON. We are happy to have heard from you. I have no questions. The area in which he is interested is one that cannot be affected here at all in my view. It clearly excepts the character of the high seas from the area, as did the President in his proclamation. We follow that proclamation precisely, and there will be no effect here that did not originate back in 1945.

Mr. TAYLOR. Senator Holland has asusred me that there is no difficulty.

Senator CORDON. The Chair comprehends none. It is not a soothsayer, and men can make various and sundry claims with or without a basis. We all do that from time to time, but, as a legal proposition, there is nothing here that can hurt you.

Mr. TAYLOR. Thank you, sir.

Senator ANDERSON. Before we stop, we had a discussion about these Federal leases on oil and gas lands. I do not know whether a copy of the new lease forms should be printed in the hearings, or submitted to the committee, but I do think we ought to have it.

Senator CORDON. That is a copy of it?

Senator ANDERSON. That is the newest type of lease form, I believe, February 1952. I think it is the last one.

Senator CORDON. Without objection the Chair will make it a part of the record at this time because it is definitely pertinent.

Senator ANDERSON. Thank you.

(The material referred to follows:)

Officer_____

Serial_____

Form 4-213 (February 1952).

UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT

LEASE OF OIL AND GAS LANDS UNDER THE ACT OF FEBRUARY 25, 1920, AS AMENDED

THIS INDENTURE OF LEASE, entered into, as of
by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called the lessor, and

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hereinafter called the lessee, under, pursuant, and subject to the terms and provisions of the act of February 25, 1920 (41 Stat. 437, 30 U. S. C. sec. 181 et seq.), as amended, hereinafter referred to as the act, and to all reasonable regulations of the Secretary of the Interior now or hereafter in force when not inconsistent with any express and specific provisions herein, which are made a part hereof,

WITNESSETH:

SECTION 1. *Rights of Lessee.*—That the lessor, in consideration of rents and royalties to be paid, and the conditions and covenants to be observed as herein set forth, does hereby grant and lease to the lessee the exclusive right and privilege to drill for, mine, extract, remove, and dispose of all the oil and gas deposits except helium gas in or under the following-described tracts of land situated in the field:

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containing _____ acres, more or less, together with the right to construct and maintain thereupon all works, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures necessary to the full enjoyment thereof, for a period of 5 years, and so long thereafter as oil or gas is produced in paying quantites; subject to any unit agreement heretofore or hereafter approved by the Secretary of the Interior, the provisions of said agreement to govern the lands subject thereto where inconsistencies with the terms of this lease occur.

SEC. 2. In consideration of the foregoing, the lessee agrees:

(a) *Bonds.*—(1) To maintain any bond furnished by the lessee as a condition for the issuance of this lease.

(2) To furnish prior to beginning of drilling operations and maintain at all times thereafter as required by the lessor a bond in the penal sum of $5,000 with approved corporate surety, or with deposit of United States bonds as surety therefor, conditioned upon compliance with the terms of this lease, unless a bond in that amount is already being maintained or unless such a bond furnished by an operator of the lease is accepted, or unless a bond has been filed under 43 CFR 192.100 (e) applicable to this lease.

(b) *Cooperative or unit plan.*—Within 30 days of demand, or, if the leased land is committed to an approved unit or cooperative plan and such plan is terminated prior to the expiration of this lease, within 30 days of demand made thereafter, to subscribe to and to operate under such reasonable cooperative or unit plan for the development and operation of the area, field, or pool, or part thereof, embracing the lands included herein as the Secretary of the Interior may then determine to be practicable and necessary or advisable, which plan shall adequately protect the rights of all parties in interest, including the United States.

(c) *Wells.*—(1) To drill and produce all wells necessary to protect the leased land from drainage by wells on lands not the property of the lessor, or lands of the United States leased at a lower royalty rate, or as to which the royalties and rentals are paid into different funds than are those of this lease; or in lieu of any part of such drilling and production, with the consent of the Director of the Geological Survey, to compensate the lessor in full each month for the estimated loss of royalty through drainage in the amount determined by said Director; (2) at the election of the lessee, to drill and produce other wells in conformity with any system of well spacing or production allotments affecting the field or area in which the leased lands are situated, which is authorized and sanctioned by applicable law or by the Secretary of the Interior; and (3) promptly after due notice in writing to drill and produce such other wells as the Secretary of the Interior may reasonably require in order that the leased premises may be properly and timely developed and produced in accordance with good operating practice.

(d) *Rentals and royalties.*—(1) To pay rentals and royalties in amount or value of production removed or sold from the leased lands as set forth in the rental and royalty schedule attached to and made a part hereof.

(2) It is expressly agreed that the Secretary of the Interior may establish reasonable minimum values for purposes of computing royalty on any or all oil, gas, natural gasoline, and other products obtained from gas, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices, and to other relevant matters, and whenever appropriate, after notice and opportunity to be heard.

(3) When paid in value, such royalties on production shall be due and payable monthly on the last day of the calendar month next following the calendar month in which produced. When paid in amount of production, such royalty products shall be delivered in merchantable condition on the premises where produced without cost to lessor, unless otherwise agreed to by the parties hereto, at such times and in such tanks provided by the lessee as reasonably may be required by the lessor, but in no case shall the lessee be required to hold such royalty oil or other products in storage beyond the last day of the calendar month next following the calendar month in which produced nor be responsible or held liable for the loss or destruction of royalty oil or other products in storage from causes over which he has no control.

(4) Rentals or minimum royalties may be waived, suspended or reduced and royalties on the entire leasehold or any portion thereof segregated for royalty purposes may be reduced if the Secretary of the Interior finds that, for the pur-

pose of encouraging the greatest ultimate recovery of oil or gas and in the interest of conservation of natural resources, it is necessary, in his judgment, to do so in order to promote development, or because the lease cannot be successfully operated under the terms fixed herein.

(e) *Payments.*—Unless otherwise directed by the Secretary of the Interior, to make rental, royalty, or other payments to the lessor, to the order of the Treasurer of the United States, such payments to be tendered to the manager of the land office in the district in which the lands are located or to the Director of the Bureau of Land Management if there is no land office in the State in which the lands are located.

(f) *Contracts for disposal of products.*—To file with the Oil and Gas Supervisor of the Geological Survey not later than 30 days after the effective date thereof any contract, or evidence of other arrangement, for the sale or disposal of oil, gas, natural gasoline, and other products of the leased land: *Provided*, That nothing in any such contract or other arrangement shall be construed as modifying any of the provisions of this lease, including, but not limited to, provisions relating to gas waste, taking royalty in kind, and the method of computing royalties due as based on a minimum valuation and in accordance with the Oil and Gas Operating Regulations.

(g) *Statements, plats, and reports.*—At such times and in such form as the lessor may prescribe, to furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost; a plat showing development work and improvements on the leased lands; and a report with respect to stockholders, investments, depreciation, and costs.

(h) *Well records.*—To keep a daily drilling record, a log, and complete information on all well surveys and tests in form acceptable to or prescribed by the lessor of all wells drilled on the leased lands, and an acceptable record of all subsurface investigations affecting said lands, and to furnish them, or copies thereof, to the lessor when required. All information obtained under this paragraph, upon the request of lessee, shall not be open to inspection by the public until the expiration of the lease.

(i) *Inspection.*—To keep open at all reasonable times for the inspection of any duly authorized officer of the Department, the leased premises and all wells, improvements, machinery, and fixtures thereon and all books, accounts, maps, and records relative to operations and surveys or investigations on the leased lands or under the lease. All information obtained pursuant to any such inspection, upon the request of the lessee, shall not be open to inspection by the public until the expiration of the lease.

(j) *Diligence, prevention of waste, health and safety of workmen.*—To exercise reasonable diligence in drilling and producing the wells herein provided for unless consent to suspend operations temporarily is granted by the lessor; to carry on all operations in accordance with approved methods and practices as provided in the Oil and Gas Operating Regulations, having due regard for the prevention of waste of oil or gas or damage to deposits or formations containing oil, gas, or water or to coal measures or other mineral deposits, for conservation of gas energy, for the preservation and conservation of the property for future productive operations, and for the health and safety of workmen and employees; to plug properly and effectively all wells drilled in accordance with the provisions of this lease or of any prior lease or permit upon which the right to this lease was predicated before abandoning the same; to carry out at expense of the lessee all reasonable orders of the lessor relative to the matters in this paragraph, and that on failure of the lessee so to do the lessor shall have the right to enter on the property and to accomplish the purpose of such orders at the lessee's cost: *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond lessee's control.

(k) *Taxes and wages, freedom of purchase.*—To pay when due, all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, oil and gas produced from the lands hereunder, or other rights, property or assets of the lessee; to accord all workmen and employees complete freedom of purchase, and to pay all wages due workmen and employees at least twice each month in the lawful money of the United States.

(l) *Nondiscrimination.*—Not to discriminate against any employee, or applicant for employment because of race, creed, color, or national origin; and to require an identical provision to be included in all subcontracts.

(m) *Assignment of oil and gas lease or interest therein.*—As required by applicable law, to file for approval within 90 days from the date of final execution any

instrument of transfer made of this lease, or any interest therein, including assignments of record title, working or royalty interests, operating agreements and subleases, such instrument to take effect upon the final approval by the Director, Bureau of Land Management, as of the first day of the lease month following the date of filing in the proper land office.

(n) *Pipelines to purchase or convey at reasonable rates and without discrimination.*—If owner, or operator, or owner of a controlling interest in any pipeline or of any company operating the same which may be operated accessible to the oil or gas derived from lands under this lease, to accept and convey and, if a purchaser of such products, to purchase at reasonable rates and without discrimination the oil or gas of the Government or of any citizen or company not the owner of any pipeline, operating a lease or purchasing or selling oil, gas, natural gasoline, or other products under the provisions of the act, or under the provisions of the act of August 7, 1947 (61 Stat. 913, 30 U. S. C., sec. 351).

(o) *Lands patented with oil and gas deposits reserved to the United States.*—To comply with all statutory requirements and regulations thereunder, if the lands embraced herein have been or shall hereafter be disposed of under the laws reserving to the United States the deposits of oil and gas therein, subject to such conditions as are or may hereafter be provided by the laws reserving such oil or gas.

(p) *Reserved or segregated lands.*—If any of the land included in this lease is embraced in a reservation or segregated for any particular purpose, to conduct operations thereunder in conformity with such requirements as may be made by the Director, Bureau of Land Management, for the protection and use of the land for the purpose for which it was reserved or segregated, so far as may be consistent with the use of the land for the purpose of this lease, which latter shall be regarded as the dominant use unless otherwise provided herein or separately stipulated.

(q) *Protection of surface, natural resources, and improvements.*—To take such reasonable steps as may be needed to prevent operations from unnecessarily: (1) Causing or contributing to soil erosion or damaging any forage and timber growth thereon, (2) polluting the waters of reservoirs, springs, streams, or wells, (3) damaging crops, including forage, timber, or improvements of a surface owner, or (4) damaging range improvements whether owned by the United States or by its grazing permittees or lessees; and upon conclusion of operations, so far as can reasonably be done, to restore the surface to its former condition. The lessor may prescribe the steps to be taken and restoration to be made with respect to lands of the United States and improvements thereon.

(r) *Overriding royalties.*—Not to create overriding royalties in excess of five percent except as otherwise authorized by the regulations.

(s) *Deliver premises in cases of forfeiture.*—To deliver up to the lessor in good order and condition the land leased including all improvements which are necessary for the preservation of producing wells.

SEC. 3. The lessor reserves:

(a) *Easements and rights-of-way.*—The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same or of other lands containing the deposits described in the act, and the treatment and shipment of products thereof by or under authority of the Government, its lessees or permittees, and for other public purposes.

(b) *Disposition of surface.*—The right to lease, sell, or otherwise dispose of the surface of the leased lands under existing law or laws hereafter enacted, insofar as said surface is not necessary for the use of the lessee in the extraction and removal of the oil and gas therein, or to dispose of any resource in such lands which will not unreasonably interfere with operations under this lease.

(c) *Monopoly and fair prices.*—Full power and authority to promulgate and enforce all orders necessary to insure the sale of the production of the leased lands to the United States and to the public at reasonable prices, to protect the interests of the United States to prevent monopoly, and to safeguard the public welfare.

(d) *Helium.*—Pursuant to section 1 of the act, and section 1 of the act of March 3, 1927 (44 Stat. 1387), as amended, the ownership and the right to extract helium from all gas produced under this lease, subject to such rules and regulations as shall be prescribed by the Secretary of the Interior. In case the lessor elects to take the helium the lessee shall deliver all gas containing same, or portion thereof desired, to the lessor at any point on the leased premises in the manner required by the lessor, for the extraction of the helium in such plant or

reduction works for that purpose as the lessor may provide, whereupon the residue shall be returned to the lessee with no substantial delay in the delivery of gas produced from the well to the purchaser thereof. The lessee shall not suffer a diminution of value of the gas from which the helium has been extracted, or loss otherwise, for which he is not reasonably compensated, save for the value of the helium extracted. The lessor further reserves the right to erect, maintain, and operate any and all reduction works and other equipment necessary for the extraction of helium on the premises leased.

(e) *Taking of royalties.*—All rights pursuant to section 36 of the act, to take royalties in amount or in value of production.

(f) *Casing.*—All rights pursuant to section 40 of the act to purchase casing, and lease or operate valuable water wells.

(g) *Fissionable materials.*—Pursuant to the provisions of section 5 (b) (7) of the act of August 1, 1946 (60 Stat. 724, 760; 42 U. S. C. 1801, 1805), all uranium, thorium, and other materials determined to be peculiarly essential to the production of fissionable materials, contained in whatever concentration, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby.

SEC. 4. *Drilling and producing restrictions.*—It is agreed that the rate of prospecting and developing and the quantity and rate of production from the lands covered by this lease shall be subject to control in the public interest by the Secretary of the Interior, and in the exercise of his judgment the Secretary may take into consideration, among other things, Federal laws, State laws, and regulations issued thereunder, or lawful agreements among operators regulating either drilling or production, or both. After unitization, the Secretary of the Interior, or any person, committee, or State or Federal officer or agency so authorized in the unit plan, may alter or modify, from time to time, the rate of prospecting and development and the quantity and rate of production from the lands covered by this lease.

SEC. 5. *Surrender and termination of lease.*—The lessee may surrender this lease or any legal subdivision thereof by filing in the proper land office a written relinquishment, in triplicate, which shall be effective as of the date of filing subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to place all wells on the land to be relinquished in condition for suspension or abandonment in accordance with the applicable lease terms and regulations.

SEC. 6. *Purchase of materials, etc., on termination of lease.*—Upon the expiration of this lease, or the earlier termination thereof pursuant to the last preceding section, the lessee shall have the privilege at any time within a period of 90 days thereafter of removing from the premises all machinery, equipment, tools, and materials other than improvements needed for producing wells. Any materials, tools, appliances, machinery, structures, and equipment subject to removal as above provided, which are allowed to remain on the leased lands shall become the property of the lessor on expiration of the 90-day period or such extension thereof as may be granted because of adverse climatic conditions throughout said period: *Provided,* That the lessee shall remove any or all of such property where so directed by the lessor.

SEC. 7. *Proceedings in case of default.*—If the lessee shall not comply with any of the provisions of the act or the regulations thereunder or of the lease or make default in the performance or observance of any of the terms hereof and such default shall continue for a period of 30 days after service of written notice thereof by the lessor, this lease may be canceled by the Secretary of the Interior in accordance with section 31 of the act, except that if this lease covers lands known to contain valuable deposits of oil or gas, the lease may be canceled only by judicial proceedings in the manner provided in section 31 of the act; but this provision shall not be construed to prevent the exercise by the lessor of any legal or equitable remedy which the lessor might otherwise have. Upon cancellation of this lease, any casing, material, or equipment determined by the lessor to be necessary for use in plugging or preserving any well drilled on the leased land shall become the property of the lessor. A waiver of any particular cause of forefeiture shall not prevent the cancellation and forefeiture of this lease for any other cause of forefeiture, or for the same cause occuring at any other time.

SEC. 8. *Heirs and successors in interest.*—It is further agreed that each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

SEC. 9. *Unlawful interest.*—It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4 (a) (1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Sec. 3741 of the Revised Statutes of the United States, as amended (41 U. S. C. Sec. 22) and Secs. 431, 432, and 433, Title 18 U. S. Code, relating to contracts, entering into and form a part of this lease so far as the same may be applicable.

THE UNITED STATES OF AMERICA,

By _____
(Signing officer)

IN WITNESS WHEREOF:

WITNESSES

_____
(Title) (Date)

_____ _____
(Name and address) (Lessee signature)

_____ _____
(Name and address) (Lessee signature)

Senator CORDON. I would also like to make a part of the record the statement of the Jefferson Lake Sulphur Co.

(The statement is as follows:)

STATEMENT OF JEFFERSON LAKE SULPHUR CO.

Mr. Chairman and gentlemen of the committee, this statement is submitted on behalf of Jefferson Lake Sulphur Co., the third largest producer of elemental sulfur by the Frasch process. The company operates 2 properties in the State of Texas and 1 property in the State of Louisiana.

We are vitally interested in the provisions of the legislation now being considered by the committee (S. 1901) which will set forth procedures and have a direct effect upon the development of the mineral resources of the outer Continental Shelf of the Gulf of Mexico.

The committee has no doubt received testimony and data setting forth the importance of sulfur to industry and agriculture, and we will not burden it with further elaboration on this point.

Being one of the four companies (Texas Gulf Sulphur Co., Freeport Sulphur Co., and Duval Sulphur & Potash Co. are the other three) which produces sulfur by the Frasch process, we are naturally interested in the potential reserves of sulfur which undoubtedly exist in the caprock formation of certain of the shallow domes in the submerged area of the outer Continental Shelf of the Gulf of Mexico. The companies which are engaged specifically in the production of elemental sulfur, and which through experience and technical organizations are best qualified to develop potential reserves for the future needs of industry and agriculture, primarily in this country, must have fundamental rights equal to companies engaged in the exploration and development of other natural resources, particularly oil and gas.

The legislation being considered at this time, therefore, should in the interest of national security provide the necessary procedures for the acquisition of the sulfur mineral rights and the subsequent exploration and development of sulfur separate and apart from any other natural resources and on an unqualified contemporaneous basis.

We particularly stress two points as follows:

(*a*) Such sulfur reserves as may exist in the area under question are more important to the national security in our opinion than the reserves of oil, gas, and other minerals which may exist in the area.

(*b*) There is no confliction in the carrying on of exploration and production of sulfur and similar operations for oil and gas in the same area, for example on the same dome, when carried on contemporaneously.

The occurrence of elemental sulfur which can be produced economically by the Frasch process is infrequent. Based on knowledge and information, this is worldwide. Not only is this product vital to industry and agriculture in peace-

time, but it is of prime importance to the safety of the Nation in time of war and in the defense of the country.

The occurrence of oil and gas and the ability to produce it economically is frequent not only in this county but worldwide. This is common knowledge to all who are acquainted with natural resources. This is not true of sulfur, and therefore it is of vital importance that those who are primarily engaged in the production of sulfur and qualified to carry on exploration and development of new areas be given equal rights to acquire, explore and develop such sulfur deposits as may be located in the outer Continental Shelf of the Gulf of Mexico.

It is our understanding that there may be advanced some question as to confliction in carrying on exploration and development of sulfur simultaneously with operation for oil and gas. Our experience proves the contrary. These operations can be carried on without confliction.

Jefferson Lake Sulphur Co. is and has been operating the Long Point Dome, Fort Bend County, Tex., since 1946. This operation is a continual operation producing elemental sulfur by the Frasch process. Previous to and during this operation major oil companies and independents have carried on operations on the flanks of this dome for oil and gas. Commercial gas has been discovered. There has been no interference of one operation with the other.

The company has likewise been operating the Clemens Dome property, Brazoria County, Tex., since May 1937, producing elemental sulfur by the Frasch process in a continual 24-hour operation. Likewise, major oil companies and independents have previous to this sulfur operation and during this sulfur operation drilled oil wells not only on the flank of the dome but on top of the caprock area, and there has been no confliction in this operation.

The company is also producing elemental sulfur by the Frasch process from the Starks Dome located in Calcasieu Parish, La. This operation began in June 1951. Previous to the beginning of the sulfur operation, major oil companies and independents had established oil and gas production both on the flanks of the dome and above the caprock area of the dome. These oil and gas operations are continuing simultaneously with the sulfur operations, and production of all three of these minerals, namely, sulfur, oil and gas, are being produced from the same dome area. In fact, Jefferson Lake's sulfur operation secures its natural gas from wells producing on the flank of the dome. This operation is working smoothly and without confliction.

The foregoing points have been stressed by us so that the committee may have before it definite facts in connection with actual operations for oil, gas, and sulphur carried on simultaneously in the same area.

We urge that the proposed law (S. 1901) provide that the sulfur rights may be leased by one party, and the oil and gas rights may be leased by another party, and that equal rights prevail under such leases so that the exploration and development of the minerals which may be present in the area can be simultaneously explored for and developed and produced.

Respectfully submitted.

EUGENE H. WALET, Jr., *President.*

Senator CORDON. The committee will now recess until 10 o'clock tomorrow morning.

(Whereupon, at 6:05 p. m. the committee recessed, to reconvene at 10 a. m., Saturday, May 23, 1953.)

OUTER CONTINENTAL SHELF

SATURDAY, MAY 23, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met, pursuant to call, at 10:20 a. m., in the committee room, 224 Senate Office Building, Washington, D. C., Senator Guy Cordon (acting chairman) presiding.

Present: Senators Guy Cordon, Oregon; Thomas H. Kuchel, California; Clinton P. Anderson, New Mexico; Russell B. Long, Louisiana; and Price Daniel, Texas.

Also present: Kirkley S. Coulter, chief clerk; Stewart French, staff counsel, and N. D. McSherry, assistant chief clerk.

Senator CORDON. The committee will come to order, please.

Mr. Patrick McHugh, of Boston, representing the Atlantic Fishermen's Union and Atlantic-coast fishing in general, desires to appear before this committee.

Mr. McHugh, we are happy to see you again, sir. You were involved 2 days ago; you were before the Senate Appropriations Subcommittee on Interior.

STATEMENT OF PATRICK McHUGH, SECRETARY-TREASURER, ATLANTIC FISHERMEN'S UNION, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL

Mr. McHUGH. My name is Patrick McHugh. I am secretary-treasurer of the Atlantic Fishermen's Union, Seafarers International Union of North America, A. F. of L.

The Atlantic Fishermen's Union is concerned about S. 1909 as it involves high-seas fishing operations in the North Atlantic waters, particularly by New England fishing vessels.

The fishermen, historically, have been regulated by the Federal Government and not by the States bordering on the North Atlantic and out of which we sail.

To us, the high seas always have commenced at a line seaward 3 geographical miles from the coastlines of a State. This line we wish to protect and we have good reason. When one has in mind the intensity of the controversy between the United States and Great Britain, as exhibited in the story of century-long conflict which headed up in the 1910 North Atlantic Coast Fisheries arbitration, we feel that Massachusetts and other North Atlantic States should not be blind to the dangers which can readily arise should the United States sanction for any State a concept and law of territorial waters involving marine mileage of marginal seas greater than three.

Certainly, the present bill, as it reads in section 3 and as tied in with the Submerged Lands Act, creates opportunity for Canada to urge, as it did urge in 1910 that much of the waters off Canada now resorted to by United States fishing vessels, can be closed off to American fishermen. Canada is presented with a precedent which can be applied to the closing off of the Bay of Fundy and the Gulf of St. Lawrence. The seriousness of this possibility is real, for it should be known and here made of record that in the Canadian Parliament, in the debates on January 30, 1953, strong representations were made that extension of Canadian territorial waters be undertaken as follows:

That such jurisdiction shall be extended on the east coast by drawing a line from Cape Sable, Nova Scotia, to Cape Race, Newfoundland, thus enclosing as inland waters the entire Gulf of St. Lawrence and approximately 150,000 square miles of fishing banks which have always been fished by American vessels. Like suggestions were made respecting the west coast for the water area in and about the western shore of Vancouver Island.

I ask you to read these debates as they took place in the Parliament in discussion of Senate bill E and House bill 44. These discussions came up under a legislative plan to revise a law known as the Customs and Fisheries Protection Act (ch. 43, Revised Statutes of Canada, in 1947). You may wish to consider also further observations of like character embodied in the Canadian Reports of the Standing Committee of Marine and Fisheries and its Minutes of Proceedings and Evidence Nos. 1 and 2 on February 8, 9, and 13, 1953, on such bills.

The seriousness of the problem takes form by reason of the seriousness of the existing depleted status of the American fisheries in our New England waters. Our stocks of commercially important species (haddock and redfish, particularly) are so low that this Government was forced to enter into convention with 10 other nations for conservation and restocking of these fisheries resources.

The scarcity of fish has driven our vessels farther afield than the once favorite and nearby Georges Bank. More and more we resort to distant grounds off the shores of Canada. Should these waters be closed off, clearly the American market increasingly will be transferred to the foreign producer, a danger doubly increased recently, for under the provisions of the aforementioned international convention there has been put into effect, to start June 1, 1953, conservation measures which will tend to decrease initially for some years, fishing volume in our American fishing grounds.

Consequently, we do not wish to expose ourselves to the possibility of loss of resort and access to our present fishing rights and resources off Canada, nor do we care to endanger traditional freedom of the seas. Secretary of State Root rescued the American fishermen in 1910. We hope his work will not be put in jeopardy now.

Section 3 speaks of navigation but it does not mention fishing rights. Consequently, we ask that section 3, as it purports to embody the "historic" marine boundaries declared by the so-called Submerged Lands Act, be given further consideration. It seems to call for some clarification so that we may know where we stand.

Let me list some quick reactions of doubt on my part:

First, what is the meaning of the phrase "high seas"? Does it mean the waters beyond the 3-mile limit or does it mean the waters beyond those claimed by Texas?

Second, what is the meaning of the phrase "outer Continental Shelf?" Can you confine its scope to the definition contained in the bill or must we take into account the Supreme Court as it speaks of lands below the low water mark being part of "the international domain?"

Where does the "outer edge" start? What is the baseline, and how shall it be determined along the coasts of the United States?

Third, what does the word "appertain" mean? Does it include the concept of property only or does it take in the concept of sovereignty as well and in what combination, if any?

Fourth, what is the meaning of the word "affected?" Is such word, by itself, of sufficient range to protect the marine jurisdiction, State and Federal, presumably preserved as it existed before the Submerged Lands Act? Does the word "affected" mean solely a detrimental change or influence?

Fifth, why should the protection allegedly contained in section 3 speak only to situations calling for "construction" of the act? Should it not also be extended to "application" of the purpose of the act, or of the section, in any event?

We should like to have this committee consider that section 3 might well be made definite by definition that the "high seas," at least for fishing purposes, be deemed to commence seaward of a line three geographical miles from State coastlines.

All these doubts and questions lead us to suggest the wisdom of one Canadian approach to matters of this sort. Statesmen of Canada, conscious of these moves in the United States, have adopted a policy on the matter of extension of territorial waters. They have constituted an interdepartmental committee, acting with the guidance of outstanding legal scholars to study the implications of these problems arising out of "territorial waters."

We understand its Department of External Affairs, to guard against Parliamentary pressure, prefers action on a North American basis in conjunction with the United States.

We ask that the wisdom of this saving faith in binational understanding be adopted and that a like committee be set up with the aid of persons speaking for the fishing industry to study the present bill to come up with a section 3 which will not suffer the inherent dangers attendant upon haste in draftsmanship.

We would like to suggest that there be consultation between the two countries, this because we are prompted to ask: Does the United States own the submerged lands and the overlying waters seaward of the 3-mile line?

The assumptions here seem to be that the United States, without question, not only has title, but political control with respect to both such lands and waters. It has been said during the course of these hearings that a State cannot extend its own boundaries. Can it be that this Nation, by unilateral act of seeming appropriation by legislation or by Executive order, may extend its boundaries? What relation has the Charter of the United Nations and the fact of membership to this problem?

If the United States can extend its boundaries to a line parallel with the configuration of the Continental Shelf, and this without consultation with or agreement by other nations who hitherto have not been exposed to such extension, does not Canada have equivalent power

to extend its political sovereignty and other control to all fishing banks off its shores? Are you not exposing the New England fishermen to the danger of being excluded from well nigh 200,000 square miles of fishing grounds to which we are now forced to resort, i. e., from the Grand Banks, from the Western Bank, and from the banks in the Gulf of St. Lawrence? I ask this question because I am not certain that the freedom of the seas carries with it the freedom of fishing.

The word "appertain" may well be adopted by Canada to justify such a possibility.

Let us, therefore, not lose opportunity of action on a North American basis. In view of the fact that nine other nations are now fishing in the same areas in which we Americans fish, perhaps it may be well to extend consultation to and even agreement with the other nations concerned.

Senator CORDON. Any questions?

Senator ANDERSON. I have 1 or 2. I wonder if much of this is not directed at the wrong source. When you ask what does the word "appertain" mean, the person to ask that of is the President who used it in 1945, when he said these lands appertain to the United States.

I am trying to say that I am not the author of this bill or in any part the author of this bill, but I do think it ought to be pointed out some of the things you are talking about have no connection with this bill. It is not Senator Cordon's fault or blessing that the President used the word "appertain." As a matter of fact, he did use it and Senator Cordon has to pick up with whatever is there now. I cannot believe that the Charter of the United Nations has any real affect on this. But the serious thing that I would question in your testimony is the suggestion that we appoint a commission to study this present bill and that there be consultation between the two countries and so negotiate. In the meantime a great oil area is tied up.

Now, whatever rights on fishing that you lose, if you lose any, and I am not trying to get into the controversy whether you lose any, whatever rights you lose you lose under the Senate joint resolution which has been signed, in my opinion. I do not believe the Cordon bill touches any of your fishing rights at all.

I should not be interpreting Senator Cordon's desires, but I think what Senator Cordon has tried to do is recognize there is now an area out there in which there is a void and no administration, and the Government has to come to administer that area lying beyond the historical boundaries, whatever those historical boundaries may be.

I cannot see for the life of me how that is going to change the character of the high seas around the New England States or around Canada. I do not believe this bill will extend any boundaries along the Atlantic Coast that could not otherwise have been extended, perhaps. The only place where I see it bothers much is in the gulf. Whatever has been done in the Gulf has been done by Senate Joint Resolution 13 and this bill does not touch it. It has to tie in with whatever action was taken.

I recognize the sincerity with which you testify because I have heard you many times, but I do believe whatever action is necessary has already been taken here.

Mr. MCHUGH. You see, what bothers us, Senator, is the fact that Canada for several years has discussed this problem. She is seriously

concerned with the depletion of resources there, because it is only in the past few years that Canada allowed any of her fisheries people to build additional beam trawlers. She had three in 1936 and only in the last few years did she allow the building of beam trawlers because they are destructive of small fish. They drag nets along the bottom and do destroy a large amount of small fish.

Down here there are actually 10 nations fishing, and have fished for hundreds of years. We know from experience that the grounds are becoming depleted, so Canada may feel that she has to do something to protect her own interest.

Senator CORDON. What does this bill do to minimize it or increase it?

Senator ANDERSON. That is my point. The Cordon bill does not touch it one way or the other.

Senator CORDON. It does not affect the convention with Canada, Great Britain, and the other fishing nations. Its purpose is conservation of this very area.

I will say to you, as far as this chairman is concerned—he happens to be chairman of the Appropriations Subcommittee on the Interior Department—he is going to try to help you have the money at hand for the portion of the job that this Nation is to do. I am in agreement with the statement made by the Senator from New Mexico generally. I differ with him only with respect to what was done in Senate Joint Resolution 13—I think no one will question the fact that Senate Joint Resolution 13 confirms the State boundary of the Original States at 3 miles from their coastline. There has never been any other claim asserted in that field by any of those States. The 3-mile confirmation was made at the request of officials of those States, and certainly Senate Joint Resolution 13, so far as the North Atlantic area at least is concerned, has helped you rather than hurt you.

Now, this bill ties onto that line and goes out to the Continental Shelf. I understand there could be a feeling that the provisions of paragraph (b) of section 3 might be construed as not including the right of fisheries in the term "high seas." I suggested yesterday that if those who are most interested, namely, the fishermen themselves, believe that it would clarify the matter, we could add, after the word "servitude" in line 20, "the right of fishing." That is, after we have declared that "this act shall be construed in such manner so that the character as high seas of the waters above the outer Continental Shelf and the right to their free and unimpeded navigation and servitude shall not be affected," we can add after the word "servitude," the words "right of fishing." You can put the "right of taking marine life" or whatever words you feel best indicate that we are excepting from the operation of this act all marine life above the land itself beneath the seas. We will be glad to join with you in trying to do that. That is as far as we can go. It would actually be further than anything else has ever been done in the field for you.

Mr. MCHUGH. Yes, do you not think if you put that in you should also mention fishery treaties or conventions so that there will be no doubt as to any treaty we have with other nations about fisheries?

Senator CORDON. By the very nature of things, when we say that this act shall not be construed in any manner that will affect the character of the waters of the lands as high seas, or in anywise impede their free navigation, or the navigational servitude that is necessary in con-

nection therewith for the right of fishing, we have certainly excluded from this act everything that could in anywise affect your interest.

I do not know how we could do it better, Mr. McHugh. I say, as far as the chairman is concerned, I would be happy to go along with the committee in doing that.

Senator ANDERSON. I would be happy to go along with the chairman in doing that. But I quite agree with the chairman, lacking in knowledge of the law, I still agree with the chairman I do not think we have any obligation here to start taking in the fishing treaties and so forth. I do think if we clearly protect the right to fish, that is as far as we can go in this bill.

Senator CORDON. Treaties are in nowise an extension of rights, Mr. McHugh, they are a limitation of free right. The purpose of a treaty is to diminish the absolute right of everybody to take fish wherever they will, and in whatever amounts they will, and with whatever gear they will. Here we say this act does not even affect those rights. Then your treaties come in and delimit the rights. We simply say they do not affect them, neither enlarge them nor decrease them. They have nothing to do with them. That of necessity leaves your treaties where you found them.

Mr. MCHUGH. Suppose you left out mention of navigation or anything, just say, "This shall be construed in such manner that the character of the high seas shall not be affected"?

Senator ANDERSON. We are trying to protect navigation.

Senator CORDON. What you suggest in your statement as one of your problems is that you do not know whether the character of the waters as high seas includes the right of fishing or not. We say that we are not going to affect that right, at least it gives you a little aid and comfort, I would say, sir.

Senator ANDERSON. Mr. French hands me something I wanted to quote, but I have hesitated. I have been listening to and reading all the material sent me on this Bricker bill and the question of treaty law. You cannot read all this material that is sent you by the American Bar Association committees, and then the opposite side by the New York Bar group, without becoming fully familiar with the words, if you do not really understand the meaning. This is what it says:

> This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made and which shall be made under the authority of the United States shall be the supreme law of the land.

Now, frankly, I am a little worried when I start putting language in a bill that starts dealing with the treaties. I know what I am doing, I think, when I say this shall not be construed to hurt your fishing rights. When I have said that, that is as far as I dare go without expert advice. I think if we do this which the chairman has suggested, we have done everything for you that we can do in this bill. Do you not agree with that?

Mr. MCHUGH. Everything that you can do in this bill, that is true.

Senator ANDERSON. That is all I want to say to you. We are in full sympathy with what your problem is. This bill has to come out of this committee now. We cannot wait for a conference with Canada. If we were putting the fishing industries in the same jeopardy that we would be putting the oil industry by waiting, you would want us to hurry up and get a bill out. I think we ought to get one out as rapidly

as we can, because there are millions of dollars of property that have been standing there unable to be utilized for years because of the misunderstanding and confusion as to the actual ownership of this area of land.

Now, the Congress is attempting to deal with it. You understand that I did not completely subscribe to what the Congress did, but it is the law. Now, that it is the law, it seems to me, that it is perfectly natural to follow it as quickly as we can with a bill pertaining to the outer shelf, and we cannot wait for a conference with Canada. That being true, I think the chairman has suggested as far as we can go in this bill.

Mr. McHugh. How about in the committee report?

Senator Cordon. We will reiterate here again that the purpose of the bill has to do with the implementation of the proclamation, the effect of which does not rise above the ground under the water.

Senator Anderson. May I suggest one thing further to Mr. McHugh? I know that I have lawyers occasionally going into court for me. When they get ready to decide the case, the judge asks both sides to submit suggested language for his decree and decision. Why does not your group submit suggested language for the report, not for the bill? You understand your problem. Let us take a look at that language. It might be a whole lot better than if we did it by ourselves. You go ahead and give us some help. We would like you to do it the first part of the week. We understand your point of view.

Mr. W. M. Chapman. I might say, Senator, that the general views accord with ours in California. What he proposes we will agree to.

Senator Anderson. Give us some language on it.

Senator Long. Might I ask the witness one question?

Senator Cordon. Senator Long.

Senator Long. I first would like to say that every time Senator Anderson disclaims any knowledge of law, I always take that with a grain of salt. He has been here as a Member of the United States Senate, a member of the President's Cabinet, a Member of the House of Representatives making law and studying legal problems for all these years. It always seems to me he takes advantage of attorneys by disclaiming any knowledge of law and then leading them in one trap after another.

Senator Cordon. The Senator gets a lot of support on this committee by that position.

Senator Long. It does seem to me, Mr. Chairman, that the questions raised by these witnesses for the fisheries particularly emphasize the fact that we should again call on the State Department for advice before this matter is finally settled.

Senator Anderson. I could not agree with the Senator more. That is why I have made several suggestions along that line and I hope we will have that. I could not agree any more with that statement.

Senator Long. Are you familiar with the fact that the draft of the United Nations Commission on International Law proposed in article II:

> The Continental Shelf is subject to the exercise by the coastal state of control and jurisdiction for the purpose of exploring it and exploiting its resources.

Mr. McHugh. No, sir; I was not.

Senator Anderson. You understand that "states" as used in that term means nations and not States?

Senator Long. It undoubtedly means nations; yes.

Senator ANDERSON. Is it a capital "s" or small "s"?

Senator LONG. It undoubtedly refers to nations.

Senator ANDERSON. The State Department has a way in which they do those things.

Senator LONG. It is a mall "s." I am sure that refers to the national sovereignty, to the total sovereignty rather than to any subdivision of totality. Does it occur to you that as time goes by and as more and more people develop the resources of the sea, that someone is going to have to undertake to exercise conservation methods out in the sea to prevent all these resources from being destroyed or dissipated?

Mr. MCHUGH. Certainly. We have a conservation treaty with the other nations on fish.

Senator LONG. With whom do you have this treaty?

Mr. MCHUGH. With Canada, England, France, Portugal, Denmark, Norway, Spain.

Senator LONG. If conservation is to be practiced out there with regard to the type fishing you mentioned, would it not be necessary, even though you have a treaty to adjust the rights of all fishermen, that one of the nations should go out there and enforce those conservation methods?

Mr. MCHUGH. Yes; we are the enforcing agency, I believe. Now, Dr. Chapman was the man who practically wrote the treaty; he can answer it better than I can.

Mr. CHAPMAN. What is the situation, Senator?

Senator LONG. The question I have in mind is agreeing that this area should be treated as high seas; that the fishing banks off Canada, Newfoundland, and off our own coast should be treated as high seas, in order to have conservation you have proposed that there should be international agreements. I now ask the question who should enforce those international agreements. Should it be an international body or should it be the coastal state or the coastal nation undertaking to enforce the international agreement arrived at among nations?

Mr. CHAPMAN. The way that is handled in that particular treaty and also in our other conservation treaties is that each nation signatory to the treaties agrees to enforce the conservation regulations adopted under the treaty with respect to its own nationals, and since all nations who have nationals involved in the fisheries are signatory to the treaty and all fishermen in the area therefore are under the control of some sovereign who is signatory to the treaty, the regulation will be enforced uniformly with respect to all fishermen in the area.

Senator LONG. Does that mean if you fail to follow proper conservation that the United States has the responsibility to enforce its conservation treaty agreements with regard to you?

Mr. CHAPMAN. That is correct, and Canada with regard to her citizens and Great Britain with regard to her citizens.

Senator LONG. Although those citizens may be thousands of miles away from their home?

Mr. CHAPMAN. That is right. We have found it works quite practically in our other conservation treaties.

Senator LONG. What is your view toward the proposal of the United Nations that the coastal shelf is subject to the exercise of the coastal state, undoubtedly meaning the nation, of control and jurisdiction for

the purpose of exploring it and exploiting its natural resources. That does not say subsoil. It obviously refers to all natural resources.

Mr. CHAPMAN. I believe that that is a preliminary report by the rapporteur.

Senator LONG. I understand that has been tentatively approved by the United Nations.

Mr. CHAPMAN. I thought not, but I may be incorrect.

Senator ANDERSON. If it is, then the very next section says, "The exercise of the coastal state of jurisdiction and control over the Continental Shelf does not affect the legal status of the supra adjacent waters as high seas." So we are right back where we were.

Senator LONG. Might I read this statement? The next article says:

The supra adjacent waters—

is the term used—

overlying waters.

Does that article refer them to the use of the sea as high seas for navigable purposes or does it include with it the right of one to exploit the resources, in other words, to take the fish and to take the resources of that area? High seas refers to the seas in the sense of a highway. Now, that is independent of the question of your right to take the resources from those waters.

Senator CORDON. The Chair suggests that whatever it refers to we accept it and therefore it has no part in the hearing.

Senator LONG. I do think, Mr. Chairman, we should take a look at these fishery rights.

Senator CORDON. We are looking at the fishery rights. We are accepting every right we can accept.

We thank you, Mr. McHugh, for your statement.

Mr. MCHUGH. Thank you, Mr. Chairman.

Senator CORDON. Mr. Zito.

Will you give your name to the reporter?

STATEMENT OF FRANK J. ZITO, OF RADNER, ZITO, KOMINERS & FORT, TOWER BUILDING, WASHINGTON, D. C.

Mr. ZITO. My name is Frank J. Zito. I am an attorney with offices in the Tower Building in Washington, D. C.

I have been requested by the attorney general of the State of Louisiana to appear here and to testify in connection with certain phases of this bill.

Senator CORDON. Do you have a printed statement?

Mr. ZITO. I have, sir. I think it has been distributed.

Senator CORDON. The statement itself will be made a part of the record at this time. I hope that you can highlight it, Mr. Zito, emphasizing those matters that you feel are of greatest importance. The committee will have the whole statement as it appears in the record and it will be helpful to us if you can do that.

Mr. ZITO. I will state at the outset that I have been asked to comment upon certain of the phases of this bill only. Those phases have to do with the adoption of certain of the admiralty and maritime laws, particularly in connection with the statute laws.

I have attempted to point out that the adoption of laws which govern one body of objects, such as vessels to artificial structures such as these platforms we are considering in the bill, lead to rather anomalous results in the first place because when the statutes were originally enacted they were based upon a long history of study of the particular problems involved and because I think it is practically impossible to make artificial adoption such as this and carry them through and make a lot of sense.

My suggestion is that instead of attempting to adopt certain portions of the law or statutory law, that possibly an extension of the whole corpus of the law of the particular littoral State to extend to and to cover the territory in the Continental Shelf or the submarine slope—of course, that territory has several different names—would in my estimation lead to a more uniform application of contract and civil rights to all of the structures located within the extension of the littoral State boundaries, would lead to uniform application of conservation measures of the particular littoral States which have been found on the basis of experience to have worked well. It would not discriminate as between areas or rather platforms within the historical State boundaries and platforms outside of the historical State boundaries.

Senator CORDON. If there is discrimination, what difference does it make?

Mr. ZITO. I think the very basis for the application of law and this of course is a very objective statement, is that there be no discrimination.

Senator CORDON. The best thing to do then would be to do away with the States entirely and just have one government, then we would have no discrimination. Is that the natural result of following through with your statement?

Mr. ZITO. It seems to me that if our Nation had proceeded from a unity and had later been broken down into segments, why, then possibly there might be some weight to that statement. Inasmuch as we started out as a component of units——

Senator CORDON. You are leaving your objective now. Your statement is that there is particular and special virtue in uniformity throughout the area. Of course, this country has run for 160 years with the very opposite of that, 48 States. We seem to have done fairly well. If that be the case, why is there any reason for great apprehension with respect to the area of the Continental Shelf outside of the States?

Mr. ZITO. If I may resort to my original statement, that was that I have confined my study more or less to the effect of the adoption of certain of the statutes to this situation.

Senator CORDON. If you stay with that, I have no questions, but you left it.

Mr. ZITO. I left it solely to indicate that as an alternative to the adoption of statutes which do not have their basis in the treaty or contract or other rights, that confusion and deprivation of other rights in certain instances is bound to follow.

Senator ANDERSON. Would not the application of the State laws lead to that, too? Supposing you have the gulf here and the Continental Shelf running out there, are you going to have Texas running

out into part of it and Louisiana into part of it and other States into part of it. Each one of those State's laws will be different, would it not? Does that bring uniformity?

Mr. ZITO. First of all, Senator, we are faced with the proposition that there are States and there are political subdivisions.

Senator ANDERSON. I understand there are States. I am conscious of that, too.

Mr. ZITO. If I may just finish for a moment. And that necessarily therefore we do have a certain amount of deviation as between State and State. My only point is that instead of creating still another cause for varying rights within an area which is contiguous to littoral States, that it would be much better to recognize there are differences in the States but to attempt, if possible, for that area which is contiguous to a State, to have uniformity in the application of all of the principles and all of the laws, the civil rights, in that area.

Senator ANDERSON. Let me ask you this question: I can draw a little map and say that one line on it is the coastline. A line can be drawn to represent the coast in the gulf. Inside that we will draw a line of historic boundaries. I do not know whether it should be 3 leagues or 3 miles. Let us make it 3 leagues all the way around. Within the first 3 leagues there is a set of laws that will be applicable. You want to make 1 part of the shelf running out the next 100 miles so that it conforms with the first set of laws. Then, in the next section of the shelf, the law will be different from the law in the first section. Is it not true that while you said the law of these first 3 miles or 3 leagues should be similar to the law of the next 140 miles, that you are going to have 5 different sets of laws out here in the Continental Shelf and that that area of difference is probably greater than the little of difference in here? You cannot get complete uniformity, can you?

Mr. ZITO. It is impossible to get complete uniformity.

Senator ANDERSON. You can get complete uniformity out here, can you not?

Mr. ZITO. Only by formulation of an entirely new body of laws is it possible.

Senator ANDERSON. You do not think that the existing law under which the Geological Survey operates would make it possible to operate out there? There are other types of things. I am not trying to answer all the questions about it. I have some feeling that there might be some values in the extension of certain varieties of State law to this area, but I am trying to find out why you think it is going to promote uniformity to run all these State administrations out in here. If you were only looking for uniformity, you would say the Federal Government owns this whole thing, the Federal Government will run it, everything will be absolutely uniform that way.

Mr. ZITO. I think if we can assume that there is a body of law, a corpus of law at the present time which does apply to everything beyond the historical boundaries, we would then be able to get uniformity.

Senator ANDERSON. You do not think this bill attempts to apply admiralty law to that area in such a way that there might me uniformity?

Mr. ZITO. It attempts to apply it, and I have attempted to point out in my statement how the application of certain phases of it leads to certain incongruous results.

Senator ANDERSON. I think you ought to go ahead with that fact.

Senator LONG. The witness in his statement points out that under admiralty law that the law of the place, of the owner of the ship, is the domestic law controlling. In that instance, if I understand that correctly, and I am not a maritime expert, but the witness is, would that mean if you had 48 different structures erected in the sea and each of these structures was owned by a person living in a different State, then you would have 48 different bodies of law applying to these structures?

Mr. ZITO. That is exactly what I tried, Senator Long, to point up in my statement and to indicate not only would that result appertain, but if we drew a line, let us take 3 leagues out, and we had 3 platforms 2 9/10 out and 2 or 3 just two or more tenths away, which would bring it into the so-called outer Continental Shelf, we would have different civil and contract rights applying to the platforms which may be working on the same pool; we would have different conservation measures applying to platforms working out of the same pool.

Senator CORDON. It is the same as if you had these structures built on lands on opposite sides of the State boundaries.

Mr. ZITO. That, as I stated a moment before, was admitted, but that is by me and whether or not at this time extend——

Senator CORDON. It goes to the question of whether there is any meat in the statement of the conditions which would arise. We have gotten along fairly well for 160 years.

Senator LONG. Is this not true, Mr. Zito, that you have 1 body of law applying on one side of the line and another body of law applying on another side of the line, but in this instance you would have 1 body of law applying on one side of the line and 48 bodies of law applying on the other side of the line?

Mr. ZITO. That is what I stated in my statement.

Senator CORDON. Now, you are criticizing all of the bill and not part of it. Do not forget that.

Senator LONG. Might I ask that the witness be permitted to read his statement? I submit that the points contained in this statement have not been presented by a previous witness. They are very important. I believe they are concisely made here. Those of us who have questions to ask about it might note as he reads it the points about which we would like to question the witness.

Senator CORDON. The Chair is willing to concede a great deal, but if there are going to be questions here, they ought to be raised when the witness is on the subject matter, because otherwise it is wholly impossible for the questioner to go back and traverse his whole thinking because each one would have to do it in turn and we would be here interminably.

Senator LONG. I did that when the fishery witnesses were on. I submit if the points were raised here when we get to them, it would keep us here interminably.

Mr. ZITO. My name is Frank J. Zito and I have been requested by the attorney general of the State of Louisiana to testify with respect to the admiralty and maritime provisions of the bill. I am a partner of the law firm of Radner, Zito, Kominers & Fort, of Washington,

D. C. Address, Tower Building. Our firm represents shipping companies almost exclusively, and our work consists principally of maritime and admiralty practice. I personally have been engaged in the various branches of the law relating to ships and shipping ever since I was admitted to the bar—first in a New York admiralty firm, later as Assistant General Counsel of the War Shipping Administration, and after World War II, I was associated with a tanker company on the west coast. In 1947 I came to Washington and joined my present firm. I have a number of comments which may be of interest to the committee, particularly in connection with the application of various provisions of the admiralty and maritime laws to activities related to the development of natural resources in the outer Continental Shelf.

I can appreciate the fact that Congress is faced with the problem of adopting or devising, either directly or by reference to some existing body of law, a system of political and social regulation in an area presently virgin to the application of substantive law capable of dealing with everyday human transactions and relations. Nevertheless, I feel (and I think I can show), that the adoption and application of admiralty and maritime provisions to an industrial enterprise basically different from the shipping business will merely create an expensive and wasteful source of litigation. In general, I think it would be advisable if the legal relations of persons having business on the outer Continental Shelf in connection with mineral exploration and exploitation were governed by the law of the littoral State, and I might go so far as to suggest that, if the determination be that the Federal Government has a prior right to the products of subsoil, the details of administering the offshore leasing program be delegated to the littoral State.

Senator CORDON. "If the determination?"

Senator ANDERSON. I was going to question that. Do you think there is any doubt about it?

Mr. ZITO. What I refer to there is the fact that insofar as title is concerned and as I have read the Supreme Court cases, the rights of the Federal Government as compared with the State government have been held to be prior. But I believe that the courts have stayed away from the question of legal title.

Senator ANDERSON. When it says the State of Louisianan has no interest therein or title thereto, would that fairly well extinguish the rights of the State of Louisiana in your opinion or not?

Mr. ZITO. But they did not go so far as to state the right or title therein is vested in the Federal Government.

Senator ANDERSON. I did not ask you that. I said when the Supreme Court said the State of Texas has no property interest therein or title thereto, when it says the State of Louisiana has no title thereto or property interest therein, does that fairly well extinguish the rights of those States as you see it or not?

Mr. ZITO. It extinguishes the rights of those States, I believe, to the products of the subsoil beyond the historical boundaries of the State and as so fixed by the Holland bill. It does not confirm legal title as such in the Federal Government which is the only thing I am attempting to say here.

This would establish a uniform system of law, leasing and conservation practices extending from the shore to the outer shelf. Before ad-

dressing myself to this affirmative suggestion, I will first comment upon the admiralty provisions of the bill.

The corpus of admiralty law, and the peculiarities which it embodies when compared with common law, are in most cases traceable to the mobility of vessels, their great size, and the hazards, commercial and physical, of commerce on the high seas; but of these, mobility is the most important Many of the principles of maritime law and statutes have been designed to cover the problems peculiar to seamen or for encouragement of the American merchant marine. If Congress attempts to apply such principles to fixed installations on the outer Continental Shelf, the results will be unrealistic and will amount, in some cases, to deprivation of rights.

Section 4 (a) of the committee print provides that "all acts occurring and all offenses committed" on and, presumably by, a structure located on the outer Continental Shelf or on the waters above the outer Continental Shelf shall be treated as if they had occurred aboard a vessel of the United States on the high seas. Inasmuch as the provision relates to acts above the water as well as on the structure, I assume that the drilling structure itself is intended to be treated as if it were a vessel. Application of the Ship Mortgage Act gives weight to this presumption. Treating the structure as a vessel, and the persons on it as being aboard a vessel, will have a number of peculiar, and I am sure unintended and frequently harsh, consequences.

Senator CORDON. Then you are familiar with the provisions of section 1417, title 48, of the United States Code, are you? I understand you could not have all the numbers in your mind. That is the provision that extends to certain islands the provisions of the maritime law. Are you familiar with that?

Senator ANDERSON. Like Guam?

Mr. ZITO. I am; yes, sir.

Senator CORDON. All right.

Mr. ZITO. For example, collisions between a vessel and the structure due to the fault of the structure such as improper lighting, faulty construction, et cetera, may be "deemed" a collision between two vessels, with all the complications attendant upon limitations of liability by the owner of the structure. Perhaps you gentlemen are aware that under section 183 of title 46 a vessel owner is entitled, subject to certain exceptions, to limit his liability to the amount of his interest in the vessel and the freight due provided the loss is not occasioned by the owner's privity or knowledge.

Senator CORDON. You understand, of course, this bill clearly sets forth that the waters above the Continental Shelf are the high seas?

Mr. ZITO. I think there is no question about that, sir.

Senator CORDON. If there were such a collision and you had attempted to extend State laws to the area, would the State laws apply to a foreign vessel sailing the high seas?

Mr. ZITO. The State laws would not apply, but we would have a vessel and a vessel.

Senator CORDON. Assuming that collision were one of these structures, what law would apply then?

Mr. ZITO. I think in a situation such as that that the law as administered, the maritime law, would apply.

Senator ANDERSON. The State law is the question?

Mr. ZITO. I think even with the extension of the corpus of the State law to include the outer Continental Shelf would not necessarily and should not affect the admirality or maritime rights which would apply in that situation generally. In other words, it would apply only to the extent that the admiralty and maritime principles would not apply.

Senator CORDON. But in this instance they would apply, so your argument here would appear to be of no consequence and no relevance.

Mr. ZITO. No; that is not correct, sir, for the simple reason that if this structure were considered as a structure, although the maritime law would apply, the structure would not be given the rights of limitation of liability.

Senator CORDON. How would they be treated?

Mr. ZITO. They would be treated as a structure on the high seas, and for damage due to or by that structure it would be treated as thought it were as it actualy is, a piece of property, not a vessel. In other words, it would not be given the right to limit its liability.

Senator CORDON. Then you would not have maritime law which follows the high seas in operation there?

Mr. ZITO. You would, indeed, sir. Under the maritime law which would govern in such a situation as this, a dock or a derrick is not given a right of limitation of liability. That is the point I am trying to make. But by treating it in this bill as though it were a vessel you would extend to that structure——

Senator CORDON. Where do you find docks that are not within the jurisdiction of a nation? That is, within their own continental or national limits and national jurisdiction.

Mr. ZITO. They are within the jurisdiction, but they are not clothed with the powers or rights of a structure, which in fact they are not.

Senator CORDON. They are not on the high seas?

Mr. ZITO. Under this bill, so long as they are stated as being treated——

Senator CORDON. I am not speaking of this bill; I am speaking of the present law.

Mr. ZITO. I am, sir.

Senator CORDON. Please answer my question. I am not. If you and I cannot treat it the same way, we might just as well understand that now. I am trying to get at the meat of this thing, which is a comparison of a situation which would be created by their law which conditions were existed.

Mr. ZITO. I will try once more to do that.

Senator CORDON. I would appreciate it.

Mr. ZITO. Thank you. If this were a dock or a structure located on navigable waters within the territorial jurisdiction of a State or without the territorial jurisdiction of a State, damage to the dock recently within the last couple of years or damage by the dock would come within the admiralty and maritime jurisdiction. So up to that point there would be no distinction in the treatment of damages done to by, or by, the structure in this bill.

If, however, we extend to this structure the artificial designation as a vessel, then we extend to that structure the right of limitation of liability which does not pertain at the present time and which could well deprive claimants of the rights to which they would be entitled ordinarily and under the law as it exists as of this time.

Senator CORDON. But it would not deprive claimants of the provision of the admiralty law as between owners of two vessels which were in collision, would it?

Mr. ZITO. Not if they are treated as vessels. But it does give to the structure an additional right; namely, the right of limitation of liability which does not pertain at this time.

Senator CORDON. The substance of your statement, then, is that the rights under maritime law differ in various respects from the domestic law of the land?

Mr. ZITO. That applies in many situations and I go a bit further and state that the extension of some of those doctrines which will have anomalous results should not be done.

Similarly, under the "fire statute" (title 46, U. S. C., section 182) the owner of the vessel is not liable for damages resulting from fire happening to or on board the vessel unless the fire is caused by design or neglect of the owners. Both these statutes cut down appreciably on the common-law rights of claimants and there would seem to be no justification for extension of those privileges to the fixed structures in question.

And consider, under this provision, the problems in connection with activities occurring on one of these structures: Are the men to be considered seamen, inasmuch as this is a vessel?

Senator ANDERSON. I want to go back to the fire provision. Who would suffer if the structure burned? Are you only trying to say that the workmen might lose their clothing out there? The owner of the vessel is not liable for damages resulting from fire happening to or on board the vessel. You are regarding this structure as a vessel. If the structure takes fire and burns, it will burn up the winches and the derricks and the pipe racks and all the rest of the material on there, but who will be financially damaged other than the owner of the structure himself?

Mr. ZITO. There is more than a possibility, rather probability, that men themselves aboard the structure will be injured. It may well be——

Senator ANDERSON. The fire statute would not reach to that, would it? I am talking about damage. When we get into injury, I will be interested in that because that will get into the field with which I have some slight acquaintance.

Senator CORDON. The Longshoremen Compensation Act provision.

Senator ANDERSON. And liberal provisions better than most States have, much better than Texas and Louisiana have.

Mr. ZITO. To finish my answer, these structures will have vessels tied up alongside.

Senator ANDERSON. Not necessarily. There are two types. One has a vessel tender along with a relatively small structure and one has a large structure that need not have a tender. The further out you go, the less likely it is you will use the tender.

Senator LONG. You have to tie up to take the oil off the structure, however. If they take oil by tying up, they are going to have inefficient operation. You cannot run an oil well while a vessel is standing there. You will bring it back through pipeline. I was trying to follow this fire.

Mr. ZITO. I am trying to answer, sir, that in the event there were barges or vessels tied alongside which were damaged by reason of fire, if there were property or other pertinences on the structure which were damaged by the fire, in the ordinary common law or under the civil law, too, which pertains in Louisiana, there would be a right of action for that damage because of actionable negligence.

The result of the fire statute is to cut down considerably on that actionable negligence and to make the owner of the structure responsible only if the fire occurs through the design or negligence of the owner which indicates and necessitates an actually in between the supervisory shoreside personnel and the owners of the vessel and his concurrence in those situations which result in the fire. It cuts down considerably on the actionable negligence.

Senator ANDERSON. Do I understand your contention to be that if a fire occurs on land in a building and the building adjoining it is burned, that the owner of the adjoining building can sue the owner of the building where the first started?

Mr. ZITO. I think under certain circumstances that that is correct. What I am trying to state is that under the fire statute, the actionable causes of damage are cut down considerably.

Senator ANDERSON. You mean, then, in the case of a fire—and we had one here in a department store a few days ago—that if that fire got out of control and burned out the entire block and the block next to it, that all of those owners of property could comply with fire insurance getting subrogation from them and sue the owner of the original hostile fire?

I would like to have the answer to that. Now we are getting into my business.

Mr. ZITO. I am not prepared at this time to treat of the question of causal connection between the original fire, the origin of the fire, and the spread of the fire. When I am treating of is the fact that under the fire statute, the claimants are entitled to less protection, and very less, because of action than under the common law or under the civil law for damage done by reason of the fire.

As to the spread of the fire, as to the end of that causal chain, I have not discussed that nor am I prepared. I am merely stating that under the statute the claimant would have less protection.

Senator KUCHEL. I wonder if in following up this question on the fire statute particularly, if presently the fire statute you cite here attaches liability only in the cases of design or negligence, as you state. In other words, intentional wrong or negligent work, in what other field does a party have rights against another under the common law?

Mr. ZITO. Under the common law, insofar as liability for damages occurring by fire on board this structure or on structures generally on hand, the actionable negligence opens up a greater measure of recovery than under the fire statute.

Senator KUCHEL. I take it, then, there is no general common-law action based on liability without fault. You now make the point in the field of negligence, common law is broader as respecting the rights given an aggrieved person than what this statute provides?

Mr. ZITO. Than under the fire statute. That is the only point I make.

Senator KUCHEL. Can you just generally state what that difference is?

Mr. ZITO. Under ordinary common law, if fire were to break out by reason of the negligence of any of the employees, let us say, in a plant on shore or on this particular structure, the owner would be responsible for the acts of his employees and would be able to recover damages against the owner of the structure.

Under the fire statute, however, unless that damage results from the actual fault or privity of the owner—in other words, a causal connection between his act of the owner—and the damage on board on this structure, there is no recovery.

Senator ANDERSON. The master and servant rule has nothing to do with damage?

Mr. ZITO. It has within certain limits. If the employee, let us say, is a habitual drunkard and if the owners know that he is a habitual drunkard or he smokes or does other acts, any act done by him would then be within the privity and the knowledge, and an act done by an employee would follow through and cause liability of the owner. If, however, he were an employee with none of the known and observed habits and committed a negligent act, there would not be liability.

Senator KUCHEL. Would there be, in your judgment, however, liability at common law?

Mr. ZITO. There would be. That is a rather broad statement, but usually there would be for negligence of any employee under common law if he was acting within the scope of his authority.

Senator KUCHEL. That is just the point. In other words, the question of whether he acted within the scope of his employment under common law, whether that is a relevant question, would it not likewise be relevant under the Federal statute or, as Senator Anderson says, does the master and servant rule generally not apply? I do not know. I was wondering.

Mr. ZITO. I think it may be stated generally that the master and servant rule does not apply to give an actionable cause of action under the fire statute and it does apply at common law.

Senator LONG. Let me cite a specific case. Under common law, if I were engaged in operating a barge under private contract to remove the oil that is produced on these derricks—at present it is all being removed by barge; conceivably some time in the future there may be pipelines constructed—and if I were in the vicinity of this platform when a fire broke out and there were explosions and oil was spread across the sea from the storage tanks on the platform, I would have a lawsuit against the owner of that structure if one of his employees had committed a negligent act in the course of his employment that resulted in the fire. In fact, I could almost sue him on the doctrine of res ipsa loquitur. There is bound to have been some fault, or the fire would not have occurred.

On the other hand, under maritime law, if I were alongside a ship and a fire occurred aboard the ship, not the fault of the owner but the fault of one of his employees, and my property was destroyed or seriously damaged by virtue of that fire, then I would have a lawsuit against the employee but not against the ship owner.

Mr. ZITO. That problem was handled by Judge Borah down in your district some years ago. It came to that result. That is the result.

Certainly the statute compels that interpretation, since acts occurring on it are deemed to have occurred on a vessel on the high seas.

Would the Mutiny Acts apply? There are reasons for the stringent application of the Mutiny Act to a ship at sea with the dangers and perils involved, but on a fixed installation a relatively short distance from the shore there is no valid justification for treating the mere disobedience of an order by a free American workman as a crime punishable by fine or imprisonment. A strike occurring on one of these structures would be construed to be a mutiny because the vessel is "at sea."

And because of the complete control which the master of a vessel has over the seamen, the law gives seamen a large number of rights which would hardly be appropriate under the circumstances with which the committee is dealing. For example, the right of a seaman to demand half pay at any time in any port; the right of a seaman to maintenance and cure; the right in rem against the vessel for wages and injuries; the right to sue for breach of warranty of seaworthiness; and many others, all of which cannot be catalogued, anticipated, and accounted for until the special situations arise and the matters come under the particular scrutiny of the courts in litigated cases.

Senator CORDON. That observation is certainly valid if the employees are deemed to be seamen. In the case of the longshoremen it would not apply; is that correct?

Mr. ZITO. That is correct.

Senator CORDON. I appreciate your calling attention to it.

Mr. ZITO. As a corollary to that, if that thought is negative, then the observations which I make would be inapplicable, to answer your question.

Moreover, such litigation will doubtless revolve around the question to what extent the structure is to be treated as a vessel. Will the regulatory provisions of many statutes relating to crew quarters, sanitation, radio equipment, lifeboats, and so forth, be extended to a petroleum drilling or pumping structure? Of course, the statute speaks only of acts occurring on the waters above the Continental Shelf or on the structure, but "acts" may be construed, and in some contexts must be construed, as including failure to act.

Frequently the law of negligence, which would certainly have application to activities on the Continental Shelf, concerns failure to take a precaution, i. e., to an omission by the owner, rather than to any affirmative act. If the word "acts" refers, as it must, to omissions, may not the failure to comply with regulations relating to the structure and equipment of vessels be included in the statutory provision? It almost certainly will be a subject of costly litigation.

Furthermore, in situations for which there is no particular admiralty doctrine or statute, the law that will govern is the law of the owner of the vessel rather than the law of the home port. Thus, if there are 5 petroleum development structures on the Continental Shelf owned by different companies, each one incorporated in a different State, the laws applicable to the employees on those structures will be governed by the laws of 5 different States.

A will executed by workmen on one structure in accordance with the law of Delaware, the State of incorporation of that particular oil company, may not be a valid will when he moves to another structure owned by a corporation domiciled in a different State.

Senator ANDERSON. May I ask you this one question there? I have worried about that a bit. Could that be cured by a simple provision that the structures would be regarded as owned within the State of Texas in that area out of Texas and within the State of Louisiana? Could you cover it by some simple provision that said that their home base of supplies would be regarded as the place of ownership of the structure?

Mr. ZITO. That is really a modification of what I am advocating here. To answer your question, yes.

Senator ANDERSON. I think the workmen's compensation should come under the provisions of this Federal law, and it might be all right. I would not be disturbed if they came under the provisions of the Texas compensation law or the Louisiana compensation law. But it seems to me that a workman on the derrick who draws a will, he probably would get legal advice if he got it all from a Louisiana or Texas lawyer who might not be familiar with some peculiar quirk in the law of the State of Delaware or the law of the State of New York as to witnesses or something else.

It would seem to me desirable on probate of wills that those things should be handled in the State that is nearest at hand. I am wondering if a simple change could not make that possible, or an amendment could not make that possible.

Mr. ZITO. The answer to your question is "Yes," and the same answer "Yes" would also apply to all of the other situations which would apply to these structures which I state as the basis for the overall suggestion I make.

Senator CORDON. There cannot be any question, and I do not think anyone on this committee raises any question, as to whether there are not numerous situations which could arise that would be much better handled if this area were within the boundaries of States.

Mr. ZITO. Let me also state that I am in thorough agreement with the objective of this committee in attempting to, by legislation, resolve as many of the questions as possible. It is just the question of approach.

Senator CORDON. You and I may have differed and we may differ again, but I want you to know that the chairman appreciates your coming here and presenting this statement.

Mr. ZITO. Thank you, sir.

Similarly, the Longshoremen and Harbor Workers' Compensation Act is made applicable by section 4 (c) of the committee bill to these structures only where the State has no compensation law. The question arises as to what State. If we are driven to the admiralty test—the State of the owner—there may be as many compensation laws applicable as there are owner of structures, and the worker moves from one law to another as he becomes employed first on one structure and then on another, all in the same field. If he moves over that two and nine-tenth position, he gets into Louisiana or Texas.

I wish also to comment on the provision of the committee bill, section 4 (d), which makes the Ship Mortgage Act applicable to petroleum development structures. The citizenship provisions of the Ship Mortgage Act are the same as those in section 2 of the Shipping Act of 1916, as amended. These citizenship provisions are highly restrictive, as perhaps they must be when applied to ships which move

in worldwide trades and are initimately connected with instantaneous demands of national defense.

However, those provisions discourage the investment of foreign capital, and for companies and industries unfamiliar with them constitute a snare and a trap serving no useful purpose. In addition, there are several integral segments of the American oil industry controlled directly or indirectly by alien stockholders. I believe that Shell would be one such company, and that under the definition of a citizen would be excluded from participation.

I might state here, even under the shipping acts themselves there is considerable question as to what or who is or is not a citizen. Mr. Colby and I have a matter to determine that at this moment. That is right; is it not?

Additionally, a ship mortgage is valid only in connection with a vessel documented under the laws of the United States. Completion, therefore, is a prerequisite to mortgage. Inclusion of the Ship Mortgage Act in the proposed bill is for the apparent purpose of protecting lienors and providing a filing place for their protection. The provisions of that act would be exclusive, thereby depriving material men, or other lienors of a situs for filing liens or claims during construction and would negative possibility of a construction mortgage. Under recognized maritime principles, a new building is not considered a vessel, nor do in rem rights accrue in connection therewith until actual launching.

I might state, also, that contracts in connection with the construction of a vessel are not cognizable in admiralty until the actual launching.

Senator ANDERSON. Could you tell a layman what "in rem" means?

Mr. ZITO. Against the thing.

Senator LONG. Which means you have a right to sue and attach the property until your judgment is satisfied; is that the idea?

Mr. ZITO. That is right. A vessel is personified under admiralty principles and may sue and be sued quite irrespective of the rights or liabilities of the owner of that vessel under certain situations.

Senator CORDON. Sue and can be sued under its own name?

Mr. ZITO. Yes, sir. The question may be raised as to whether transfers of mortgages of such structures under the Ship Mortgage Act are subject to the transfer provisions of sections 9, 37, and 41 of the Shipping Act of 1916, requiring approval of the Federal Maritime Board in the event that they are assigned to a noncitizen. While those provisions of the 1916 act are not incorporated in the Ship Mortgage Act, it is clear that ship mortgages are subject to them, and a doubt, perhaps detracting from the value of the mortgage, may possibly be cast on mortgages of Continental Shelf structures.

The general question of the preference given to maritime liens over normal secured transactions may also prove troublesome. It is a settled principle of maritime law that admiralty liens against a vessel for injuries, supplies, contracts of repair, et cetera, take precedence over all other secured obligations.

I am excluding the Ship Mortgage Act for the moment.

For example, if a piece of machinery for a Continental Shelf structure were purchased subject to a chattel mortgage or conditional sales instrument, and duly recorded as provided by State law, and later an

accident or injury occurred or a repair was performed or wages incurred, those latter maritime obligations would take precedence over the chattel mortgage or conditional sale. It may be that this is a desirable result, but I am certain that such consequences were not contemplated and examined when this bill was written.

A further and perhaps compelling result of incorporating admiralty law to Continental Shelf transactions is to deprive many litigants of trial by jury. Normally, disputes relating to admiralty contracts and admiralty torts are decided by a master or by the admiralty judge without a jury.

Senator LONG. I presume you mean personal injury or property damage?

Mr. ZITO. That is right. Any actionable or personal wrong.

However, many of the transactions which will concern the outer Continental Shelf would otherwise present cases tryable by a jury. I question at the outset whether Congress can constitutionally deprive a part litigant of his right to a trial by jury, preserved by the seventh amendment, merely by calling something a vessel which is not a vessel. While I raise this constiuttional question, what is perhaps more important is whether Congress ought to eliminate trial by jury, even if it can. The right of a jury trial, apart from constitutional requirements, is so fundamentally a part of our legal structure that it would seem a futile and useless gesture for Congress by statute to attempt to eliminate it.

Senator CORDON. That is beside the point. I do not follow your statement here as to any constitutional question. If it is constitutional, it would apply to the maritime law. I cannot understand where it would be unconstitutional to apply the maritime law.

Mr. ZITO. Let us assume there is no constitutional question. I do not think by adoption of certain of the provisions of the bill that one should cut down.

Senator CORDON. There you are certainly entitled to your opinion, and it is a matter for careful consideration by this committee.

Mr. ZITO. Another instance of the curious ambiguities which might be created by enacting this statute into law is that the statute of limitations, applicable to many transactions by State law, would be removed by bringing those same transactions within the jurisdiction of the admiralty courts. Admiralty, for very good reason, applies the rule of laches to bar stale claims. The rule is sensible and reasonable when dealing with matters arising on a vessel which may be engaging in worldwide trades and be outside of a jurisdiction for months, perhaps years. Under such circumstances the doctrine of laches is perhaps the only workable doctrine.

However, this bill is concerned with fixed, more or less permanent, structures. Persons having business on these structures can, without great inconvenience, be served with process during the period of a fixed statute of limitations. It would seem advisable, therefore, not to abolish that salutary provision of the common law by transferring what is essentially a nonmaritime transaction to the court of admiralty.

Senator LONG. Give us a specific example of what you mean there, please.

Mr. ZITO. For instance, a personal injury, depending upon the State laws, must be brought within either 2 or 3 years, depending upon the

injury. If the same injury occurs on board a vessel, whether it be a real or an artificial vessel, the question of whether or not it is barred if not brought within a certain time is considered by all of the circumstances, namely, whether the vessel was available in port, whether witnesses were available, and the like.

The time within which suit may be brought is indeterminate.

Senator ANDERSON. Do I understand from previous testimony—and I wanted to go back to it, but this question came up now—that the usual privilege of placing a lien against a structure that is being constructed would not be available under this particular law? I know it is very desirable when a structure is being built that materials shall be sent out from the nearest lumberyard and then from the hardware store and work shall be done by the workmen and they have the right of lien against that structure.

I found out when something is built on your own property you do not have anything to do with, the lien can come back against you anyhow. Would this stop? Would the right to lien not exist under this law?

Mr. ZITO. Yes.

Senator ANDERSON. When you say yes, you mean the right to lien would not exist?

Mr. ZITO. The right to lien would not exist. I can explain that.

Senator ANDERSON. Workmen have certain lien rights?

Mr. ZITO. That is right, sir.

Senator ANDERSON. The material men also have certain lien rights?

Mr. ZITO. Normally.

Senator ANDERSON. Generally, do they not?

Mr. ZITO. That is right.

Senator ANDERSON. The exception is in only a few instances do you have rights to include, from my standpoint, such things as your contract-bond premium and your workmen's premiums, but many of those things are covered by lien rights. It is my understanding they would not be covered on this structure being erected out at sea.

Mr. ZITO. That is my opinion. It is possible, indeed probable, that one or more of these structures will at some time or other come into the possession or ownership of the Federal Government, either by forfeiture or cancellation of the lease, or by reason of the reversionary interest of the United States in the lease, or in foreclosure of tax liens, et cetera. The United States may even enter upon the Continental Shelf for the purpose of exploration and drilling on its own account, particularly in times of national emergency.

Under these circumstances, litigation between private parties and the Government is likely to arise, both in contract and in tort. The question would then be raised as to whether the United States is suable in the court of claims or in the district courts under the Tort Claims Act, or in admiralty under the Suits in Admiralty or Public Vessels Acts.

One of the criteria of Suits in Admiralty Act jurisdiction is whether the vessel is "a merchant vessel of the United States." While it would seem that a drilling structure would normally be utilized for commercial purposes, it is possible that drilling and pumping operations might be conducted for the Navy or other military services and would be similar to a "public vessel." In either case, however, the test of a merchant vessel or a public vessel, for purposes of jurisdic-

tion, is certainly incongruous as applied to a petroleum drilling or pumping structure.

Senator ANDERSON. We had a discussion the other day about repressuring projects and waterflooding. In the development of a unitized field, frequently they take a well that had belonged to one company and they surrender that well, the company does, and it passes to what might be called almost the common property of all. They use it as a means by which the water is injected to waterflood the remaining oil out of the lease. The conservation practices will be practiced out on this shelf.

Would the fact that an association would be formed which would be the owner of one of these wells and through which water may be pumped for the purpose of water flooding pose any particular problem in connection with this?

Mr. ZITO. Offhand, I think it would accentuate the problems which I have stated herein for the reason that ownership, rather than being in a particular company and the company of incorporation, the State of incorporation of that company to look for possible claims arising out of it, that being a communal project, would even further aggravate the situation as to where you go if there is no corpus of the law.

Senator ANDERSON. What I am trying to get to is this: The Continental Shelf in my opinion will yield itself to the full recovery of oil much better than some of these areas that are on shore. The attorney general of Texas had to sue 17 people in order to bring about proper conservation practices.

Senator DANIEL. The operators in 17 fields.

Senator ANDERSON. In this particular field you have really one owner. You do not have to go back and try to explain to the owner of the land that his royalty check will not be changed by the fact that that well is no longer going to be used as a producing well but will now be used for the injection of water. That is the hardest story to tell when you are trying to get water for the field. You cannot persuade this fellow he is not going to lose something by losing this well. He knows how many wells he has.

The Federal Government, which will be operating there, will not be so concerned as a royalty owner whether one particular well is in or out of it. I do think these conservation practices will tend to utilize more fields, tend to have more places where you will be repressuring the gas, and finally waterflooding.

Therefore, I was interested in what you had to say about the question of ownership that might arise from it.

Mr. ZITO. Section 4 (d) (2) (f) of the committee print provides that for purposes of the Fair Labor Standards Act of 1938 goods produced on any structure on the Continental Shelf shall be deemed to have been produced within a State. I cannot tell whether this was intended to bring employment conditions on the Continental Shelf entirely within the scope of the Fair Labor Standards Act, but, if so, it is at least ambiguous.

The subsection referred to does not deal with the fact that seamen are exempt from the minimum wage and maximum hours provisions of the Fair Labor Standards Act. Inasmuch as section 4 (a) of the committee bill assimilates acts on the structure to a vessel on the high seas, as I have heretofore suggested, employees would probably

be considered by the courts to be seamen. Unless Congress intends employees on the structure to be exempt from the minimum wage and maximum hours provisions of the Fair Labor Standard Act, this problem should be clarified.

The foregoing analysis is not a complete examination of the possibilities of this proposed statute as a source of endless litigation. I was informed about these hearings only a few days ago, and consequently have been unable to make as complete and detailed an analysis and documentation as I would have liked.

I left Sunday night for San Francisco. I arrived back yesterday morning, so I had just yesterday to prepare for this. I apologize for the inadequacy.

Senator CORDON. You need offer no apology, sir.

Mr. ZITO. I will supplement this statement with more detailed references in the event the committee believes that this would be desirable or helpful.

Nevertheless, I think the main lines of the problem confronting the courts in construing this bill have been adequately sketched in this discussion. As I indicated earlier, I would recommend that the committee redraft the bill so as to extend State law and State administration from the shore to the outer Continental Shelf.

Even if admiralty law were adaptable, and I think I have shown that it is not, the mere fact that substantive and procedural changes of a drastic nature would occur at a point 3 miles from the shore, or at the line of the States' historical boundaries, would itself cause great difficulty.

The President's proclamation of September 28, 1945, dealing with the natural resources of the subsoil and seabed, adverts to the fact that the—

> Continental Shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory. * * *

The very foundation of that proclamation, which, as much as anything, constitutes the formulation of the claim of the United States vis-a-vis other nations to the Continental Shelf, depends upon the theory of contiguity from the continent to the end of the shelf. Not only will a pool or deposit overlap the proposed boundary line between the States' jurisdiction and the Federal jurisdiction, but the legal relations governing exploitation, as well as day-to-day human relations, will form a continuum without respect to the boundary.

Senator CORDON. The Chair is most appreciative of your presenting your views on this matter. The committee will welcome any supplemental statement you care to make.

Mr. ZITO. Sir, the subject is so broad that I would hesitate even to suggest that I do anything further. If, however, there are particular phases in which I might give views, I will be very glad to oblige.

Senator CORDON. Are there questions?

Senator ANDERSON. I used to be interested in the fact that so many people talk more disintegration than integration. You have been telling where the admiralty law will not apply and presenting illustrations. Have you give any thought to the difficulties that might arise by the attempt to apply State law in the area? Have you any thoughts as to how best it could be made to apply to the area?

Mr. ZITO. One of the main weaknesses was that mentioned by the chairman at the inception here and also demonstrated by you in your diagram; namely, there are States and there are these pools lying within several of the States, and if you extended these boundaries, you would necessarily have that same situation at sea. My only answer to that is that that is a situation which necessarily is present and should be avoided in attempting to cut off the application of the State laws as to conservation and leasing from the land mass outward. So there are difficulties, there is no question about it.

Each State has a different conservation practice, but the point is that each State has had experience with it. They have gone through, they have amended it and modified it. I think on the whole it has been proven to be workable. I think application to the contiguous lands seaward, whether called Continental Shelf or continental slope, would be preferable.

Senator ANDERSON. I am not worried about the proration and spacing. I think the United States Geological Survey can participate in a joint meeting with the States of Texas and Louisiana and work out every problem of prorating and spacing, disposition of waste, requirement for repressuring and water flooding, and all of those things.

I am wondering, just as you pointed out, about the problems that arise when you try to apply the probate provisions. The man writing a will on that derrick, I mean. Have you attempted to put the State law under that? I wondered whether in your study any of those problems had occurred to you. I realize you are here at the request of the attorney general of the State of Louisiana, but the Senator from Louisiana and the Senator from Texas are just as anxious as any other Senator to make sure State laws are actually extended out there; that they are extended in such a fashion that these conflicts do not arise.

Mr. ZITO. As a matter of fact, I have considered that and have come up with these observations: As these offshore lands are explored and worked and as soon as we can get away from confusion, as you suggested to the prior witness, I think there will be a great influx of people into the various States. While not necessarily so, the people working on those structures will be resident in the littoral States. So, therefore, the probate factors, the inheritance factors, and the like, if applied all the way out by the littoral State, will apply with uniformity whether a man is a mile and a half out or whether he is 6 or 7 miles out.

Senator ANDERSON. Suppose a workman is working on a structure that is close to the line between Louisiana and Texas. He might have to pay a State income tax in one State and he might not have to pay it in another.

Senator KUCHEL. Or he might have to pay them in both?

Senator CORDON. They do now in places.

Mr. ZITO. My only answer to that is that that is a situation that exists now. I do not think similar situations should be extended any more than is necessary.

Senator ANDERSON. If, however, it should be regarded that the area out there in the Continental Shelf could be administered by the Federal Government, and a workman drew his pay for working on a

derrick out there, can a tool pusher or whatever he might be, not be subject to State income tax? In the event of his death, might his estate not be subject to inheritance tax? I do not know.

Mr. ZITO. I do not know, either.

Senator ANDERSON. I am just wondering if putting these under the States will also create problems. People who worked on this bill must have recognized there were problems in trying to extend the State law or they would not have attempted to adopt admiralty law to the area.

Senator CORDON. I would like to say for the record that the Chair did not request the drafting service to investigate any of the problems that arise from extension of State law. Their direction was to suggest, if they could, and to the extent that they could, a body of law that is now on the statute books, Federal in character, that would make a practical body of the law for this peculiar situation that we have in the area.

I want the record to show that the other study has not been made, except as it was made prior to the consideration of this bill and while it had general consideration as a suggested part of Senate Joint Resolution 13.

Senator ANDERSON. I think it is a good thing that the attempt is made to see if it is possible to take Federal laws and make them applicable out in the area. I have nothing but commendation for the chairman of this committee, the acting chairman of the full committee, and the chairman of the subcommittee, for trying to get that done, because if they had not done it, there would always have been people over the United States who would say, "Why didn't you apply the existing Federal law?"—and we may still do that.

There are also people who recognize or feel it might be easy to extend the State laws. You have made a careful study of the difficulties that may arise if we attempt to use admiralty law in that area. I think it would be desirable if somebody could look at what would happen if State laws were made applicable. I do not know.

I have heard of situations where a man is married in one State and not in the other. It is a matter of some concern to a few people, I would think. I do not want to get a situation out there where people who are living out there are not citizens of any State or are citizens of too many States and have complications.

I do not know how we can go about taking a look at the State laws. It seems to me that it might be desirable if those people who believe that State laws should be made applicable, and you are representing the attorney general of Louisiana, that they could submit to us some language that would make them applicable out there. We might have a few folks who take the contrary point of view, look at it, and see if there are any holes in that.

Mr. ZITO. I will be happy to do that. I would also like to state that I, too, appreciate the sincerity of the chairman and of this committee and will be more than glad to lend whatever services I may to whomever you appoint work on this to determine whether or not extension of the laws is the answer or whether a partial extension is the answer, and would be most happy about that.

Senator ANDERSON. Partial extension; I am glad you used that. I have thought we ought to try to extend some Federal law in these

areas and then we might extend certain laws so far as they did not conflict with the Federal Government laws. I do not know how to go about doing it.

Senator CORDON. I would suggest one of the great problems you are going to run into there, and one where I think the constitutional questions very definitely are involved, is the fact that State laws change. While there is, from the investigation I have made into the matter, adequate precedent for the extension of State laws into unorganized territories owned under the sovereign dominion of the Federal Government, the question has never been determined directly, so far as I know; but certainly it is present as to whether you could, by reference, extend State laws. The extension, it would appear, that is definitely legal, is that of the law as it is at the time of enactment of the act. But as to the law the next day, it is a very different question and one of the major problems.

Senator KUCHEL. In the statement you just made where you cite examples of Federal property being made subject to State laws, I am assuming that you mean that the Federal property was located within the historic sovereign boundary lines of the State in question.

Senator CORDON. No. The area of Alaska at one time had as its body of law by reference the laws of my own State of Oregon.

Senator KUCHEL. Then if a breech of those laws occurred in Alaska, was a Federal offense committed?

Senator CORDON. It was.

Senator KUCHEL. And not an offense to the State of Oregon?

Senator CORDON. Now you are speaking of jurisdiction as distinguished from law. In that instance the laws then existing, and it was so spelled out, of the State of Oregon, were made the law of the Territory of Alaska; but there was provision made for the administration of the law in the area under Federal jurisdiction.

As I called to your attention earlier, we have several cases of extension of maritime law, small areas under control and jurisdiction of the United States. I think there is very little question in the minds of anybody as to whether the thing can constitutionally be done. I would suggest a very grave question as to whether you do not make that law static as of the moment of enactment of the act. I just doubt you could do anything else, but that is a pure delegation of legislative power. I would like to hear your views on it.

Mr. ZITO. I looked into that problem to the extent of about an hour or so, to be quite frank with you. I came up with the conclusion that there is considerable doubt. There is, however, precedent for that. I might call attention to some of the early delegations to the Western States insofar as mines were concerned. Not only were the rights to make regulations delegated to the States, but also to the miners themselves, to individuals.

Senator CORDON. They have miners' regulations?

Senator ANDERSON. I was wondering about this as you went through the statement. You suggest certain things here which seem to be problems. I think the lien question is one of them. I think this fire statute is worthy of taking a look at. We do not want to make these employees seamen. If we were going to use the admiralty law, we would certainly have to amend it a great deal.

Do you start to amend it specifically? Would we say the admiralty law shall apply, except these workmen shall be regarded as long-

shoremen or as workmen under the State? In other words, would we have to go ahead and amend the bill pretty liberally to bring these admiralty provisions that are now in the bill to where they would be workable?

Mr. ZITO. I think this: If it were accepted that the laws of the littoral State should be extended, that would leave intact, as it now is, maritime jurisdiction over certain of the offenses which occur outside of this limit. In other words, there is a body of law dealing with certain crimes. Those principles could and should remain static.

However, insofar as the day-to-day application of property and private rights is concerned, we must fill in; so I think we should not legislate out of this bill the existing admiralty principles which apply in that situation, but need instead to fill in and supplement the existing admiralty jurisdiction over certain offenses.

I would be more than glad to devote time with whomever the chairman designates in an attempt to look at the problem both from the extension of the littoral States' laws or from incorporation of certain of the Federal laws with modifications or possibly both. What impressed me particularly was the enormity of the problem before you.

Senator CORDON. It impressed me, too.

Mr. ZITO. I frankly do not see how a major piece of legislation, and this certainly is a major piece of legislation—20 years ago the rights of the subsoil were talked about quite objectively in the American International Law Review and the like. The only real application they had was to lease the oysterbeds of Australia or the extension of the coalbeds off England or the pearl fisheries off Ceylon. Nobody really cared too much about it because you were not stepping on anybody's toes.

Now, with technological advances, we have a great new resource which should be preserved to the best possible benefit for the United States, and which I think should be carefully considered and fully considered. That is why I hesitate to see this thing pushed right on through with all the consequent litigation and confusion which might arise. I do not say I have the answer, of course.

Senator ANDERSON. On the other hand, you have the problem of trying to permit the Federal Government to proceed to lease in this area. Many of us have been hoping that permission could be granted. I recognize that there were reasons why it was not desirable so long as this squabble was going on as to the areas in the marginal sea off the shores of these States. That has been settled by legislation and we now must deal with this shelf. We must deal with it promptly as far as leasing is concerned.

Maybe all these questions of how it is going to be done eventually will take a long time. In order to make you understand why some of us worry about the application of State law, I may have misunderstood the statement, but I was frightened a bit by a statement the other day that if a lease in Louisiana had become dead by somebody not paying on it in these intervening years, that a simple act of the Louisiana Legislature could bring it to life and that lease would be just as valid as anything the Secretary of the Interior might issue.

I do not think that is the purpose, but it put a cold chill on my spine as to allowing any State to administer. I know that it is not necessary to be that worried about it. I know that perhaps we can get this in shape so we can validate those leases which ought to be validated and

not validate leases which are dead and ought not to be revived. That is one small segment of what is going to go on in this area from here on out.

Mr. ZITO. Possibly my lack of experience in legislative matters—and I profess an absolute lack of it—leads to a suggestion of a possibility of having in the interim a "without prejudice" bill which would allow the States to continue to lease subject to——

Senator ANDERSON. You will never get that through the Congress of the United States.

Mr. ZITO. It is probably only because of my lack of knowledge that I have even the temerity to suggest that.

Senator ANDERSON. We have learned on an interim basis that if we let something do that, that becomes an established right after a while.

Mr. ZITO. Even if you say this is without prejudice?

Senator ANDERSON. That is right. Then after it becomes an established right, ownership comes into it. I do not think you would get a bill like that through the Congress.

Senator LONG. I believe the States should administer leasing, but I recognize that it is not the sentiment of this committee nor the sentiment of the Congress to permit the States to continue any leasing beyond their historic boundaries. Recognizing that, I ask you whether that problem is separable from these other questions of the application of a domestic body of law and the enforcement of certain conservation practices in matters of that sort.

Mr. ZITO. Yes, Senator. I think this: That in the administration of this the laws of the States could be extended. I think probably the leasing could be done by the Federal Government subject to the regulations as they exist or as modified of the littoral States' present practices in connection with those.

Senator LONG. Separating the question of administration of leases and the division of any revenues that might be involved, the body of law that should apply to their citizens while they are working on these fixed structures in the sea is important to the states bordering this property. You have not particularly discussed here the question of enforcement. You have discussed the question of the body of law that should apply. There is a matter of jurisdiction and also the matter of enforcement.

Do I take it from your statement that you would recommend that State law should apply and that the State enforcement agencies should have the authority to enforce domestic law in this area?

Mr. ZITO. Yes. That would be implicit in my thought; namely, that there be a community of regulation and enforcement in this area which is contiguous to the littoral State.

Senator LONG. In that event it would be proper that the State should accept jurisdiction in this area and should designate the particular courts that would have jurisdiction with regard to certain areas which would include the various officers of the court and persons, such as the sheriff, enforcing the domestic body of the law both with regard to violations of law, service of process, and all those things in that area.

Mr. ZITO. I think if that were not the case, there would be chaos and confusion; and I think that the administration of the laws as well as the laws themselves must be uniform, and if not so, we will

really lose one of the great advantages of extension of the existing body of the law.

Senator CORDON. What have you to say with respect to the power of the State of Texas without the constitutional amendment to entertain jurisdiction of causes not between its own citizens arising outside its boundaries?

Mr. ZITO. I believe there is precedent in the Supreme Court for application of the State laws and regulations even to noncitizens insofar as they ascertain to the extension of the land-mass of that littoral State. I believe a case arose in Florida by the name of *Skiriotes* (313 U. S. 69)

Senator CORDON. You mean a sponge case?

Mr. ZITO. No. There was a case divided in the district court of Florida. It was a case involving a noncitizen.

The theory is that, except as modified by legislation and the Supreme Court, that the lands under water but contiguous to the land-mass give certain rights to the littoral State and the rights of regulating the taking of resources from them and that right necessarily gives the police power to that State if there is a valid claim. I have not believed that problem or considered it too carefully.

Senator CORDON. It is one of the first ones that arose in my mind in consideration of Senate Joint Resolution 13. It was just a hasty realization of the abnormality of this problem, the complexity arising by virtue of the peculiar international status of this area that lead me to present to the committee here the idea of divorcing a title 3 from the balance of Senate Joint Resolution 13.

The further I have gotten into the question the more I realize how big a problem it is. But in that connection I was bothered more in my consideration of a provision of law extending or applying State law to an area outside State boundaries. I was concerned more with reference to the constitutional limitations on the State itself as distinguished from any limitation on the United States.

I would like to have you cite me the case you have in question, and I am sure the committee will appreciate any further suggestion you have in that field.

We have a hydra-headed thing here. Clearly the States can have no international relations. Their relation is internationally through the Federal organization. They are going to be in an international field in this matter. Anything that we can do in the legislation that more clearly marks the line of demarcation in this area between subsoil and seas above I think ought to be done. It will be most helpful to this country internationally.

On the other hand, we must know that criminal law is enforceable law. We hit the most technical field of the law when it comes to jurisdiction where every intendment is in favor of the individual and against the Government.

Mr. ZITO. I will be very glad, indeed, of just attempting to criticize objectively what has been suggested——

Senator CORDON. Other than your first criticism, it was an excellent thing. I think you got just a tiny bit off base at first.

Senator DANIEL. He was only temporarily out of the field that his paper was designed to cover.

Senator CORDON. This statement has been excellent for us and it is a valuable contribution. If it is possible to work with the Senate

Legislative Drafting Service, he would be most happy to have any contribution and I know the Drafting Service would appreciate an opportunity to confer with you.

Mr. ZITO. I will be happy for that privilege, sir.

Senator LONG. The right by which the United States asserts its rights to regulate, to lease, and to take the resources of the Continental Shelf according to the President's proclamation is by virtue of the fact that it appertains to this Nation. You agree that the fact of contiguity—or in the alternative, the fact of appurtenance—gives a coastal nation a superior right to all other nations to take the resources that appertain to that nation?

Mr. ZITO. That is right. As a matter of fact, that is the primary basis for exercising that right, the fact that it is contiguous.

Senator LONG. Have you ever advised any nation with regard to its right to extend the boundaries?

Mr. ZITO. Only one, Nicaragua. We included the air, too.

Senator LONG. Do you believe that the fact that an area appertains to the Nation would, by the same token, under our concept of Government, cause it—at least in some respects—to appertain to the coastal State?

Mr. ZITO. I think decidedly so. As a matter of fact—and this is one which is going to leave me wide open—perhaps because I was born in Baltimore, Md., a States right State, is the main basis upon which you could claim the appurtenances would be on the basis of contiguity. Inasmuch as the contiguity is related more particularly to a State than to the United States, I think it vests in that littoral State if not a paramount right to it, at least a greater right than any other State.

Senator CORDON. Of course we have that settled in this matter. The Supreme Court stepped in. I think it made more law than it construed, but be that as it way, it is the last word in the United States.

I will say this: Assuming the United States does nothing in this outer area, there is authority, and the Sponge case was involved, for conservation action and regulatory action by the States in a littoral State, in that land-mass adjacent to it and without its borders. I think the State would be on sound ground there in the absence of any legislation on the part of the United States. It would appear to me to be true even after the three cases of California, Texas, and Louisiana.

Senator KUCHEL. Could we have a little authority for your statement?

Senator LONG. Toomer v. Witsell.

Senator CORDON. The case of *Manchester* v. *Massachusetts* (149 U. S. 240) bears upon it although that was purely fishing. The discussions there were not relevant insofar as they were confined within the district issues.

Senator KUCHEL. They deal with Senator Douglas' charges on the floor it was obiter dictum.

Senator CORDON. There was the Skiriotes case versus Florida, and I do not have the citation. Mr. Zito has indicated another case which I am not familiar with.

Mr. ZITO. I will send the citation to you.

Senator CORDON. Whether there could be a field here for such regulation in the conservation field would be a matter to explore.

That is to say, if the Federal Government did not exclude the adjacent States from any regulation or participation—and I am satisfied it can so exclude, but it did not—there might be a field wherein they could function, and unquestionably the United States could expressly reserve to them such right, assuming these cases clearly determine that in the absence of prohibitory legislation on the part of the Federal Government they had the right.

Senator LONG. Are you familiar with the case of Toomer v. Witsell?

Mr. ZITO. No.

Senator LONG. If I recall correctly, that was a South Carolina case where the State of South Carolina was taxing and regulating the taxing of shrimp. The point was raised they had no right to enforce that law against nonresidents. The Court in that case sidestepped the issue of the State's right to tax shrimp taken by nonresidents beyond the historic boundary of the State, saying that there was no real showing here that the shrimp had been taken beyond the border of the State.

I am satisfied in my own mind that the State was taxing shrimp, that it had been taken beyond the State's boundaries. The Court did recognize certain regulatory powers of a State in the absence of any Federal effort to prevent a State from so regulating the taxing of resources with regard to the shrimp.

Apparently the Court seems to have kept the door open and has been very careful not to limit the possible extension of police powers of the various States of this Nation, as in the Louisiana case where the Court could have decided, had it so desired, that the State had no right to extend its police power and its boundary out 27 miles into the sea; that the Court in that instance said that it had found no need of deciding that question.

Does that suggest to you that there are various reasons apparently taken into the cognizance of the Court that would make it desirable for the States to have police power beyond the historic boundaries?

Mr. ZITO. Yes, sir. I think the courts, in coming to that conclusion, did so in reference to the international principle which really establishes the right to the subsoil adjacent to a littoral State and the current right to police that which is their appurenance, whether it be Louisiana or Texas or any of the States.

Senator LONG. Thank you.

Mr. ZITO. Thank you, Mr. Chairman.

Senator CORDON. The chairman appreciates your coming and will appreciate any further help you may give.

Senator Daniel?

Senator DANIEL. Senator Kuchel and I have a distinguished visitor. He is a constituent of Senator Kuchel. I have worked with him on this Continental Shelf situation for several years. I would like to introduce him to the committee, and if we meet later he can come back and you might want to hear him for 15 or 20 minutes. He has served as chairman of the International Law Association Committee on rights in the seabed and the subsoil, American branch. He served as professor of international law at Stanford University from 1907 to 1944, and has written many papers on the subject.

I have no hesitancy in saying that this gentleman contributed as much toward the proclamation of President Truman and in helping

to bring about this development in international law as any other one man.

This is Dr. Joseph Walter Bingham of California.

Senator CORDON. Doctor, we are very happy to have you with us. I would like to ask if it would be convenient for you to return to the committee room at 3 o'clock or 2:30 for a statement?

Dr. BINGHAM. It would be.

Senator CORDON. Then the committee will recess until 2:30, at which time we will hear Dr. Bingham.

Senator DANIEL. Is he the only witness we have?

Senator CORDON. That is all.

Senator DANIEL. He happens to be here on another meeting. He is only a guest here. Could the committee hear him now?

Senator CORDON. I think we can get through. At this time I will read into the record a telegram addressed to Senator Knowland from H. F. Cary, of the American Tunaboat Association, with reference to the current matter; a statement of Russell Coleman, president of the National Fertilizer Association; a statement of S. L. Nevins, president of the Mathieson Agricultural Chemicals Division, Mathieson Chemical Corp., on S. 1901; and a statement of the Manufacturing Chemists' Association on the same subject, as follows:

MAY 15, 1953.

Hon. WILLIAM F. KNOWLAND,
United States Senate:

Request to ask Senator Cordon to give fishing industry hearing on S. 1901, Continental Shelf bill hearings starting tomorrow. We wish amendment on following lines: "This act shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and seaward of a line 3 geographic miles from the coastline of each State and the title to and ownership of their natural resources and to their free and unimpeded navigation and navagational servitude shall not be affected." This amendment in no way affects California on submerged lands and would free fishing industry of California and Nation from possible damage from misinterpretation of H. R. 4198. This request being sponsored by fishing industries of California, Oregon, Washington, Texas, Florida, Massachusetts.

H. F. CARY, *American Tunaboat Association.*

STATEMENT OF RUSSELL COLEMAN, PRESIDENT, NATIONAL FERTILIZER ASSOCIATION

My name is Russell Coleman. I am president of the National Fertilizer Association, an organization with some 400 members, including all segments of fertilizer production.

The supply of sulfur is a primary factor in meeting the demands of the Nation's agricultural population. Sulfur is a basic, essential element in the manufacture of commercial fertilizers. Commercial fertilizers are essential to our agricultural program whether our problem is a shortage or a surplus of agricultural products.

I should like to call the committee's attention to the following fact:

1. According to the Department of Agriculture, commercial fertilizers account directly for about 25 percent of our total farm production.

2. One ton of mixed fertilizer of average analysis produces either 1,000 pounds of beef: 8,000 pounds of milk; 85 bushels of wheat; 125 bushels of corn; or 2 bales of cotton.

3. Fertilizers enable the farmer to produce more per acre with less labor and at lower per unit cost of production. Without fertilizers, an estimated 50 million more acres in cultivation and 1,500,000 additional farm workers would be required to grow our present crops.

4. At the present time, according to the Secretary of Agriculture, the answer to our agricultural problem "is increased efficiency in production, utilization, and marketing." The proper usage of fertilizer can contribute to these objectives. For example, it has been estimated that American farmers could produce our present corn crop at a savings of $500 million by using the amounts of fertilizers recommended by the State experiment stations.

Sulfur is made into sulfuric acid and sulfuric acid is used to manufacture both superphosphate and ammonium sulfate, two of the more important sources of plant food. The fertilizer industry in recent years, for example in 1950, used about 22 percent of the sulfur and 35 percent of the total sulfuric acid consumed in the United States. Since 1950 because there has been an acute shortage of sulfur, the fertilizer industry has often been forced to cut back its production of vitally needed plant foods without meeting the needs of American agriculture.

It is our understanding that there is pending before your committee proposed legislation which will foster and promote the possible development of additional sulfur supplies and reserves. We further understand that in proposed legislation provision has been made in some of the bills for the granting of leases on submerged land areas for oil and gas but that sulfur has not been included in such leasing provisions.

In view of our prior experience and our knowledge of the necessity for an adequate sulfur supply, we urge that in any legislation relating to the development of the outer continental shelf appropriate and adequate provision be made for legislation whereby there may be no delay in the furtherance of the discovery, exploration, and development of additional sulfur supplies for our Nation.

Again let me emphasize that sulfur is most essential to the welfare of agriculture and consequently it is important to our entire Nation. I do hope that no legislation will be adopted that would deter in any way the development of new sources of sulfur.

STATEMENT OF S. L. NEVINS, PRESIDENT, MATHIESON AGRICULTURAL CHEMICALS DIVISION, MATHIESON CHEMICAL CORP.

My name is S. L. Nevins. I am president of the Mathieson Agricultural Chemicals Division of Mathieson Chemical Corp., and I am very much concerned about S. 1901 because of its effect on sulfur.

As head of Mathieson's agricultural activities, it is my responsibility to produce and distribute materials the farmers need in the way of fertilizers, insecticides, et cetera. It is our estimate that about one-third of all sulfur consumed in the United States finds its way into fertilizers, insecticides, and fungicides, and is used in the treatment of seed, as well as a myriad of smaller special farm uses. Sulfur is not only processed into sulfuric acid to make ammonium sulfate and phosphatic fertilizers, but sulfur itself should be a constituent of fertilizer materials, since it is needed by the plants for producing proteins.

Our company is vitally concerned with the supply of sulfur. It pioneered the development, installation, and operation of plants to recover sulfur from sour gases. Several of these plants are operating effectively today, but the possibility of producing significant quantities with such units is too limited. We have, therefore, been concerned about the supply of sulfur recoverable by the Frasch process, because it is in that source that the preponderant quantity of our sulfur is available.

It appears to us that the requirements for sulfur for the farmer will have to increase. Our population is growing, whereas there is very little available new acreage to develop. The supply of farm labor is decreasing. Fertilizers, therefore, will have to be used in greater quantities to make up for the deficiencies in the supply of acreage and labor, as well as to assist in reducing the cost of farm products to the ultimate consumers. For this purpose sulfur is essential.

I hope, therefore, that S. 1901 will be amended to make perfectly clear that sulfur rights can be leased independently of oil and gas rights. In view of the critical importance to chemical companies, such as ours, of full and active development of sulfur and its ready availability as a reserve, the law should make unambiguous provision for granting independent sulfur rights to persons qualified to carry on prompt, efficient, and economic exploration work. Unless large quantities of sulfur are found and developed to replace deposits now being depleted, this country is going to be in a serious plight and the farmer will not be able to produce the food, feed, and fiber the country will need.

STATEMENT OF M. F. CRASS, JR., SECRETARY, MANUFACTURING CHEMISTS ASSOCIATION

Mr. Chairman and gentlemen of the committee, this association represents a major portion of the basic chemical industry and is therefore vitally interested in the proposed law, S. 1901, which in its present form will affect the development of the mineral reserves under the submerged lands of the outer Continental Shelf in the Gulf of Mexico. It should be mentioned that the chemical industry serves almost every other industry in the Nation, including the growing and processing of foods. The spectacular advances in chemical technology during the past 25 years have made notable contributions to the national welfare and the national defense.

It is not an exaggeration to say that sulfur and sulfuric acid are cornerstones of our present technology and without them our productive capacity, our defense effort as well as our agricultural progress, would be seriously crippled and, in some instances, completely brought to a halt.

Sulfur is a basic chemical element which in one form or another plays a universal and vital part in our industrial and agricultural life. The domestic consumption of sulfur in 1952, exclusive of exports, was estimated to be 3,840,000 long tons. Directly or indirectly sulfur affects the production of most of our manufactured products, medicinals, clothing, and the food we eat. A world shortage continues to exist and it is incontrovertible, therefore, that sulfur is vital both in war and peace.

Unless the proposed bill, S. 1901, is appropriately amended to make it clear that leases for sulfur and other minerals can be made under the bill—and not merely leases for oil and gas alone—there is a very real danger of placing the control of the mineral resources lying under the submerged lands in the hands of a segment of the industrial community interested primarily in the discovery of oil and gas.

Under such conditions it is logical to assume that the search for sulfur and other minerals would be a secondary and incidental purpose; whereas, the national interest requires that, in view of the world shortage of sulfur, exploration and development of potential reserves of this vital element be expedited.

Discovery of these mineral resources requires a great amount of time and specialized knowledge, and it would appear that placing control of these reserves in an industry not primarily interested in expeditious development of the mineral reserves, not only might result in serious delay, but would be against the national interest.

For the reasons above stated, we respectfully submit that the bill, unless amended as indicated above, could not only be highly prejudicial to the chemical industry but against the best interests of the Nation.

We respectfully recommend that the committee endorse a bill providing for the leasing for oil and gas of the lands of the outer Continental Shelf, and providing also for the execution of leases covering sulfur and other minerals. We recommend further that the proposed law make clear that, notwithstanding the existence of leases for recovery of oil and gas, there be specific authority to execute leases covering the same area, during the same periods of time, for the recovery of sulfur and other minerals.

Senator CORDON. Dr. Bingham, it will be appreciated if you you will come up and give us the benefit of a statement.

Senator DANIEL. When I found Dr. Bingham was in town yesterday, I asked him what I thought this committee would like to know about, because it directly concerns what we are doing. Would you tell us what practice the British Government has followed on its adjacent seabed and subsoil as to extending its jurisdiction over it the same as its land territory?

STATEMENT OF DR. JOSEPH BINGHAM, FORMER PROFESSOR, STANFORD UNIVERSITY, CALIFORNIA

Dr. BINGHAM. The British Government, by orders in council, in respect to colonial islands in the Atlantic, including the Falkland Islands, has extended its territory, not merely jurisdictional rights but

its territory over the subsoil of the sea, leaving the sea above it outside of its territory. It is a subterranean extension of territory.

Senator CORDON. A horizontal territory measured at the ceiling by the top of the land mass?

Dr. BINGHAM. Yes, leaving the sea above as "high seas."

Senator DANIEL. What do they call that extension? What do they designate their official action, "annexation"?

Dr. BINGHAM. Yes.

Senator CORDON. How far out have the British indicated that they have so extended their land?

Dr. BINGHAM. To the outer edge of the Continental Shelf. That is the continental method of doing what we did by other methods.

Senator CORDON. The whole problem of extension of that national dominion and control of the land-mass has in the last, let us say, 40 years, been one having almost continuous attention of the Nation, has it not?

Dr. BINGHAM. Yes.

Senator CORDON. There have been groups which have been set up to study the matter and make recommendations. The recommendations by a group in the United Nations are but a continuation of those studies. Is it not true that the United States generally has been rather on the opposite side in that field?

Dr. BINGHAM. You mean as to the Continental Shelf?

Senator CORDON. Yes.

Dr. BINGHAM. No.

Senator CORDON. Has there ever been any case where the United States has indicated concurrence with the extension of any type of sovereign jurisdiction outside of national waters until 1945?

Dr. BINGHAM. I do not get the question. Do you mean extension of territory beyond?

Senator CORDON. Territorial claim to the land beneath the high seas outside of what we have always internationally contended to be the marine limit of national jurisdiction; namely, 3 miles from shoreline.

Dr. BINGHAM. I should say before 1945 or 1947, approximately that with very slight exceptions, no nation has ever done so.

Senator CORDON. When did Great Britain take her action?

Dr. BINGHAM. I would have to refer to the Senator.

Senator CORDON. Has it been since 1945?

Dr. BINGHAM. Senator, will you read the dates?

Senator DANIEL. I have an article Dr. Bingham gave me. The Gulf of Paria was Britain's first extension. That was in 1942. That is the date of the treaty with Venezuela.

Dr. BINGHAM. The British, I think, did precede us by a year or so with one of their extensions, but most of them came after ours. The initiation was ours, and I think the British got ahead of us, knowing we were going to take the step we did. This original idea was an American idea, originally.

Senator CORDON. It was?

Dr. BINGHAM. I think so.

Senator CORDON. I was under the impression that this nation, in its international dealings as a part of its battle for the freedom of the seas—while I have no knowledge of any express declaration with reference to the land under the sea, if I remember correctly, we had one more that had something to do with that in 1612—has been the foremost na-

tion in contending for complete and absolute nonownership of the open sea area, and complete and absolute freedom of passage.

Dr. BINGHAM. I think that has been a general doctrine of all western nations since the Napoleonic wars in which the great naval powers led, including Great Britain, Germany, and Japan, and the United States.

Senator CORDON. Would you say the proclamation of President Truman in 1945, limited in its effect as it was to the land mass under the water and within what is generally known as the Continental Shelf, and further limited to the resources within such land mass, was consonant with its long-established contentions in favor of the freedom of the high seas?

Dr. BINGHAM. Yes and no. It certainly was inconsistent with the general statement taken as an absolute statement, but it dealt with a new situation, a new problem. In that sense it was not inconsistent. As a new problem arises not within the purpose of the original broad declaration, it is taken up as an original, new problem.

Senator CORDON. Have there been other acceptances of it, in addition to that of Britain where the claim went only to the land under the water and not in anywise disturbing the character of high seas of the water above?

Dr. BINGHAM. There are instances which probably were due to British influence in the Persian Gulf, various sheikhdoms there under British influence have adopted similar procedures.

I am not certain in those cases an extension was made of the subsoil. I am not certain but what those cases followed our precedent. My impression is that they followed along the lines of our proclamations.

Senator CORDON. Do you feel as a result of your long studies that there can be a clear demarcation between control of land-mass under the high seas and freedom of the high seas?

Dr. BINGHAM. I think there can be. I think an extension of the subsoil of the Continental Shelf is quite consistent with all the purposes of freedom of the seas. I will illustrate that if I may.

Originally, Grotius advocated that the fredom of the seas and of the subsoil should extend right up to the shoreline. In the progress of time it was found by practically all States that that was not satisfactory and hence we have our territorial waters extending out with no common agreement as to how far they should extend. Furthermore, we have had universal acceptance today of the doctrine that the subsoil under our territorial waters is part of the land of the coastal State.

Senator DANIEL. Meaning nation.

Dr. BINGHAM. It is annexed. Then we get this new problem, again a practical problem confronting the world, the necessity of protecting the development of the oil resources in an orderly way which dictates the assumption by the coastal State of this further jurisdiction. The British apparently are going to claim our method is illegal and theirs is legal.

Senator DANIEL. Is there anything in international law or in our concept of fredom of the seas that would prevent us from following the British method if we limit our extension of jurisdiction or sovereignty to the seabed and what is below the seabed?

Dr. BINGHAM. I do not think there is. I am quite convinced that all the powers interested are going to agree to the extension. There

has been no objection that I know of on the part of anybody. I mean any nation. There has been objection on the part of certain theorists on international law.

Senator DANIEL. Some of the theorists want the U. N. to run it, but they are in the minority, those who want it to be an internationally controlled area.

Dr. BINGHAM. They are in the minority on this question.

Senator DANIEL. In our own present proclamation, have we not asserted some elements of sovereignty over the seabed and subsoil when we assert jurisdiction and control?

Dr. BINGHAM. That term "sovereignty" is a sort of an indefinite term. It is very hard to define. If you mean have we asserted powers of government, yes, we have.

Senator DANIEL. We already have?

Dr. BINGHAM. Yes.

Senator DANIEL. Is there anything in the world to keep us from going on and making it clear that the seabed and subsoil are part of our territory?

Dr. BINGHAM. I do not think there is anything against American policy in our annexing the submarine area.

Senator DANIEL. Has anybody objected to the British annexation of theirr adjacent submerged territory?

Dr. BINGHAM. I do not know of any.

Senator DANIEL. If we should handle the matter in that fashion, would that meet the objections that have been raised by the British to the manner in which we have heretofore handled the Continental Shelf proclamation?

Dr. BINGHAM. We would dispose of their incipient argument which is evidenced by Professor Waldrop's argument, against my contentions, that our method is illegal under international law; that theirs is legal in that they annex by sort of occupation of the area, and that is all right; that we have not occupied it because we claim incorporeal rights and therefore we are not all right.

Senator KUCHEL. Have any nations attempted to annex not only the seabed off their shores seaward of inland waters but the water above the seabed also?

Dr. BINGHAM. No.

Senator KUCHEL. I think the claims of some Latin-American states would extend that. I think what they claim, Chile for instance, would pretty nearly take care of that. They claim to exclude the various purposes.

Dr. BINGHAM. I will not speak with assurance on that point, but their claims do tend in that direction. They tend to be excessive.

Senator KUCHEL. In what manner has Great Britain indicated or exercised occupation of the subsoil in the area which she purportedly annexed? How did she do what we have not done?

Dr. BINGHAM. Simply in her orders in council she claimed to annex the subsoil.

Senator KUCHEL. Annexation is legal; appertention is not.

Dr. BINGHAM. Annexation in the British method is legal. These incorporeal rights, nonterritorial rights outside the limits of the territorial waters, are what Waldrop claims are illegal and not right under international law. I do not agree with him, but that is his claim.

In my opinion we ought, as a matter of security, just conform to what they have done. We have claimed less, they have claimed more. If Britain is willing to stand for more, I do not see any reason why we should not, also.

Senator LONG. What would be the effect of this concept of claiming the subsoil and full ownership when you erect a structure upon the subsoil in order to have a platform above the sea? How would this concept apply?

Dr. BINGHAM. Well, that poses an entirely novel question. One can only speculate about that.

Senator LONG. That is the question we have been struggling with here, the question of State and Federal law on these platforms erected upon the bed of the sea.

Dr. BINGHAM. That is a problem I should say, as far as our domestic law is concerned, would have to be worked out by Congress. It is a political, economic, and social question. That is outside the range of my present ability.

Senator LONG. Could it be treated as though it were an artificial island?

Dr. BINGHAM. I do not think it would be recognized in international law as an island and treated that way. That would involve the question of territorial waters around the island which is denied, of course.

Senator LONG. If you deviated from the concept of the territorial waters, simply say you had the territorial waters around the structure but you claimed the structure itself, just as the bed of the sea was your territory, could you pursue the concept without too much difficulty?

Dr. BINGHAM. I do not think any satisfactory answer can be made to that. My conception is entirely different. Here you have a totally novel problem. It is not an island, not a ship. It is a novel thing. I am quite sure that international law would support the erection of the derrick because the admitted basis of extension is the oil resources and other resources. So you have to have some means of development.

Beyond that, I think you have a practical question that will have to be resolved by consideration of the practical factors. I do not think you get any place by trying to compare it to a ship or island.

Senator LONG. If you erected a lighthouse, international law would recognize that lighthouse as being your territory and property?

Dr. BINGHAM. Lighthouses are generally erected within the territorial waters, and by assumptions these waters over the extraterritorial Continental Shelf would still remain high seas and not territorial waters. That is the novel feature of the problem.

Senator DANIEL. In extending our laws, Federal laws or State laws, whatever they are, would be better off, as far as establishing our claim in international law, to extend land laws as much as possible or laws of the high seas?

Dr. BINGHAM. I should say, as the President advised, that I would be in favor of extending land laws.

Senator DANIEL. To keep the submarine area separate from high seas?

Dr. BINGHAM. As applied to the high seas you could not do that, but as to anything solid, the shelf or anything connected with it, I should say the land laws are to apply.

Senator KUCHEL. That would lead us to ludicrous results. In order to be guilty of murder you would have to take the fellow to the bottom of the sea. If you did it on the surface, you would be faced with another problem.

Dr. BINGHAM. A ship on the high seas, I should think, would be without the scope of territorial jurisdiction.

Senator KUCHEL. Either Federal or State?

Dr. BINGHAM. Yes, because it is admitted the seas are high seas.

Senator KUCHEL. It might be well for this committee to consider having an absence of laws governing what would take place on the surface waters over the outer Continental Shelf?

Dr. BINGHAM. There would not be any absence. I think the present Federal laws would apply to murder on ship on those waters just as on the high seas.

Senator CORDON. Thank you very much, Dr. Bingham, for your presentation.

At this time, without objection, the Chair is going to read into the record a portion of a decision found on page 247 of volume I of the International Comparative Law Quarterly, this being an extract in the case beginning on page 247 which is entitled "In the Matter of an Arbitration between Petroleum Development (Trucial Coast) Ltd., and the Sheikh of Abu Dhabi." The extract is on page 253 and closes in the middle of page 257. This is a discussion of the Continental Shelf question.

(d) The doctrine of the Continental Shelf, its substance and history: The expression "Continental Shelf" was first used by a geographer in 1898. The legal doctrine which later gathered round this geographical term was possibly foreshadowed when in 1942 England an Venezuela concluded a treaty about the Gulf of Paria providing for spheres of influence in respect of areas covered by the high seas and followed by certain annexations coincident with these spheres. The doctrine was perhaps first explicitly asserted as a legal doctrine (in a very exaggerated form) in a proclamation by the Argentine Republic in 1944, but its classical enunciation in the form in which it has mainly to be considered in this case was the well-known proclamation by President Truman of September 28, 1945.

The substance of the doctrine then proclaimed, as I understand it, was this: A coastal power is not surrounded, even at low water, by a precipice leading vertically to the bottom of the ocean, perhaps 2 miles below. As a rule the seabed shelves very gently outward and downward for a considerable distance, a distance generally (but not invariably) exceeding the 3-mile territorial limit. Again, not always but very often, where the sea reaches a depth of about 100 fathoms or (what is much the same thing) 200 meters, the edge of this shelf is reached and there is a more or less abrupt plunge of the land mass down to the ocean floor. The doctrine of the "shelf" as proclaimed in the Truman Declaration of 1945 arrogated to the United States "jurisdiction and control" over "the resources" of the American Continental Shelf which was described as "appertaining" to the United States.

The resources referred to were those of the subsoil of that zone of the seabed which lies between the limit of the territorial waters and the point at which its gently shelving character gives place to an abrupt descent.

Several other states followed roughly on the same course as the United States. For instance, Great Britain (not quite on the same lines) in respect of Jamaica and of the Bahamas, and Saudi Arabia in respect of parts of the Persian Gulf. Other states weighed in with similar claims. These other states fall into two groups: I, Mexico and the Latin and Central American Republics; and II, the states which are most directly relevant in this arbitration—states bordering on the Persian Gulf other than Saudi Arabia.

In almost every case the claim was embodied in a decree or proclamation. Most often, though not invariably, the proclamation was in a "declaratory" form, that is in a form asserting or implying that the proclamation was not

constitutive of a new right but merely recorded in the existence of a preexisting one.

I. The claims of the Latin and Central American Republics were often far more ambitious than those of this country, the United States and Saudi Arabia; inasmuch as on the one hand the former claims were often claims to actual sovereignty over the shelf and its subsoil and on the other hand, and this is more important, the claims were often not limited to the shelf as a geological entity or even to the area ending where the depth of the sea began to exceed 100 fathoms, but sometimes extended to a zone 200 nautical miles from the mainland; an area quite unrelated to the width of the physical shelf. In these exorbitant forms the claims met with protest and resistance; but in the more modest form in which they were advanced by the United States, the United Kingdom, and Saudi Arabia, they were acquiesced in by the generality of powers, or at least not actively gainsaid by them.

II. The British Persian Gulf proclamations: The proclamation of Saudi Arabia was followed in 1949 by proclamations issued by the Sheikhs of the trucial states (or on their behalf by the Government of the United Kingdom qua protecting power) including the Sheikh of Abu Dhabi. All of these last proclamations conform broadly in their terms to the Truman proclamation. They mostly contain recitals on the following lines: "Whereas it is just that the seabed and suboil extending to a reasonable distance from the coast should appertain to and be controlled by the littoral State to which it is adjacent." The Abu Dhabi proclamation of June 10, 1949, provides in its operative part "We, Shakhbut Bin Sultan Bin Za'id, Ruler of Abu Dhabi, hereby declare that the seabed and subsoil lying beneath the high seas in the Persian Gulf contiguous to the territorial waters of Abu Dhabi and extending seaward to boundaries to be determined more precisely as occasion arises on equitable principles by us after consultation with the neighboring states appertain to the land of Abu Dhabi and are subject to its exclusive jurisdiction and control."

(e) Is the doctrine in any of its forms part and parcel of international law? The preceding section calls attention not only to the recent origin of the doctrine but to the great variety of forms which in its short life it has assumed. Some states claim sovereignty over the shelf. Others pointedly avoid doing so, claiming only "jurisdiction" or "control," "appurtenance" and the like. Whatever the scope of the rights claimed, some states assert those rights by declaratory proclamations implying their preexistence; others issue proclamations which are on the face of them a new departure and designed to be constitutive of title. What is the seaward limit of the shelf? Here again the answers given differ. Some states say, "its geological or geographical limit, its 'edge' or its 'crop'." Others (whether because their particular shelf has got no edge and has got no drop, or for other reasons), say, "the point at which the sea becomes 100 fathoms or 200 meters deep"; while yet others say, "a line drawn parallel to the coast of the contiguous power and 200 nautical miles from it." The 200-mile claim seems to be more or less universally discredited. The other two criteria seem on their face much more reasonable. But what is the position where as in the Persian Gulf itself, both of these more reasonable criteria fail us, because the shelf not only has no edge, but extends continuously across a sea whose waters never attain a depth of as much as 100 fathoms? Is it to extend outward to a "reasonable distance" from the coast—the expression used in the recital of the Abu Dhabi proclamation? If so, what is a "reasonable distance"? Where states are grouped, as in this case, round a more or less cylindrical gulf, is the principle usque ad medium filum applicable? How could it possibly be applied in the case of comparably shallow seas of completely irregular configuration, such as the North Sea? Again how are rights of whatever character to the subsoil of the shelf acquired? Can they indeed be acquired at all? Or would their existence inevitably conflict with the "freedom" of the high seas?

Before the doctrine of the shelf was promulgated I think the general answer might well have been that they cannot be acquired at all—that the shelf is as inappropriable as the high seas that roll or repose above it: subject to this reservation, that the seabed (not the subsoil) of the submarine area, is in certain rare cases, subject to a customary right vested in certain states to conduct "sedentary" fisheries in such seabed. For instance, the right to fish for sponges, coral, oysters, pearls, and chank. Indeed, the shallow seas of the Persian Gulf are subject to mutual pearling rights by subjects of the various littoral states. If, however, the submarine area is capable not merely of being the subject matter of these limited occupational rights over the seabed, and pro tanto a res nullius, is its subsoil as a whole res nullius? That is to say, something in which right can

be acquired, but only by effective occupation? Or is the position as the claimants' main argument maintains, that the rights in the subsoil of the shelf adhere (and must be taken always to have adhered) ipso jure—occupation or no occupation—to the contiguous coastal power? Or failing that, if occupation be indeed necessary; in cases where it is almost impracticable, may proclamations, or similar acts be treated as a constructive or symbolic or inchoate occupation (the claimants' alternative contention under this head)?

Conclusion as to doctrine of the Continental Shelf: Neither the practice of nations nor the pronouncements of learned jurists give any certain or consistent answer to many—perhaps most—of these questions. I am of opinion that there are in this field so many ragged ends and unfilled blanks, so much that is merely tentative and exploratory, that in no form can the doctrine claim as yet to have assumed hitherto the hard lineaments or the definitive status of an established rule of international law.

Whether there "ought" to exist a rule giving effect to the doctrine in one or other and, if so, which of its forms is another question and one which, if I had to answer it, I should answer in the affirmative. There seems to me much cogency on the arguments of those who advocate the ipso jure variant of the doctrine. In particular: (1) it is extremely desirable that someone, in what threatens to become an oil-starved world, should have the right to exploit the subsoil of the submarine area outside the territorial limit; (2) the contiguous coastal power seems the most appropriate and convenient agency for this purpose. It is in the best position to exercise effective control, and the alternatives teem with disadvantages; (3) there is no reason in principle why the subsoil of the high seas should, like the high seas themselves, be incapable of being the subject of exclusive rights in any one. The main reasons why this status is attributed to the high seas is (i) that they are the great highways between nations and navigation of these highways should be unobstructed. (ii) That fishing in the high seas should be unrestricted (a policy approved by this country ever since Magna Carta abolished "several" fisheries). The subsoil, however, of the submarine area is not a highway between nations and the installations necesary to exploit it (even though sunk from the surface into the subsoil rather than tunnelled laterally) need hardly constitute an appreciable obstacle to free navigation; nor does the subsoil contain fish. (4) To treat this subsoil as res nullius—"fair game" for the first occupier—entails obvious and grave dangers so far as occupation is possible at all. It invites a perilous scramble. The doctrine that occupation is vital in the case of a res nullius has in any case worn thin since the east Greenland arbitration and more especially since that relating to Clipperton Island. But leaving that aside, it is difficult to imagine any arrangement more calculated to produce international friction than one which entitles nation A, it may be thousands of miles from nation B, to stake out claims in the Continental Shelf contiguous to nation B by "squatting" on B's doorstep—at some point just outside nation B's territorial water limit.

Senator DANIEL. May I read into the record the order of the British Council annexing these Continental Shelf areas?

Senator CORDON. Yes.

Senator DANIEL. They attached them to the local colonies for administrative purposes. The inclusions I want are as follow:

(b) United Kingdom (Trinidad and Tobago): Submarine areas of the Gulf of Paria (Annexation) Order in Council, August 6, 1952 (United Kingdom, Statutory Rules and Orders, 1942, vol. I, p. 919).

Whereas the Gulf of Paria and the adjacent waters are bounded by the coasts of Venezuela and the island of Trinidad respectively:

And whereas the Government of the Republic of Venezuela have annexed to Venezuela certain parts of the submarine areas of the Gulf of Paria:

And whereas it is expedient that the rest of the submarine areas of the Gulf of Paria should be annexed to and form part of His Majesty's dominions and should be attached to the Colony of Trinidad and Tobago for administrative purposes:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Submarine Areas of the Gulf of Paria (Annexation) Order 1942.

2. In this Order the expression "submarine areas of the Gulf of Paria" means the seabed and subsoil situated beneath the waters, excluding territorial waters, bounded as follows:

(a) By the parallel of 10°44′ N. from its intersection with the coast of Venezuela in the Bocas del Dragon to its intersection with the coast of the island of Trinidad;

(b) Thence southward by the coast of the island of Trinidad to Roja Point; 10°04′ N., long. 01°30′ W.;

(c) Thence by the meridian of 61°30′ W. to its intersection with the coast of Venezuela;

(d) Thence by the coast of Venezuela to the point where it is intersected by the parallel of 10°44′ N. in the Bocas del Dragon.

3. As from the date of this Order all the submarine areas of the Gulf of Paria which lie to the eastward and northward of a line drawn:

Point A from a point 10°35′04″ N., 61°51′53″ W.

Point B to a point 10°02′24″ N., 62°05′53″ W. thence along the limit of Venezuelan territorial waters.

Point Y to a point 9°57′30″ N., 61°56′40″ W.

Point X thence to a point 9°57′30″ N., 61°30′00″ W. shall be annexed to and from part of His Majesty's dominions and shall be attached to the Colony of Trinidad and Tobago for administrative purposes, and the said submarine areas are annexed and attached accordingly.

4. Nothing in this Order shall:

(a) Affect, or imply any claim to, any territory above the surface of the sea or any part of the high seas, or

(b) Prejudice any rights of passage or navigation on the surface of the sea.

5. The Governor of the said Colony shall, as soon as may be after the date of this Order, make regulations to ensure:

(1) That the marine areas within the limits specified in Section 2 of this Order shall not be closed to navigation, and that any works or installations which may be erected shall be of such nature and shall be so constructed, placed, marked, buoyed and lighted as not to constitute a danger or obstruction to shipping.

(2) That all practicable measures shall be taken to prevent the exploitation of any of the said submarine areas from causing the pollution of coastal waters by oil, mud or any other fluid or substance calculated to contaminate the sea water or shore line.

(6) His Majesty may at any time revoke, alter, add to or amend this Order.

5. PAKISTAN

(a) Declaration by the Governor-General, March 9, 1950. The Gazette of Pakistan, Extraordinary, March 14, 1950, p. 123.

I Khwaja Nazimuddin, Governor-General of Pakistan, hereby declare in pursuance of clause (bb) of subsection (1) of Section 5 of the Government of India Act, 1935, that the seabed along the coasts of Pakistan extending to the one hundred fathom contour into the open sea shall, with effect from the date of this declaration, be included in the territories of Pakistan.

7. UNITED KINGDOM

(a) British Honduras

(i) British Honduras (Alteration of Boundaries) Order in Council, October 9, 1950. Statutory Instruments, 1950, No. 1649.

Whereas it is desirable to extend the boundaries of the Colony of British Honduras so as to include the continental shelf contiguous to the coasts of the Colony:

Now, therefore, His Majesty, in pursuance of the powers conferred upon Him by the Colonial Boundaries Act, 1895, and of all other powers enabling Him in that behalf, is pleased by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the British Honduras (Alteration of Boundaries) Order in Council, 1950.

2. The boundaries of the Colony of British Honduras are hereby extended to include the area of the continental shelf which lies beneath the sea contiguous to the coasts of British Honduras.

3. Nothing in this Order shall be deemed to affect the character as high seas of any waters above the continental shelf and outside the limits of territorial waters.

(*b*) *Falkland Islands*

(i) Falkland Islands (Continental Shelf) Order in Council, December 21, 1950. Statutory Instruments, 1950, No. 2100.

Whereas it is desirable to extend the boundaries of the Colony of the Falkland Islands so as to include the continental shelf continguous to the coasts of the Colony:

Now, therefore, His Majesty, in pursuance of the powers conferred upon Him by the Colonial Boundaries Act, 1895, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Falkland Islands (Continental Shelf) Order in Council, 1950.

2. The boundaries of the Colony of the Falkland Islands are hereby extended to include the area of the continental shelf being the seabed and its subsoil contiguous to the Coasts of the Falkland Islands. The boundary of such area shall be from a position on the 100 fathom line 110 nautical miles 023 degrees true from Jason West Cay (the Westernmost of the Jason Islands, latitude 50 degrees 59 minutes South, longitude 61 degrees 27 minutes West approximately), following the 100-fathom line as shown on Admiralty Chart No. 2202B round the northern, eastern, southern, and western sides of the Falkland Islands to a position 20 nautical miles 278 degrees true from Jason West Cay, thence by a straight line crossing in its narrowest part the area where the depths are less than 100 fathoms, in a 032 degree true direction for 115 nautical miles to the starting point.

3. Nothing in this Order shall be deemed to affect the character as high seas of any waters above the continental shelf and outside the limits of territorial waters.

Senator CORDON. The committee will now recess until 10 o'clock Monday morning.

(Whereupon, at 1 p. m. the committee recessed, to reconvene at 10 a. m., Monday, May 25, 1953.)

OUTER CONTINENTAL SHELF

MONDAY, MAY 25, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committe met, pursuant to call, at 10:15 a. m., in room G–16, the Capitol, Washington, D. C., Senator Arthur V. Watkins presiding.

Present. Senators Guy Cordon, Oregon (acting chairman); Arthur V. Watkins, Utah; Thomas H. Kuchel, California; Clinton P. Anderson, New Mexico; Russell B. Long, Louisiana; and Price Daniel, Texas.

Also present: Senator Spessard L. Holland, Florida; Kirkley S. Coulter, chief clerk; Stewart French, staff counsel; and N. D. McSherry, assistant chief clerk.

Senator WATKINS. The committee will come to order.

We will proceed with the hearing on S. 1901, the matter pending before the committee. Senator Cordon is tied up in an Appropriations Committee hearing, and he asked me to take over this morning. That is the reason I am presiding.

The first witness is Gov. Robert Kennon of Louisiana. May I say, Governor, that we are very happy to have you here to testify on this very important matter.

STATEMENT OF HON. ROBERT KENNON, THE GOVERNOR OF THE STATE OF LOUISIANA

Governor KENNON. Thank you, sir.

Senator WATKINS. You may proceed.

Governor KENNON. I think first, Senator, I should express my personal gratitude, and the official gratitude of the State of Louisiana, to the committee for the very thorough manner in which the former bill was handled, Senator Holland's bill.

I consider that considerable progress has been made on this matter of offshore lands and I believe the Senator was wise and the Congress was wise to get the principle set up and the recognition of the States' rights to the offshore lands and which, incidentally, seem to have been settled on the Pacific coast and the Atlantic seaboard.

Now we have the Gulf States left on the outer Continental Shelf.

Incidentally, Louisiana and Texas seem to be the principals concerned. The activity is mostly in Texas and Louisiana. I am here because I want to cooperate fully with the committee. We have had the attorney general and a member of the department of conservation and the Louisiana officials generally on standby and really because we do feel in all modesty that we have lived longer with the Continen-

tal Shelf than anybody else. We have been more active out there than anybody else. We are probably in a position to give you more of the actual information about what those who shall pursue the oil activities will have confronting them in the years ahead.

I come to the committee in a spirit of cooperation and in a spirit of giving you Louisiana's experience as well as our viewpoint. I feel that the Federal Government in extending the United States boundary into the Gulf of Mexico, according to the Presidential proclamation of 1945, did a wise thing and I think that Congress has done a wise thing in asserting the Federal title to the Continental Shelf.

The question now to be considered, which I think is urgent, is by what means and by what methods shall Congress set up in administering Federal jurisdiction over the Continental Shelf. The State of Louisiana feels, and I think that the other States will join in it, and Federal agencies have felt it in times past, that the logical thing to do is to assign the State portion of jurisdiction, those functions that have always gone with State government, to the adjacent States. I believe the admiralty lawyers call it the littoral States. It is a word we never use in Louisiana, even in the law books, but the border States, the adjacent States do.

Senator WATKINS. I think you will be using a lot of new words in connection with the recent acquisition of the United States of the underwater land out 200 miles farther that we have recently taken over.

Governor KENNON. We feel that a proper action has been taken in not taking over the navigation rights of the high seas, so that we will not get into international complications and the so-called 3-mile rule and freedom of the seas principle we are leaving free for international purposes.

Louisiana, even within the historic boundaries, has never conceded we want any right to control navigation or get into any international complications at all. We simply want to control those things that go with the shore because the people live out there and work out there and have existed and been in and out of there over the years.

Senator WATKINS. In other words, you would not want to take off a bit more of a bite than you can chew and run the high seas, too?

Governor KENNON. Yes, and for international purposes we would not desire to have States do anything which would be inconsistent with the international purpose of the United States, the obligations of the United States and the high seas travel and as far as that is concerned with any proper Federal law. Our hope is that the United States Congress will decide and pass legislation setting up the underwater lands, the submerged lands as a portion of the United States just like it has the other Federal territory. If you must own the property, the royalty rights to the submerged lands, then it can be done in the same orderly way that was done in connection with the oil rights to Barksdale Field, a military post in the State of Louisiana which the State of Louisiana deeded without cost to the Federal Government in 1931 or 1932.

Now, you own those mineral rights and you are producing oil in Barksdale Field, 22,000 acres. It is 3 or 4 square miles of territory that you administer for all military post purposes and produce oil on it. We do not feel that there would be a lack of Federal law on the Continental Shelf but there should be the same coextension of

Federal-State jurisdiction that there is anywhere else in the United States.

Senator WATKINS. Do you have any question as to the legal complication that might grow out of the State exercising police powers beyond its historic boundaries? I wonder if you have ever considered that question.

Governor KENNON. The question of historic boundaries is one that has not been settled in court. Congress has set up the rules by which these boundaries will be set. Of course the boundaries have not been set either by agreement between the State and the Justice Department or by the Supreme Court of the United States. What those historic boundaries are, I do not know. Frankly, I am still of the opinion that it is not inconceivable that the Supreme Court may ultimately decide that the historic boundaries of the State and Nation are coextensive. I do not have a contention to make on the matter at this time.

Senator WATKINS. I get from that that you have not abandoned the hope that Louisiana may eventually own clear out to the end of the Continental Shelf.

Governor KENNON. Yes.

Senator WATKINS. But when it comes to the operation of it, it is a different question? The reason I asked the question, some of the lawyers are somewhat troubled over the proposition that a State ordinarily cannot exercise its police power beyond its boundaries. There is some doubt whether the United States can even delegate to the State the power to use police powers and other activities beyond the State boundaries. I wonder if your attorney general or your legal adviser had ever gone into this particular question.

Governor KENNON. In 1950 there was adjudicated between Louisiana and the United States the question of ownership of submerged lands. The Supreme Court in that case stated that Louisiana's extension of its boundary out 27 miles strengthened the Federal claim to land out that far——

Senator WATKINS. That is not the point.

Governor KENNON. And refused to say that the State civil laws did not apply.

Senator WATKINS. May we assume for the purpose of this statement, that there is an area of Federal jurisdiction, over and beyond what Louisiana will claim. It is this area of undersea lands, over which you want to take jurisdiction, apply your conservation measures, and take under the control of the State for and in behalf of the Federal Government. Is there an area out there that you concede does belong to the United States over which you are not claiming anything?

Governor KENNON. Assuming for the purpose of this discussion that there is an area over which the State at this minute has no jurisdiction at all and over which the Federal Government has complete jurisdiction, then the Federal Government has the right and the obligation to set up the civil law that shall apply.

Now, Senate bill 1901 provides, I believe, certain admiralty-type laws that will apply to original jurisdiction of the United States civil courts, the United States district courts. Now, the same authority, the same right by which the Federal Government can set up the means of civil jurisdiction currently described in Senate 1901 would give

them the same perfect right to say that Louisiana law would be applicable to the lands beneath the Continental Shelf. Then if you made that solution of it, all of the detail would be automatically worked out in advance, just as England, I believe, in connection with the submerged lands off its possessions stated that the laws of the adjacent possessions would apply.

Now, if the Congress can then say that the Federal maritime law would apply, it could say that State civil law could apply because you are taking a body of law and apply it to this new Federal land.

Senator WATKINS. There would not be any trouble about saying we can adopt civil law and put it out there. The question I am raising, which you apparently have not answered, but maybe intend to, is, Can the State of Louisiana, living within its constitution, go out there and police under the civil law, or any other kind of law that we adopt for the area, and take over the management? In other words, Can a State go outside of its area to administer laws that may be prescribed by the Congress of the United States? Of course, the other question is, Can the United States itself delegate the power?

Now, that may be only of academic interest. I do not know. But the question has occurred to me and several others that I know of and some members of the committee are wondering about it. We thought maybe you would have anticipated the problem. Are you a lawyer?

Governor KENNON. Yes, I had the pleasure of serving on the Louisiana Supreme Court at one time and 10 years on the appellate court of Louisiana.

Senator WATKINS. I should not have asked it, I should have known more about you.

Governor KENNON. I claim no special knowledge of law. I only claim I have been exposed to it over a number of years.

Senator WATKINS. As a supreme-court member you must have had to go a little further than that. But we will expect you to discuss that point if you care to do it.

Governor KENNON. I do not put myself in a better position than Senator Daniel who represented the State as Texas attorney general, but I can say that Louisiana, at least the Thirteen Original Colonies were sovereign States at the end of the Revolution without limit on power and they are still sovereign except what they gave up under the Federal Constitution. Under our concept of law and under the treaty with France, the new States created out of the Louisiana Territory came in as sovereign States in the same relative position as the Original Thirteen States.

Now then, Louisiana as a sovereign State has as much right as the Federal Government has to extend its jurisdiction, if you admit that we are sovereign, less what we conceded in the Federal compact.

Now, if the Federal Government has a right, as it did by proclamation of 1945 under the last President's administration and as has been done in the Holland bill, if the sovereign United States extends its authority legally, why, then the sovereign State of Louisiana can extend its authority legally with the single limitation that our extension of authority is with your permission. And as a partner with the Federal Government in the proposed bill, we have not the same authority to extend State jurisdiction, civil jurisdiction, by permission of the Federal Government as a partner of the Federal Government

as the Federal Government had authority to extend its jurisdiction in the 1945 proclamation and in this recently passed bill and in Senate 1901, because we are just as sovereign as the United States subject only to the paramount rights of the United States by virtue of the Federal Constitution and by virtue of your senior position and by virtue of the fact that what Congress says and the Supreme Court upholds becomes the law of the land.

Senator WATKINS. Congress said in this Holland bill in effect that the States do not own any of that land beyond the historic boundaries.

Governor KENNON. Yes.

Senator WATKINS. How can you expand into that?

Governor KENNON. Because we are a sovereign State subject only to the Federal Constitution. If the United States can extend its civil jurisdiction as it has done over this Continental Shelf, a sovereign State can do it. We are just as sovereign as the United States, subject to those limitations that we gave up when we joined the Federal community.

Senator WATKINS. That would be your interpretation that the constitution of Louisiana would permit you to pass acts authorizing your public officials to administer any act that might be requested by the Federal Government?

Governor KENNON. Yes.

Senator WATKINS. In other words, it takes special legislation.

Governor KENNON. We already have that legislation.

Senator WATKINS. How far out do you go?

Governor KENNON. 27 miles.

Senator WATKINS. Yes, but we have to go 200 miles.

Governor KENNON. If you can see, sir, in the foreseeable future, this Continental Shelf goes to the extent of 50 or 60 miles. And in most instances 20 to 30 miles. In fact, that 27½ miles takes care of the current development and the development currently in prospect.

Senator WATKINS. Louisiana, at the time it passed this law, took in everything there was to take.

Governor KENNON. We took in all the paydirt.

Senator DANIEL. Everything in less than 60 feet of water.

Governor KENNON. Distance is not the criteria. If we can go 27 miles, by the same rule we can go 47. I tell you now, as long as I am Governor we will go just as far as the Federal Government. We will hold your hand and wade just as deep as you dare wade.

Senator WATKINS. I think I agree with your last statement that you probably will. We can concede that much.

Governor KENNON. And we have done it since 1938. Now, we waded out 27 miles before you people thought about it and we lived out there and carried on production and——

Senator WATKINS. Who was it tipped off Mr. Ickes?

Governor KENNON. Now, when we first had experience with Mr. Ickes, he said it was ours. Senator, if you had lived in Louisiana and been on the courts over the years and seen all development come, you would understand that the Federal Government is no different from individual human beings. They will let title to land lay quiet over the years and someone will come in and take over the family homestead and take a deed and take care of the old folks. That will go on for 20, 30, 40, 50 years, but once oil is discovered, why then, heirs will come back from all over the United States and assert claims and say,

"All the time we never intended for you to take over that land. We own our share in it."

I should not even comment on it, but it just happens to be that the Federal Government's particular interest in these offshore lands came along after the oil development.

Senator WATKINS. It probably is only coincidence.

Governor KENNON. Yes, for 100 years we have controlled and lived with that land. There has been no question, no concern of the Federal Government, but that we should not exercise not only jurisdiction but jurisdiction exclusive of the Federal Government.

Senator WATKINS. You should have kept it secret for awhile about the oil. I think you made a tactical error when you let Mr. Ickes know about it.

Governor KENNON. While we are on this point, I might say—there is nobody here but us——

Senator WATKINS. I think we have about nine representatives of the press, and they are going to keep it secret, too.

Governor KENNON. I will say this, that the prior Presidents were concerned with the laws of the New Deal and in late years Perlman was their prophet, and Mr. Perlman in discussing the testimony before this committee and before this same committee in February when the other bill was up, stated the position of the—I do not want to say the grasping administration but the former administration that took over by Executive proclamation these lands and who by lawsuits took away the States rights right on down to the actual shoreline; but even that administration conceded that it was proper that the State exercise the control of the people out there because under our Federal concept of government, the good of the people, the laws of marriage and divorce and crime, and old age and laws of mortgage and of securities, of commerce, and the relationship of parent and child and even the right to vote subject to the Federal constitutional amendments, were all set up by State statutes.

The Constitution stated all should vote for Members of Congress and I presume in the amendment of 1914 for Members of the Senate and for the most numerous house of the State legislature, and the Federal Government in its wisdom and our Founding Fathers in their wisdom have always held that the mechanics of living in the communities of America should be handled by State law and State statute and State constitutional setups.

I would like to tell this committee that there is an actual living community going on in these offshore lands at this moment and has been for maybe more than 150 to 200 years in this land off the coast of Louisiana. Even though you may be 20 or 30 miles off the coast, if you were to open up with an antiaircraft target practice you would probably kill people who would not be engaged in high seas traffic; they would be in shrimping boats——

Senator WATKINS. There is a distinction when operating out there for purpose of fishing. You do not mean they have established communities our there in the sense they have on land?

Governor KENNON. Yes, sir, you will find on stilts built out there actual living conditions. Men go out and live for 6 days and sleep. They have radios and television.

Senator WATKINS. They have families?

Governor KENNON. No, sir.

Senator WATKINS. No schools?

Governor KENNON. No schools. They come back to us when it comes time to support their needs.

Senator WATKINS. In other words, it is within the State boundaries of Louisiana?

Governor KENNON. Yes, they actually live, turn on the radio, go to sleep, drink their coffee, play their card games——

Senator WATKINS. They would do that even if they were on a ship out there sailing back and forth.

Governor KENNON. Yes, but there are whole communities of them living on stilts- and pile-driven camps. I have actually lived out there. As a matter of convenience, since I testified last before this committee, I have been out there fishing, caught a half tubful of land-type fish 14 miles off the shore of Louisiana, slept there 2 or 3 nights in a regular building you would not recognize as being any different except for the hearing of water at night. It makes you think it is raining, and you sleep better. There are hundreds of people there and all day boats will come in and out for supplies. They will bring in the Halliburton-people who are going to test a well, they will bring in the conservation people.

I make the point that you have a community of living people out there at this moment and have had for many years. There are so many complications that would come up here. I would become subject to Louisiana law.

Senator WATKINS. Have you checked the admiralty law, are you acquainted with it to know what kind of government they would have under admiralty law?

Governon KENNON. I know enough to know, like I know about calculus, it would be complicated. I do not know calculus but I know it is a complicated subject. One that would take me months to learn.

Senator WATKINS. The Federal Government has complications.

Governor KENNON. If we had to use admiralty law, I know it would be extremely troublesome. I read an admiralty lawyer's testimony before you. Yousay the law of mortgages on admiralty would apply to these offshore developments. One of their rules is until a ship is completed, it cannot be mortgaged, it is not subject to admiralty law. Those derricks and installations for drilling take weeks and months to complete a dozens of people working on them before they are completed. Life is lived on them from the time the first piling goes down.

Senator WATKINS. You do not mean to say that the banks will loan money on a wildcat, and not on some other security the operator puts up?

Governor KENNON. I can say this, the moment you start any oil operation the workmen involved in it and the suppliers of material file legal liens and assert rights to be paid on the structure on which they furnish material and do their work.

Senator WATKINS. Do you not have under admiralty the same thing?

Governor KENNON. They do have one but again they say it does not apply until completed. I got that from the admiralty lawyer's testimony.

Senator WATKINS. They would not be losing anything if they did have security on a well sunk there with oil in it. It would not make any difference.

Governor KENNON. Over half of them do not have oil in them.

Senator WATKINS. I know, but there would not be anything they could recover on even if they did have a mortgage. What is the advantage?

Governor KENNON. It takes some months to find out whether they have oil or not. We enforce our liens while they are still hopeful. In other words, that derrick has a value until it is dry.

Senator WATKINS. You gave a lien on the derrick as well as the well itself?

Governor KENNON. Yes, on everything that a man builds. If a man builds a house, he has a lien. If he builds a derrick platform, he has a lien. It gets him his money even though the thing may result in a dry hole. It has a value in the minds of the people until the dryness is discovered and then it still has a commercial value and we assert our liens even though it may not be completely constructed.

Senator WATKINS. I can see, in the interest of employees living in the State of Louisiana and business people doing business with these folks, the necessity to have your State law.

Governor KENNON. If admiralty law had no provisions for liens until it was completed, it would prevent the orderly commercial development.

Senator WATKINS. You do not think they would develop this under the admiralty law?

Governor KENNON. At least it would be complicated and give a lot of new lawyers a lot of new business. There are not a dozen of us in Louisiana who know anything about admiralty law.

Senator WATKINS. We can send some from New York.

Governor KENNON. It would be a kindness to them because they would learn how to live in Louisiana because it is a wonderful experience.

Senator DANIEL. May I interrupt 1 minute there? It has been testified before this committee that all of these operations have to be carried on from shore. The companies have their headquarters at shore and the workers live at shore and they work out there on the water. Do you not think that it would be fairer to the operators of the leases and the workmen to have the law that they know and that their lawyers know on the shore apply to this area just off the shore?

Governor KENNON. Senator Daniel, it would be so helpful, for this reason, too, that you have conceded that there is a State line, the State goes out for a certain distance.

Senator WATKINS. That was the historic boundary?

Governor KENNON. Yes. For instance, the Texas or the Pure Oil or Humble—Humble would be different from Texas, Humble and Texas would be different types of companies—but they would have operations in our marshes, they would have operations in our inland waters that you have conceded would have the same personnel conducting operations in the Continental Shelf and a workman gaging wells in the course of a day's work would gage three sorts of wells. There would be no line on the water. You would have the complication of a workman subject to Louisiana compensation laws checking these

two wells and when he gets to the third well out there he would be subject to the Longshoremen's Compensation Act, and if he got hurt betwixt and between, it would be like the time the horse in the Kiplinger story was stolen. The horse was lost between the dusk and dawn. People would not be able to say just where he got hurt if he got hurt on a ship and maybe no compensation law would apply.

It would be complicated to have one set of laws at some indeterminate sea boundaries in operations that are continuous in their scope and the same people operating. Then, Senator Daniel, on the question of people, our oil operations take dozens and hundreds of people, it is one of the biggest interests in the oil-producing States.

Senator WATKINS. What is one of the biggest industries?

Governor KENNON. The oil industry.

Senator WATKINS. I thought you said something else was one of the biggest industries within the oil-producing States. I was wondering if Government was one of the biggest operations.

Governor KENNON. Too much so. I sincerely do favor less government.

Senator WATKINS. Here you are willing to take on a lot more for Louisiana.

Governor KENNON. I just do not want 2 governments to act when 1 can do it. Why have 2 sets of officials and laws?

Senator WATKINS. You will find out if the Government takes it over they will not let you go on beyond whatever the historic boundary happens to be.

Governor KENNON. Yet the oil producers will have dual people to deal with. My workmen are going to live with me.

Senator WATKINS. Now, some of them produce in Texas and Louisiana and they have 2 sets of officials to deal with.

Governor KENNON. Yet the workmen who come in and build those derricks and drill those wells are going to live with us in Louisiana.

Senator WATKINS. They might go back to Texas.

Governor KENNON. During that period the bulk of them will live, and the offshore operations will be conducted, I believe, from the shore. You are going to use hundreds of boats that come back in to base and the crews of those boats will be Louisiana residents for the time, if not legal citizens. We have to administer those people. On Saturday night they are going to boil over and the police and sheriff and criminal courts will come into being.

Consider the schooling, the old-age pensions, the complications that may come from marriage and divorce and children, the use of the roads. Heavy equipment is not going to be brought from Europe and South America. I hope we keep control over it, whether the Federal Government is exercising its rights, whether we be partners with you or not, but the heavier equipment carried out there will go over our roads. and maintaining roads in south Louisiana is difficult. The foundations are floating. You remember the Imperial Hotel was built in Tokio on floating foundation. Our roads in Louisiana were built with great difficult with enough foundation to hold heavy equipment and that heavy equipment will move over our roads down to the embarking points. There will be supporting buildings and camps, they might call it, a base in Louisiana on which these offshore operations must be based and to which the oil in turn must be brought. It

is physically a part of Louisiana's life, its people and laws and its physical structures and governmental structures like its schools and roads and charity hospitals and pension system.

Louisiana has the most liberal system of the charity hospitals in the world. We are building a $10 million charity hospital in Shreveport; we have a charity hospital setup in New Orleans that represented cost in the millions.

Senator WATKINS. Did you finance those by taxation?

Governor KENNON. Yes, sir; and we finance schools by taxation. We pay our school teachers the best in the South, maybe well up in the Nation, all of which comes incidentally from oil taxation. Without the oil, we would not be able to do that so well. But the life that is lived in Louisiana is necessarily tied in with offshore operation. In bad weather there will not be a dozen people out there. They have been living with us, although they will be in the Federal part of the gulf, and when bad weather comes they will come into camp and shore and all the boats will be towed into the Louisiana shores. We will be the harboring point, the mother, nest, support, and base for all of those operations. They are tied into Louisiana. I would just hate to think that even though you set up in detail admiralty law and special Federal jurisdiction, there would be so many conflicts come up, and we would not know and the poor workman would not know what his rights were and what law would be applicable and our State courts would be continuously passing on cases as to whether or not they had jurisdiction.

Then they would be continually taking the risks of the Federal court saying we had exceeded our jurisdiction. It would certainly not be for orderly and convenient and expeditious handling of those offshore developments for you not to take advantage of the setup of the dual system of laws that we have lived with since revolutionary days or since 1789, the beginning of our present Federal Government.

If you remember Washington's statement about the conflict of laws between the States, he was very pessimistic about governments in America on account of the overlapping trouble of State governments under the confederacy, under the articles of the confederation—I do not want to get into the 1860 confederacy—but after the Constitution was adopted, they at least put up definite rules. There were not too many borders. I would be sincere in telling this committee to let that Continental Shelf be a part of the United States of America. You have said so. Let it be a part of the United States; let it be also a part of the several States adjacent to it. If you will do that, sir, it would just end countless arguments and avoid the beginning of many, many troublesome arguments and discussions and sources of friction between the operators and their workmen and between the operators and the State of Louisiana.

Senator WATKINS. If the United States followed the program you are outlining here, suppose there were put into operation the Mineral Leasing Act, as it has in the rest of its States, would you then come in and claim 37½ percent of the money derived from the royalties on these lands?

Governor KENNON. Senator, I believe that would be controlled by the statute itself because the only claim of the Western States to the 37½ percent is the grant set forth in the statute.

Senator WATKINS. We have one deeper than that. It goes further back than that. We figure that the United States owns this property in trust for the people of the States and not for the whole country. That is the theory out West, the forests and all, and they have been following that theory pretty closely over the years. Much of the income from the Federal Government over and above the cost of the administration of public lands goes back to the States by statutes already enacted. I am wondering if your folks would then come in and claim "This is Federal domain out here, undersea land, and since they are giving the other States the income, or at least a good part of the income, from it, we ought to have it, we also in addition to the reclamation States."

Governor KENNON. The other 62½ percent goes for the direct benefit of the 17 reclamation States.

Senator WATKINS. Your State I understand is in no need of irrigation down there. I think you have more water than you know what to do with.

Governor KENNON. Yes, but we can use money to keep that excess water out.

Senator LONG. As a matter of fact, just this year Louisiana protested against the Federal Government expending $100,000 in our State for reclamation surveys. We have always objected to becoming a reclamation State, feeling that our problem was one of flood control and navigation, generally related to too much water.

Governor KENNON. Regardless of what you gentlemen pass in Congress about the civil jurisdiction, certain people in Louisiana are going to feel always that the continental shelf appertains to America and Louisiana and we will always be hopeful of getting 37½ percent. That is without reference to what law may be passed at this session of Congress and it may that in 50 years or 100 years there will be a more generous Congress—I certainly would not want to say a more just Congress—that will recognize that 37½ percent.

Senator WATKINS. Of course, it would not be fair to try to classify you one way or the other on that question.

Governor KENNON. You people have been very generous in passing the Tidelands legislation. I think the Supreme Court was a bit, to say the least, not particularly generous in taking property rights and mixing them up with paramount rights. With the little knowledge that I have and with the study I have made, I do not know that I am in complete agreement on their original decision which gave the Federal Government title to these lands. At least you have given back to the States something of what they lost by that judicial decision. You have indicated a certain generosity and the Members of the Senate and two-thirds of them, I believe, almost voted that way, have certainly shown they would be for principle even though the benefits were to a very limited few.

I have a great deal of faith in this committee, and as I have watched the progress of these committee hearings, I believe this committee is making a really intelligent approach and an unselfish approach to the problem by the members of the committee from the interior States, in drafting legislation that will sort of permanently settle this problem and be fair to the country and fair to the coastal States. I am not urging before this committee a 37½ percent claim. I am not urging

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before this committee at this time anything other than that you give us a bill that we can live with, that will recognize the actualities of life out there on that Continental Shelf and that I believe will bring about immediate and fairly complete development of the oil resources which I think are needed by the Nation as a whole as well as by our border States.

Senator WATKINS. I know that you are not asking for anything at this time. I also know that you are not in any way setting up anything that might foreclose you from claiming it in the future.

Governor KENNON. I would have no right to do that, sir.

Senator WATKINS. The position of the States on this matter, referring to the question I asked you regarding the attitude, may have some effect on many Members of the Congress. If they thought probably that the States, by reason of the fact that their jurisdiction was extended out there, later on will use that as a basis for an argument to claim certain interests in the products and the production from this area, they might be a little bit reluctant to extend that jurisdiction because of what might happen in the future.

Governor KENNON. If you gentlemen saw fit, could you not provide, as you probably will, that the State laws apply as long as they do not conflict with Federal law and not cut off yourselves from the future. If this system of State administration does not work, why, a future Congress could apply Federal laws as they deem expedient. The Federal laws are paramount to State laws anyway.

Senator DANIEL. I want to say, Governor Kennon, that I think Senator Watkins has put his finger on the real objection and the only one I can think of that has been raised for the first time in the Congress toward extending State laws over the area. I have found Members of the Senate who are worried about extending State jurisdiction because, though no percentage of the revenues are given to the States now, they are afraid it will set up a pattern and make it easier for the States to get a percentage of revenues in the future. Therefore, I have heard some Senators who really are wed to the system of dual sovereignties and States rights and local self-government, say they are not inclined to allow that system to apply to this land. They prefer to set up a permanent and exclusive Federal system of laws for the first time in the history of our country adjacent to a State. Now, do you not think that there is some way that the Congress could make it clear that it was not setting any such pattern for participation in future revenues simply by extending State governmental powers in local matters?

For instance, when New Mexico was admitted into the Union the Admission Act contained this provision:

> That the people of such States forever disclaim all right—

that is, New Mexico and Utah, according to this Law Review article—

> and title to all unappropriated and unclaimed lands lying within their boundaries.

It would seem to me it would be an unfortunate thing if the decision as to what governmental powers should apply to this area is made on the basis of who within the United States might get the revenues. Is it not true that there is another consideration to keep in mind? If you do not make this land a part of the United States, if you treat it out here as area of the high seas, is it not possible that there is a chance

for foreign nations to claim some of it? They would not claim it if we brought this in as part of our own territory, the seabed and subsoil.

Governor KENNON. We are internationally minded and in spite of the fact that the Senate rejected the League of Nations under Woodrow Wilson and despite the fact that there is considerable interest now in our limiting the treaty-making power of the United States to things that are not inconsistent with the Federal Constitution, there is a tendency to go international. We are entertaining three-quarters of the United Nations in New York and the United States is one nation that pays liberally to all of the suborganizations of the United Nations. There may come a day when we may submit this whole question of the Continental Shelf to an international tribunal, and in that case the lack of concurrent State jurisdiction, the lack of the recognition that this is a part of the adjacent States as well as a part of the United States would have a tendency to weaken America's title.

Senator WATKINS. Of course, we have already decided that question in the Holland bill, as between Louisiana and Texas and any other State.

Governor KENNON. Except that you have stated that you have taken nothing away from us inside our boundaries.

Senator WATKINS. I do not think we have taken anything away. We have recognized your ownership and your rights in the land out to the historic boundaries. But we have not recognized any rights of any State in the land that the United States claims beyond that area under the sea.

Governor KENNON. Except possibly, Senator Watkins, that there are two kinds of ownership, the civil jurisdiction and ownership. You have not yet said that the States do not have the right of civil jurisdiction or the right of police power over those lands. They could belong to the United States in fee and still be for administrative purposes the property of the United States jointly with that of the individual Sates.

Senator DANIEL. Actually, that is not two types of ownership but that is ownership in the Federal Government plus governmental power, which is the second right you are talking about, is it not, Governor?

Governor KENNON. Yes. You have declared that the fee title, Senator Watkins, is 100 percent in the Federal Government, but you have not yet declared that the civil jurisdiction is not concurrent, first 100 percent with the Federal Government for Federal purposes and second, whatever percentage under the State government for the exercise of State governmental purposes.

Senator WATKINS. Let me read section 9 of the Holland bill:

> 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 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.

Governor KENNON. Yes, and yet that limits and doubly describes the natural resources. We concede for the purpose of this discussion that the United States has 100 percent complete control of the natural resources, fee title, and exclusive right to explore. Yet the question of civil jurisdiction can be 100 percent in the United States and at

the same time subject to the State sphere to State jurisdiction because you have much property in the United States that is 100 percent fee owned by the Federal Government and controlled by the Federal Government, like an Indian reservation for all of its purposes, of which a State has no share at all or possibly some Federal installation or military or of park nature, that the State still has civil jurisdiction over.

Senator WATKINS. The State does not have civil jurisdiction over an Indian reservation.

Governor KENNON. No, sir. How about a national park?

Senator WATKINS. That is another matter. I think by law we probably permit State police powers.

Governor KENNON. At least it could be done without violence to the established legal concepts, that we could have the same legal police power that we might have in a Federal park.

Senator WATKINS. I think the United States, if it has the power under the Constitution, can delegate to the States the powers to take over this situation, if your State constitutions permit. But that gets us right back to those two legal questions which of course we may never be able to solve, at least conclusively in this committee or in the Congress itself. But it is an interesting question because of the new situation that has been created of developments out in the area of the high seas. I mean underwater developments and discovery of resources which have raised an entirely new question. I can imagine it will be raised all over the world. Whatever we are doing here is likely to be the pattern for other nations to extend their ownership and control and development to the seabeds off their coast if they can discover anything worthwhile.

Governor KENNON. If the Senator has read the Norwegian fisheries case decided by the International Court in recent years, that court took into consideration the right of the nation to extend its boundaries as Norway did, that the domestic life and the economic use of that offshore territory by the residents of the adjacent territory was a factor and gave the nation a legal claim and upheld Norway's claim to some fishery territory pretty far out on the theory it had been tied in over the years with the economic life of those people. And Louisiana has physically used this territory over the years, not for oil purposes but for general purposes. When the wind is from the north and the tides are out, little pieces of land stick themselves out, oyster reefs, and so on, in this territory and 20 miles out and more. Louisiana has lived with that. It is really a part of the shore life of the people there. I think that strengthens the Federal claim. I believe that if you will make us partners you will strengthen the Federal claim.

Senator KUCHEL. Governor, I would like to ask two or three questions about the outer Continental Shelf, which for the purposes of my questions I would like to define roughly as the area lying seaward of the historic boundaries of the States and extending to the outer edge of the submerged land area.

Did I understand you to say, Governor, that with respect to any oil production in the outer Continental Shelf the lien laws of the State of Louisiana applied today?

Governor KENNON. We certainly assume that they do. We do apply them and I think the companies have not or the workmen have not thought of any other possibility. Although, Senator, I do not know of the actual application. I could not give you the suit numbers, but that is my conception of it. I think that is correct.

Senator KUCHELL. Governor, would you say with respect to the outer Continental Shelf area that the conservation statutes of Louisiana are likewise being applied to the production of oil on the outer Continental Shelf?

Governor KENNON. Yes, sir, by State act in 1938 we extended our State boundary and our State jurisdiction 27 miles out, and that includes locations of all present production.

Senator WATKINS. As you said before, you thought you had gone as far as there was any oil.

Governor KENNON. Yes, sir, and if there had been any production or activity more than 27, we would have made it more than 27 in 1938. If you gentlemen permit us, and we can do it consistent with the Federal laws, we will go out the rest of the way, whatever is necessary.

Senator KUCHEL. Now, would you say that as to the penal statutes of Louisiana, they likewise are being applied today on the outer Continental Shelf with respect to the commission of any crime in that area?

Governor KENNON. I do not know that that issue has been presented in the reports of any law case that I have read. When I was speaking of penal and compensation laws just now I was thinking mostly of the activity of those people as they come in shore on the Saturday nights that they operate; that the burden of the criminal administration of the people themselves is mostly on the State of Louisiana. I do not know that we have any criminal trials. The fact is with their work they do not have too many crimes. We have not had serious crimes out there.

Senator KUCHEL. Now, with respect to the taxation laws of the State of Louisiana, are they being applied to any property or improvements in the outer continental shelf?

Governor KENNON. The conservation laws have been applied, and I presume Mr. Hussey would know better on that. I presume our oil production taxes have been applied. As far as taxing, any ad valorem tax on the machinery itself is concerned, we have made no effort to go out and put those people on any particular assessment rolls. You have to be within a parish to be on the assessment rolls, and I do not think that has been done offshore.

Senator KUCHEL. So that the taxing jurisdiction has been applied only with respect to what I suppose could be defined as the severance of the State of Louisiana in the outer Continental Shelf area?

Governor KENNON. That is my impression, subject to the fact that I have made no actual investigation. I believe that is correct.

Senator WATKINS. You tax the oil after it is produced?

Governor KENNON. Yes, sir, as any other oil. The question of allowables comes in and the Connally Hot Oil Act. Almost physically we have to control our oil because it comes into our shores. We have measured it. No one has complained. The companies have been apparently glad to follow our allowables law.

Senator WATKINS. By reason of the fact that you claim it, of course they had to take that in the absence of anything to the contrary.

Governor KENNON. Yes; and we have a State law that the Supreme Court of the United States let go by without killing when they could have. It has been tacitly recognized even by the Supreme Court of the United States.

Senator WATKINS. Of course there might be a difference of opinion on that. I know no court will pass on a matter that is not of record before them. It does not mean by failure to do that that it approves anything, as I understand it.

Governor KENNON. Yes; and yet the Federal representative suggested they not hurt us, as it had some acquiescence from the Federal Government.

Senator WATKINS. It may have. Now, the statement was made a few moments ago about the method used by these people to bring their equipment in. That is not the only method of getting equipment in there. They can come in by ship.

Governor KENNON. Yes; but it is the method currently used. No equpiment has come in except through Louisiana, I do not think.

Senator WATKINS. If it is Federal territory and they wanted to escape Louisiana taxes, they could certainly unload by ship by these piles or these piers they build out in the ocean.

Governor KENNON. It must start at some shore line. It would be certainly uneconomical to bring it up from South America or Cuba.

Senator WATKINS. Certainly the manufacturing outfits could ship it to a port and load it on a boat and get it down there without going through Louisiana at all.

Senator DANIEL. May I interject an observation? I regret to hear you make that argument because it is in line with the argument of the people at these international law meetings who think the U. N. ought to control the land and that it ought to be international territory, because they say it can be developed by ships coming in without any connection with the shore. I believe as a practical matter most of the experts in the field of international law agree with the theory that Governor Kennon has expressed that you do have to have operations from the shore. As a matter of fact, President Truman's proclamation is based on the fact that cooperation from the shore is essential.

Senator WATKINS. Of course, Senator, what we are trying to do is determine which policy to follow. It is my job to get as much information from witnesses as I can, even though I have to ask them sometimes some embarrassing questions and put it in an argumentative way. What I am trying to get is information for the United States Senate. I have not indicated yet which way I finally will go on this question. It is suggested that the admiralty law is to apply under Federal jurisdiction. We have the counterproposals from the States that the States be permitted to extend their civil authority and we authorize that type of thing, and that is the question before us.

Governor KENNON. As a witness, I would like to invite comparison because I believe that a logical comparison would result in a decision in favor of the border States and in favor of American ports.

Senator WATKINS. I agree with Senator Daniel; I am not trying to give aid or comfort to the people of the U. N. who would like to take over the United States by the indirect route.

Senator KUCHEL. Then, Governor, we have a situation where the State of Louisiana has exercised jurisdiction over an area outside its boundaries (1) in the field of conservation legislation; (2) in the field of business law at least to the extent of applying the statutes relating to liens.

Governor KENNON. Lien, workman's compensation, pensions. We have taken State unemployment-compensation insurance out of their wages, I am sure.

Senator KUCHEL. And (3) taxing jurisdiction at least to the extent of applying the severance tax of your State.

Governor KENNON. Yes.

Senator KUCHEL. Now, I have been interested in obtaining for the benefit of the committee the authority on which that type of jurisdiction would be available to a coastal State such as Louisiana because here we are proceeding to deal with a question of how property should be administered which at least appertains to the United States if it is not, indeed, actually owned by the United States. Now, with respect to that property on a legislative question, your recommendations are, I think, generally, that the conservation statutes of the abutting States should apply; and in view of what you have just suggested is the case today, I take it that your suggestion would be that they continue to be applied in that area—that other, to use your phrase, civil jurisdiction of the abutting States be made to apply.

I wanted specifically to ask, Is it your further recommendation that the taxation jurisdiction of the abutting coastal States likewise be made to apply?

Governor KENNON. Senator, that should not be the controlling factor and it certainly would be within the discretion of the United States Congress to place taxing limitations on the States' authority in the outer Continental Shelf. Certainly, it is a matter of equity and a matter of simplicity.

My humble suggestion would be that that whole territory should be considered a part of the United States of America and part of the adjacent States just as if it always appertained to it just like the rest of the United States of America in due course; nothing new, no sudden new title that the United States has developed or that the States have developed. You can recognize we have gone out 27 miles and made that area a part of Louisiana, and as a part of Louisiana, it is part of the United States, and that you give normal complete jurisdiction subject to such limitations as the Federal law may see fit to put on us, as you have a right to do. That can extend to taxes as well as the Secretary of the Interior's complete right to lease and control.

Senator KUCHEL. Governor, in view of that comment, would it be fair to say that your recommendation would be tantamount generally to adding to the boundary of each abutting State the property which now is in the outer Continental Shelf? Would that be a fair statement?

Governor KENNON. Yes. I have this one qualification: I think when you add it to the United States as President Truman did and as the Senate Holland bill did, you automatically under our system of law virtually do that.

Senator KUCHEL. You suggested that the Holland bill has virtually done that.

Governor KENNON. It did not say that the States could not exercise civil jurisdiction; it held that the natural resources belonged entirely to the Federal Government. But the Holland bill was silent on what would happen to people that live out there in regard to their family relations and things of that sort. It did not exclude Congress from giving civil jurisdiction to the State. It says the natural resources and control of them would be as Senator Watkins read.

Senator KUCHEL. But you do not suggest as of this moment that the Congress of the United States and the Government of the United States has ceded any type of jurisdiction over the outer Continental Shelf?

Governor KENNON. No, sir; but I would suggest that it is still in suspense that if a workman were hurt out there this morning, he could come into a State court and get his 400 weeks' compensation and the United States Supreme Court might uphold that decision.

Senator KUCHEL. On that point, if it were possible for this committee to have any legal authority by which you, in the instance of Louisiana, would sustain that position, I would certainly like to have it. This is a new subject. I will readily confess complete lack of understanding of the legal background of it. I must say that if you ask me the question whether or not a State could exercise any jurisdiction outside of its boundaries, I would say "No," in my judgment it could not. I will concede to you I might be wrong and I would like to be enlightened on that, Senator. By the same token the United States cannot exercise any jurisdiction beyond its boundaries; can it? The Federal Government cannot go beyond its boundaries and exercise jurisdiction.

Senator WATKINS. We do sometimes.

Governor KENNON. Of course, on the high seas.

Senator WATKINS. Well, our embassies.

Governor KENNON. Except subject to general international law.

Senator WATKINS. We did in China, too; we had some territories.

Governor KENNON. Yes; there were treaties there. But in general you have no right to apply Federal workmen's compensation laws to the middle Atlantic or Pacific.

Senator WATKINS. We do on Federal vessels or vessels registered in the United States.

Senator LONG. In that case the law of the domicile of the owner of the vessel is the law that applies to all domestic matters.

Senator DANIEL. Mr. Chairman, may I read a sentence from the case of Skiriotes v. Florida that bears Senator Kuchel out, also bears out the power of the State to do like the Federal Government. It says, and I am quoting from page 77, *Skiriotes* v. *Florida* (313, U. S. Reports):

> If the United States may control the conduct of its citizens upon the high seas—

which the court says it may—

> we see no reason why the State of Florida may not likewise govern the conduct of its citizens on the high seas with respect to matters in which the State has a legitimate interest and where there is no conflict with acts of Congress——

Senator KUCHEL. That is, citizens.

Senator DANIEL. That is correct—

> save for the purposes permitted by the Constitution to the Union, the State of Florida has retained the status of a sovereign.

So it puts them in the same capacity as long as the State is not conflicting with the Federal law.

Senator LONG. The bill we have before us at the moment is a bill that prohibits anyone except the United States citizens from being on one of these platforms. Now, obviously, the United States would have jurisdiction in that respect. But we are contending that it does not make good sense that inasmuch as all these people would be Louisiana people, generally speaking, and for the most part should be subject to the domestic law of Louisiana, yet beyond the 3-mile limit you would have 48 different bodies of law applicable if we apply maritime law which would mean the law of the domicile of the owner of the "vessel" would be applicable to domestic matters.

It would be more reasonable for the local State law to apply, and the States should also have the power to enforce those domestic laws for the benefit of their citizens.

Governor KENNON. I would like to finish answering your question because it certainly is a basic one.

As I remember, your question is this, upon what authority did Louisiana exercise taxing power in, say, 1937 and 1940, 1945 and on up to the present day, which we have exercised?

Senator KUCHEL. Up to 1947 and possibly to 1950 I would have no question because had I been asked prior to the Supreme Court case, I would have said that in my judgment you had complete unquestioned jurisdiction to the extent that the laws of your State so provided. It is only subsequent to that time that I would want to have any available authority given to us. I think the lawsuit, the decision which Senator Daniel has suggested, bears on the case. But I would confine my question to the present moment. In other words, the authority under which a State would exercise the several types of jurisdiction which you have outlined in an area outside the boundaries of the sovereign jurisdiction of that State.

Governor KENNON. Senator, I believe there is a distinction in your question at this moment because the Supreme Court decision gave the fee title to the land beneath the waters to the Federal Government.

Senator KUCHEL. I would deny that.

Governor KENNON. Well, the Supreme Court decision, though, specifically said——

Senator KUCHEL. No, sir, except paramount rights.

Governor KENNON. At any rate, the Supreme Court decisions specifically left unskilled, unstopped, the exercise of State jurisdiction. It stated in the opinion that it was good for America that the State had gone out there, strengthened the American claim. It made no comment on whether or not Louisiana had been legally exercising civil jurisdiction over that area.

Senator KUCHEL. Although in the case of my own State of California and in the case of Louisiana it held in each that your State and mine had no title to any of the land seaward of inland waters.

Governor KENNON. But did not mention that we had any civil jurisdiction.

Senator KUCHEL. No, sir, it was silent on that point.

Governor KENNON. And we have been exercising it unquestionably since 1947. We have State law that sets it up. We are sovereign except what we have given away to the United States under the Con-

stitution. I think as a matter of necessity when our people go out there and they do live out there by the hundreds and dozens, they are out there at this moment by the hundreds, that we certainly would be derelict in the duties of our citizens if we did not control them and police them.

Senator KUCHEL. If the Congress, and I do not know if it would, but if the Congress did accept your suggestion to increase the jurisdiction of the abutting States into the Continental Shelf, do you think the Congress would be guilty of a giveaway program?

Governor KENNON. Not at all. They would simply recognize something that has already been going on. With all due deference to the Supreme Court in my humble opinion anybody can make a mistake and the fact that sometimes they go 4 and 5 in decisions indicates that it is not unholy to be wrong because 4 of the judges are wrong by the judgment of the other 5 in some cases. I still think your idea of the law is better than that of the Supreme Court and that it may ultimately prevail in the Supreme Court of the United States in a hundred years from now.

So if you recognize in the Congress the fact that the United States will let the States continue to do what they have done over the years—we have not felt guilty of anything since 1937, I feel innocent now, I feel I am doing a good thing for the Nation and for the oil companies and for the oil-company employees and for the dozens of people that work out there. They have little boats that go out there everyday to bring bread and supplies and the various services that go out there and the workmen, I feel like if we did not extend our civil protection to them and the benefit of our conservation laws, pension laws, police protection, storm warning, and Coast and Geodetic information and that thing, we would be quitting people in need.

If the United States gives jurisdiction to the States, it will be recognized in actuality. It will be following the international principle that was followed in the Norwegian case that when something is tied up economically with offshore land that the citizens of that territory and the sovereign government of that territory acquires, it gains the international community and in all law there is the right to do that thing, because they have in fact and of necessity exercised that right in the area.

Senator KUCHEL. Just one more question, so I understand:

Your recommendation would be that complete State jurisdiction be given over the outer Continental Shelf abutting coastal States? Would that be your recommendation, Governor?

Governor KENNON. Provided it be exercised in a manner not inconsistent with present or future applicable Federal laws, just that it be part of the United States subject to the rights of Congress as the rest of the State of Louisiana is subject to it. I believe that would be a simple solution of it. No one could complain about it. It would be logical. It would bring in a minimum of complication. You would get instantaneous continued development out there because we have had development out there under State law, and you would continue to get development out there. Did you know now that there are large installations producing oil in that territory, and the pile construction is heavy enough to include a half-dozen tanks that contain a thousand barrels of oil each, and little living structures and so on, out beyond the boundaries as determined in the Holland bill?

And those people are living there today at this minute. The little boats are going there, and people are measuring the oil there. I have seen them personally bring their clothes and change their laundry. It is a natural living situation going on out there, that has been existing under State law for many years. It would be a jolt to say, "This is part of the United States; that United States law will only apply."

Senator KUCHEL. Suppose, for example, that the bill before us were to provide that all laws of the abutting States in the field of conservation, in the field of workman's compensation, in the field of business laws generally should apply to the area, but that no laws relative to taxation of the abutting States should apply, would you find fault with that approach?

Governor KENNON. Senator Kuchel, I just could not believe that the Congress would take the position of Scrooge in Dicken's story. I feel that the United States policy is pretty well set up. I say you get a much more orderly business development. If that is the best thing you can do, that would be the proper thing to do.

Senator WATKINS. Suppose we follow the line that has been advocated by the States of Louisiana and Texas, and give the authority to those States to administer civil law and criminal law in that area, how do you expect to be paid for your work? That is brought up by Senator Kuchel's question on taxation.

Governor KENNON. The only way you could do it and get it settled and not have arguments forever would be to follow the general recommendation set up by the prior administration.

Now, a bill was worked out—I am reading from testimony that was before the Subcommittee No. 1 of the Committee on the Judiciary of the House of Representatives of the 81st Congress in the 1st session, which contained the following section regarding police powers of the taxation on page 9 of these hearings.

Senator ANDERSON. That was a Democratic Congress; you are perfectly safe.

Governor KENNON. And one more disinclined to State rights than this one. I take the position that States rights have now a little bit new flavor; the new look is on in the Government more so than it was in the 81st Congress.

Senator WATKINS. You think at the present time it is more favorable to States?

Governor KENNON. Yes; I cannot concede, Senator, you all doing less by us than our former husband, which we did not like in lots of ways. We thought he was niggardly. If you would provide for us less than he did, we are going to be sorry we divorced him and married you.

Senator WATKINS. This law was enacted at this session of Congress. This will be effective within a very short time. We have to know what we are going to meet and what we are going to put in this bill to pay whoever administers the law out there. How do you want to be paid?

Governor KENNON. Senator, I suggest that we consider that the House of Representatives has twice passed a bill with this section in it.

Senator WATKINS. I know it; but what is yours?

Governor KENNON. I would say that this is a logical solution; it is one I would say that has been passed by half the Congress—I do not know whether the House is half of the Congress or not. It is like

a man and his wife. I do not know how you work it in seniority, but it has at least been passed by a portion of the Congress. I would recommend this and take responsibility for saying that this is a solution that we could live with, and I believe the Americans would like it.

Senator WATKINS. That the State of Louisiana would favor?

Governor KENNON. Yes.

Senator WATKINS. That you would recommend to the State as Governor?

Governor KENNON. Yes.

Senator ANDERSON. What is it?

Governor KENNON. This was a bill, a proposed bill.

Senator WATKINS. Wait a minute. You said the Congress had twice acted. Read from the bill that the Congress twice passed.

Governor KENNON. That is the information I got generally.

Senator DANIEL. Only the House.

Senator ANDERSON. Did it pass it now?

Governor KENNON. I do not know. Is that right, Senator Daniel?

Senator DANIEL. I have not heard what you are going to read.

Governor KENNON. H. R. 5992 of the 1st session of the 81st Congress. That is sufficient to describe something, I trust. Now, section 3——

Senator LONG. Was that recommended by the previous administration?

Governor KENNON. Yes; this was, as I understand it, a compromise that was offered by the previous administration to the tideland States as they call them.

Senator LONG. It is my understanding this was a bill recommended by the administration at that time.

Senator ANDERSON. I want the bill that passed the House twice, that you are saying is your position. Are you now reading from a bill that passed the House twice?

Governor KENNON. I am reading from H. R. 5992.

Senator ANDERSON. You said there was a favorable position taken by the other House, that it passed the House twice. Give us something that passed the House twice.

Governor KENNON. All right, sir. I am giving you something which I was informed passed the House twice and which I know is H. R. 5992 of the 81st Congress and which I recommend.

Senator WATKINS. Let him go ahead and answer.

Governor KENNON. Senator Anderson may be right.

Senator LONG. Might I point out we are talking about 2 or 3 different things right now. The Governor made the statement that a provision passed the House twice that he is referring to, referring to the Walter bill which included the right of the State at that time to receive 37½ percent of the revenues plus taxing power on the Continental Shelf. The Governor was referring to the fact that the previous administration had made a recommendation that he regarded as more favorable than the present administration is recommending and that recommendation is contained in the bill to which he is referring.

Governor KENNON. Senator, you are more familiar with what passed the Congress than I am. I do not contend it passed the House. I know it was considered by the committee.

Senator ANDERSON. You will be shocked when you read your testimony.

Governor KENNON. I said I was informed that it had. I still say I was informed this morning, informed that it had, not by anyone who was in a position of authority. Most of what I tell you I do not base on my knowledge of the record.

Senator WATKINS. What I am trying to get is the position of the State of Louisiana on a very practical question connected with this legislation. Now, I do not care whether it passed or not. That is immaterial. What we want is your position as Governor of the State, because it will probably be within a matter of weeks when the Congress will have to determine how to act if we follow the lines advocated by the two States. Give us your position. It does not make any difference whether it was passed or not passed, as far as I am concerned on the answer I want.

Governor KENNON. At this time I will say this, that in view of the current congressional situation, I would recommend to this committee that they follow the language of section 3 of House Resolution 5992.

Senator WATKINS. Please read it.

Governor KENNON. First session of the 81st Congress, to wit:

Jurisdiction over submerged coastal lands:

(a) It is hereby declared to be the policy of the United States that the natural resources of the subsoil and seabed of the submerged coastal lands appertain to the United States and are subject to its jurisdiction, control, and power of disposition. Except to the extent that it is exercised in a manner inconsistent with applicable Federal laws and regulations, the policy power of each coastal State may extend to that portion of the Continental Shelf which would be within the boundaries of such State if extended seaward to the outer margin of the Continental Shelf. The police power includes, but is not limited to, the power of taxation, conservation, and control of the manner of conducting geophysical explorations. This act shall be construed in such manner that the character as high seas of the waters above the Continental Shelf and the right to their free and unimpeded navigation, not be affected.

Senator WATKINS. If you adopt that, then you are willing to take your compensation through the taxes which you would be permitted to impose on the property out there?

Governor KENNON. Yes; and consider that as a fair settlement for the exercise of governmental functions on the theory that it is a part of the United States and part of the State of Louisiana just like the rest of Louisiana's territory. And that would certainly be an equitable and a solution that would not require a lot of argument. If you make any other percentage or equitable reimbursement provision, it will be a subject of trouble over the years.

Senator WATKINS. You do not mean to say that you have a proposal now that will not require a lot of argument?

Governor KENNON. I believe so. I will say that this should provoke no more argument in Congress than any other solution and it would provoke less litigation. It would be indicative of less trouble and less litigation and less impediment to the continued orderly development of the resources of the Continental Shelf.

Senator WATKINS. I was trying to limit your answer to this question of compensation the State of Louisiana would expect to have if we adopted the policy of extending jurisdiction of your civil and criminal laws down there.

Governor KENNON. I think that would be competent and equitable compensation to the States of Louisiana and of Texas and of any other coastal State, and I take the responsibility in speaking for the handling of civil jurisdiction in the Continental Shelf.

Senator WATKINS. Suppose we excluded taxation from the bill and extended jurisdiction in other ways, what then would you think would be equitable as a method of compensating you if we cut out the taxation idea?

Governor KENNON. I just do not see how you could do it because it would be practically impossible to measure the extent of cost. For instance, if people are out there developing the Continental Shelf, they are in Louisiana to live and the man has a good wife but she has a sorry brother, he commits a murder, then $10,000 or $20,000 of court costs in the county would enter in. There would be no way of setting a measure of what it cost to administer a huge industrial development by the community.

Incidentally, this would be without cost to the Federal Government. If you adopted any other policy, the Federal Government would be out of pocket under this settlement. The people who developed the shelf would pay their just taxation and the same share they paid for the development of the adjacent field just inside the Federal portion of the Continental Shelf.

Senator WATKINS. I had in mind the statement of awhile ago when you were describing the advantages of taxation to the people and schools and that sort of thing. You said most of that you get from oil taxes.

Governor KENNON. All the oil taxes go to schools and are a major contribution to the conduct of the school activities from year to year. Under our Louisiana system the local communities build the schools, but the State furnishes virtually the bulk of the operating cost and that comes from oil taxes.

Senator WATKINS. If the taxing theory you advocate is followed, would you not be in favor of putting some limit on it?

Governor KENNON. You would always have the right to exercise a limit if a limit were needed.

Senator WATKINS. Not if we extended jurisdiction under that kind of law. I doubt if we could very well repeal that section.

Governor KENNON. You still have control because you have in the bill "except to the extent it is exercised in a manner inconsistent with Federal laws." You would maintain ultimate control under this section.

Senator WATKINS. I can readily understand if you had unlimited taxation you could very well make up for what we did not give you in the Continental Shelf simply by the taxation route.

Governor KENNON. Yes, except you can understand that we have oil development all over Louisiana and no one has complained. The companies are willing for this. I know that the representatives of the various operating companies have no objection to this type of clause in the present law.

Senator WATKINS. They might not have. It would probably be easier on them if they had a lot more oil to bring under this taxation. They might not have to pay so much, you might cut rates. Because you will not have any roads to build out there, you will not have a lot of things to do out in that area. The taxation, even at your present rate, would pay far more than the cost of administration you would have to take on by our giving you jurisdiction of that area.

Governor KENNON. Yes, but every nickel of that goes to the schools. We take the position that we should be just as fair to the outer Conti-

nental Shelf as we should to the inner Continental Shelf and the rest of Louisiana. We have lived in peace and harmony with our oil-producing interests during all the years that oil has been produced in Louisiana.

Senator WATKINS. I am not trying to criticize your present taxation system at all. What I am pointing out is a matter of legislative knowledge that we must have. We should know something about taxation and the limit to it, what you are actually going to have to spend in a measure for the full execution of that program, and for what reason you ought to be paid for it if you are going to take over part of the United States, which you claim is not part of the State and which you acknowledge is not part of the State. If we are going to hire you to do the job, we ought to know what we are going to have to pay, whether it is through taxation or any direct appropriation.

Governor KENNON. Under this theory, you would only permit us to charge the same as you would charge us to use the rest of our State-supervised territory.

Senator WATKINS. I can understand you could limit taxes on the farm property and soak the oil, if that was the advantageous thing to do.

Governor KENNON. We would be willing to be limited. I will tell you this, there will be no inclination on the part of Louisiana to impose ad valorem taxes in such areas.

Senator LONG. Our constitution does not permit that as far as the oil and gas industry is concerned.

Senator WATKINS. Of course, that could be changed. Our own Constitution is changed whenever we find it convenient to do so.

Governor KENNON. I would like to put it on this basis, and I believe it is the best basis to put it on, that this Congress give a sort of full faith and full credit and full competence to the coastal States of California and Texas and Louisiana and maybe Alabama and Mississippi and Florida and the eastern seaboard States will come in, maybe the Great Lakes States will have production of this sort, that they simply express full confidence and without going into all of the sort of stingy and parsimonious details we have with each other that you advise the State and say the offshore territory is part of the United States and part of the adjacent State and the laws of the United States will apply to all of it and the laws of the adjacent States, so far as they do not conflict with Federal laws.

Senator WATKINS. We are now attempting to pass a Federal law. We want to know what we should put in it. If we do not find a policy here, it may conflict with some of the things you would like to do.

Governor KENNON. We think under present conditions that we would settle for this as being the most logical thing for you to do.

Senator WATKINS. That is a matter, of course, for the committee to decide and I have been provoking the discussion to get your point of view on just what you would expect to have as a compensation for the expense you have by taking on this job.

Governor KENNON. We do have.

Senator DANIEL. May I ask a question as to why, since 1950, Governor Kennon, since the Supreme Court decision saying that Louisiana did not have any ownership of this land within your 27-mile boundary,

you have continued to exercise your police powers, conservation laws, and other governmental functions?

Governor KENNON. We are exercising at the minute, we have been exercising over the years, and the same necessity prevailed that those people have to be taken care of. Certainly, those men who work on the outside are entitled to be paid workman's compensation, unemployment benefits.

Senator DANIEL. Did any agency of the Federal Government ever object to your doing that?

Governor KENNON. No, sir, they rather encouraged it.

Senator DANIEL. You referred to a statement from Solicitor General Perlman in which you said he encouraged the exercise of State police powers in the area. Are you going to introduce that to the committee?

Governor KENNON. I will be glad to.

Senator ANDERSON. You go ahead, because he has denied he has made these, and I will be interested in having you read this.

Governor KENNON. This is from the stenographic transcript of the hearings before the Committee on Interior and Insular Affairs of the United States Senate, volume 8, dated February 25, 1953.

Senator ANDERSON. How does it apply to this?

Governor KENNON. Senator Long asked Mr. Perlman this question:

Is there a good reason in the public interest why the States should be able to exercise certain powers over this land, particularly with regard to the taking of shrimp or fish or sponges or kelp, sand, and gravel; things of that sort?

Mr. PERLMAN. I have always thought so.

Senator LONG. In one instance your testimony was certainly as favorable as even the present administration with regard to the States, in that you stated before this committee that you had argued with regard to the Texas and Louisiana cases that the Court should not decide against the States on their legislation to extend their boundaries, on the ground that it perhaps might be in the public interest for those States to exercise police power in the area beyond their original boundaries. Could you elaborate upon that as to some of the considerations involved?

Mr. PERLMAN. Senator, Louisiana undertook to pass acts extending its boundaries, I think a distance of 27 miles. In the case of Texas there were several acts passed, and the last one undertook to extend its boundaries to the edge of the Continental Shelf. Those acts were mentioned in the litigation before the Supreme Court, and we took the position with the Supreme Court that we did not ask the Supreme Court to pass on the validity of those acts.

I may say, I may have some doubt as to their validity, but we did not think it was necessary for the Supreme Court, in adjudicating the rights of the United States in the subsoil of the marginal sea, to deal with this legislation.

The reason, as you know, that we took that position was that we felt it would probably be in the best interests of the States and the Nation, under existing circumstances, not to interfere or attempt to interfere with that legislation, because there was no other adequate means of policing these areas, of exercising police powers and regulatory powers that did not interfere with any activity or projected activity of the Federal Government.

Senator ANDERSON. What does that show about the desires of the Federal Government with reference to any of the bills about which we have been having discussion?

Governor KENNON. It rather answers the Senator's question as to why we exercised that jurisdiction. It is because nobody else had exercised it, and that we always had exercised it. And now we ask you in the present legislation to recognize what has always been going on and to continue to let the State do what it has done over the years.

Senator ANDERSON. Until the Supreme Court acted, but when the Supreme Court decision went down, it completely changed the situation.

Governor KENNON. No, sir; he said that in the Supreme Court argument he did not ask them to pass on that question. He said:

> The reason, as you know, that we took that position was that we felt it would probably be to the best interests of the States and Nation, under the existing circumstances, not to interfere or attempt to interfere with that legislation, * * *."

He felt it was not bad for the Nation for somebody to care for and regulate those activities.

Senator DANIEL. My question to you is why you have been regulating them since the decision in 1950. You have been regulating them since 1950?

Governor KENNON. Yes.

Senator DANIEL. That testimony was given this year.

Governor KENNON. Yes, sir; February 1953.

Senator ANDERSON. It relates to what they were doing in 1947.

Governor KENNON. The Supreme Court itself in the opinion handed down in the Louisiana v. United States case indicated that it would not pass on legislation. I will not say it recognized it, but at least it lost an opportunity to declare it invalid, and the United States did not ask them to declare it invalid. I take it it is being defacto, it is good to have. We have been going ahead on it in good faith. Frankly, I feel the Congress in its wisdom is going to keep on recognizing it.

Senator ANDERSON. Yes; but have you been talking about Scrooge being the Federal Government. You testified about H. R. 5992. Would it be out of order to remind you that 5992 never got out of committee in the House, not only did not pass the House twice but never got out of committee in the House?

Governor KENNON. As I say, I made it very plain that I do not know that it passed the House.

Senator ANDERSON. I am trying to acquaint you with the fact. It was the Rayburn compromise. Now, the information is that it had the support of the administration. Has that been denied?

Governor KENNON. It what?

Senator ANDERSON. That it had the support of the administration.

Governor KENNON. No, sir; as I get it, it never had the active support of the Truman administration. It was proposed by the Truman administration, as I get it, that if the coastal States would settle for that, they would be willing to have it, but they did not offer it unless and until the coastal States agreed to accept it.

Senator ANDERSON. At one time they would have been glad to accept maybe three-sevenths of the first 3 miles and let the States have that if the Federal Government had all the rest of it, but I do not believe the States were willing to accept that. Would you take part of the compromise proposal and ignore the rest of it?

Governor KENNON. I was not connected with the State government of Louisiana until May of 1952.

Senator ANDERSON. I want to get to this Scrooge business. Who is collecting severance tax down there; is the State of Louisiana?

Governor KENNON. Nobody. As far as I am concerned, it is in suspense.

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Senator ANDERSON. It is not in suspense. I do not believe it is in suspense.

Governor KENNON. We have a State law requiring the people to pay severance tax. We would expect them to pay it. I understand some of it is in suspense, although I do not have that actual information.

Senator ANDERSON. Who from your State can testify on the question? We have asked your attorney general who enforces your laws. He is unable to pass on it. Can you not testify? The Humble Oil Co. has testified that it is paying severance tax today to the State of Louisiana on the area that is outside your historic boundaries and has been paying right along.

Governor KENNON. We have a State law requiring them to pay it?

Senator ANDERSON. Are they paying it?

Governor KENNON. I actually do not know. I will not deny that they are, and I think they owe it.

Senator ANDERSON. On what theory do they owe it?

Governor KENNON. Because we have a State law passed in 1938 that extended the State boundaries out there. It has never been declared unlawful, never been passed on by the court. It is a presumption that a law is constitutional until it is declared unconstitutional. They took leases from the State of Louisiana under which they went out and sunk the wells. They have been under our regulatory power, their workmen have been under our protection. They are subject to all the State laws except when inconsistent with Federal laws.

Senator ANDERSON. The Supreme Court said the State of Louisiana had no property interest therein or title thereto. Now, a severance tax is quite obviously based on the fact that your property is being severed, something that you own is being severed.

Governor KENNON. We have no property right in the lease that the Superior Oil Co. has over lands that may belong to a sugar plantation in any parish of Louisiana. Yet we collect our severance tax. That is not connected with any fee interest of the State. We collect that tax on privately owned lands, and if the Federal Government owned that land out there, we still will not object to collecting the severance tax.

Senator ANDERSON. No; you are going to try to get a severance tax.

Governor KENNON. We do it to educate our children and finance the normal program of State government.

Senator ANDERSON. You are going to collect a 10-percent severance tax out there. What is the normal royalty on Federal lease? One-eighth, is it not, which is 12½ percent?

Governor KENNON. I do not know.

Senator ANDERSON. It is normally one-eighth.

Governor KENNON. I will accept that.

Senator ANDERSON. Now, you are going to collect 80 percent of what would be the normal royalty.

Governor KENNON. We collect the same taxes there as we do all over Louisiana, yes, sir. Your figures can be accurate as far as I know.

Senator ANDERSON. How many people are out there outside of the State's historic boundaries?

Governor KENNON. Just whatever it takes to carry on the normal operations. Any oil operation requires a great many people. When

you make it a marine-oil operation, it requires a tremendously enlarged number of people.

Senator ANDERSON. The Congressional Record a few days ago carried material inserted by Congressman Brooks. I do not want to bind you to that, but it represents an item from a news story from a New Orleans Item of May 7, 1953. It says:

> There are 240 wells already completed off the Louisiana coast, more than half are located beyond the 3-mile limit.

So there may be 120 wells out there.

Governor KENNON. Yes.

Senator ANDERSON. How many people would it take to run those 120 wells?

Governor KENNON. It will take very few to run them once they are in normal operation. For instance, I think a well can stay there 24 hours and maybe the only man that will go there will be somebody to go read the gage. It may take dozens of people or maybe hundreds of people to set up the piling and the platform and to conduct the drilling operations that would bring the oil in.

Senator ANDERSON. But they are gone now, there is no drilling action going on?

Governor KENNON. But if the well got in trouble they would come in, the Halliburton people or various other treatment people would come in from time to time and pipelines may or may not be in there. If they are not in there they will come with barges and take the oil off in tanks.

Senator ANDERSON. Would you think 500 people might be out there?

Governor KENNON. At the moment there are probably not 500 people out there in my judgment. There may not be but 5 dozen people out there at this moment, maybe 10 or 15 dozen people. The people that operate them under normal circumstances can be numbered in the dozens, just a few to a well.

Senator ANDERSON. What burden does that throw on the State of Louisiana for which you should get 80 percent of the normal royalty?

Governor KENNON. It throws no more, no less burden on the State of Louisiana than all oil operations inside the normal boundaries of Louisiana.

Senator ANDERSON. In the normal boundaries of Louisiana you have to maintain roads over which trucks run in the first place to bring in the drilling equipment and take it back out; is that right?

Governor KENNON. That is true.

Senator ANDERSON. You do not maintain the surface of the ocean?

Governor KENNON. No, sir; but until it gets to the seashore we maintain those roads.

Senator ANDERSON. A barge can come in below the extension of Florida down there, come in through the Keys. It does not necessarily bother you.

Governor KENNON. No, sir. Yet, as an economic measure I believe the bulk of the offshore operations are conducted off the Louisiana shore.

Senator ANDERSON. I think so, too. I have said I think there are some equities to these States, but I think that asking for a 10-percent extraction or fee of that nature is a pretty high fee. Because of the

fact that the State of Louisiana has continued to collect the severance tax, distributing that to parishes and to put in the State treasury from an area where it knows it has no control, I do not think the Government is acting like Mr. Scrooge, to be honest with you.

Governor KENNON. Shall we say the Government has been fair and generous. We expect them to continue to be fair and generous.

Senator WATKINS. I think the witness said he did not want Uncle Sam to be Mr. Scrooge.

Governor KENNON. I could not conceive of the Federal Government not letting Louisiana exercise its normal functions in the offshore lands as it has over the years.

Senator ANDERSON. You recognize if the Federal Government desired, it could have brought validity to the laws determining the boundaries and brought it in the Supreme Court?

Governor KENNON. Yes, sir.

Senator ANDERSON. It went on an entirely different theory. It went on the theory it did not matter whether your boundaries ran out 2 miles, 200 miles, or 2,000 miles; you were not the owner of 1 foot of that subsoil. The Court finally held that way. I do not think that that changes the boundaries of your State. I agree with the Senator from Texas it may have helped the claim of the Federal Government to this area by the operations that are out there. But the fact that the Attorney General did not ask to have these law set aside, I think it is going a long way to suggest that he did not do that because he thought it was good legislation.

Senator LONG. His testimony was that he did not ask that it be set aside because he thought it was probably in the best interest of the Nation that it not be set aside. That is the testimony Governor Kennon just read.

Senator ANDERSON. It seems to me it suggested it was in the best interest not to raise the question.

Senator LONG. I have asked that same witness that same question even in the previous Congress and his testimony was the same that he thought it was desirable for the States to exercise police power in that area beyond their historic boundaries and that for that reason it would have never been desirable to have urged the Supreme Court to have nullified a State law relating to conservation or police power in the area.

Now, that was his testimony, not just this time but that was his testimony when you and I were both on the committee in the 82d Congress as well.

Senator ANDERSON. It is entirely possible I missed the point of his testimony. I have listened to it, I have discussed it with him many, many times. He has always taken the position with me that he knew what he was going to do in his lawsuit. He was not going to let that be confused with the question of whether the State could or could not determine its boundaries.

Senator KUCHEL. On one occasion I made a motion here based on Mr. Perlman's position and mine was the only vote in favor of that position. Every other member of the committee saw fit to overrule the position Mr. Perlman took.

Governor KENNON. May I apologize for the use of that Dickens' character? I hope I did not say that the Federal Government would act that way. I just said I could not conceive of any set of circum-

stances under which they would act that way. I still have that feeling.

Senator ANDERSON. I think it might be well to put into the record at this point, if I may, from the hearings of the subcommittee of the 81st Congress, August 24, 25, 29, 1949, page 191, the statement of the Honorable Philip B. Perlman, Solicitor General of the United States, in which he presents a letter sent to Congressman Francis Walter in which he says this:

> The Department does not approve H. R. 5991. While it is true that H. R. 5992 reflects some changes made in 5991 suggested by representatives of the Interior and Justice Departments so as to eliminate some of the objectionable features of H. R. 5991, it should be made clear that H. R. 5992 also does not have the approval of the Department of Justice. I do not think it is particularly pertinent one way or the other.

Senator WATKINS. On this whole question of taxation, of course the House has already passed on that, it is provided in section 9 of title III in the bill H. R. 5134,

> 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.

It was because you are asking us to do something entirely contrary to what the House provided there, which you may want to support, even though the Senate may adopt another theory, I felt we should have from the Governor of the great State of Louisiana his reasons on what Louisiana was willing to do and what they would expect us to pay them.

Governor KENNON. May I make a further answer to Senator Anderson and yourself, Mr. Rufus W. Fontenot is our State tax collector; if you would like to have Mr. Fontenot testify before you, I will fly him up here and let him give you details on collection of severance taxes.

Senator ANDERSON. We have telephoned him. He promised to send us a telegram last Thursday. Such a telegram has not yet been received. The wires may be down between Louisiana and the Capitol right now, but we would like to have it. I have repeatedly made the statement that representatives of oil companies tell me they are currently paying severance tax to the State of Louisiana. Louisiana denies that. Now, it must be possible to find out the truth.

Senator WATKINS. The Governor started to deny it here.

Governor KENNON. I tell you, as far as I know they are paying it. I consider under existing laws it is due. I will concede you that some oil companies have paid severance taxes to the State of Louisiana, and as far as I am concerned, they all should be.

Senator WATKINS. If they have not paid it, it is because somebody has failed to do their duty?

Governor KENNON. Yes. On the other hand, if they have been cautious and want to put it in escrow and want to wait until a court decision, I do not blame them.

Senator WATKINS. Have they done that?

Governor KENNON. I do not know.

Senator WATKINS. Louisiana has not put any of this money in escrow that they have received from severance tax, have they?

Governor KENNON. No, sir. The State never puts any money in escrow, nor does the Federal Government, as far as I know, as to taxes. If it is said by the Supreme Court to be due back, we will

cheerfully pay it. I will conform at all times to any decision of the Court on the subject.

Senator ANDERSON. I am informed that a wire did come back from Mr. Fontenot which was addressed to Senator Barrett. Senator Barrett is not here this morning. He thought it was not responsive to the request at all, therefore did not put it in the record.

Could I ask you as the Governor of the State to get us information as to whether Louisiana is collecting severance taxes from every well outside of the 3-mile limit, or whatever other yardstick you want to use? I know you do not have production outside the 27 miles.

Senator CORDON. And within your boundaries extended.

Senator ANDERSON. What I am trying to find out is, Are you collecting from every well that is outside the 3-mile limit; secondly, I would like to find out if you are collecting from every well outside the 3-league limit?

I do not want somebody to come back and say, "We think our boundaries are 3 leagues. Certainly in the Holland bill there is limitation on 3 leagues in the gulf. So if we can find out outside the area, it will be helpful.

I do not think the Federal Government has been harsh about this. I think it has been patient. I think the Court in each instance recognized that it could have gone back and applied it at an earlier date, probably the date of filing the action. It did not require the States to account for the money back to 1945 or 1947. You may recognize that in the California situation, early in 1945 the Attorney General brought suit against an oil company and started to proceed against the oil company as trespassers. The Government dropped the suit against the individual oil company because it was felt that the whole question ought to be settled. The Federal Government never required the State to account for money up until the end of 1947 when the California case was decided.

Senator KUCHEL. Some members of the United States Senate would have applied retroactively the theory that the Federal Government had a right to every dollar that had ever been taken from oil production off California shores. I would like to observe that it is the Congress of the United States which has been fair with respect to that.

Senator ANDERSON. I happen to be one of those that did not want to go back and take it retroactively. The only point I make is that they have tried to recognize there was a question in this matter. I had hoped we might get through this session without name calling of the Federal Government.

Senator LONG. I submit that no one called the Federal Government any names. The Governor said he hoped that the Federal Government would not act like Scrooge.

Governor KENNON. I hope I said I felt they never would act like Scrooge. I did not accuse them of having done so.

Senator WATKINS. In other words, you regard Uncle Sam as a very generous individual?

Governor KENNON. He has been too generous in many ways.

Senator WATKINS. Right here, unless you have something further you want to present, I think we should probably conclude.

Senator DANIEL. I would like to offer in evidence the wording of the two bills that did pass the House with similar language to what Governor Kennon read.

Senator WATKINS. They may be copied in the record.

Senator DANIEL. Would it not be well also to show in the record that the House has changed its wording this session. Here is the wording on this point that has been adopted in the present House bill No. 5134.

Senator WATKINS. Title III.

Senator DANIEL. Yes; just that paragraph.

Senator WATKINS. And the section of it I read from.

Senator DANIELS. Right.

Senator WATKINS. That may be put in the record.

(The excerpts referred to follow:)

Excerpt from H. R. 4484, Title III, Section 8, Jurisdiction over Continental Shelf:

"Except to the extent that it is exercised in a manner inconsistent with applicable Federal laws, the police power of each coastal State may extend to that portion of the Continental Shelf which would be within the boundary of such State if extended seaward to the outer margin of the Continental Shelf. The police power includes, but is not limited to, the power of taxation, conservation, and control of the manner of conducting geophysical exploration."

Excerpt from H. R. 5134, Title III, Outer Continental Shelf Outside State Boundary. Section 9, Jurisdiction over Outer Continental Shelf. Section (a):

"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 provide 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."

Senator LONG. Mr. Chairman, I have interrupted the questioning here in some instances, but I would like to ask the Governor a few questions. I would be pleased to let the other Senators ask any questions they have in mind before it gets to me.

Senator WATKINS. We want to conclude this hearing today without fail. I am going to turn the chair over to Senator Cordon in a few minutes.

Senator LONG. In the proper development of this Continental Shelf under the concept of dual sovereignty, as you have urged, it would still be necessary for the State of Louisiana to amend its constitution and its laws as this area develops in order to provide for local law enforcement and local jurisdiction, would it not, extending parish lines and things of that sort, for example?

Governor KENNON. Yes, sir. The State of Louisiana would act in conformity with the Federal laws. I would say again that I think the State administration out there should be not in conflict with the Federal laws. It should be a part of the United States first and of the State second. And we would be disposed—I would, and I feel sure the other State authorities would—to pass any legislation in Baton Rouge that would carry out the intent of Congress on the administration of the territory outside the Continental Shelf.

Senator LONG. Now, it was explained to us by a witness employed by the State of Louisiana, who is a maritime expert, that there were many different phases of admiralty law that simply would not fit the domestic needs of the people. One of the most striking examples is that for domestic matters the law of domicile of the owner of the

ship applies. That could be the law of 48 different States rather than just the law of one State insofar as the area immediately beyond the historical boundaries of the State of Louisiana is concerned, could it not?

Governon KENNON. I think particularly of Delaware. Delaware has a lot of corporations that operate in this area. The Louisiana workman might have to employ a Delaware lawyer to collect his money.

Senator LONG. It might not only be confusing to the people working in that area but when they sought legal advice, the attorneys in that area might not be able to advise them.

Governor KENNON. A man might have to seek a Philadelphia lawyer to collect his money.

Senator LONG. Now, insofar as the question of international law is concerned, it occurs to me that just as the State Department testified with regard to the Holland bill and the other bills concerning the 3-mile limit, that the manner in which we divide the sovereignty of the United States as between the State and the Federal Government is not a concern of any foreign power insofar as we are applying our law to the domestic needs of our people. In other words, in the territorial waters or any structure or even on any ship belonging to the United States it is a matter of no concern to a foreign power how we divide the jurisdiction between the State and the Federal Government.

As far as we are concerned, the United States of America can decide whether the law is being administered or enforced by the United States or by subdivisions of the United States.

Governor KENNON. Yes, sir; and I think it would strengthen the Federal claim if it also recognizes the State claim.

Senator LONG. Now, someone has suggested that in some respects if the State received any consideration in this legislation it might be regarded as a giveaway provision. With regard to administering the needs of the people in that area, we are not asking the Federal Government to give us anything as far as Louisiana is concerned, this is something that Louisiana proposes to give to the people, that is, to gve them the services of the State government and protection of State government and the administration of the domestic body of law responsive to their needs passed by representatives of their choice and enforced by their own local officials for whom they have voted and helped to elect.

Governor KENNON. Yes, sir; and the only payment we request is the right to let those operators pay the same tax as they would pay elsewhere in Louisiana.

Senator LONG. With regard to the right of Louisiana to share in any of the revenues generated from the development of the continental shelf, the considerations that justify that will exist whether the Federal Government permits us to enforce our domestic law or not in the area.

Governor KENNON. Yes, that will be a matter of general equities as to whether the offshore lands will be comparable to, say the National Parks with regard to any sharing of the revenues. As I view the fact, it is not actively before the committee at this time.

Senator LONG. As a matter of justice and equity and fairness, whether the Federal Government permits the State to enforce its

domestic body of law or not, the State will continue to urge the fact that the development of a continental shelf along Louisiana's boundary and beyond her historical boundary is still a weight upon the services of the State Government in that the State must provide for the eduction of all the children, for the needs of the sick and the aged, the needs of the unemployed, for the enforcement of domestic law or sanitation and all other domestic law for the protection of property and any law passed for the benefit of citizens.

Governor KENNON. Yes, sir, and for public services such as roads, drawbridges and other things incident to the transportation of equipment out there, and for servicing of the boats that might be used and bases for those boats. It is in fact tied into the warp and woof of the domestic life and commercial life and the court system and road system and public institutions of the State of Louisiana.

For instance, 200 people participate in the drilling of a well on shore and offshore, it is a good sized part of Louisiana's actual life, the offshore development. We have the feeling that that should be treated just like any other Louisiana development, that we draw no more taxes from it nor no less taxes from it.

We would feel it would be so bad if we tried to calculate pennies as to how much any one industry costs the State. It is just indeterminable. The only logical way is to let the industry bear its same proportion of taxes as it bears in drilling in the swampland, in the inland waters and in the highlands of Louisana.

Senator LONG. Generally speaking, the oil and gas industry operating in the sea beyond our boundary leans even more heavily upon State services than the oil and gas industry operating within our boundary in that it requires more people to maintain the operation and requires a consequent heavier burden on State services?

Governor KENNON. Certainly per well drilled they must of necessity employ more people and have more equipment. I expect by the time you take into consideration the equipment that it takes to make what amounts to a land base offshore that they probably use the Louisiana roads and Louisiana facilities as much for drilling an offshore well as if the well had been drilled on shore and the fact that we do not maintain the water route out there is compensated by the fact we maintain the land routes and land arteries of supply for the equipment to make out of a submerged area a usable derrick base and a usable oil operating base as if that original derrick had been built on land and we had continued to use the roads for the servicing of the drilling operation and the producing operation.

Senator LONG. The probabilities are that Louisiana will provide for the needs of the workmen and their families who develop the Continental Shelf every bit as fully as it provides for any of its other citizens regardless of whether the Continental Shelf is beyond the boundaries of the State of Louisiana or within the boundaries of the State of Louisiana; is that not correct?

Governor KENNON. I think it is essentially true. We hope that the Congress will recognize pretty well what the Supreme Court did that the fee ownership and control of international resources as put out in the Holland bill is in the Federal Government but no one has ever stated that the State does not have civil jurisdiction and even as the Secretary of the Interior Chapman stated he thought it would be good

for the State to exercise its civil jurisdiction to the extent it did not conflict with Federal laws.

Senator LONG. Are you familiar with the fact that Mr. Chapman made this statement with regard to police powers beyond the State's historic boundaries? He said this year,

> The commission of crimes in those areas may be prosecuted in State courts and if the State undertakes to enforce laws there, that certainly would be beneficial to the Nation as a whole.

Governor KENNON. That is Mr. Chapman's testimony.

Senator LONG. No, I believe it is Mr. Perlman's testimony.

Governor KENNON. I believe that is Mr. Chapman. It has a Chapman flavor to me.

Senator LONG. I believe that was Mr. Perlman's testimony. Also, in Mr. Chapman's testimony where a similar question was asked by Senator Daniel, he made this statement:

> Where the Federal Government has not stepped in to exercise its own authority and power, it is perfectly all right for the State to exercise its own police power.

Governor KENNON. Senator Long, I would like to make this summary statement that my proposal to this committee is this, that we in Louisiana live with this off-shore development, the entire continental shelf should be considered first a part of the United States and secondly a part of the adjacent State, whether it be Texas, California, Louisiana, or Florida or the eastern seaboard States, and that the laws of the States that apply on all matters that properly appertain to the States, including the normal taxation powers and control of lives and property and domestic relationship and pension benefits and individual personal rights of the citizens that have always been within the purview of the State under our Federal dual system of law, that the same territory be completely under the jurisdiction of the Federal Government as any other part of the United States and that of course the Federal laws passed would take precedence over State laws.

With that limitation, I feel that we would have something that the companies have lived with over the years, that have brought orderly development and would continue orderly development of the area as far as the cost is concerned; the operating companies have never objected to paying their fair proportion of taxes. It will not be five cents out of the Federal Treasury to permit the State to collect its normal taxes.

Senator CORDON. Governor, what you are saying is that you want the United States to do more than the State of Louisiana has attempted to do. It has attempted to put its boundary out 27 miles. You want the Government now to put it out at the edge of the Continental Shelf.

Governor KENNON. Yes, sir, but keeping the fee simple title to the natural resources because I still have the feeling that anything in the continental United States should be in one of the several States.

Senator CORDON. The minority of the Court felt that at one time but the majority did not.

Governor KENNON. Senator, you bought some territory from Mexico in fee simple near the mouth of the Rio Grande some years ago, extra territory, not the Gadsden purchase but some little territory.

Maybe the river changed its course. You very graciously and as a matter of necessity gave that to Texas for civil jurisdiction, not the fee ownership. I am not contending that the Federal Government should give Louisiana any fee ownership. I say when the people of the United States live in the continental United States and in its shallow waters, in Lake Michigan, or off the keys of Florida or off Louisiana that those people are entitled to be citizens of one of the States and are entitled to the protection of laws of one of the States and not have to hire a Philadelphia lawyer to get compensation.

Senator CORDON. That is from the boundaries of Louisiana to the outer edge of the Continental Shelf?

Governor KENNON. Yes.

Senator CORDON. That has nothing to do with statutory boundary. That is settled, the question of where the title rests, whatever title there is, is already settled. What you are asking the committee to do is to recommend legislation that will extend the State boundary of Louisiana seaward to the outer edge of the Continental Shelf?

Governor KENNON. Yes, something that Louisiana has already done by State law.

Senator CORDON. But it has not.

Governor KENNON. In 1938, sir, we went out 27 miles. I think Louisiana as a sovereign State has as much right to extend its boundaries as the United States does as a sovereign nation, subject only to what rights we surrendered in joining up with the Federal Union.

Senator LONG. Is it not also a good idea that the United States should decide what policy it desires to pursue with regard to this area before we attempt to finally litigate with regard to it. I have in mind the Presidential declaration claiming that this property apertains to the United States and is subject to its jurisdiction and control without actually claiming it as a part of the United States. That proclamation has already come under fire in the international bodies and there is objection being made that this is no valid basis for us to take the resources, that England has proceeded upon the basis of saying that the submerged lands, the Continental Shelf off islands and possessions of England are a part of that territory and belong to it.

Senator CORDON. May I interrupt to say there is a quorum call in the Senate. If there are any more questions, I will be willing to listen to them.

Senator LONG. I would like to ask if it does not occur to the Governor that it would be better to proceed on the basis that the subsoil belongs to the United States and also belongs to the State.

Governor KENNON. I agree with the Senator. I hope that the committee will feel that in maintaining control of this entire subsoil out there that the States and United States should make common cause and that it be a part of both the United States and of the adjacent States.

Thank you, gentlemen, for your courtesy to me.

Senator CORDON. The committee will in a moment stand in recess until 2:30 this afternoon. I would like to ask the members who are here what your views are with regard to hearing representatives of the oil operators. I refer specifically to Clayton Orn who has testified in this hearing before and who is chairman of a legal committee of

the operators. I have asked him to write a letter to the committee giving his views with respect to under what circumstances the operation out there could be conducted and what suggestions he might have with respect to changes in the legislation.

I will have the letter, and I can have him here if you would like to have him this afternoon. Personally, I would prefer that he appear himself.

Senator DANIEL. It is all right with me.

Senator CORDON. In that event, I will reach him and have him come before the committee immediately upon the reconvening at 2:30.

Senator DANIEL. What about Mr. Duncan of Interior?

Senator CORDON. Mr. Duncan's statement has been put into the record. I will be glad to have him here.

Senator DANIEL. May we have copies of his statement?

Senator CORDON. The statement only went to the type of conservation that now exists under the Federal law.

Senator DANIEL. May we have copies so we can see whether we want to question him? He spent a whole night working up some very fine material. Maybe no questions are necessary, but I know he had some material I want to read.

Senator CORDON. We will have him available.

Senator LONG. Will Mr. Jack Tate testify before our committee?

Senator CORDON. I cannot tell you about that until I call. I have not been attempting to get members of the Department here until we could see where we were going.

Senator LONG. I hope I might be able to bring one witness, if it can be worked out, Mr. Chairman, before we finally close, in addition to the department witnesses. Louisiana had made some effort to obtain the testimony of an expert on international law. That field has not been developed at all on behalf of the State. I do hope we get one witness on that subject.

Senator CORDON. I suggest that you have it prepared in the form of a written statement so that we can get it cut down at least in the discussion. We have to get the hearings closed and get to our work now. The Chair has tried to open the thing just as wide as possible, but we do face a deadline now. Ask him to have a written statement so that he can highlight it and shorten it, please.

Senator LONG. I will try to cooperate.

Senator CORDON. Senator Hill desires to appear on a matter of an amendment that he has. I have assured him he can appear. I do not know whether we can get him this afternoon or not.

Senator DANIEL. We promised to give Senator Hendrickson an opportunity to present his bill. Have you talked to him?

Senator CORDON. I have talked to him from time to time.

Senator DANIEL. Just so he knows he has an opportunity.

Senator LONG. Can you give us sufficient time to settle the matter on the floor before we meet?

Senator CORDON. I have it set for 2:30. I hope that most of it will be over by that time. At the request of Senator Hugh Butler, committee chairman, I am offering for the record a telegram he has received from Mr. Harold Dunn of Amarillo, Tex.

The telegram will be copied in the record at this point.

(The telegram referred to follows:)

AMARILLO, TEX., *May 20, 1953.*

Hon. HUGH BUTLER,
Senate Office Building, Washington, D. C.

It is my understanding that your committee has under consideration and is holding hearings on S. 1901, relating to the Continental Shelf. We believe that it is extremely important that the suggested provision vesting the police power in the hands of the States be included in the final legislation that is approved. Operations on the shelf must be conducted from bases on shore. State laws and State conservation regulations could automatically and immediately be extended to shelf. State agencies are set up. They are experienced and are doing a good job. If this is not done an additional bureau would have to be created and numerous laws and regulations requiring much time and duplication of effort would be necessary. Thus it seems public interest requires authorizing States to extend their police power over this area. If objectionable to Congress, taxing power could be omitted. Thanks and best regards.

HAROLD DUNN.

(Whereupon, the committee was recessed, to reconvene at 2:30 p. m., the same day.)

AFTER RECESS

Senator CORDON. The committee will come to order.

At this time the committee will hear Senator Hill who desires to discuss his proposed amendment to the bill now under consideration, S. 1901, and I believe Senator Hill has a witness who will take over a part of the presentation.

Senator Hill, the floor is yours.

STATEMENT OF HON. LISTER HILL, A UNITED STATES SENATOR FROM THE STATE OF ALABAMA

Senator HILL. Thank you, sir. I want to express to you and the members of your committee my appreciation for your courtesy in permitting me to be heard this afternoon with Dr. Carr, the executive secretary of the National Education Association.

I recognize that the committee is anxious to bring these hearings to a close, and therefore I shall not indulge in a twicetold story, Mr. Chairman. When you had the Holland bill before you you were most gracious and generous in giving me such time as I saw fit to present what I felt was a case in behalf of our amendment, more properly known as the oil-for-education amendment.

I would like to have the amendment printed in the record at this point, if I might, Mr. Chairman.

Senator CORDON. Without objection, that will be done.

(The amendment referred to follows:)

[S. 1901, 83d Cong., 1st sess.]

Amendment intended to be proposed by Mr. Hill (for himself, Mr. Douglas, Mr. Neely, Mr. Tobey, Mr. Langer, Mr. Morse, Mr. Sparkman, Mr. Kefauver, Mr. Chavez, Mr. Humphrey, Mr. Hennings, Mr. Lehman, Mr. Murray, Mr. Gillette, Mr. Fulbright, Mr. Case, Mr. Kilgore, Mr. Green, Mr. Magnuson, Mr. Jackson, Mr. Mansfield, Mr. Pastore, Mr. Kennedy, Mr. Wiley, Mr. Symington, and Mr. Clements) to the bill (S. 1901) to provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes, viz:

Strike out of section 9, on page 15, all of line 18, after the word "and" and insert in lieu thereof the following: "held in a special account during the present national emergency and, until the Congress shall otherwise provide, the moneys

in such special account shall be used only for such urgent developments essential to the national defense and national security as the Congress may determine and thereafter shall be used exclusively as grants-in-aid of primary, secondary, and higher education.

"(1) It shall be the duty of every State or political subdivision or grantee thereof having issued any mineral lease or grant, or leases or grants, covering submerged lands of the outer Continental Shelf to file with the Attorney General of the United States on or before December 31, 1953, a statement of the moneys or other things of value received by such State or political subdivision or grantee from or on account of such lease or grant, or leases or grants, since January 1, 1940, and the Attorney General shall submit the statements so received to the Congress not later than February 1, 1954."

Senator HILL. I will not go into detail except to say that we have now 26 sponsors. These three additional sponsors are the gentlemen from Wisconsin, Mr. Wiley, the gentleman from Missouri, Mr. Symington, and the distinguished member of your committee, Mr. Chairman, the Senator from Kentucky, Mr. Clements, giving us a total all together of 26 sponsors in behalf of this amendment with which you are familiar.

I would like at this point in the record, too, Mr. Chairman, without taking your time to read off the list, to insert the names of the different organizations that are supporting this amendment. There are some 45 or 50 of these organizations, including the National Education Association, the American Council on Education, the American Federation of Teachers, the National Grange, and so on. I will put that in the record at this point.

Senator CORDON. Without objection, it will go in.

(The information referred to follows:)

LIST OF NATIONAL ORGANIZATIONS SUPPORTING OIL FOR EDUCATION AMENDMENT

National Education Association
American Council on Education
American Federation of Teachers
American Library Association
American Vocational Association
National Grange
National Farmers Union
Co-op League of the U. S. A.
American Federation of Labor
Congress of Industrial Organizations
Oil Workers International Union
Communications Workers of America
Textile Workers Union of America
United Mine Workers
United Automobile Workers
Friends Committee on National Legislation
Americans for Democratic Action
Students for Democratic Action
Consumers Cooperative Association
Brotherhood of Maintenance of Way Employees
Switchmen's Union of North America
Order of Railroad Telegraphers
Brotherhood of Railway Clerks
American Train Dispatchers' Association
International Association of Machinists
International Brotherhood of Boilermakers
International Brotherhood of Blacksmiths
Brotherhood Railway Carmen of America
Sheet Metal Workers' International Association
International Brotherhood of Electrical Workers
International Brotherhood of Firemen and Oilers

Brotherhod of Railroad Signalmen of America
Railroad Yardmasters of America
Brotherhood of Sleeping Car Porters
Hotel and Restaurant Employees' and Bartenders' International Union
National Organization Masters
Mates and Pilots of America
National Marine Engineers' Association
International Longshoremen's Association
Order of Railway Conductors
Brotherhood of Locomotive Firemen and Enginemen
United Rubber, Cork, Linoleum, and Plaster Workers

Senator HILL. Mr. Chairman, I wonder if it would be agreeable with the committee that my statement as I have prepared it might appear in full, and I will just touch on one or two points here.

Senator CORDON. Without objection, the full statement will go in.

(The statement referred to follows:)

STATEMENT OF SENATOR LISTER HILL, IN SUPPORT OF THE OIL FOR EDUCATION AMENDMENT TO. S. 1901

Mr. Chairman, I have said many times that it may be very difficult, in fact impossible, for the free world to match the Communist world in terms of manpower. Of course, we all pray for the time when, without global war and by peaceful means, we may witness the liberation of those who are held in the bondage of totalitarian communism, but such a day may be long in coming, and as the struggle proceeds for the minds of men we must pit quality against quantity. The basic strength of the free world lies in the fact that free institutions, unlike the institutions of dictatorship, are capable of developing men and women with intelligence, with initiative, with originality, with discrimination, and with inquiring and adventurous minds.

OUR HERITAGE OF EDUCATION

That we have in so many respects outstripped the world technically and managerially is due in large part to our system of free education developed under free institutions. This was the essence of the American dream as it matured in the great creative mind of Thomas Jefferson, and along with it grew and developed the traditional American policy of dedicating the proceeds of our public lands to the cause of education. Thomas Jefferson declared "that nation which expects to be ignorant and free in a state of civilization expects that which never was and never will be."

Twenty-three months ago, when we first introduced the oil for education amendment on the floor of the Senate, I tried to indicate that our precious heritage of education for all our people was in danger of becoming a myth. At that time—and many times since then—I cited the dilapidated condition of our schools, the huge increases in our child population, and the alarming exodus of our inadequately paid teachers from the teaching profession into better paying pursuits.

THE CRISIS IN EDUCATION

Our education system today faces a severe crisis.

The measures which we have taken to meet the crisis are not adequate. Competition with industry and defense-related jobs has taken

many of the best teachers from the classrooms. Many communities are scraping the bottom of the barrel to get even inadequately prepared teachers. Schools are not being built fast enough to meet the needs of a rapidly expanding enrollment. More than a million additional children entered the public schools last Fall as compared with the year before. This rate of increase will continue for at least the next 6 years as the 1952 birthrate was the alltime high. The education of 4 million children is being impaired because of inadequate buildings, poorly trained teachers and double sessions or part-time instruction. Every seventh child in the nation is being short-changed in his education—short-changed in his future strength and worth to his country.

TEACHER SHORTAGE SERIOUS

Teacher-training colleges cannot even begin to meet the huge demand for teachers from the dwindling graduating classes, as young people abandon their teaching ambition in the face of economic necessity.

We have let our teachers drop to the absolute bottom of the economic ladder. Teachers are now the lowest paid of all employed groups in America.

That this fact is best known by our young people who are preparing to earn a livelihood is indicated by the following article which recently appeared in the New York Times:

Last week disturbing evidence came to light to uphold the thesis that superior high school graduates shy away from teaching. The annual report of the educational testing service at Princeton, N. J., presented evidence that men who are preparing to be teachers are, as a group, the poorest students of all those attending colleges and universities.

The Princeton service, headed by Dr. Henry Chauncey, administers the college entrance examination board tests and most of the recognized examinations on the higher education level. About a year ago the armed services asked the board to give the draft deferment tests to young men in college who are of military age. In 1951–52, the bureau gave more than 400,000 tests as part of its selective service college qualification test program. The results are startling, to say the least. It was found that students in education—those men who were preparing to be teachers—did worse on the tests than any other group of students.

As we read these findings, can we fail to comprehend that these are our future teachers, the people we must depend upon to endow our children with knowledge and teach them to think?

Not only are we losing teachers out of the classrooms. Not only is enrollment in teacher-training classes dwindling rapidly. Not only are we failing to attract the best young brains into teacher colleges. But increasing numbers of our young teacher graduates are failing to take up teaching. This fact is revealed in an article by Dr. Samuel Engle Burr, chairman of the department of education at American University in Washington, D. C.

Dr. Burr's article was based on his survey of teacher graduates from that institution since the fall of 1947. The survey reveals that only 55 percent of the graduates in education actually hold teacher positions and that 25 percent are working in some field other than that for which they are especially trained.

Other colleges and universities throughout the United States report conditions similar to those among the education graduates of American University.

I want to call attention to the results of a survey by the Beta Field Chapter of Phi Delta Kappa by Mr. Adolph Unruh in the Phi Delta Kappan. The question studied was "How many male teachers in the city and county of St. Louis, Mo., find it necessary to supplement their regular income from teaching by doing other kinds of work?"

The survey revealed that only 8 percent of the male teachers supported themselves and their families by teaching alone. Ninety-two percent hold supplementary jobs or their wives work, or they have some income which is independent of their earnings in the field of education.

The survey lists over 100 kinds of employment performed by these male teachers in addition to regular teaching. It is interesting to note the wide range of jobs that these men are performing after school is over in the afternoon, for as long as an 8-hour shift. It would seem that few of the outside jobs bear any real relationship to their specialized work as a teacher or to their specialized training for their profession.

The jobs vary from bowling alley manager to frozen custard stand operator to short-order cook. Fifty-two percent reported that they felt the extra hours detracted from their effectiveness in teaching.

This shocking situation in St. Louis is by no means an isolated example. In community after community, we find teachers having to turn to outside work to live.

The only way that we shall be able to meet the unprecedented demand for teachers and the cry for competency in the classroom is to halt the alarming drift away from the teaching profession and train more teachers. This means that we will have to stop regarding teaching as a second-class or, should we say, a last-class profession, and pay our teachers adequately.

SHORTAGE OF SCHOOL BUILDINGS SEVERE

Now let us consider for a moment the shortage of school buildings.

In community after community, classrooms are so overcrowded as to make effective teaching almost impossible. School basements, apartment house basements, empty stores, garages, churches, and even trailers are being utilized to take care of the overflow. In one community, children were found to be attending class in a morgue. What a pleasant memory they will have of their alma mater. Even with the use of such facilities, many communities are having to resort to half-day and even third-day sessions to carry the load.

The Nation's public elementary and secondary school population needs additional floor space equal to a 1-story building 52 feet wide extending from New York City to San Francisco, Calif. This amount of floor space equals the total residential housing space in a city the size of Philadelphia, Pa.

We cannot forget that educational benefits once lost can never be reclaimed. When a child loses a day or a week or a year of his schooling, he has lost it forever. If our schools are forced to continue to resort to such expediences as one-half and one-third day sessions, if we continue to send many of our children to be taught by ill-prepared and incompetent teachers, the damage can never be repaired.

NEEDS OF HIGHER EDUCATION

We are also facing a critical situation in the field of higher education.

Almost all our 1,900 institutions of higher learning are in financial trouble, whether they are State institutions, land-grant colleges, the large private universities or the small college. A recent New York Times survey shows that 1 out of every 3 of our liberal arts colleges is operating in the red.

Income from gifts and endowments is off sharply, as is student enrollment. Faculties have been reduced in many institutions. Some of them have begun to lower academic standards to keep their campuses open. Tuition rates have risen to new peaks.

The financial difficulties of higher education have been caused by five pressures according to a 3-year study by the Commission on Higher Education, whose work was carried on under grants from the Rockefeller Foundation and the Carnegie Corp.. These five pressures are:

1. Inflation, which in little over one decade has reduced the purchasing power of the educational dollar by almost one-half.
2. The expansion of educational services demanded by the increasing complexity of our knowledge, by the need for more research, by the improvement in instructional methods, and by expanded personnel and advisory services.
3. Fluctuation of student enrollment which was reduced by the Second World War, greatly enlarged by the flood of veterans, reduced as this flood receded, and then again threatened by the manpower requirements of the Armed Forces.
4. Needs for enlarged and modernized capital plant.
5. Uncertain sources of income from gifts, endowments, and Government with which to meet all these complicated situations.

Tuition rates have gone so high that the Board of Trustees of New York State University has called for a downward revision in tuition and other fees at the State institutions to prevent forcing many young men and women out of school.

Completely aside from the question of the necessity for preparing our young men and women to be good citizens and to earn a livelihood, we are here posed with the question of providing for the future military security of our nation, and the crisis in our educational system is already imperiling that security.

EDUCATION AND NATIONAL SECURITY

No member of the Senate is unaware of the enormous rate of rejection of men under selective service for educational deficiencies during World War II. Seven hundred and fifty thousand young men were found unfit to serve because of illiteracy or educational deficiency. That is the equivalent of 40 divisions. The figure becomes all the more startling when we consider that it is equal to almost half the total strength of the Army at the peak of mobilization and is more than all the men who fought in combat divisions in the entire Pacific area.

But that was not the only price we were to pay for the neglect of our youth. As the pace of mobilization quickened, we soon hit the

bottom of our educated manpower barrel. It is significant to note that, despite the great emphasis which we as a nation have always placed on public education, there were at the outbreak of World War II still 1½ million young men of draft age totally illiterate or barely able to read and write.

We were forced to take into the armed services some 435,000 illiterates, and at huge cost in money and precious time undertake to teach them the barest fundamentals.

Thousands of the illiterate and poorly educated inductees were so deficient and such slow learners that they could not absorb the concentrated doses of first, second, third, and fourth grade fundamentals offered in the special training classes, and had finally to be discharged.

Gentlemen, this is a partial picture of the sad situation in which we found ourselves military manpowerwise under full mobilization.

Even under the present partial mobilization, educational deficiency has caused more rejections than all other disqualifying factors combined. In the first year following the outbreak of hostilities in Korea, we saw over 300,000 men rejected for illiteracy and education deficiency. And since that time, the number has climbed much higher.

The cold fact is that all the people in the United States are but 6 percent of the world population, and we cannot afford to neglect the education of a single person who is capable of reciving an education.

We need to increase our pool of trained manpower to the absolute maximum degree. By that, I do mean just the provision of enough education to enable a man to bear arms if need be. But to provide an opportunity for every American boy and girl to develop to the fullest extent of his or her capabilities.

EDUCATION AND MOBILIZATION

The plain fact is that we need more specialists of every kind—more scientists, more chemists, more physicists, more doctors, more professional and business leaders, more agriculturalists and more engineers and skilled workers.

The shortage of engineers and scientists is a source of growing anxiety for defense mobilization officials.

Defense officials have declared that to bring the United States to maximum military strength, there must be a tremendous acceleration in the training of scientists and engineers. They point out that a speedup in research and industrial technology is an integral part of the defense program and that, therefore, scientific development which normally would have been spread over a decade has had to be telescoped into less than half that time.

The Director of Defense Mobilization reports that—

> Acute shortages are continuing among highly skilled professional, scientific, and technical workers needed in defense and essential civilion industries. Under full mobilization, the lack of such workers would be critical. There are now 61 occupations on the critical list for which demand is greater than supply. The numbers now enrolled in college courses or taking other types of training are not sufficient to meet future needs.

The Engineering Manpower Commission of the Engineers Joint Council has warned that industrial production and expansion which the council said bad been hampered for the past 2 years by a serious

shortage of engineers and scientists will continue to be held back this year and will fail to attain full output of civilian and defense materials.

Voicing the same concern over the shortage of engineers, Mr. Maynard M. Boring, personnel manager of the General Electric Co. and a member of the American Society for Engineering Education, recently told an Armed Forces conference that, if the shortage in industry continues, defense contracts might have to be extended or canceled.

He said that a survey group in studying demand had questioned 357 industrial companies and Government agencies and found that the country was short 40,000 engineers.

To understand the tremendously increased demand for engineers, we have but to note, for example, that construction of a B–17 bomber in World War II took 350,000 engineer man-hours, whereas today's B–36 takes exactly 10 times as many man-hours, 3,500,000.

Members of the committee will recall the deep concern over our waste of manpower that was so recently voiced by Dr. John K. Norton, head of the department of educational administration, Columbia University, and former Chairman of the Educational Policies Commission when President Eisenhower and Dr. Conant of Harvard were members of the Commission. Dr. Norton declared that:

> We have about a 50 percent educational system in the products it turn out and in the support it receives today.

He said, and again I quote from his testimony before the committee:

> More than half of the children who enter the first grade fail to finish high school. Perhaps even more important in terms of its effects upon our preparedness is the fact that only half of our top talent, those who get high marks in high school, who pass intelligence tests, who it is generally agreed could do college work and do it well, actually do so.
>
> We are wasting one-half of our top talent in terms of giving them substantial professional, technical, or vocational training.

In the face of our failure to capitalize half the talent of our youth, our intelligence sources tell us that Russia and her satellites have been since the end of the war—I remind you that was 8 years ago—working feverishly to train large numbers of scientists, engineers, technicians and skilled workers, instructed by highly trained teachers taken out of East Germany since the war's end.

The masters of the Kremlin know all too well that their chances in their cold war, or an all-out hot war, or in the long-range struggle for world markets depend upon maximum efficiency in production.

The lessons of history are as clear to them as to us—or they should be clear to us—that intellectual and scientific competence, not sheer numbers of people or vast natural resources—is the key to supremacy.

We see many areas around the world where whole populations live in poverty, amidst tremendous wealth in natural resources. We see other nations that have used their limited natural resources to produce high-level economies, through education and scientific and technical development of their people.

Russia is not blind to what we have done here in this country. She is not blind to the fact that we have put education and vast natural resources together to produce the highest standard of living in all the world.

What we have done for education throughout the life of our country has been a very great thing indeed. No one disputes that. We

are all proud of it. But are we content to rest on our laurels? Have we begun to falter? The facts show that we have. We all know it, or should know it, but apparently are afraid to admit it, even to ourselves.

Whether Russia knows it or not, her propaganda mills cover the earth with streams of propaganda telling of across-the-board educational advancement and educational opportunities in her own country, and the lack of them in non-Communist nations, including our own.

Doubtless the extent of the Red educational effort is subject to the usual discounting, but Dr. Alan T. Waterman, Director of the National Science Foundation, in his recent testimony before the House Appropriations Committee warned that Russia is outstripping us in the training of scientists and enginees. Dr. Waterman told the committee that—

> in the year 1955 the estimate is that 50,000 engineering graduates will be produced in the Soviet Union, compared to some 17,000 in the United States. A similar situation exists in the United States with respect to the production of trained scientists of all types.

Dr. Waterman told the committee that—

> our output of young scientists and engineers is now dropping to nearly one-third of the output in 1950, at a time when our research and development effort has approximately trebled.

The appalling waste of our human resources because of poor education or none at all is graphically pictured in a recent progress report to Columbia University's great research project known as the conservation of human resources. Motivated by his wartime experience with manpower wastage in World War II, President Eisenhower initiated the project shortly after he became president of Columbia University.

The report is based on an exhaustive study of the poorly educated in military and civilian life.

Let me read from the report:

> From the viewpoint of public policy, one general conclusion is unmistakable. If the United States wants to strengthen its military arm, if it desires to contribute to the heightened productivity of the economy, if it wants to buttress the foundations of American democracy, then it is incumbent upon the country to work for the eradication of illiteracy among thhe population. Its major attack must be directed toward the source which means the strengthening of elementary education, particularly in the poorer States.

And then the report concludes with this serious challenge to the Nation:

> Only recently have we seen the problem for what it is. In the struggle in which the United States and the other free nations are currently engaged to maintain their way of life, our strength lies in the quality of our human resources—in the competence, imagination, and dedication of the population—not in sheer numbers. We can no longer ignore the wastage of our human resources which results either from our failure to develop all latent potentials to the full or our failure to utilize them fully after they have been developed. For the welfare and security of the United States, in fact of the free world, have come to depend upon granting every individual citizen the opportunity for the full development and utilization of his human potentialities.

But let me conclude this portion of my statement by referring to the findings of another great body of experts on manpower resources—another body that was established by President Eisenhower himself

while president of Columbia University—another action that was motivated by President Eisenhower's wartime experience with manpower shortages.

I refer to the National Manpower Council whose 17 members were appointed by President Eisenhower from among the Nation's foremost men and women in the fields of business and industry and labor and from the fields of science, education, health, and Government. The council carried on its work at Columbia University with a grant from the Ford Foundation.

The objective of the exhaustive study by the council was the evaluation of manpower problems of crucial concern in the United States in this period of continuing emergency.

On last Monday, as members of this committee doubtless observed, the council presented to President Eisenhower a report warning that our national security is threatened by our failure to build the full strength of our human resources—by severe shortages of engineers, scientists, teachers, doctors, nurses, and others with special skills.

The council reported that the shortages of scientists and engineers—that are growing steadily more critical—have and, here are the council's own words:

> delayed defense production, slowed progress on research and development projects vital to our security and resulted in the production of some military items costly to operate and maintain.

The council declared that our national security is weakened and our progress retarded by failure to provide proper education and training for "a vast reservoir of highly intelligent young people."

As evidence of our waste of brain power, the council revealed that less than half of those capable of acquiring a college degree enter college and 40 percent of those who start college—many with superior ability—do not graduate." The council reported that—

> for every high-school graduate who eventually earns a doctoral degree, there are 25 others who have the intellectual ability to achieve that degree but do not.

The council reported to the President that the shortages in the specialized fields are linked directly to a shortage of well-trained teachers and that the teacher shortage has resulted from years of inadequate salaries. The council warned that the teacher shortage "will not be remedied unless employment in teaching is made much more attractive."

Calling for more intensified efforts to improve elementary and secondary education, as well as education at the college level, the council traced our waste of American brain power to the deficiencies in our grammar schools, and high schools. Again, let the council speak—

> There is a hidden reservoir of brain power that is composed of capable individuals who achieve low scores in tests of intellectual ability, primarily because of serious deficiencies in their early schooling.

The council cited the tremendous demands of our research in atomic energy and electronics and declared that in this age of push-button warfare—

> the security and progress of the country depends as never before upon the nurturing of creative minds that can push back the frontiers of the unknown.

And then the council made the basic observation that scientists and professional persons cannot be stockpiled like commodities against future shortages and declared—

that only a purposeful and sustained effort can insure that the United States will have adequate resources of scientific and professional manpower to meet its needs.

The reservoir of undeveloped brain power to which the council called the attention of the President was precisely the same as that of which Dr. Norton spoke when he told this committee that "we are wasting one-half of our top talent in terms of giving them substantial, technical, and vocational training." The council in its report to President Eisenhower referred to the "historic leadership of the Federal Government in the field of education," and I want to read from the report just one paragraph that describes the precedent for the oil for education amendment. This is what the council said:

The most important, single governmental step in connection with the training of scientific and professional personnel was the Morrill Act of 1862, which laid the basis for the country's extensive State college and university system. This measure provided for grants of public land or land-scrip to the States for the support of "at least one college where the leading object shall be, without excluding other scientific and cultural studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts * * * to promote the liberal and practical education of the industrial classes." The State universities and land-grant colleges have provided low-cost education, have contributed to the supply of specialized manpower, and have stimulated by their example the development of other scientific, technological, and graduate schools.

Despite the record amount spent for schools this year, in terms of 1953 dollars, the percentage of national income that goes for public elementary and secondary schools is considerably lower than it was 20 years ago.

Can we honestly say our pride in education, our respect for the teaching profession, our concern for our children, our zeal to preserve our freedom are all we claim?

I want to again emphasize that the oil for education amendment proposes no new departure into uncharted seas. It is simply a continuation of one of our oldest and wisest national policies—the use of public lands and the revenues therefrom for educational purposes, for the benefit of the whole Nation.

Benefits accruing to the Nation from this fruitful and far-sighted policy of educational endowment have been great beyond measure. The grant of 175 million acres for primary, secondary, and higher education has been called the endowment magnificent.

Indeed, it has given us the intellectual and scientific competence by which our Nation solves its productive problems to a degree never approached by any other nation.

Members of the committee will recall Dr. Norton's declaration that the land grants constituted "the greatest gift to the development of education in the history of the whole world." And it will also be recalled that this statement by one of the Nation's foremost authorities on education, who served as chairman of the Educational Policies Commission when President Eisenhower and Dr. Conant of Harvard were members, was followed by his estimate that enactment of legislation of the type proposed by the oil for education amendment—

would represent an exhibition of statesmanship equivalent to what was done in 1785, 1787, 1862, and the other great landmarks in the leadership of the Federal Government in developing education in this country.

We do not suggest that the oil for education proposal will prove a cure-all for every ill and every need that vexes our educational insti-

tutions, but we do feel that the revenues which will eventuate from the development of these resources can contribute importantly to meeting the needs—to giving to our "50 percent" school system a degree of perfection hiterto undreamed of.

Here is a windfall for easing the financial straits of our elementary and secondary schools, for providing more and better paid and better trained teachers, and for building desperately needed classrooms.

Here is a bonanza for relieving the agonizing difficulties of colleges and universities, medical schools, dental schools, nursing schools, technological schools, and research institutions with scholarships and grants-in-aid for specific training and research projects. The possibilities challenge the imagination.

Let us recall the words of that great Frenchman, L'Enfant, whose genius turned a swamp into the most beautiful of all American cities—the city of Washington. We remember that he said, "Make no little plans; they have no magic to stir men's blood."

The use of public lands resources set us on the road to realizing the dream of Washington, Jefferson, Madison, Monroe, John Quincy Adams, and other statesmen of our early history of a great system for the dissemination of knowledge. The challenge to this generation and to this committee is that we have the wisdom to use similar resources to give to that system the high standards of quality that they envisioned.

Let us not be less wise and foresighted than those early statesmen who seized similar opportunities to dedicate great national resources for education to the benefit of our country and of succeeding generations, including our own.

Here we have a magnificent opportunity to carry on the great American tradition of providing for the education of our children, of strengthening the wellsprings of our democracy, of following the policy established by the founding fathers, of dedicating great natural resources for the development of our precious human resources, the children of the Nation, and of building America strong that we may keep America free.

Senator HILL. Then I will yield the floor to Dr. Carr. In that connection, I wonder if we might have in this record incorporated the testimony of Dr. John K. Norton, of Columbia University, who testified on our amendment before when you were considering the Holland bill. I think that all that testimony would be germane and relevant to the amendment as of now.

Senator CORDON. Can we not satisfactorily refer to it in the other hearing, which is available on the Senate floor?

Senator HILL. I will work that out with the chairman, if that is agreeable.

In my previous appearance before this committee and in my speeches on the floor of the Senate in behalf of this amendment, I have spoken about the shortage of teachers and the inadequacy of the pay of teachers, and the fact that we have many teachers today teaching on emergency certificates. I have spoken about the shortage of school buildings, the crowded condition of classrooms, and too many children in any one given class. In short, I have spoken about the crisis in American education today, and I shall not go over that at this time, since all of my statement will appear in the record.

I want to take just a minute of the committee's time before I present Dr. Carr, to speak of recent reports, very, very recent, within the past several weeks, showing how vital education is to our national security and our national defense. And I am sure we will all agree that national defense and national security must be our first and our primary consideration at this time. So I would address myself very briefly to the report of several special bodies emphasizing just how vital education is to our defense.

First, I would like to call the attention of the committee to the recent report of the Director of Defense Mobilization, made just a few weeks ago. The report states, among other things, that—

> Acute shortages are continuing among highly skilled professional, scientific, and technical workers needed in defense and essential civilian industries. Under full mobilization, the lack of such workers would be critical. There are now 61 occupations on the critical list for which demand is greater than supply. The numbers now enrolled in college courses or taking other types of training are not sufficient to meet future needs.

The Engineering Manpower Commission of the Engineers Joint Council has just warned that industrial production and expansion, which the Council said had been hampered for the past 2 years by a serious shortage of engineers and scientists, will continue to be held back this year and will fail to attain full output of civilian and defense materials because of a shortage of engineers and scientists of all kinds.

Voicing the same concern over the shortage of engineers, Mr. Maynard M. Boring, personnel manager of the General Electric Co., and a member of the American Society for Engineering Education, recently told an Armed Forces conference that, if the shortage in industry continues, defense contracts might have to be extended or canceled.

He said that a survey group, in studying demand, had questioned 357 industrial companies and Government agencies and found that the country was short about 40,000 engineers.

Now, Mr. Chairman, I would like to call the committee's attention to the testimony of Dr. Alan T. Waterman, Director of the National Science Foundation, given at this session of Congress to the House Appropriations Committee, in which Dr. Waterman warned that committee and the Congress that Russia is outstripping us in the training of scientists and engineers. Dr. Waterman told the committee, and I quote Dr. Waterman's words:

> In the year 1955 the estimate is that 50,000 engineering graduates will be produced in the Soviet Union, compared to some 17,000 in the United States. A similar situation exists in the United States with respect to the production of trained scientists of all types.

Dr. Waterman told the committee that, and I quote again:

> Our output of young scientists and engineers is now dropping to nearly one-third of the output in 1950, at a time when our research and development effort has approximately trebled.

Mr. Chairman, I cannot but think that this drop to one-third of production in 1950 is due certainly in large part to the fact that most of the boys who were in World War II have availed themselves of their right to get an education under the GI bill of rights. That opportunity is no longer open to young men in the country, and therefore the training of our scientists and engineers has dropped off nearly one-third of what it was 3 years ago in 1950.

Senator CORDON. Does the Senator discuss at all in his statement the effect—and I hope it is not adverse, but rather beneficial—of the passage and presently being operated National Science Foundation in this field of aiding the supply of technically trained men?

Senator HILL. I happened to be on the legislative committee that drafted that legislation, and the distinguished Senator and I are on the Appropriations Committee making the appropriations. I think that the National Science Foundation has done well with the amount of funds it has had. With what it has had, which the Senator knows is very little in the way of money, it has gotten started; it has gotten organized, and I think it is now in a position to go forward, but it has had a very small amount of funds with which to do very much since it has been started. I think there are great possibilities there but it needs the funds.

Senator CORDON. Has the Senator given any thought to the advisability of earmarking receipts from the outer Continental Shelf for special purposes, such as for the purpose of carrying on that particular approach to the securing of technically trained people in the basic science field?

Senator HILL. I would say to the distinguished chairman that certainly that reflects the wisdom of earmarking these funds. However, whether at this time we should go into tieing these funds down to any particular purpose, I would not know. In fact, I would doubt it because we have not yet got too clear an idea of just what the amount of these funds will be. I think we realize it is going to take a little time for this oil to be developed or the exploitation to go forward, for us to realize just what the amount of the funds might be. But surely I would think that one of the purposes of dedicating these funds would be to meet the needs such as we had in mind when we set up the National Science Foundation. I would say that to my friend.

Senator CORDON. I am sorry to have interrupted you.

Senator HILL. That is all right. I am glad to have the chairman interrupt because it shows the chairman is interested, and I am very much gratified. I am glad to see the great interest the chairman has.

Senator CORDON. The chairman is particularly interested in that approach because the philosophy behind it is that the funds would become usable after there had been selection of the outstanding minds, and as the result we could hope for more scientifically trained personnel that way than we could if we started in the first place and spent our money over a vast number, and as the result the per capita availability would be so small. It is just a thought.

Senator HILL. I think the Senator has a good thought there, but as I shall attempt to show in my brief remarks here, you cannot just start at the top.

We have a council here appointed by President Eisenhower that made a report a week ago today to the President, in which they say that the base of our deficiencies lies really in our elementary and secondary schools. In other words, we have got to have that in mind too, and particularly our high schools as we come up the line.

I thank the chairman for his interruptions, and his observations.

Before I get to the report on the National Manpower Commission, I want to call attention to another commission known as the Commission on the Conservation of Human Resources, appointed by President Eisenhower at the time he was president of Columbia Univer-

sity. This report is based on an exhaustive study of the poorly educated in military and civilian life, and I quote these interesting words from the report:

> From the viewpoint of public policy, one general conclusion is unmistakable. If the United States wants to strengthen its military arm, if it desires to contribute to the heightened productivity of the economy, if it wants to buttress the foundations of American democracy then it is incumbent upon the country to work for the eradication of illiteracy among the population. Its major attack must be directed toward the source which means the strengthening of elementary education, particularly in the poorer States.

And then the report goes on to say:

> Only recently have we seen the problem for what it is.

I think that is true, Mr. Chairman. I want to emphasize that "Only recently have we seen the problem for what it is." We realize we are in this terrible struggle. To my mind it is a struggle which will determine whether we will remain a free nation and preserve our freedoms and our people. As the Commission says:

> Only recently have we seen the problem for what it is. In the struggle in which the United States and other free nations are currently engaged to maintain their way of life, our strength lies in the quality of our human resources—in the competence, imagination, and dedication of the population—not in sheer numbers.

We know that in sheer numbers we are lost to start with, that the Communist countries are overwhelmingly greater in population and numbers than we are. The report goes on:

> We can no longer ignore the wastage of our human resources which result either from our failure to develop all latent potentials to the full or our failure to utilize them fully after they have been developed. For the welfare and security of the United States, in fact of the free world, have come to depend upon granting every individual citizen the opportunity for the full development and utilization of his human potentialities.

Then I refer to the second council known as the National Manpower Council, which was also appointed by President Eisenhower at the time he was president of Columbia University. The work was done in the graduate school at Columbia University. The work was financed by a grant from the Ford Foundation, and the council was composed of 17 outstanding persons in the field of business and agriculture and labor and the different professions. This Council made this study and made its report, as I said earlier, just a week ago today, to the President of the United States. The report is a warning that our national security is threatened by our failure to build the strength of our human resources, threatened by severe shortages of engineers, scientists, teachers, doctors, nurses, and others with special skill.

The council reported that the shortages of scientists and engineers that are growing steadily more critical—and I am going to quote the words of the Council now—have "delayed defense production." The shortages we have now have delayed defense production. The Senator and I sit on the Appropriations Committee and we hear much about the fact that we appropriate all kinds of money that has not been expended, and it leads right into this thing here. The shortages of scientists and engineers that are growing steadily more critical have "delayed defense production, slowed progress on research and defense projects, vital to our security and resulted in the production

of some military items costly to operate and maintain." They are building second-rate stuff because they haven't had first-rate people to do a first-rate job.

The Council declared that our national security is weakened and our progress retarded by failure to provide proper education and training for, and I quote: "a vast reservoir of highly intelligent young people."

The Council reported to the President that shortages in the specialized fields are linked directly to a shortage of well-trained teachers, and that the teacher shortage has resulted from years of inadequate salaries: The Council warned that the teacher shortage, and I quote "will not be remedied unless employment in teaching is made much more attractive."

I wonder if in that connection I might take a minute, Mr. Chairman, to call attention to the fact that the Selective Service requested Princeton University to make a survey about this matter of teachers. That survey, made just a few weeks ago in this scholastic year at Princeton, showed that what we might call the mediocre students, the poorer students, were the ones who were going into the teaching profession. All of the brighter, better students were eschewing the teaching profession, they were going into business or other professions. The poorer students in the schools were those who were going into the teaching profession. Just as this Council says, it will not be remedied unless employment in teaching is made much more attractive.

Calling for more intensified efforts to improve elementary and secondary education, as well as education at the college level, the Council traced our waste of American brainpower to the deficiencies in our grammar schools and high schools. And the Council added, and I quote:

> There is a hidden reservoir of brainpower that is composed of capable individuals who achieve low scores in tests of intellectual ability primarily because of serious deficiencies in their early schooling.

The Council cited the tremendous demands of our research in atomic energy and electronics and declared that in this age of push-button warfare "the security and progress of the country depends as never before upon the nurturing of creative minds that can push back the frontiers of the unknown."

And then the Council made the basic observation that scientists and professional persons cannot be stockpiled like commodities against future shortages, and declared, and I quote—

> that only a purposeful and sustained effort can insure that the United States will have adequate resources of scientific and professional manpower to meet its needs.

The reservoir of undeveloped brain power to which the Council called the attention of the President was precisely the same as that of which Dr. Norton, head of the department of educational administration at Columbia University, spoke when he told this committee that "we are wasting one-half of our top talent in terms of giving them substantial technical and vocational training." The Council in its report to President Eisenhower referred to the—and this is this Council of 17 people selected from all over the country by the present President of the United States who referred to the "historic leadership of the Federal Government in the field of education." Mr. Chairman,

you will note some of the language behind this significant reference, because it relates to the Morrill Act of 1862, which was nearly a hundred years ago, and which gives you some idea as to how they were thinking then in terms of our thinking today. The Council said:

> The most important, single governmental step in connection with the training of scientific and professional personnel was the Morrill Act of 1862, which laid the basis for the country's extensive State college and university system. This measure provided for grants of public land or land-scrip to the States for the support of "at least one college where the leading object shall be, without excluding other scientific and cultural studies, and including military tactics, to teach such branches of learning as are related to agriculture and mechanic arts * * * to promote the liberal and practical education of the industrial classes." The State universities and land-grant colleges have provided low-cost education, have contributed to the supply of specialized manpower, and have stimulated by their example the development of other scientific, technological, and graduate schools.

This is the Council speaking about what the Congress did in 1862.

Now, Mr. Chairman, I want to emphasize that this amendment proposes no new departure into uncharted seas. What we propose to follow is the precedent of 1862, 1785, 1787, and the many other acts which the Federal Government has passed providing the use of public land and revenues therefrom for educational purposes, for the benefit of the whole Nation.

Mr. Chairman and members of the committee, Dr. Norton declared that the land grants constituted, and I quote "the greatest gift to the development of education in the history of the whole world." Also, it will be recalled that this statement came from one of the foremost authorities on education. I have referred to Dr. Norton, and I think I should say that he was chairman of the Educational Policy Commission when President Eisenhower and Dr. Conant, of Harvard, were members of that commission, and in testifying for our oil-for-education amendment he declared than an enactment of legislation of this type—

> would represent an exhibition of statesmanship equivalent to what was done in 1785, 1787, 1862 and the other great landmarks in the leadership of the Federal Government in developing education in this country.

Mr. Chairman, before I present Dr. Carr, may I say that here we have a magnificent opportunity to carry on the great American tradition of providing for the education of our children, of strengthening the wellsprings of our democracy, of following the policy established by the Founding Fathers—that is pretty good company, Washington, Jefferson, Adams, Monroe, John Quincy Adams, and the rest, and remember it was Abraham Lincoln who signed the Morrill Act after a lesser President, you recall had vetoed that act—of dedicating great natural resources for the development of our precious human resources, our children, and of building America strong that we may keep America free.

Now, Mr. Chairman, I take great pleasure in presenting to the committee Dr. William G. Carr, the executive secretary of the National Education Association. That association today has over a half million members of teachers and school administrators, and I am very proud and happy at this time to present Dr. William G. Carr, the executive secretary of the National Education Association.

Senator CORDON. The committee will be very happy to hear from you, Dr. Carr. This is an interesting approach to a vital question, and the committee desires to get all the light it can.

STATEMENT OF WILLIAM G. CARR, EXECUTIVE SECRETARY, NATIONAL EDUCATION ASSOCIATION, WASHINGTON, D. C.

Mr. CARR. Thank you, sir. Perhaps I ought to say that the National Education Association is a professional association of teachers and school administrators. As Senator Hill said, we number about a half million members of the profession.

Senator CORDON. May I inquire whether you prefer to read your statement or have the statement incorporated in the record?

Mr. CARR. I prefer to read it and highlight it, if I may, sir.

Senator CORDON. All right. You go ahead.

Mr. CARR. My purpose in appearing before this committee is to support the amendment proposed by Senator Hill and 25 of his colleagues to S. 1901, the bill now pending before this committee which provides jurisdiction of the United States over the submerged land of the outer Continental Shelf.

During the recent discussions in this committee and in the Senate on what is now, I believe, called the Holland Act, the National Education Association took no part. The issue in those hearings and those discussions was at least a double issue. It involved not only the support of education but also a highly debatable question about the title to a portion of those submerged lands.

The National Education Association could not take a position on the question of title without a clear directive from our representative assembly which does not meet until the end of June. So we did not appear. Now, with regard to this further legislation before your committee, the issue seems to me to be very much simpler.

In signing the Holland Act last week the President of the United States said:

> I am pleased to sign this measure into law recognizing the ancient rights of the States in the submerged lands within their historic boundaries. The measure also recognizes the interest of the Federal Government outside of the historic boundaries of the States. Such lands—

The President concluded—

> should be administered by the Federal Government, and income therefrom should go into the Federal Treasury.

It seems to me that the issue presented by this amendment is one of dedicating to the education of the children and the youth of this land the funds accruing to the Federal Treasury, as the President has said, from submerged lands which are under the control and ownership of the Federal Government.

Now, as to whether this would be desirable, Mr. Chairman, I think you have had an abundance of testimony both by reference to Dr. Norton's very able statement and the new material introduced by Senator Hill. I shall not try to engulf you in some oceans of statistics, but merely pull out for quick review some of the high points.

The first thing that we must all, I think, get clearly in our minds as we look at the educational problem of this country is that the birth rate has risen rapidly, and shows no sign whatever of turning downward. Last year set an alltime record for birth in the United States, and it is almost certain that 1953 will again break the alltime record. The birth rate, of course, reflects in steadily mounting enrollments in the elementary schools, and it is common knowledge that the schools

are badly crowded throughout the Nation. What is not so clearly recognized is that this condition is going to get worse, if you can call more children "worse," and it will not only be aggravated in the elementary schools but it will keep on going as the children move right straight through the junior and senior high schools. There is no indication whatsoever at the present trend of statistics that there will be any slackening off or improvement in the situation.

Since the end of the Second World War the higher birth rates in this country have completely changed the educational pattern to which we have become accustomed. The elementary school population alone has increased by more than 5 million boys and girls since 1946. In this school year there are a million more children in the public elementary schools than there were just 1 year ago. You can get some idea of the magnitude of that increase if I say that just to provide for this increase for 1 year would require the building of new schools and the employment of additional teachers approximately equal to the combined educational systems of Kansas and Nebraska. That is the increase just in 1 year, and the end is not in sight.

The 1951 babies will enter the first grade in about 1957. They will constitute an all-time record. The 1958 crop will be another all-time record, and so it will go, we hope also in terms of quality as well as quantity. And they will affect the high school enrollments just as certainly as the leaves of the calendar flutter down to the floor. The characteristics of the elementary schools where they are required to go to school in half-day shifts, the hut, the basement, the crowded church cellars will be repeated in our secondary schools unless heroic measures are taken to meet the situation. By 1960—and that is only 7 years off—the high school enrollment will be at least 50 percent greater than it was during the period from 1930 to 1945.

The point I want to leave with you, sir, if I may, is that we teachers are seriously concerned about this business. We think that it is our duty to take every occasion to call the facts in this situation to the attention of the public lest the public 7 years from now say to us, "Well, why didn't someone tell us that this crisis would be upon us?"

We are telling it now.

That is the first point—about the increasing birthrate.

Now, secondly, very briefly on the school-building needs. There has been a national survey of the school-building needs just completed by the United States Office of Education. Without boring you with statistics, there just are not enough classrooms now to house our present enrollment this year, and the States and localities are rapidly exhausting their borrowing power in an effort to house the children that are already in school. We do not know where the resources are coming from to build the additional school houses that will be required if we are going to put our children under a roof at all.

Why did we get in this fix? Sir, we have not adequately attended to the needs of our schools, even our school buildings since the years of the depression. We built very few schools, relatively, in the depression. Most of those were with WPA money and help. Of course, during the war the materials were short, and during the cold war we have not begun to recover the backlog of antiquated and obsolete buildings. So that you can go into almost any community in America today and, except in the most unusual circumstances, you will find present buildings crowded and no adequate plan to take care of what

we know is going to strike us and is already striking us, from the growth in the birthrate and the subsequent enrollment.

That is the second part. First, more children; second, nowhere to put them.

Third, the supply of young women and men who are trained to teach is now far short of the demand for new teachers. We need new teachers to take care of the enrollment increases, or to take the place of people who leave the teaching profession for retirement or death or, more commonly, for better financial employment. I am not speaking now of reducing the size of the classes or making other desirable changes. I am speaking merely of perpetuating the existing status. We do not have enough teachers now; we do not have enough in training to meet this situation.

Let me give you 1 or 2 facts to highlight that. The public schools now employ something over, in round numbers, 1 million teachers. Each year one-tenth of this total leaves the teaching profession. That is by death and retirement included, but most of it occurs in transfer to other occupations. It far exceeds the annual loss of personnel in other professions, and of course it is a very wasteful loss.

Most business organizations, I am told, would regard it as absolutely catastrophic if they had an exodus of skilled workers on the scale of roughly 10 percent per year. Many able businessmen have told me that they simply could not operate their business with a 10 percent turnover among their skilled workers. But in our schools, Senator, that has become so commonplace that it is just routine, and we think nothing of it. We think nothing of the tremendous waste of human talent which is involved in that situation.

Why do they leave? They leave for a variety of reasons. We shall never had a situation in which everyone who begins teaching fulfills a lifetime of service, but perhaps I can epitomize why they leave in this simple illustration. Not long ago there came to my desk a very attractive pamphlet which was put out by a group of life-insurance companies, and the title of the pamphlet was "Wanted, Good Teachers To Investigate Better Jobs."

I read the pamphlet with interest. It was well written and well prepared and very persuasive. In effect, it invited the most competent teachers in America to come and help the life-insurance companies sell life insurance. It assured these men and women that in a few years they could move to an income level several times as high as the maximum they could ever hope to get under the teacher salary schedules. The pamphlet was filled with testimonials on the part of former teachers who had done that very thing, and who looked back without any regret at all upon their former penuriousness as teachers.

In engineering the situation is the same. You can see the advertisements for inexperienced engineers put out by the great industrial companies of this Nation. Typically, they will mention a beginning salary for these young men that is about equal to the average salary in teaching, an average which a teacher will reach after perhaps 10 or 15 or more years of successful teaching experience and long and arduous preparation.

Now, sir, I do not mean at all to imply that we should not have many engineers. We should. I do not mean to imply that we should not have able and devoted people of integrity and ability to sell us life

insurance when we need it. But, sir, I think there is something profoundly wrong with the scale of values in the Nation when it is possible to recruit from among the teachers of the young the people who are to sell your life insurance.

Those are the three points I should like to emphasize particularly at this time—more children, not enough buildings, not nearly enough teachers, and the situation is getting worse.

I would like to draw the committee's attention to another book which has just been published, a book entitled "The Uneducated" by Eli Ginzberg and Douglas W. Bray. This, too, is part of the study to which Senator Hill has referred, a study begun at Columbia University when President Eisenhower was the head of it.

The major conclusion is that the United States has 2½ million persons who are functionally illiterate, and that if we are going to make the best use of our military strength and the fullest use of our economic well-being, and have a more complete growth in democracy, we must as a Nation move to deal with this situation.

I would like to give you just one or two quotations from The Uneducated if I may. One and one-half million young men out of eighteen million registered for the Armed Forces during the last war presented a serious educational problem. The same report of The Uneducated shows that this problem is closely related to the availability of good schools. The 12 States with the highest educational expenditure a decade earlier had a rejection rate during the war of 1.3 percent. That is rather low. The 12 States with the lowest educational expenditure a decade earlier had a rejection rate during the war of 9.1 percent. The same study declares, and I quote:

> It is beyond argument that the Armed Forces were handicapped in the scale and speed of their mobilization in World War II by being forced to make a series of special adjustments to cope with the very large number of illiterate and poorly educated persons in the draft eligible ages.

But the real danger, as this report goes on to say, lies in the future. Suppose 5 years from now, or tomorrow or 10 years from now, the United States should be forced into an instant and full mobilization. In such an event time would be of the essence. It would be a great hardship and a great source of weakness in this Nation to be compelled to wait for educational repair work to be performed, and to convert uneducated and inadequately trained civilians into the minimum acceptable standard for a soldier's education.

Sir, it is apparently a settled policy now that the United States Government will help to meet a special burden which falls on communities where a military base or a big defense plant makes heavy demands on local taxes for financing education. I think you are well aware of the general outlines, at least, of the way in which the Federal Government moves into such areas and provides aid for building and the operation of schools.

Now, the Federal Government certainly has a legitimate interest in providing the educational opportunities of boys and girls in those areas. But let me ask, and this is perhaps a hypothetical or oratorical question, why are the children at a Navy shore installation or at a munitions factory town more important to the national defense than the children of some region that happened to be without a defense installation?

Senator CORDON. Do you think that they were deemed to be so?

Mr. CARR. I would say so.

Senator CORDON. Well, then, you do not fully understand the philosophy behind the act.

Mr. CARR. If the purpose of the act, sir, is to help communities which have many children and little resources, then I can only say that the act is failing in that purpose for there is no measurement of the ability of the community to finance its own schools. What we would like to see happen in the United States——

Senator CORDON. I can discuss that one with you sometime, but go ahead.

Mr. CARR. All right, sir. I think what we would all like to see happen in the United States is a floor under educational opportunity so that any help that the United States Government gave would be given to those communities that have many children and little wealth.

Senator CORDON. That was the philosophy behind the early aid to education that was provided for when the new States came into the Union.

Mr. CARR. Yes.

Senator HILL. Yes, sir.

Mr. CARR. We would be happy to see that kind of philosophy revived and reenacted into law in this instance.

Senator CORDON. We are up against a lot of problems, aren't we, Doctor?

Mr. CARR. That is right.

Senator CORDON. If we are going to have a dual sovereignty system of government, then we are going to be faced with certain extreme situations, adverse conditions in one place and favorable in another.

Mr. CARR. That is right.

Senator CORDON. Somewhere along the road perhaps we will have to look at the whole picture, if we can. But one of the problems that we have today can be traced to that situation. There are so many of our problems that immediate dollar aid, as much as immediate dollar aid is needed, will not answer.

Mr CARR. That is quite right. I fully agree with you. There is this fact to consider about aid to education. Such an expenditure is fructifying. On the other hand, lack of education completes and perpetuates a vicious circle in which poorly educated people produce low revenue and are therefore badly equipped to educate their children in return.

Senator CORDON. I agree with that.

Mr. CARR. Whereas the function of aid to education is these areas is a stimulating function and it begins by increasing the productivity of the people so that they can raise their own standards more and more.

As to the question of inequality in education I would like to make it clear that I agree with you that inequalities cannot be eradicated, and we would not want in this country to have a ceiling and to say in effect to a community, "No matter how much you may want to have good schools, you must not spend any more than a certain amount."

Sir, all we ask for is a floor, a minimum opportunity for every youngster which is his minimum right just for the good and sufficient reason that he is born under the Stars and Stripes.

Senator CORDON. I would go with that 100 percent.

Mr. CARR. Thank you.

Well, from the standpoint of our way of life, of course, every young citizen is just as valuable and just as important to the Nation as any other, and each has the same right to life, liberty, and the pursuit of happiness, and each has the same responsibility to his Government.

Senator CORDON. I do not know whether each one is as important, but I will go with you on this, that each one has a right to an equal opportunity to determine whether he is as important.

Mr. CARR. That is right. I think that is an excellent modification. Well, sir, I think that point is fairly well established in our philosophy. As I see it, this amendment now presents Congress with an opportunity to declare a national policy with regard to the use of a group of our natural resources to develop our human resources. Heretofore Federal assistance to education had been extended for excellent purposes: for the land-grant colleges, colleges for vocational education, for school lunches, and, most recently and expensively, for the veterans' education or for the construction of schools in the federally impacted areas.

Now, we have these two new studies which strongly suggest that the time has come when this Nation must share with the State and local communities part of the burden of the problem of general education, a problem of national scope—the fullest development of the brains and of the skills of all our young people.

You see, sir, it is all very well to talk about the advanced education of engineers and physicians, but the most advanced scientist, the most skilled engineer had to learn somewhere to read and write, and do his basic arithmetic before he could learn his algebra and trigonometry. And he learns that or fails to learn it according to the opportunity provided for him perhaps in some little remote one-teacher school or perhaps in some village school somewhere in the United States.

Senator CORDON. And some in front of a fireplace, as did the immortal Abe Lincoln.

Mr. CARR. That is entirely possible. And for that reason it seems to me our policy in this country should be one that, as I said earlier, regards every child as potentially important. The return on the investment on even one person in terms of education is of incalculable value; and by corollary reasoning the loss to the Nation in the neglected education of even one person could be of tremendous—of such tremendous value as to completely offset any possible saving by denying education.

Even if you look at the matter wholly in terms of cold, rational economics, and leave aside all theories of government—as we cannot do, but leave them aside for the moment—I think that the policy of supporting the schools of this Nation from this great source of national wealth which you now have before you is one that deserves the utmost favorable consideration by the Congress of the United States.

I appreciate, sir, the opportunity to appear before you and your willingness to join in discussing this matter.

Senator CORDON. Thank you very much.

Senator HILL. We want to thank you, Mr. Chairman, very much.

Senator CORDON. We are happy to have had you here.

Senator HILL. We appreciate your attention and your interest, sir. I have seen you on the Appropriations Committee and I know how deep your interest in all these matters is affecting education.

Senator CORDON. Thank you very much.

Mr. Clayton Orn is here at the request of the chairman. In the chairman's efforts to get a complete picture of the problem that we have, he has asked Mr. Orn, who is chairman of a legal committee of the oil operators who are interested in the outer shelf oil operations, among others, and who has heretofore appeared and testified before this committee on this subject matter over a period of years, to look over S. 1901 and to give the committee his views with respect to the adequacy of the bill. And let me say parenthetically that the Chair, who introduced this bill as a Member of the Senate, has never at all felt that the bill was adequate. It was intended as a worksheet from which to approach good legislation.

Mr. Orn has very kindly consented to go into the matter and has had other members of his group, including Mr. Pressler, who is here, and also a member of that legal committee, go into it.

We will now hear from Mr. Orn with respect not only to the provisions of S. 1901 but with respect to the other major problem before the committee, and that is the question of whether the administration of lands might properly, and let us say more wisely, be placed in the adjoining States by the extension of the laws of those States, or some of the applicable laws of those States, to the outer Continental Shelf. Of course, I did not ask Mr. Orn to come as an advocate on either side. I am sure he will not become an advocate of either side. But the committee is interested in the views of the industry itself as to what are the essential minimum provisions under which the industry can function under either philosphy. I would be glad, Mr. Orn, to hear from you with reference to the overall problem. I would like to have you make your statement, and I am quite sure that Senator Daniel and other members of the committee, as they arrive, will have some questions, and perhaps the Chair might have some.

STATEMENT OF CLAYTON ORN, HOUSTON, TEX., HEAD OF THE LEGAL DEPARTMENT OF THE OHIO CO. FOR THE STATES OF TEXAS AND NEW MEXICO

Mr. ORN. For the record, my name is Clayton Orn. I live in Houston, Tex., and I am head of the legal department of the Ohio Co. for the States of Texas and New Mexico.

I have testified before on matters regarding the submerged-lands legislation, and recently testified on the Holland bill.

I was invited in 1950, shortly after the decisions in the Texas and Louisiana cases, to appear before this committee and discuss S. 195, which was an interim bill introduced by Senator O'Mahoney, and invited to suggest such amendments as I thought were appropriate in order to make the bill workable in the event Congress should pass it, and necessary to permit the resumption of operation. Some of those amendments were added, and later the bill became Senate Joint Resolution 20, and I believe that S. 1901 incorporates into it some of the provisions of Senate Joint Resolution 20 with reference to the validation of State leases, and also with reference to a future leasing policy of the United States.

On Wednesday Senator Cordon invited me, and Major Cosgrove, each of whom had testified before this committee, to come to his office—and we were accompanied by Mr. Pressler—for the purpose of reviewing the matter with him. He invited me to write him a letter making such suggestions as I thought were necessary, and to approach the matter first from a Federal standpoint, and then from a State standpoint, and to advise him whether we could operate under the bill if it were amended so as to extend State laws. I might say that that letter is on the machine now. I discussed the contents of the letter with Senator Cordon, and the contents of some of the amendments. He made some suggestions and recommended that we talk with the Department of Justice, which we did. They made some suggestions to us, and we have incorporated their suggestions into amendments. I do not mean to say by that, or imply that they have approved these amendments, but they did make some suggestions after we discussed the matter, and they have been incorporated. As to whether they will approve the amendments is a matter they will have to determine.

I might say for the members of the committee that I will give you copies of the amendments, and later on I will furnish additional copies as soon as they are available.

I will first discuss the bill as it is written without extending the State laws, and then I will discuss what I think would be appropriate amendments in the event Congress should decide to give the States jurisdiction over the area.

Should Congress decide that only Federal laws should be applicable to the outer Continental Shelf we believe that the operations can be resumed, and the rights of our employees adequately protected under the provisions of S. 1901 with the amendments suggested and discussed.

The Submerged Lands Act establishes the jurisdiction of the United States over the natural resources of the outer Continental Shelf, but does not extend the boundaries of this Nation to the outer Continental Shelf. Section 3 of S. 1901 reaffirms that jurisdiction and control, but it likewise does not extend the boundaries of the United States. Inasmuch as it is apparently the view of Congress that extension of the boundaries would bring about international complications, it is necessary to adopt an adequate system of laws for the area. We have carefully examined section 4 of S. 1901 and we believe it does constitute an adequate system of laws to protect the rights of the United States, to enable the operators to resume development, and to protect the rights of the employees engaged in the operations.

Section 4 (a) applies to the platforms or structures from which the operations will be conducted, the same admiralty and maritime laws, both civil and criminal, that are applicable to vessels on the high seas. These laws have evolved over a period of more than a century and cover the acts and offenses likely to be committed on a platform. Their application to the platforms follows a precedent set by Congress when it applied the admiralty and maritime laws to the operators and their employees engaged in removing guano from islands which the President, under congressional authority, had declared as appertaining to the United States and under its jurisdiction and control. The validity of this act was sustained in *United States v. Jones* (137 U. S. 202) by the Supreme Court of the United States. I might say that

while I have no information with reference to the President's proclamation in 1945, it does follow, in using the words "appertaining to the United States and within its jurisdiction and control" the exact language that Congress used with reference to deposits of guano on the Guano Islands.

When Congress declared that the Guano Islands appertained to the United States in order to extend some system of laws over the Guano Islands, they treated the islands as though they were ships at sea. In the Jones case a murder was committed on the islands, and the Supreme Court of the United States held that it was within the power of Congress to extend the maritime laws to the Guano Islands the same as though they were ships at sea. I assume that the reason Congress extended the maritime laws was because it did not want to extend the continental boundaries of the United States to encompass the islands.

Section 4 (b) of S. 1901 confers jurisdiction upon United States district courts of cases and controversies arising out of operations on the outer Continental Shelf and fixes the venue of such actions. In addition to applying and enforcing the provisions of this act, the Federal courts can and will determine and enforce the rights of the parties under the common law. I think this is significant because the common law is a system of laws that has sprung up from common experience to take care of the situations that arise where there is no statute. The Federal district courts have the right to enforce rules of common law in controversies, unless there is some limitation on the common law by statute.

The rights of the employees are further protected in section 4 by the application of the Longshoremen's and Harbor Workers' Compensation Act, the National Labor Relations Act, and the Fair Labor Standards Act. The Federal compensation laws, which will apply, are more favorable to the workman than are the compensation laws of many of the States. Because of the nature of these operations and the uncertainty as to applicable laws, the operators now cover workmen under both State and Federal compensation laws.

As I construe section 4, I do not think that this section makes each man working on the platform a seaman. A seaman, as I understand the law, is a man who is engaged in propelling a vessel. You may have men on a ship who are not seamen. And this would apply to the men who are engaged in the operations on the platform. The Longshoremen's and Harbor Workers' laws, as I say, give larger compensation and the premiums are higher than most State compensation laws.

Our opinion that the provisions of S. 1901, with the amendments suggested herein, are adequate is based on our experience to date with these operations. However, the operations are new, and it may be necessary for additional laws to be enacted to meet unforeseen problems as they arise. The law can no more be static in this field than in any other field. The Nation must not be denied the resources of this area until every problem conceivable in the mind of man can be anticipated and solved.

S. 1901, with the suggested amendments, offers a reasonable solution of the known problems.

We recognize that whether the States are to be permitted to apply some or all of their laws is a matter of policy involving the delicate

relationship between State and Federal Government. However, should Congress decide to permit State laws to apply, we deem those laws to be adequate to protect the rights of the operators and their employes. The adequacy of the State laws, as viewed from the operators' standpoint, is reflected by the amount of development in the offshore areas which occurred prior to the decrees in the California, Louisiana, and Texas cases.

Should Congress conclude to allow the States to exercise some jurisdiction over the outer Continental Shelf, Federal laws must apply until the States elect whether to exercise their jurisdiction. Therefore, we think that section 4 should remain in the bill even though it is amended so as to allow the States to exercise some jurisdiction.

With that in mind we have drafted two alternative amendments, either of which can be added to section 4 in the event Congress desires to permit the States to exercise some jurisdiction.

Senator CORDON. Would you mind an interruption, Mr. Orn?

Mr. ORN. Not at all.

Senator CORDON. When you suggest that section 4 must remain in the bill, or you feel it should remain in the bill under any circumstances, in order to have some law in whatever interim period might elapse from the passage of this proposed legislation and the affirmative action of a State accepeting jurisdiction in a given area, you are thinking more in terms of the jurisdiction of the State than the application of the laws of the State?

Mr. ORN. Yes, sir.

Senator CORDON. In other words, is it your view that if the Congress were to apply to the outer Continental Shelf the laws of abutting States, or the laws of a single abutting State, to the whole of the shelf, that that might be done by reference, and thereafter the enforcement of those laws left for the Government?

Mr. ORN. Senator, I do not believe that Congress can adopt by reference the laws of the State and make them Federal laws and leave it up to the States to enforce them.

Senator CORDON. No. I am saying adopt them as Federal laws and provide Federal enforcement of them.

Mr. ORN. It brings this very difficult problem: as I understand, under the decisions of the Supreme Court of the United States, Congress can adopt as Federal laws the laws of a State, and it can enforce those just as though they had been enacted by Congress. It cannot delegate to the State the power to change those laws, and you run into a serious constitutional question when you adopt as Federal law the laws of the State and at the same time the State has the power to change those laws.

My thought is that if Congress is going to, as a matter of policy, permit the States to exercise their laws, that they ought to be exercised by the States, enforced by the State officials so far as they are not in conflict with the Federal laws and the Federal rules and regulations. And that has been the approach that I made here in these amendments.

Senator CORDON. That is good.

Mr. ORN. With that in mind we have drafted two alternative amendments, either of which can be added to section 4 in the event Congress desires to permit the States to exercise some jurisdiction. And may I interrupt the chain of thought here to say that I think it is going

to take some affirmative act by the States, and Congress cannot anticipate whether the States will take that affirmative action. It may be that they will, and it may be that all States will not.

Certainly there must be some system of law that will apply so the workman will be protected and where the rights of the operator will be protected.

Alternate No. 1 would permit the States to extend all of their laws to the area to the extent that they are not in conflict with Federal laws and regulations. It also would permit the States to enforce those laws.

If the State should so extend its laws, the application of section 4 (a) to the area contiguous to the State would no longer be necessary.

Section 4 (a) is the one that declares the platforms to be the same as ships at sea, and applies the admiralty law to them.

If you let the State apply this law, I assume that the State laws will be adequate to protect the rights of the operators and the workmen while they are engaged in operations from the platforms.

Alternate No. 2 would permit the States to apply and enforce only their conservation laws, to the extent that they are not inconsistent with the rules and regulations of the Secretary under section 5.

I have laid before the committee alternate No. 1 and alternate No. 2, and I think alternate No. 1 and No. 2 fall somewhat in the same pattern except that alternate No. 2 applies only to the conservation laws.

Alternate 1 requires the Secretary of the Interior to define the area of the outer Continental Shelf contiguous to the States, and to publish those lines. It requires a State to furnish the Secretary of the Interior with the act of its legislature electing to extend its laws, and the Secretary to publish that act in the Federal Register.

Also it would apply or confer upon the courts of the State jurisdiction over the area.

As I say, we are making these suggestions to the committee for their consideration in the event the committee decides, as a matter of policy, they want to apply State law.

Whatever may be the decision of the Congress with reference to State law, we believe that S. 1901 should be amended as follows: I will discuss with the committee the suggested amendments, starting with amendment No. 1.

Senator ANDERSON. Can we make sure we do not lose out on this discussion? We are to have a rollcall in the Senate. When the rollcall comes, I do not want to miss it. I also want to hear the amendments discussed.

Senator CORDON. Very well, we will recess.

Mr. ORN. The first amendments we are suggesting, is set out, if you would like to follow the suggestions. I am awfully sorry I do not have one of the bills with the amendments written in, but I have not had the time, since we were invited to make this presentation.

The first amendment, if you will turn to page 2, section 2, after the last definition, suggests that there be added another definition, and that is a definition of the laws of the State.

This has reference to the validation of the leases.

Section 6 validates the leases issued prior to December 21, 1948, and which were in force and effect on June 5, in accordance with their terms and provisions and the laws of the State issuing them.

We suggest a definition of the term "laws of the States" wherever used in the section validating the leases so that it will read:

The term "laws of the States" wherever used in this act in connection with a lease issued by a State which was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing the lease, shall mean such laws of the State as were valid, or would have been valid had the State had paramount rights in and dominion over the lands included in the lease.

We believe that the legal terms "laws of the State" as used in section 6 of the act should be defined. This section authorizes a person holding a mineral lease to maintain the lease if it was issued prior to December 21, 1948, and was, on June 5, 1950, in force and effect in accordance with its terms and provisions and the laws of the State issuing such lease, provided other conditions are complied with.

The term "law of the State," as used, is intended to include the statutes of the State, the decisions of the courts of the States, and the regulations of the State officials, even though at the time the lease was issued, the State had no title.

The definition, if adopted, would limit the act to such leases as were valid on June 5, 1950, under State law, or would have been valid had the State had the legal right to issue the lease which it assumed it had at the time of issuance.

It eliminates any uncertainty about the meaning of the terms and follows the same language employed in H. R. 4198 as it reached the Senate, in that title III, section 10 (a) of that bill authorizes the Secretary to issue an exchange lease for a State lease "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 and the laws of the State issuing such lease had the State had such paramount rights in and dominion over the outer Continental Shelf as it assumed it had when it issued the lease."

Senator ANDERSON. Can you tell us what a situation would be that would be covered by these last few words, "or would have been valid had the State had paramount rights in and dominion over"? Can you give us a sample of the type of lease that would be validated by this that would not otherwise be valid?

Mr. ORN. I think the purpose of it is this: When you say "if the lease was in force and effect in accordance with the terms of the laws of the State issuing it on June 5, 1950," the argument may be made that the laws of the State on June 5, 1950, included also the decision of the Supreme Court of the United States, and, therefore, the lease could not be in force and effect on June 5, 1950, in accordance with the laws of the State, because on that date the Supreme Court rendered its decision in the Texas and Louisiana cases, and that decision became part of the law, and, therefore, this validation would have no effect at all.

It is inserted to make sure that the laws of the State, when you determine whether a lease was valid on that day, will be the laws that would have been valid——

Senator CORDON. Will you agree, Mr. Orn, to substantially this: that the decision in each of the three cases did not create a new legal situation, but simply enunciated the application of the law, and that as a result thereof, we must take the position that the states not only did not have the rights claimed, but they never have had them, and

that, therefore, any act predicated upon the proposition that the state has a right, was at all times an invalid act, a purported action that had no legal sufficiency, or could not be deemed to be a valid, enforceable contract.

And that your purpose here is to validate the lease, if, at the time the agreement was entered into, the lease would have been valid if the State had had the legal power over the area that it sought and claimed it had.

Mr. ORN. Yes, Senator, that is right.

I think what it actually means is that you test the validity of the lease by the law of the State as it existed on June 5, 1950. However, on that date the Supreme Court handed down its decision. The States had to recognize the decision. But the laws we are talking about are the laws of the State, and not the law of the Supreme Court.

If this lease was valid under the laws of the State, looking at the State law on June 5, 1950, then, if these other things are done, the lessee may continue his operations.

Senator CORDON. I am going to say, Mr. Orn, the chairman has always had a little doubt in his mind as to the sufficiency of the language without this type of a definition, but due to the fact that it has been worked over so many times, and the particular objection which you meet with your suggestion here has seemingly never been raised, plus the fact that clearly there could be no question of congressional intent, the chairman had not at any time urged that clarification which you have here, and which would appear to be wholly in the interest of clarification, and a more accurate statement.

Mr. ORN. The provision was incorporated, as I understand, in title III of the House bill for the first time, at the suggestion of the Justice Department in order to clarify the situation and not to give the lessee any greater right than actually was intended under the act.

Senator ANDERSON. It looks to me like you are not leaving anything to chance.

Mr. ORN. I believe that not much should be left to chance in view of the expense that will be involved in the operations. I think there is some merit to it and it was raised first by the Justice Department.

Senator ANDERSON. When?

Mr. ORN. I understood when the House bill was under consideration they made a suggestion. H. R. 4198, as it passed the House, contained title III. It did not contain the suggested definition, but it did provide for the exchange of a Federal lease for a State lease if the State lease was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing the lease, or would have been in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing the lease, if the State had had such paramount rights in and dominion over the area included in the lease which it assumed that it did have. Instead of repeating that phrase—I believe it would be necessary to repeat it three times—I have suggested a definition instead.

Senator ANDERSON. You say that language came from the Justice Department? Do you know that the Justice Department submitted that?

Mr. ORN. I will say this: I discussed this provision with Mr. Rankin of Justice, and he thought there ought to be some similar language in the bill and he told me that he would communicate with the attorney for the House. It was thereafter included in the bill. As to whether he actually communicated, I do not know, but it was put in the bill.

Senator ANDERSON. This arose as a result of your presentation of this matter to Mr. Rankin?

Mr. ORN. I discussed it with Mr. Rankin when H. R. 4198 was being considered. That was the first time that it had ever been raised, and Mr. Rankin raised the question in my discussion with him.

I do not mean, Senator, to represent to the committee that the Justice had approved it. However, I did——

Senator ANDERSON. I am just saying it would seem to me that if Justice had that sort of opinion on it, it would be communicated to the chairman of this committee, Mr. Cordon. I am sure he has been in touch with the Justice Department, and it is strange if they feel that strongly on it they did not tell him.

Mr. ORN. At Senator Cordon's suggestion, I did go over these amendments Friday with Mr. Davis in Justice, and I told him of the suggested definition, and he made no objection.

I am not speaking for Mr. Davis, but he does know that we are making the suggestion to the committee. But I feel certain that if Senator Cordon desires to communicate with Justice, he can find out their view.

Senator ANDERSON. All right.

Senator CORDON. The language clears up one thing. It does a thing that I assumed the Anderson bill and the others were intended to do. It validates a lease that would not have needed validation had it not been for the Supreme Court decision. It would have been valid in the absence of the Supreme Court decision.

Mr. ORN. The next amendment that I would suggest is section 3 of S. 1901 and subsection (b). That subsection says:

> 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 the navigational servitude shall not be affected.

I would include—and I made that recommendation because I understand the fishing industry has been concerned—that—

> 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 and the rights of fishing in the waters shall not be affected.

The next amendment, No. 3, goes to section 5 of S. 1901, and that section is on administration of leasing of the outer Continental Shelf. I have suggested a division of that section into subdivisions (a) to (f). The first sentence of the section as it is now written provides:

> The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions.

I would make no change in that except I would call that subsection (a).

The next sentence says:

> The Secretary may prescribe such rules and regulations as he determines to be necessary and proper in order to provide for the conservation of the natural resources of the outer Continental Shelf.

I would recommend or suggest that that sentence be expanded to the extent it would read—

authorized to prescribe, publish and enforce such rules and regulations as he deems necessary for the prevention of waste, the protection of correlative rights and the conservation of the natural resources of the outer Continental Shelf.

Senator ANDERSON. Will you explain what that does? What is the "protection of correlative rights"?

Mr. ORN. That is a provision which is usually contained in most of the State conservation statutes, so that when the administrative agency sets up a plan of conservation and determines how the allowables will be distributed between the leases, the agency will make a distribution of the allowables in such a way that one operator will not enjoy an undue advantage by draining the oil from under the other operators' land. In other words, since there must be a restriction on the amount of production, because of the physical waste which would occur in the reservoir if the field were opened wide, when the conservation agency promulgates rules to prevent waste they must at the same time not write a rule which will premit one operator to drain the oil from another operator's land.

I believe, Senator Anderson, similar provisions are in your State conservation statutes and our state conservation statutes. They impose a duty on the administrative agency to protect the rights of the parties so that their rules not only will prevent waste but will protect the operators, and not allow one operator to gain an undue advantage over another.

Senator ANDERSON. Do you think the language in the bill is sufficient to do that?

Mr. ORN. Well, it might be that the word "conservation," is sufficient but the reason I made the suggestion is because in the State pattern the statutes usually contain the words "correlative rights."

Senator ANDERSON. Are you familiar with the provision of the Federal Leasing Act?

Mr. ORN. Reasonably so.

Senator ANDERSON. Is this not similar to that provision, the provision carried now in the bill?

Mr. ORN. Yes, I think it is, Senator.

Senator ANDERSON. Has the Federal Government been unable to prevent waste under that language?

Mr. ORN. As I understand under the Federal Leasing Act, the Federal Government sets up such rules as it deems necessary for the prevention of waste, but it leaves to the States the writing of more comprehensive rules. The State then writes a proration formula which applies to the Federal land. The formula is designed to prevent waste by restricting the allowable; but it does not permit one lease to drain oil from another, or to enjoy an undue advantage over another lease.

Senator ANDERSON. Let us take the State of Wyoming which has produced quite a little oil. Does your statement apply to that, or has the Federal Government through its geological survey controlled waste and controlled the proration of oil?

Mr. ORN. I think that in the State of Wyoming they do not have the comprehensive proration law they do in some of the States, and I do not know to the extent that they curtail production.

Senator ANDERSON. How does this improve the language?

Mr. ORN. Well, Senator, it gives the Secretary about the same power that is given to the State agencies over the conservation.

Senator CORDON. Would you say that if authority to provide for conservation of the natural resources includes without any question the right of proration and protection of correlative rights, then the language is sufficient; if it does not include that, or if there is a question as to whether it includes it, then the language you suggest spells out that fact and eliminates that question?

Mr. ORN. Yes, sir. It may be that the term "conservation" impliedly includes correlative rights. I do not want to beg the question.

Senator ANDERSON. Not only may be; it does in the States of Wyoming, New Mexico, and Montana.

Mr. ORN. In New Mexico I believe your proration is applied by the Mineral Board.

Senator ANDERSON. Yes, but we had minerals being taken out in New Mexico before the proration board was set up.

Senator CORDON. Does the Senator feel that it would be improper to give that extra thought?

Senator ANDERSON. No, but I am just worried about whether some other provisions will follow later on. I am curious as to what is going on here.

Senator CORDON. Well, the witness was requested to make his suggestions, and I want to say to the Senator now that I am reasonably certain that what is going on will be presented completely and fully before the committee.

Senator ANDERSON. I want to say that the protection of "correlative rights" was not perfectly clear to me. It may be perfectly clear to everybody else, but it was not perfectly clear to me.

Mr. ORN. Senator, I have done my best to explain it to you. I hope I have.

Senator ANDERSON. You have to my complete satisfaction. The language looks all right.

Mr. ORN. The next one that we would suggest would be a provision making it a criminal violation to violate any rules or regulations that the Secretary may promulgate. We suggest there:

> Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary shall be deemed guilty of a misdemeanor and punishable by fine of not more than $1,000 or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

I might say that the conservation laws of the States also carry a criminal penalty for violation. The rules and regulations of the Bureau of Land Management carry a penalty for a violation. I did not have time to examine all the statutes, but I do not find anything in the Mineral Leasing Act that authorizes the Secretary to prescribe a penalty. There may be something in some other acts authorizing him to include in his regulations a penalty for their violation. I believe that if the Congress should conclude to permit the Secretary to administer the conservation laws, then he ought to have the power to penalize anyone who knowingly and willfully violates his regulations.

The next amendment there, (d) (1), has reference to the power of the Secretary to terminate a lease for failure to comply with his rules and regulations.

Senator CORDON. It appears that the chairman has a question in his mind about that, and he made inquiry before and would like to hear the explanation of Mr. Orn again.

Mr. ORN. As now written, section 5 says:

The continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, maintained or granted under the provision of this act, may be conditioned upon compliance with the regulations prescribed by the Secretary under the provisions of this section.

We have suggested an amendment similar to the Mineral Leasing Act with reference to the power of the Secretary, to terminate a lease in the event the lessee violates the provisions of the lease or the Mineral Leasing Act or the regulations.

The amendments——

Senator CORDON. Let me interrupt you there. You say that the provision on page 2 of your suggestions, (d) (1), is contained in the present Mineral Leasing Act?

Mr. ORN. Paragraphs (d) (1) and (2); yes, sir, under the present Mineral Leasing Act, and I will give you the citation, if you like.

Under the present Mineral Leasing Act, section 31, and under the rules of the Bureau of Land Management, section 192.161. The Secretary, under the act, has the right to cancel a nonproducing lease——

Senator ANDERSON. Does he have any obligation to do it, or does it just say he can or he shall? The difference is the word "may" in that fourth line, "such lease may be canceled," or does it say "such lease shall be canceled?"

Mr. ORN. Senator, just to be accurate on the matter, I think I can pick it up more quickly from the Federal Register.

The word is "may" in the regulations, Senator.

Senator ANDERSON. Thank you.

Senator CORDON. Is that a long provision?

Mr. ORN. No, sir; it is not.

Senator CORDON. Suppose you read it into the record.

Mr. ORN. I will read you the regulation, and I think the regulation is clear, but then we can go back to the statute, if you would desire.

This is regulation 192.161:

Cancellation of lease. Any lease not known to contain valuable deposits of oil or gas may be canceled by the Secretary of the Interior, after giving notice in accordance with section 31 of the act, whenever the lessee fails to comply with any of the provisions of the act, of the regulations issued thereunder, or of the lease, if such default continues for the period prescribed in that section after service of notice thereof. Leases known to contain valuable deposits of oil or gas may be canceled only by judicial proceedings in the manner provided in sections 27 and 31 of the act.

If you please, section 31 of the act requires on a nonproducing lease, that before the Secretary cancels it he must give the lessee 30 days notice in writing to his last known address, and it provides that if the letter is returned undelivered then he posts a notice in the land office in the district in which the land is located, and if it is not located in any district, then in the post office, and after the notice has been served for the 30-day period, then he may, without any court action at all, cancel that lease, if the lessee has not come into compliance.

Senator CORDON. Read what you have there again. That does not seem to quite add up to me. What is your regulation?

Mr. ORN (reading). Any lease not known to contain valuable deposits of oil or gas may be canceled by the Secretary of the Interior, after giving notice in accordance with section 31 of the act, whenever the lessee fails to comply with any of the provisions of the act, of the regulations issued thereunder, or of the lease, if such default continues for the period prescribed in that section after service of notice thereof.

Senator CORDON. The reason I am wondering is I am reading here from the Oil Land Leasing Act of 1920 as compiled by Elmer A. Lewis. Section 31 does not seem to provide for any notice.

Mr. ORN. Let me see, Senator. It is the same book that I am reading from. There has been an amendment.

Senator CORDON. This is the 1952 copy. It may have been reprinted.

Mr. ORN. Look in your book, I think we have the same one, on page 287. Do you have the last one that was put out by the Interior Department?

Senator CORDON. I am on page 287 and I see that section 9 of some act amended section 31.

Mr. ORN. Yes. It says:

Except as otherwise herein provided, any lease issued under the provisions of this act may be forfeited and canceled by an appropriate proceeding in the United States District Court for the district in which the property or some part thereof is located whenever the lessee fails to comply with any of the provisions of this act, of the lease, or of the general regulations promulgated under this act and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

Any lease issued after August 21, 1935, under the provisions of section 17 of this act shall be subject to cancellation by the Secretary of the Interior after 30 days' notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the land covered by any such lease is known to contain valuable deposits of oil or gas. Such notice in advance of cancellation shall be sent the lease owner by registered letter directed to the lease owner's record post office address, and in case such letter shall be returned as undelivered, such notice shall also be posted for a period of 30 days in the United States Land Office for the district in which the land covered by such lease is situated, or in the event that there is no district land office for such district, then in the post office nearest such land.

Senator CORDON. That is section 31 as amended as it appears on page 287, and it provides in essence that any lease made after August 21, 1935, shall be subject to cancellation after 30 days' notice upon the failure of the lessee to comply with the provisions of the lease, if that lease covers lands that are not known to contain valuable deposits of oil or gas. In other words, a lease on an area that has not yet been proven may be canceled by the Secretary upon that notice.

Mr. ORN. Yes, sir.

Senator CORDON. If it is known to contain oil or gas then the cancellation is to be made in accordance with the preceding paragraph which provides for forfeiture and cancellation by a proceeding in the United States District Court.

Mr. ORN. Yes, sir. Now, I think the way the Secretary has construed that and the way I have construed it is in acordance with the provisions of the Bureau of Land Management Rule 191.161 where he sets up his rule and he follows the statute.

Senator, I am of the opinion that if the act provides for a fine and jail sentence against anyone who violates the conservation rules and regulations of the Secretary, and a provision giving the Secretary the right to cancel a nonproducing lease, after notice, for violating

this act, his rules or the provisions of the lease, and the further right to bring a suit for a cancellation of a producing lease for violation of this act, his regulations or the provisions of the lease, the interests of the United States will be amply protected and compliance with the act, the rules and the provisions of the lease assured.

The rule is that the law does not favor forfeitures or cancellation for minor infractions, but if there has been an important infraction of a rule or regulation, the court will cancel a lease.

As I promised Senator Cordon when I talked with him about this amendment, I have studied the provisions of the Mineral Leasing Act, and I suggest that the same rules be applied with reference to the offshore lands, both as to the leases that will be validated under this act and those that will be issued by the Federal Government.

Senator CORDON. This is a little bit different than the amendment you showed me the other day.

Mr. ORN. Yes, it is. The amendment I showed you the other day is different. You had some objections to it. You thought it was too broad and did not give the Secretary enough power. I then studied the Mineral Leasing Act to see if we could recommend the adoption of the same provisions.

Senator CORDON. Your provision gives 30 days in which default may be corrected and as far as I can see, the Secretary does not want it.

Mr. ORN. I think probably I took the rule of the Secretary as a guide. The rule was, "Any lease not known to contain valuable deposits of oil or gas may be cancelled by the Secretary of the Interior, after giving notice in accordance with section 31 of the act, whenever the lessee fails to comply with any of the provisions of the act, of the regulations issued thereunder, or of the lease, if such default continues for the period prescribed in that section after service of notice thereof." I was trying to follow the regulation.

Senator CORDON. Both the provision of the regulation as you have just read it and the provision of the law you have to combine.

Mr. ORN. Yes, sir, it is a little bit different.

Senator CORDON. I just wanted to get them identified.

Senator ANDERSON. Could it be the understanding that if the lessee cured all the defects the Secretary could not proceed against him?

Mr. ORN. On a nonproducing lease, Senator, yes, sir, and as I understand if there has been some default in a nonproducing lease on the Federal domain, the lessee, if he cures the defect, whatever the noncompliance may be within the 30 days, the Secretary will not forfeit the lease.

Senator ANDERSON. There is no lease providing for payment of rentals or providing that he would drill a well within a certain time, and if he did not drill the well and finally got caught and they called his attention to his violation, if he corrected that within 30 days, that would be all right under this, would it not?

Mr. ORN. Senator, I do not believe the noncompetitive leases under the Mineral Act requires the drilling of a well—I mean there is no drilling obligation in the lease. It does require the lessee to pay rentals.

Of course, if he does not obtain production within a certain period of time, his lease ipso facto terminates.

Senator ANDERSON. Does he not have to start drilling at all? There are no drilling provisions that he must start drilling by a certain time?

Mr. ORN. There is no drilling in the sense of an obligation. The penalty is if he does not drill, his lease terminates. It is not like a lease from someone whereby as part of the consideration the lessee agrees to commence a well within a certain period of time. In that situation if the lessee does not commence the well, his lease terminates.

Senator ANDERSON. I do not know anything about the provisions of the Federal lease. I know in a private lease they can compel you to drill in a certain time. If you get a 5-year Federal lease, can you sit there and hold it for 5 years and get 5 more years' extension on it and not be obligated to drill at any time?

Mr. ORN. Unless the land is being drained by an adjoining lease. Of course, they can compel the lessee to protect against drainage.

Senator ANDERSON. If there was drainage, you would probably drill.

Mr. ORN. I should think so.

Senator CORDON. If it was being drained, the only way you could know it was being drained was to know there was oil there, in which event this proceeding would not be applicable. It would go to a court proceeding.

Mr. ORN. That is correct. Usually, when your neighbor gets oil, you are pretty glad to go in there and drill anyway.

Senator CORDON. It is a very complicated field. Let me ask you something else. Just as a practical proposition, what greater obligation should the Government have, if it finds that there is a violation, than send a registered letter to the post office of the lease owner?

If he is negligent and does not care to go get his mail, why should they thereafter be required to post for 30 days? That looks to me like putting a premium on negligence.

Mr. ORN. Senator, if you think it should be changed, I would have no objection because so far as these leases are concerned, there is no question at all about where their post offices are.

I was down to the point of discussing subsection (3) of suggested amendment No. 3. I think I had about concluded the discussion of the power of the Secretary to terminate nonproducing leases, and to institute judicial proceedings to terminate producing leases.

Subsection (e), if adopted, would make section 17 (b), section 30 (a), and section 30 (b) and section 36 and 39 of the Mineral Leasing Act of February 25, 1920, as amended to the extent that they are not in consistence with the other provisions of the act, applicable to leases validated under the act or leases issued in the future by the Federal Government.

Senator ANDERSON. What do those sections provide? Can you give us a summary?

Mr. ORN. Yes, I thought I would give you just a brief discussion of them.

Section 17 (b) of the Mineral Leasing Act, if adopted, would authorize the cooperative and unit plan development and the operation of the outer Continental Shelf. The Secretary is given the same power with reference to directing and approving unitization agreements he has under the Mineral Leasing Act. These powers are closely connected with conservation of natural resources.

Senator ANDERSON. Do you know of anybody who seriously objects to unitization programs? There are always people that object to everything. Is there a serious objection in your opinion to the use of the unitization program?

Mr. ORN. I do not think so. I think it is becoming known that the added recovery is so much greater by unitization that the operators themselves are in favor of it. Some States have gone so far as to enact laws that will permit the conservation agency to compel it.

I think probably under this section 17 (b) the Secretary has quite a bit of power to unitize operations where it will prevent waste.

Senator ANDERSON. Surely where there is one owner, as there is in this instance, the Government maybe, calling the Government the owner, across the whole area there should be much less objection to unitization than any other area and there is very little objection anywhere?

Mr. ORN. I think that is right, Senator.

Section 30 (a) requires the Secretary to approve assignments of leases and subleases. They do not become effective until they have been filed with the Secretary of the Interior or his delegated agent, the Bureau of Land Management, and if section 30 (a) were adopted it would give a place where there could be recorded in public records any assignments that might occur of leases of submerged lands either issued under the present act or maintained under the provisions that authorize the maintenance of State leases.

Section 30 (b) of the Mineral Act if adopted would control the relinquishment of leases and prescribe the condiitons under which they could be released.

Section 36, if adopted, would authorize the Secretary to take in kind the Government royalty on oil and to sell it.

Section 39 if adopted would authorize the Secretary in the interest of conservation to waive or reduce the rentals or royalties thereby preventing the premature abandonment of wells and to assent to the suspension of operation under certain conditions. Those are given under the Mineral Leasing Act.

The next suggestion that I will discuss is subsection (f). There has been a great deal of discussion about pipelines.

We would suggest, if it is the will and desire of the committee, for the Federal Government to exercise all powers and laws over the area, that there be added to this section 5 a subsection (f) which would read—and it is short and I would like to read it here, because of the prolonged discussion of pipelines—

> The Secretary is authorized to grant rights of way on the outer Continental Shelf for pipelines for the transportation of natural resources on such terms and conditions as he may prescribe. After notice and hearing, if he should find that public convenience and necessity so require, the Secretary may order any such pipeline to be operated and maintained as a common carrier and thereafter the provisions of part I of the Interstate Commerce Act shall apply to the same extent that the Act would apply if the pipeline exended from one State to another State.

I think the reading of the amendment speaks for itself without any explanation at all on it.

Senator LONG. Would it be up to the Secretary to determine whether it would or would not be a common carrier pipeline?

Mr. ORN. Yes, sir, he would determine after he heard the evidence whether the line should be operated as a common carrier. Once he

makes that determination, then the Interstate Commerce Act would apply and the pipeline would establish rates in accordance with the Transportation Act.

Senator ANDERSON. Would he be able under this language to change the status of a pipeline at a subsequent date? Maybe you understand what I am getting at. Suppose, let us say, the Gulf Oil Co. goes out and develops a structure, finds a lot of oil on it and puts that into a pipeline which it constructs itself and brings back to the mainland, then subsequently another operator goes out there and gets a somewhat smaller field, not large enough to jusitfy a pipeline but the Secretary has not specified that this pipeline be a common carrier when it was hauling the particular product for one company. Do you thing he could subsequently require them to carry the product of another company?

Mr. ORN. I believe he could, because this does not require the Secretary at the time he grants the easement or the right of way to make his declaration. I think the language is broad enough that any time the Secretary deems it advisable he can declare a pipeline a common carrier.

Senator ANDERSON. That would be very valuable to small operators; would it not?

Mr. ORN. Yes.

Senator CORDON. Might it not be exactly the opposite? Assuming that a small operator made application for a pipeline, started to build his pipeline, built it with the idea that it would possibly carry his present products and some additional he expected to bring in and no more. It occurs to me that there should be some provision here whereby he could question the decision that he had to share a portion of the volume that that pipeline would carry with others when he might need it all for himself.

Senator ANDERSON. I do not think there is any way of deciding it. You could not get into exactly that sort of situation. I believe the majority of cases are perhaps the other way. Certainly, I would think so from what little I have seen of the oil business.

Senator CORDON. What do you think about that?

Mr. ORN. We made the suggestion that before the Secretary could declare a pipeline a common carrier he must issue a notice and hold a hearing and find that public convenience and necessity requires the line to be a common carrier.

Now, I believe that that sets up ample protection here so that the Secretary could not arbitrarily declare a line a common carrier. Public convenience and necessity must require that it be operated as a common carrier.

I would like to say this, if I may, regarding pipelines.

I think as a practical matter regarding pipelines that there will not be too much trouble because these operations are expensive. The chances are if a pipeline is to be built and several have some oil to move, all operators will be invited to come in and help build the pipeline and have space available in the pipeline. I think that is the business way in which it will be done. You might have a situation where it would not be done that way, and if it is the desire of Congress that this pipeline be operated as a common carrier, I think that this suggestion will set up the machinery and once it is set up, the Transportation

Act will apply the same as it applies to a pipeline going from New Mexico to Texas.

Senator ANDERSON. This is certainly a start. If we found the problem was getting more difficult at a later date, the Congress could deal with it, could it not?

Mr. ORN. Yes.

Senator ANDERSON. Certainly, as development starts, from what development there now is in the Gulf area, you would think this would be all right; would you not?

Mr. ORN. I think so, Senator. I said earlier—I do not believe you were here—that I think the law, this being a new venture, must develop along with the operation. It is like the railroads, you know, the law did not precede the railroads. The law developed along with the railroads as the problems arose. I think that we all must bear in mind that anything that may be written now may have to be amended when new problems arise. But what I was attempting to do, and what the group of attorneys that represent the lessees who have been working with me have been attempting to do, is anticipate the problems we know of now from the experiences we have had, and make some suggestion as to a possible solution if they fit in with the policy of the committee.

Senator CORDON. Is there any question in your mind as to whether under the language that you suggested the Secretary could hold such a hearing prior to his granting of a permit for a pipeline and make it a condition precedent?

Mr. ORN. Yes, sir, I think he could. I think if he granted an easement and later on concluded that public convenience and necessity required that the pipeline be operated as a common carrier, he could require it to be so operated. In the hearing on convenience and necessity, the Secretary could take into consideration the size of the line, whether it was full and what it would cost to lay a parallel line or lay a larger line. These are all matters that could be determined by the Secretary at the public hearing.

Senator LONG. Would it not be desirable that that be made clear in this language that he could thereafter require it to be a common carrier, if it is desired?

Mr. ORN. If there is any question about that, I would have no objection to it.

Senator ANDERSON. I want to say I would feel a little better personally if I was sure that a pipeline having been established and a field having been somewhat developed, that if there later developed a need for additional pipeline facilities, the Secretary could start over again and hold that to be required to be a common carrier.

Mr. ORN. If it is the will of the committee, why, I will do that.

Senator ANDERSON. I do not say it is, but I think it might be nice to submit language that would give that alternative.

Senator CORDON. The Chair is in agreement with that.

Mr. ORN. I will do that.

Senator CORDON. Do you have any feeling there should be expressed the right of judicial review of such a decision?

Mr. ORN. Senator, being a lawyer, I have always favored judicial review. My own feeling after talking with the operating people is that the likelihood of the question arising any time in the future is so remote that we should not belabor the amendment at this time, but

if Congress thinks in its wisdom that there should be judicial review, naturally I will be very glad to see the provision included.

But looking at the problem from the things we know now, I really do not think there will be much controversy about it.

The next amendment I have suggested is a little bit difficult to explain, but it is to coordinate the provisions of section 6 (a) (1), with the provisions of 7 (a) and 7 (c). I do not believe it makes any change in substance. It simply coordinates those provisions. If the committee desires, I will take the amendment up and explain it, but I do not believe it is a substantial change. It is simply what we have called perfecting amendment.

The next one that I offer for the consideration of the committee deals with section 6 (a) (4) of the present bill. We do not have many suggestions with reference to that section because the same language was in a bill which Senator O'Mahoney invited us in 1950 to peruse and then appear at public hearing and offer any suggestions we might desire to make. However, since that hearing the conditions have changed to some extent, in that some of the rentals and royalties have been paid by the lessees, either to the Secretary of the Interior or to the Secretary of the Navy.

While the provision at the time it was first written into Senate Joint Resolution 195 covered the situation, since then some rentals and royalties have been paid to the United States.

I have reference to the provisions which say what leases are to be validated, describes the thing to be done before a lease is validated.

Subsection (4) is the one that I will direct these remarks to, and I might precede that by saying the lease is to be validated under this subsection are the leases, except as otherwise provided in section 7 hereof, on which,

> All rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this act which have not been paid in accordance with the provisions thereof and all rents, royalties, and other sums payable under such lease after effective date of this act are paid to the Secretary who shall deposit them in the Treasury of the United States.

Of course, the rentals and royalties that have been paid according to the provisions of the lease, have been paid to the States. However, after the Secretary issued his order or notice on December 11, 1950—the day the decree was rendered in the Texas and Louisiana cases—the rents and royalties have either been paid to the Secretary of the Interior or to the Secretary of the Navy.

There may be some instances where the rents and royalties have also been paid to the States if the lease was in the twilight area between the inner Continental Shelf and outer Continental Shelf.

Senator KUCHEL. Did the amount of any such royalty result from negotiation between the Federal Government and oil operators?

Mr. ORN. No, there was no stipulation, no agreement such as you had in the California case.

Senaor KUCHEL. They just made a voluntary payment?

Mr. ORN. No. On the day that the court entered the decrees in the Louisiana and Texas cases, the Secretary promulgated an order or rule—I believe it was called a notice—wherein he authorized the lessees who had producing wells to continue to operate the producing wells, and to pay the royalties to the Secretary of the Interior, who in turn would hold them in suspense awaiting congressional action.

Senator KUCHEL. The royalty called for in the lease?

Mr. ORN. Yes.

Senator ANDERSON. That applied to about 25 or 30 leases, did it not?

Mr. ORN. Senator, I am very sorry, I cannot tell you how many producing leases there were in Louisiana at that time.

Senator ANDERSON. We had testimony from the State of Louisiana the other day that there are 757 leases which it issued out of that area. They were approximately 23 or 25, as I recall the testimony now, that were being held by virtue of production.

Mr. ORN. Yes, sir.

Senator ANDERSON. There were another 235 that were being held by the payment of rentals directly to the Federal Government. There were another 60 where the payment was being made, I think also to the Federal Government, but 33 of those were paying also to the State, which was a duplicate payment and certainly put the lease in good shape. But there were some 400 leases on which payment had not been made to anyone. Does this bill in any way bring those leases alive?

Mr. ORN. Senator, this amendment, as we have made the suggestion, would do this: It first would require that all rentals and royalties that have not been paid to the State or paid to the Secretary of the Interior or paid to the Secretary of the Navy be paid to the Secretary of the Interior before the lease would come under the bill.

In other words, if there is any amount that has not been paid, the amendment would require that amount to be paid.

Now, I might say this in regard to it——

Senator ANDERSON. I do not believe that answers my question. Maybe it does, but it does not clear it up for me.

What I am trying to get to is this: There are, say, 30 leases being held by production. I do not think anybody would question the right of these people to have a lease exchanged for a Federal lease. There are another 232, as I remember it, being held by the payment to the Federal Government, that is, the Secretary of the Interior, of the amounts which normally would have been paid to the State.

Mr. ORN. Yes.

Senator ANDERSON. I think those leases are alive and valid or should be validated by this legislation.

Mr. ORN. Yes.

Senator ANDERSON. But if there are 400 leases that would have otherwise died, they have not made a payment to the State, they have not made a payment to the Federal Government, they are not producing oil and they are not drilling for oil, do you see any reason why those should be kept alive?

Mr. ORN. No. I would say this, Senator, that in regard to that, I think as a practical matter you have this situation: The payments have been made to the Secretary on the basis of what the lessees interpreted they owed under them.

There may be some clerical errors in the payment. What we propose to do is if there are any clerical errors in the payment—and the Secretary has not had an opportunity to audit the accounts—is to give the Secretary a period of 90 days from the effective date of this act in which to audit the leases and to see whether there are any additional sums due under them. If he decides there are additional sums

due, this reserves to him the right to require the sums to be paid, and at the same time it gives the lessees the opportunity of paying the amounts if there has been some error in the amount paid.

Senator ANDERSON. Is it just error? Suppose the man decided to abandon the lease in 1947, 1948, 1949, whenever he might have abandoned it, because of litigation, and he says, "I will not pay any more on this to anybody."

Now, he finds he can get a good lease. He has not made a payment on it for years. Can he walk in now and tender under this legislation the full amount of his rentals and be given a perfectly valid lease?

Mr. ORN. I think you will find that if he desired to abandon his lease, he also desired to take the chargeoff on his income tax at the time he abandoned it, in order to perfect his tax records he executed a release. There have been many many leases that have been released, releases filed with the State authority. The lessee has charged them off on his income tax. I do not believe under such conditions the lessee can come in and tell the Secretary he wishes that lease validated.

Senator ANDERSON. You know, the companies are in a preference position, that sometimes there are people who have a loss situation and a person who has a loss situation does not abandon a lease, whether he gets a release and files it or does not. He just lets it go and says, "The devil with it."

Do you not recognize there are people in that situation also?

Mr. ORN. There may be.

Senator ANDERSON. I am trying to find out if they can come in now and pay and be validated. I have not a bit of objection to 30 people holding by production and 30 people holding because they have paid 2 places and 232 people holding because they have paid to the Federal Government or the 200 that have paid to the State, but if there are 400 that have not paid to anybody, does this legislation permit them to pay up their back dues to the "lodge" and get in good standing?

Senator CORDON. May I interrupt for a moment and ask a question in another way, referring to the bill.

Now, on page 9 of the bill, set out in subparagraphs (1), (2), (3) are conditions precedent to validation of a lease. Let me read all of them.

> The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State or political subdivision or grantee thereof (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—
>
> (1) Such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods as may be fixed from time to time by the Secretary;

and parenthetically, this is what I want to call to your attention:

> such lease was issued (A) prior to December 21, 1948, and was on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it or whose political subdivision or grantee issued it, or (B) with the approval of the Secretary and was on the effective date of this Act in force and effect in accordance with its terms and provisions and the law of such State.

Now, assuming that a lease was in default prior to June 1950, would it come within that provision?

Mr. ORN. No, sir; it would not.

Senator CORDON. Then paragraph (3) provides for the securing of a certificate from the state official who had jurisdiction over the lease, stating it was in force and effect.

Then there is provision for evidence in the form of affidavit, receipts, canceled checks, or other documents that may be required by the Secretary sufficient to prove that such lease was in full force and effect. That provision was added to Senator Anderson's bill.

In view of the requirement that the lease must be in force and in effect in accordance with its terms and provisions, it offhand would appear to the Chair to provide that it must not be in default.

Mr. ORN. That is right. If he were in default, Senator Anderson, prior to the time the decision was rendered in the Supreme Court, if the lessee had not been paying the State, then he is out. Congress does not take care of him at all. They offer him nothing. He has given up his lease.

Senator LONG. How about the case where a man made payments to a State but not to the Federal Government on land that is held to be beyond the State's historic boundary, that is, lands on the outer Continental Shelf where the man mistakenly continued to make the payments to the State rather than to the Federal Government? How about that case?

Senator CORDON. You mean after 1950?

Senator LONG. After 1950.

Mr. ORN. If he continued to make his payments to the State after June 5, 1950, assuming that he believed that the area was within the traditional boundaries of the States, and if the Secretary of the Interior decided it was not, he could have his lease validated. If there is any lawsuit pending on the area whereby he does not know whether it is inside or outside, then he must continue on making his payments under any agreement that may be made between the State and the Federal official until the lawsuit is settled. If the court should hold that the area is not within the boundaries of the State, and that his lease covers lands of the outer Continental Shelf, his lease will be validated under the provisions of S. 1901. But he must continue making the payments.

Senator LONG. Now, would you require him to make payments to the Federal Government for the interim from 1950 up to the present time if he should have been making payments to the State under the mistaken impression that the property would belong to the State Government?

Mr. ORN. I would not, Senator. I do not believe this bill does that either.

Senator CORDON. The present provisions of subparagraph (4) on page 10 clearly does not, unless section 7 carries some such language.

Senator LONG. Is the effect of this bill such that any lessee must have decided at his peril whether this property is within or without the historic boundary of the State?

Mr. ORN. No, sir; there is a provision which I will come to later on, that if there is a dispute as to whether the lease covers lands within or without State boundaries, the State officials and the Federal Government may make an agreement as to whom these rentals are to

be paid. They can be deposited in a bank or handled in such way as the official may agree. If the lessee continues making the payments, and if the court should decide that the area is within State boundaries, the lessee will have discharged his obligations and the State will be entitled to the money.

But if it is decided that the area is outside of the State boundaries, then the Federal Government would be entitled to the money placed in escrow. It follows somewhat, Senator Kuchel, the provisions of the agreement that California made.

Senator LONG. If I correctly understand the legal situation, this Congress is now powerless to do anything to protect any lessees who failed to make payments to the Stae if this property falls within present State boundaries because Congress cannot tell the State at this point what it would do about its leases.

Mr. ORN. Certainly.

Senator LONG. Therefore, that is up to the State to decide whether or not it would make that lease good.

Now, where a person might have made payments to the State and then found that the property was not within State boundaries, even after the Holland bill was passed, would this bill enable that person to have his lease protected if he had been paying the State under the mistaken impression that this was property subject to the jurisdiction of the State?

Mr. ORN. It would.

Now, I would like a little bit later on to suggest an amendment, if it pleases the committee——

Senator LONG. Would he have to make up the payments to the Federal Government since 1950 in that event?

Mr. ORN. No, sir, he would not.

Senator CORDON. There is no provision in this bill, as I understand it, and I desire your comment on it, either for recapture from the States of any rents, royalties, or other sums payable under any lease which has been paid to the States after June 5, 1950, and the effective date of this act, and no provision requiring a payment by the lessee to the United States within that period if he has prior to this time paid such sums to the State.

Mr. ORN. I believe that is right. I think the bill is very clear that the lessee has lost his rights if he had not made the payments to June 5, 1950 to the States. The amendment, I am suggesting, Senator, is to give him credit for what he has paid to the Federal Government since June 5, 1950.

Senator ANDERSON. Give him credit?

Mr. ORN. I mean by that he has already received credit for it but he does not have to pay that again.

Senator ANDERSON. I see no reason why he should pay it. All I am trying to say is somebody testified, either Hines Baker or Mr. Hallanan, about half of these leases had been given up. I cannot put my finger on that testimony.

Senator CORDON. That is prior to 1950?

Mr. ORN. No, after 1950.

Senator CORDON. I am interested in whether the lease that was issued carried any provision by which on failure to pay a royalty the failure might be forgiven or might not be deemed to be in default until there was notice or something of that sort. Ordinarily, of course,

failure to make a rental payment is default. But what these leases might provide, I do not know.

Mr. ORN. I will say with reference to our Texas leases—Senator Daniel and I had quite an argument about the meaning of our Texas leases one time, which resulted in a lawsuit—but under our Texas leases they require the lessee to either pay the rental or release the lease.

Senator ANDERSON. I am only worried about the situation in Louisiana. I am trying to get assurance somewhere that a lease which might otherwise become dead after June 5, 1950, for failure to pay rental is not somehow brought to life by this if they walk in and tender for some period after June 5, 1950.

Maybe I cannot get assurance on that. Maybe it is a question that could not arise. But I do recall the State of Louisiana just 2 or 3 days ago clearly indicated that of the 757 leases, when Mr. Hallinan testified, it was only 730 leases, but now there are 757 leases, it clearly indicated of those 757 leases not all of them were in good standing.

Senator LONG. From what I understand, Senator Anderson, I believe you did not quite grasp one point the witness made. His attitude was that the State of Louisiana could not certify that any lease was in good standing if they had not paid the State of Louisiana. In other words, where you paid the Federal Government, that the State of Louisiana could not certify that insofar as they were concerned, the leases were valid where the payment had ceased to the State and the payment is being made to the Federal Government.

Senator ANDERSON. I agree with that. I think his point is correct. He could not certify that. I want to try to find out if beyond that there is another area I would hate to validate a batch of leases that are not now in good standing, either with the Federal Government by production or with the Federal Government by paying rentals and royalties to it, or with the State by the payment of rentals and royalties to the State.

I do not want to chop off the man who has mistakenly or unwittingly paid his rents and royalties directly to the State. I would be happy to validate those leases right along with the ones that were paid to the Federal Government. I do not want somebody who gave up his lease, walked away from it, to have any chance to come back in now and say, "I wanted that lease after all."

Senator CORDON. Let us assume a lease taken several years prior to 1948, on which payments have not been made. Immediately after we pass this legislation the holder of that lease, who had paid nothing since even before 1948, comes in and pays to the State of Louisiana accrued amount due and the State of Louisiana certifies that the lease is in good standing.

Senator ANDERSON. That is one instance. And in the other instance which the State of Louisiana itself brought to our attention, and I commend the Attorney General of Louisiana for doing it, he pointed out there had been a suit brought by 18 companies to give them some sort of relief provision down there in the period when this whole problem was under litigation. The Supreme Court of Louisiana held that it could not really give them any relief. He said two things could now happen:

One, the Legislature of Louisiana might pass a law which put this lease in good standing as of June 5, 1950. It might say by the pay-

ment of 2 years' rental, or 1 year's rental, or something of that nature, that the lease would be regarded as in good standing on June 5, 1950. Then the State official certifies that lease to us. It seems it might be possible under the Constitution.

The second thing is he thought action might be brought now in the Supreme Court of Louisiana and the Supreme Court of Louisiana might take a new look at it. They might decide there would be a reason why that person should have a right. He mentioned a particular lease for 5,000 acres on which the yearly payment was $250,000.

He said: "No payment is being made on that." Am I correct on that? Was that not the testimony of Louisiana that no payment was now being made on that lease? It must have been pretty good land to offer a $500,000 bonus, it must be pretty good land, but they are not paying on it and he said they never did pay much on it, as I remember.

I would hate to have them come back on some relief legislation by the Louisiana Legislature or Louisiana courts and make that lease alive. Probably I am spending too much time on it, but any help you can give us in the protection of that situation I will appreciate.

Senator KUCHEL. Is that not a rather remote possibility?

Number 2, here in section 6, goes on to say: "Was in effect June 5, 1950." Who is going to determine it was in effect? I suppose the Secretary of the Interior?

Mr. ORN. That is right.

Senator KUCHEL. If you had a long series of incidents that purported to breathe life in what was void or of no force and effect on June 5, you have to put some discretionary responsibility in the Secretary of the Interior to either decide that it was or was not. I think you are worrying needlessly.

Senator ANDERSON. Maybe so, I do that a great deal and I know it. I am only saying to you that the statement was made that they had not required payments on all these leases, they had not sued to cancel the lease in the State of Louisiana, as I believe you do in Texas, they had not sued to cancel it, and therefore it might have some life in it yet. And furthermore, if the law of Louisiana in some relief legislation says that these leases shall be regarded as being in full compliance by the payment now of a full year's rental or two full years' rentals, then the lease really would have been in full force and effect on June 5, 1950.

Mr. ORN. Senator, may I say this, sir, I think the litigation you have reference to was the litigation they had after the United States filed their suit against Louisiana on December 21, 1948, and prior to the decision of the Supreme Court of the United States on June 5, 1950. The lessees in Louisiana contended that they did not owe any rentals during the period of time that the litigation was pending.

The Supreme Court held against them and held that they did owe rentals under the laws of Louisiana during that period.

If there is anyone who held a lease during that period that did not pay the rentals, this act will not help him out a bit.

Senator ANDERSON. Suppose they now file a new suit and ask to have this very same relief you are talking about granted, namely, that no rentals were due during the period from December 21, 1948, to June 5, 1950, and the court then holds that no rentals were due, was this lease not in full force and effect on June 5, 1950?

Mr. ORN. I will put it this way: I think this, I think there is a finality to the decisions of the Supreme Court of Louisiana and the Supreme Court having decided that these rentals were due during this period, I do not believe that it would back up on that.

I do not believe that the State Legislature of Louisiana can give any relief on these leases once this bill is passed because Louisiana does not own the outer Continental Shelf and could not pass any relief legislation.

Senator ANDERSON. You said there was a finality to the action of the Supreme Court of Louisiana. Of course, steadily for months I have been hearing some contentions made by people who say there was a finality to the decision of the Supreme Court on this question and at a subsequent date the Supreme Court reversed itself. Apparently, you have not run into that. But I have heard quite a bit about it.

Senator CORDON. The only question that could arise is whether the lease itself, or the existing law at that time, placed either a specific provision in the nature of a statutory extension of right to pay, which I think would be almost inconceivable, or discretion in some executive officer to waive rentals, or to extend time for payments for cause or otherwise; if those things were done, then they might be able to say the leases were in force and effect.

Senator ANDERSON. May I add one word here and then I will be out of it for a minute. This is the testimony now of Mr. Hallaman in the hearing of 1951. He is an oil executive, as you well know, and I regarded him as a very expert witness. He said—

> Of the total of 2,925,000 acres leased since 1945 by 30 operators from the States of Texas and Louisiana through competitive bidding, there remain outstanding leases covering 1,550,000 acres or about 50 percent of the area originally leased. Leases covering about 400,000 acres have been surrended within the past 6 months.

Now, that would have been after June 5, 1950. They were in good standing as of June 5, 1950, but they were surrendered subsequent to that time. I only am hopeful that as far as legislative intent will do any good, we can indicate that we do not hope to breathe life into those leases that were surrendered subsequent to that decision of June 5, 1950.

Mr. ORN. I see your point, Senator. I think you will find that the companies actually released the leases, executed releases and filed them of record.

Senator ANDERSON. I would think that is so from reading the statement, Mr. Orn.

Mr. ORN. Now, passing on to amendemts 6 and 7, they are perfecting amendments; one of them uses the word "certified," which should be "certify."

The other one uses the word "them" and it is a little clearer to say "such payments."

The next is an amendment which we are suggesting on page 10 of S. 1901, line 21, that now reads:

> if such lease—

that is coupling back to the introductory part—

> if such lease provides for a royalty to the lessor of not less than 12½ per centum in amount or value of the production saved, removed, or sold from the lease * * *

Mr. ORN. We are suggesting that there be inserted after the word "lessor", the words "on oil and gas", in other words that the royalty must be at least 12½ percent on the oil and gas. This will conform with the royalties which the Government will receive in the future on oil and gas, and what the Government receives on oil and gas on the public domain lands.

Senator ANDERSON. You permit a lesser royalty on sulfur?

Mr. ORN. Yes, sir; and further on I have included an amendment with reference to sulfur, based it on the testimony of the sulfur operators. In the future when the United States offers sulfur leases the amendment provides for 5 percent royalty on sulfur. The sulfur amendment we are offering is in line with the testimony of the sulfur operators. On future sulfur leases, the royalty will be 5 percent.

Senator ANDERSON. Why, I wonder?

Mr. ORN. I do not think that you will find any sulfur leases that carry an eighth royalty.

Senator ANDERSON. What difference does that make? Years ago you did not find any oil leases that carried over a 5 percent royalty, but we did change it.

Mr. ORN. I am not testifying on the 5 percent royalty. As I understand, there were sulfur operators who testified and they offered a sulfur amendment. I have attempted to combine the amendments that have been suggested.

Senator CORDON. This amendment would have no application to the suggested amendment here. This goes only to the leases now in effect.

Mr. ORN. Yes, sir.

Senator CORDON. And that were in effect prior to 1948.

Mr. ORN. That is right.

Senator CORDON. So unless there were leases then in that area for some mineral other than oil and gas, we really do not need to encumber the thing with any additional language. If there were other leases, I have never heard of them? No one has ever indicated that.

Senator ANDERSON. On the sulfur leases, did not Louisiana get $2 a ton or something of that nature?

Mr. ORN. I think that is true, Senator. I believe there is a royalty of $2 per ton on the sulfur leases in Louisiana.

Senator ANDERSON. What is sulfur worth, $40 a ton?

Mr. ORN. I am sorry, I could not tell you.

Senator CORDON. Senator Long, do you know if there are any such leases outstanding in the outer shelf?

Senator LONG. The only sulfur leases are those held by oil companies, which have the right to produce sulfur as well as the right to produce oil and gas and certain other minerals, in the catch-all phrase of it.

Senator ANDERSON. The catch-all provision provides for not only sulfur at $2 a ton?

Senator LONG. It is something of that sort.

Senator ANDERSON. Is that right? Is that about 5 percent?

Mr. BONNECARRERE. In the present market, as I remember it, and I do not want to be quoted, it is something around $2 a ton.

Senator CORDON. Would this language make possible validation of your lease issued by the State of Louisiana, which included oil, gas, and other minerals?

Mr. ORN. Yes, sir; it would.

Senator CORDON. Provided that the royalty on the oil and gas was not less than 12½ percent, but with no restriction as to the royalty on the minerals, leaving it to the terms of the lease?

Mr. ORN. That is the effect of it; yes, sir.

Senator ANDERSON. I again express hope we are going to find some way of getting the sulfur out of these leases, if they are transferred.

Senator LONG. Will you state the position of the offshore lessees with regard to that? I take it you are testifying for the group. Do they have any objection to leaving sulfur out of the exchange leases?

Mr. ORN. Senator, I would say that they would prefer that it not be left out. We are here presenting our equities, and of course the final decision will rest with Congress. I do know this: that sulfur has been discovered in the general area of Louisiana in proximity to the leased areas, and if the lessee in drilling for oil and gas spends a half million or a million dollars and the hole is dry, but sulfur is encountered, the only way he has of recouping his losses is to in some way or other develop or cause to be developed the sulfur.

Senator ANDERSON. However, he cannot do that under a Federal lease now.

Mr. ORN. No, sir; he cannot.

Senator ANDERSON. Why do we try to validate something that we do not allow under a Federal lease? I can understand being very tolerant with these people who took leases from the State in good faith, and who paid bonuses to the States. I can be very sympathetic with their problems, but I confess when you start to say that because the State of Louisiana lumped in there a lot of other provisions, and a lot of other minerals, you have to separate this particular area and set up a new practice of mineral leasing different from the rest of the United States, then I would have trouble following that. These people may have some equities, but I do not believe that when your company, or any of the others bid, they stopped and said, "Now, this is about so much for oil and gas and so much for sulfur. You bid principally for oil and gas, did you not?

Mr. ORN. Senator, I will say you are right about that—we are in the oil and gas business. However, I will say this: we sometimes in a sulfur area do consider the prospects of sulfur. It will have some influence, but whether it is 1 percent or 10 percent, I could not say.

Senator ANDERSON. I never saw a man start down for lead and zinc who did not realize he might get gold, but those people who counted on finding gold are all broke.

Senator LONG. The sulfur stipulation was something of a langi-appe," to use our French term, but at the same time they knew they were going to get it, that is, they knew it would be in the lease when they bid for the lease. They were expecting to have the sulfur rights in their leases, but is it fair to say that, generally speaking, that is not the principal thing they were bidding for?

Mr. ORN. No, sir; I would say they were not bidding for the sulfur. They were bidding for the oil and gas, but I would not say that they did not have in mind that the lease would include sulfur.

Senator, 9 and 10 are perfecting amendments, to change the singular to plural, I believe, and the next one I come to of any substance that probably is worth discussing with the committee is Amendment No. 11. It amends page 11, line 25, and it includes "or if the primary term of

such lease had expired since December 11, 1950" so it would read, backing up a bit and reading the entire clause:

Any person holding a mineral lease which, as determined by the Secretary, meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with its provisions, for the full term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing, or whose political subdivision or grantee issued such lease, or if oil or gas was not being produced from such lease on or before December 11, 1950, or if the primary term of such lease has expired since December 11, 1950. * * *

The clause included in this amendment may have been omitted from the bill by oversight. It is contained in the Submerged Lands Act, where it was used in connection with preserving the rights of the lessees who had purchased leases from the States and maintained them in effect until June 5, 1950, and that is section 3 (a), page 33, lines 6 and 7.

Senator CORDON. The language clearly is proper language there; otherwise the succeeding language would have no meaning.

Mr. ORN. That is right. I think it is clarifying language——

Senator LONG. Which amendment is that?

Mr. ORN. That is No. 11, Senator.

Senator LONG. Amendment No. 11?

Mr. ORN. Yes, sir. I think it is clarifying language, and it has been in the other bill. It may have been omitted by oversight in this bill.

The next one that I come to is on page 12.

We suggest the deletion of subsection (d) of section 6. I might read that to the committee.

Subsection (d) says:

The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to the date of this Act.

This amendment eliminates section 6 (d). There is no provision in the bill which waives any claim that the Government may have against a State or its lessee. In the Texas and Louisiana cases, the United States sought to recover from the States all sums of money paid to the States by the lessees after June 23, 1947, the date of the California decision. The question was briefed by both sides, and the Supreme Court held against the United States, thereby refusing to require the States to account for any funds received prior to its decision on June 5, 1950.

The United States has not sought since the entry of the decrees, to recover from the lessees the sums which the Supreme Court refused to allow it to recover from the States. Furthermore, section 6 (a) (4) requires the lessees to pay to the United States any sums of money due after June 5, 1950, which they have not theretofore paid. This subsection insures full protection of the rights which the United States was held to have by the Supreme Court in the Louisiana and Texas opinions and decrees.

I do not find any provision waiving any cause of action the United States may have against these lessees for production or royalties that they paid to the States prior to June 5, 1950, and I see no reason why there should be some provision that says there is no waiver of any cause of action they may have. We would like to leave it out. There

have been no suits filed against us. This is a matter that involves the Justice Department, and if the committee intends to invite the Justice Department to make any suggestions, they may have something to say about it, but I do know that no suits have been filed, and I do not anticipate any.

Senator ANDERSON. However, you are trying to make them airtight so there could not be any?

Mr. ORN. No, sir; I do not include any release in the suggestions. I do not say "The United States releases." I merely leave the subsection out. If it is the wish to preclude them from filing a suit, of course you could include some provision releasing any cause of action the Government may have. There is no such release provision in the suggested amendments.

Amendments 13 and 14 are perfecting amendments. I will discuss amendment 15 with the committee.

Number 15 will go into section 7, which deals with controversies over jurisdiction.

The way section 7 is now written, if a controversy arises between the State and the United States as to whether an area is within the boundaries of the State, or is a part of the outer Continental Shelf, the United States, with the approval of the Attorney General, and the State, may enter into an agreement with reference to the payment of rentals and royalties during the pendency of the controversy.

Of course, if the State and the United States would cooperate and make stipulations such as were made in the California case, the lessee could go ahead and pay under the stipulation, and be protected, whether the land was within the State boundaries or on the outer Continental Shelf. We are suggesting here for the consideration of the committee that in the event the United States and the States are not able to agree as to where these sums are to be paid while the dispute is pending, that the lessee be permitted, if the State law permits, the bringing of an interpleader suit against the United States, and the State, and pay the money into court, and thereby discharge his obligation under the lease and at the same time relieve him from paying double royalty while the suit is pending.

I did not include it in the amendment, but I would even go a step further and provide that if the United States desires to settle the issue, not in the court where the money was deposited, but in the Supreme Court, that the court where the money was deposited must stay the proceeding while the controversy was being settled in the Supreme Court of the United States.

This is a little different, Senator, from the other interpleader provision.

There was an interpleader provision in some of the earlier bills that authorized the money to be paid to the State while the controversy was pending. This does not do that. It simply requires it to be paid into the registry of the court, and held by the court. Thereby the lessee would be discharged from his obligation to the State and to the Federal Government.

As I say, we do not desire to bind the United States to litigate in that forum, and there could be added a section—we would have no objection to it—that if the United States desired to litigate the question in the Supreme Court of the United States, then the district

court would have to stay the deciding of the interpleader suit until the question had been decided by the Supreme Court.

Senator ANDERSON. This is somewhat different from the House provisions, to which I have taken some exceptions?

Mr. ORN. It is.

Senator ANDERSON. I am not able to tell whether it is vastly different or not, but it is not substantially different, is it?

Mr. ORN. I believe there is quite a bit of difference, Senator, from the one to which you were making objection.

Senator ANDERSON. The one to which I took objection permitted them to file the certificate and then sit back and wait. Does not this permit them to do that?

Mr. ORN. I am first talking about the interpleader suit. When the lessee files the interpleader suit he must go ahead and make his payments in to the court.

Senator ANDERSON. You can make a State payment to the court. Just take the actual situation on the Shelf, outside of the three leagues. Some leases have been issued. Could it not be said that a doubt exists as to that land out there, and there could be a doubt existing as to whether that is in the outer Continental Shelf or not. Could a man come in now and get a lease from the State of Texas?

Mr. ORN. I do not think so, because this agreement that authorized the stipulation must be predicated on the fact that there is a controversy between the United States and the State.

Senator ANDERSON. You think there might not be a controversy? The State of Texas has extended its boundaries, has it not, to the extent of the Continental Shelf?

Mr. ORN. Yes.

Senator ANDERSON. Is there a controversy, or is there not a controversy?

Mr. ORN. Senator, I do not think so. I think the Submerged Lands Act, coupled with the decision of the Supreme Court, has removed that controversy.

Senator ANDERSON. Did you hear Governor Kennon the other day?

Mr. ORN. No, sir; I did not.

Senator ANDERSON. Is he not in doubt on it? Maybe I am all wrong, but I had an objection to the other one.

Senator CORDON. I would suggest here, Senator, that one of the differences may well be that here the question with respect to which there must be doubt is not as to whether the areas is within the boundaries of the State; it is the question as to whether it is within the outer Continental Shelf, and if you will recall, the outer Continental Shelf starts at the boundary of the State when it entered the union, so that the only question that could arise here is with respect to whether the particular area is within the boundaries of the State when it entered the Union, or within the outer Continental Shelf.

If the particular lessee says under oath there is a question, then he must begin an action to determine it. He can then say this is with the consent of the United States to be impleaded in the case, and then if the State consents to come into the case and does come into the case, the lessee may deposit with the clerk of the court rents and royalties, and they will be in full payment and, of course, will be subject to disposition, pending the outcome of the lawsuit.

Senator ANDERSON. You recognize that this is something that I did not object to on the basis of my own knowledge of it; I objected to it on the basis of people who had been in this litigation, saying that they thought this provision to which I took original objection was a very bad provision, and I am frank to say that the language is different. Maybe that would completely change the facts. I do not know.

Senator CORDON. I have not studied it carefully, but I believe that is so.

Senator LONG. Mr. Orn, can the Congress authorize any private lessee to interplead a State government?

Mr. ORN. No, sir; not unless the State consents. I may say this: as we interpret the Louisiana laws, one is permitted to sue the Mineral Leasing Board of Louisiana, and I think the Louisiana statute is sufficient to implead the mineral leasing board, if it was contending that the area was within State boundaries, and the Government was contending that it is a part of the outer Continental Shelf. Of course, Congress could not authorize the State to be sued, and if there is no law providing it may be sued, the lessee is just a helpless party.

Senator LONG. In Louisiana payments are not due to the mineral leasing board. You owe your payments to the register of the State land office. Can you interplead the State land office?

Mr. ORN. I could not pass on that question. If one cannot, he would get no benefit out of this interpleader, because Congress could not authorize an individual to sue a State.

Senator LONG. What you want to do is to get the Federal Government to interplead, and you can see if you can plead the State on the other end?

Mr. ORN. That is right. In other words, if you cannot interplead the State then there is nothing you can do about it.

Senator ANDERSON. You read the hearings. You read the objection that I made to the section.

Mr. ORN. Yes, sir, Senator; I did.

Senator ANDERSON. Do you think that this clears up the objection that I raised?

Mr. ORN. Senators, that puts an awful burden on me, but, as I recall, one of the objections that you had was under the old provision that when a controversy arose and an interpleader suit was filed the lessee continued to pay the money to the State.

Senator ANDERSON. And filed your certificate with the Federal Government and then just sat back and waited.

Mr. ORN. Yes.

Senator ANDERSON. The ordinary rule is, if I pay my rent to the wrong person, I am still obligated to the rightful owner, and there should not be any question now as to who is the rightful owner of the Continental Shelf.

Mr. ORN. Except where the traditional boundary may be located.

Senator CORDON. This provision does require diligence on the part of the lessee in bringing his proceeding in court, so he cannot gain anything by it, except an early, we hope, determination of the question, so he will know to whom he owes it. I think that is clear.

Mr. ORN. Another provision I am suggesting—and as I recall it is in S. 107 in substantially the same language, by Senator Anderson—would permit the United States or the Secretary of the Interior

with the approval of the Attorney General, to certify that the United States is not claiming an area as a part of the outer Continental Shelf.

Subsection (b) of the proposed amendment would permit the United States, through its duly authorized officials, to certify that an area covered by a lease does not lie within the outer Continental Shelf. This subsection is substantially the same as that contained in S. 107, by Senator Anderson, section 2, page 5, and it would tend to reduce the amount of litigation and enable the Department of Justice to limit the size of an area involved in a controversy with a State. It is simply to avoid some litigation.

They say "We are not claiming that area. You go ahead and you can operate in that area as though it belonged to the States.

Senator LONG. What binding effect would that have? Would that stop the United States or foreclose the United States from taking a different view at some later date?

Mr. ORN. It certainly would, Senator, so far as the lessee is concerned, if he operated and paid the sums due, based upon that certificate, but I do not know that it would bind the United States in the nature of an agreement, but it would protect the lessee if he went ahead and paid after the officials had made the certification.

Amendments 16, 17, and 18 are all perfecting amendments, part of them dealing with the orders and notices that appeared in the Federal Register, same having been omitted from S. 1901.

No. 19 would change this bill from an interim bill to a permanent bill. It says:

> In order to meet the urgent need during the present emergency for further exploration. * * *

We have made the suggestion that "during the present emergency" be deleted. It would read:

> In order to meet the urgent need for further exploration and development. * * * the Secretary is authorized to grant to the qualified persons offering the highest bonuses on a basis of competitive bidding. * * *

and so forth.

You could even leave out the "urgent need" but I do think "during the present emergency" should be omitted, so that the bill will be permanent instead of interim.

Senator CORDON. Now for No. 20.

Mr. ORN. No. 20 requires the bids to be on cash bonuses. It means that when a lease is offered the Secretary must determine the royalty to be paid—it could not be less than an eighth, but it might be a quarter—however, the bidding would be on the bonus.

Senator LONG. Of course, that is preferring the Texas system rather than the Louisiana system of leaving both ends open. Texas has a fixed royalty and leaves only one end open. That is, the cash end, on undeveloped areas. Louisiana leaves both ends open. You can offer higher royalties and leave the cash end open or vice versa.

Senator CORDON. Which would you say was the better?

Senator LONG. Louisiana has a board of 12 men. So far there has been no objection to any determination made by the Louisiana board. So far as I know there has been no case where there has been any controversy that developed. I understand in Texas they did have a case like that, but with 12 men on the board in Louisiana we have

been able to take the bids which they thought were the best bids, and, arrive at a judgment that so far seems to have been satisfactory, to try to decide which one, all things considered, was the best bid for the State.

Have you found any objection with that experience?

Mr. ORN. Senator, our State used to leave both ends open, and we had some bad experiences where someone had bid a bonus of a half million dollars and an eighth royalty and someone else had bid a quarter royalty and no bonus. Which is the better bid? When the bidding is on cash bonus the Secretary decides what royalty is to be paid. Under this system the Government does not gamble on whether oil will be found. If bids are received on a sliding royalty basis and the well is dry, the Government may lose a half million dollars that it would have received had the bidding been on cash bonus.

Senator CORDON. Would that militate in favor of one who has on hand plenty of cash as against one who does not, but who is perfectly willing to gamble at a heavier percentage of the product, in case he gets it?

Mr. ORN. It would, Senator, except I think that the operations on the outer Continental Shelf will be so expensive that the people who ordinarily bid on public lands on the sliding royalty basis will not bid on these leases. As to companies who have the financial ability to operate on the outer Continental Shelf, I believe that bidding on cash bonus will result in the Government receiving more money. When the Government receives cash, and a hole is dry, it has not lost.

Senator CORDON. Then what is the fact when one company is capable of bidding a high cash bonus, as to whether such company would hesitate to bid a cash bonus, but would be willing to pay a higher royalty? In other words, it is willing to take its chances with what is in the ground, but it is not willing to pay too much for the privilege of determining it.

Mr. ORN. Senator, from the standpoint of that company, or person, of course, the bidding on the royalty would be to his advantage. On the other hand, if he happened to get a dry hole after bidding a quarter royalty, the Government might have lost a half million dollars that it would have received had the bidding been on cash bonus.

Senator CORDON. There is no question about that. I am thinking more in terms of getting the job done than the immediate winner.

Senator DANIEL. Mr. Chairman, I may say in Texas we have it so that we can fix the cash amount and let them bid on the royalty, but we never let them bid on both cash and royalty. One or the other is fixed before bidding. On the wildcat acreage, especially this Gulf acreage, we have always fixed the royalty at one-eighth, and let them bid on cash. I think Mr. Orin is correct, that for this type of acreage, that is going to be the way for the Government to be sure of getting the most out of it.

Senator CORDON. What language here would perimt that? That is, the highest bonuses.

Mr. ORN. All you need to do is insert in there "offering the highest cash bonus."

Senator CORDON. I understand that will take care of what you are talking about. I want discretion in the Secretary, but to require the Secretary to determine in advance so that he may set a cash bonus

and leave the bid to be on royalty, or he may set royalty, and let it be on cash.

Senator DANIEL. Would you want to do that in the outer shelf area?

Senator CORDON. I do not know. I just wanted to know how you would do it if we wanted to do it.

Senator LONG. It does seem to me that the United States should not make a national policy to try to greatly enrich this nation at the expense of someone going into a proposition that loses him a lot of money. Generally speaking, it seems to me that the view of our Government should be that if this proposition is not a good deal for the other man it is not a good deal for the Government, because, in the long run we do not benefit by requiring someone to take some enormous risk of capital in order to go out and try to develop some resources that would be in the national interest if it was developed. Actually, does not the mineral leasing act pursue just the opposite philosophy, that you can only have a bid of 50 cents an acre and a one-eighth royalty, and some have argued, that we thereby protect the right of the little fellow to get in and bid for a lease.

Senator CORDON. Could you give us some alternate language?

Mr. ORN. I will be very happy to do that.

We next suggest in No. 21. The language in S. 1901 is as follows:

on a basis of competitive bidding.

We suggest "sealed bidding," and that, of course, is another matter of policy.

In Texas the sale of submerged leases has been on sealed bidding, and we have seen the time where someone may bid $300,000 on sealed bidding for a lease and the next highest bidder may be $3,000.

I think, from the standpoint of the Government it results in the company bidding what they think the acreage is worth, whereas at public auction, they bid whatever they can buy the lease for, depending on who else is bidding.

Senator CORDON. Do we have any testimony from other oil operators on that?

Senator LONG. Sealed bidding is our practice in Louisiana. In some cases we have found on a sealed bid that the high man has bid 10 times as much as the next highest bid, and it does sometimes get better bidding.

Senator DANIEL. The University of Texas is the only agency in Texas that I know of that has a public auction, but they spend a lot of money working up geophysical information at their own expense and offering drilling blocks. Never have we though that ought to be applied to this vast acreage of wildcat lands that the State owns for the public-school fund.

Senator CORDON. What is next?

Mr. ORN. Amendment No. 24. It would be inserted on page 15 as a new subsection, preceding subsection (e). It would authorize the Secretary to issue sulfur leases. It would allow the Federal Government to issue a sulfur lease on top of an oil and gas lease that does not cover sulfur.

Senator LONG. Your proposal is, however, that it would only relate to those leases that are not already leased for oil and gas and sulfur?

Mr. ORN. Yes, sir.

Senator LONG. And to respect the leases that have already sulfur leasing in them?

Mr. ORN. Yes, sir; that is what we are hoping.

Senator CORDON. May I make a request here? If you gentlemen agree, we could put the balance of this into the record, and then we could hear Major Cosgrove.

Senator DANIEL. I do not except, that I would like to ask a few questions.

Senator CORDON. On this?

Senator DANIEL. No; on previous testimony.

Senator CORDON. That will make a difference.

Mr. ORN. May I make this request, then: that I be permitted to put in the record the entire statement? I have been reading from a draft of the notes that I have prepared, and I think if I insert the letter-statement the suggested amendments will be in more compact and logical form.

Senator CORDON. All right. Without objection, it is so ordered.

(The statement referred to follows:)

WASHINGTON, D. C., *May 25, 1953.*

Hon. GUY CORDON,
Acting Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: On Wednesday, May 20, 1953, you requested representatives of the offshore lessees to advise you from their experience in offshore operations (*a*) whether the provisions of S. 1901 are adequate to permit the resumption of oil and gas operations and to protect the rights and interests of employees engaged in those operations on the outer Continental Shelf, and if not, what amendments might be necessary; and (*b*) whether, if the Congress should decide as a matter of policy to permit the coastal States to extend their jurisdiction and laws to the outer Continental Shelf, the operations could be resumed and the rights of the employees protected.

Should Congress decide that only Federal laws should be applicable to the outer Continental Shelf, we believe that the operations can be resumed and the rights of our employees adequately protected under the provisions of S. 1901 with the amendments suggested and discussed herein.

The Submerged Lands Act establishes the jurisdiction of the United States over the natural resources of the outer Continental Shelf, but does not extend the boundaries of this Nation to the outer edge of the shelf. Section 3 of S. 1901 reaffirms that jurisdiction and control, but it likewise does not extend the boundaries of the United States. Inasmuch as it is apparently the view of Congress that extension of the boundaries would bring about international complications, it is necessary to adopt an adequate system of laws for the area. We have carefully examined section 4 of S. 1901 and we believe it does constitute an adequate system of laws to protect the rights of the United States, to enable the operators to resume development, and to protect the rights of the employees engaged in the operations.

Section 4 (a) applies to the platforms or structures from which the operations will be conducted the same admiralty and maritime laws, both civil and criminal, that are applicable to vessels on the high seas. These laws have evolved over a period of more than a century and cover the acts and offenses likely to be committed on a platform. Their application to the platforms follows a precedent set by Congress when it applied the admiralty and maritime laws to the operators and their employees engaged in removing guano from islands which the President, under congressional authority, had declared as appertaining to the United States and under its jurisdiction and control. (See Guano Island Act, 47 U. S. C., sec. 1417.) The validity of this act was sustained in *United States* v. *Jones* (137 U. S. 202), thus creating a court precedent for sustaining the validity of section 4 (a).

Section 4 (b) of S. 1901 confers jurisdiction upon United States district courts of cases and controversies arising out of operations on the outer Continental Shelf, and fixes the venue of such actions. In addition to applying and

enforcing the provisions of this act, the Federal courts can and will determine and enforce the rights of the parties under the common law.

The rights of the employees are further protected in section 4 by the application of the Longshoremen's and Harbor Workers' Compensation Act, the National Labor Relations Act, and the Fair Labor Standards Act. The Federal compensation laws which will apply are more favorable to the workman than are the compensation laws of many of the States. Because of the nature of these operations and the uncertainty as to applicable laws, the operators now cover workmen under both State and Federal compensation laws.

Our opinion that the provisions of S. 1901 (with the amendments suggested herein) are adequate is based on our experience to date with these operations. However, the operations are new and it may be necessary for additional laws to be enacted to meet unforeseen problems as they arise. The law can no more be static in this field than in any other. The Nation must not be denied the resources of this area until every problem conceivable in the mind of man can be anticipated and solved. S. 1901, with the suggested amendments, offers a reasonable solution of the known problems.

We recognize that whether the States are to be permitted to apply some or all of their laws is a matter of policy involving the delicate relationship between State and Federal Government. However, should Congress decide to permit State laws to apply, we deem those laws to be adequate to protect the rights of the operators and their employees. The adequacy of the State laws, as viewed from the operator's standpoint, is reflected by the amount of development in the offshore areas which occurred prior to the decrees in the California, Louisiana, and Texas cases.

Should Congress conclude to allow the States to exercise some jurisdiction over the outer Continental Shelf, Federal laws must apply until the States elect whether to exercise their jurisdiction. Therefore, we think that section 4 should remain in the bill even though it is amended so as to allow the States to exercise some jurisdiction.

With that in mind, we have drafted two alternative amendments, either of which can be added to section 4 in the event Congress desires to permit the States to exercise some jurisdiction. Alternative 1 would permit the States to extend all of their laws to the area to the extent that they are not in conflict with Federal laws and regulations. If a State should so extend its laws, the application of section 4 (a) to the area contiguous to the State would no longer be necessary. Alternative 2 would permit the States to apply and enforce only their conservation laws, to the extent that they are not inconsistent with the rules and regulations of the Secretary under section 5.

The following is alternative 1:

BROAD STATE AUTHORITY

Amend page 8, section 4, line 10 by adding the following new subsection:

"(1) (1) Each coastal State may extend its jurisdiction to the natural resources of the subsoil and seabed of such portion of the outer Continental Shelf as may be defined by the Secretary as being contiguous to the seaward boundaries of the State. The Secretary, upon request of a State, shall define, and publish in the Federal Register, the area which he finds to be contiguous to the seaward boundaries of the State. No State shall exercise its jurisdiction over such area so as to interfere with the jurisdiction, control and power of disposition vested in the United States by this act.

"(2) Any State so extending its jurisdiction may also extend its laws to the portion of the outer Continental Shelf within its jurisdiction, except to the extent that its laws are inconsistent with the laws of the United States heretofore or hereafter enacted, or with the rules and regulations of the Secretary issued in pursuance to the provisions of this act. When a State has so extended its laws, the provisions of subsection (a) of this section shall no longer apply to acts occurring and offenses committed on any structure located on the portion of the outer Continental Shelf within the jurisdiction of the State.

"(3) Any State which extends its jurisdiction and laws pursuant to the provisions of this section shall furnish a certified copy of the act so providing within 30 days of its passage to the Secretary who shall publish it in the Federal Register."

The following is alternative 2:

LIMITED STATE AUTHORITY

Amend page 8, section 4, line 10 by adding the following new subsection:

"(1) (1) Each coastal State may, for the limited purpose of prevention of waste, protection of correlative rights and conservation, extend its jurisdiction to the natural resources of the subsoil and seabed of such portion of the outer Continental Shelf as may be defined by the Secretary as being contiguous to the seaward boundaries of the State. The Secretary, upon request of a State, shall define, and publish in the Federal Register, the area which he finds to be contiguous to the seaward boundaries of the State. No State shall exercise its jurisdiction so as to interfere with the jurisdiction, control and power of disposition vested in the United States by this act.

"(2) Any State so extending its jurisdiction may also extend its law relating to the prevention of waste, protection of correlative rights and conservation of natural resources to the portion of the outer Continental Shelf within its limited jurisdiction, except to the extent that such laws are inconsistent with the laws of the United States heretofore or hereafter enacted, or with the rules and regulations of the Secretary issued in pursuance to the provisions of this act.

"(3) Any State which extends its jurisdiction and laws pursuant to the provisions of this section shall furnish a certified copy of the act so providing within 30 days of its passage to the Secretary who shall publish it in the Federal Register."

Whatever may be the decision of the Congress with reference to State law, we believe that S. 1901 should be amended as follows:

1. Amend page 2, section 2, line 10 by adding the following new subsection:

"(e) The term 'law of the State' whenever used in this act in connection with a lease issued by a State which was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing the lease, shall mean such laws of the State as were valid, or would have been valid had the State had paramount rights in and dominion over the lands included in the lease."

Explanation.—We believe that the legal term "law of the State" as the term is used in section 6 of the act should be defined. This section authorizes a person holding a mineral lease to continue to maintain the lease if it was issued "prior to December 21, 1948, and was on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing" such lease, provided other conditions are complied with. The term "law of the State", as used, is intended to include the statutes of the State, the decisions of the courts of the State, and the regulations of the State officials, even though at the time the lease was issued the State had no title. The definition, if adopted, would limit the act to such leases as were valid on June 5, 1950, under State law, or would have been valid had the State had the legal right to issue the leases which it assumed it had at the time of issuance. It eliminates any uncertainty about the meaning of the term, and follows the same language employed in H. R. 4198 as it reached the Senate, in that section 10 (a) authorizes the Secretary to issue an exchange lease for a State lease "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 and the laws of the State issuing such lease had the State issuing such lease had such paramaunt rights in and dominion over the outer Continental Shelf as it assumed it had when it issued the lease". The latter provision is also contained in H. R. 5134 (see section 11 (a)).

2. Amend page 2, section 3 (b), lines 19 and 20 by deleting in line 19 the word "and" following the word "Shelf" and by inserting in lieu thereof a comma; and by inserting in line 20 following the word "servitude" the following: "and the rights of fishing in the waters."

Explanation.—This amendment makes certain that the act does not apply to fishing in the waters above the outer Continental Shelf, and should remove any fears of the fishing industry that the act will affect their rights to fish in the waters of the outer Continental Shelf, or will prejudice the rights of the United States to contend that the fishing industry has the right to fish in the waters of the outer Continental Shelf adjacent to any other nation.

3. Amend page 8, section 5, lines 11 to 23, by striking same and inserting in lieu thereof the following:

"Sec. 5. Administration of leases on the outer Continental Shelf. (a) The Secretary shall administer the provisions of this act relating to the leasing of

the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions.

"(b) The Secretary is authorized to prescribe, publish, and enforce such rules and regulations as he deems necessary for the prevention of waste, the protection of correlative rights and the conservation of the natural resources of the outer Continental Shelf.

"(c) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $1,000 or by imprisonment for not more than 6 months or by both such fine and imprisonment.

"(d) (1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this act, of the regulations issued thereunder, or of the lease, such lease may be canceled by the Secretary if such default continues for the period of 30 days after the service of notice as provided in the next succeeding sentence. Such notice in advance of cancellation shall be sent by registered letter to the lease owner at his record post office address, and in case such letter shall be returned as undelivered, such notice shall be posted for a period of 30 days in the United States land office nearest the area covered by the lease.

"(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this act, of the regulations issued thereunder, or of the lease, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of this act.

"(e) The provisions of sections 17 (b), 30 (a), 30 (b), 36 and 39 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended, to the extent that such provisions are not inconsistent with their application to the outer Continental Shelf or with the terms of this act, are made applicable to leases granted or maintained under the provisions of this act.

"(f) The Secretary is authorized to grant rights-of-way on the outer Continental Shelf for pipelines for the transportation of natural resources on such terms and conditions as he may prescribe. After notice and hearing, if he should find that public convenience and necessity so require, the Secretary may order any such pipeline to be operated and maintained as a common carrier and thereafter, the provisions of part I of the Interstate Commerce Act shall apply to the same extent that the act would apply if the pipeline extended from one State to another State."

Explanation.—This amendment in general enlarges the powers of the Secretary, prescribes penalties for a violation of his rules, and gives him the same right to cancel or forfeit a lease that he has under the Mineral Leasing Act with reference to mineral leases on the public domain.

(a) This subsection is the same as the first sentence of section 5.

(b) This subsection not only authorizes the Secretary to make rules and regulations for the conservation of the natural resources, but it also permits him to make rules and regulations to prevent waste, and to protect the correlative rights of those who are affected by his conservation rules. Furthermore, it expressly authorizes him to enforce the rules. The power given to the Secretary follows somewhat the pattern of the State conservation statutes except that his authority is broader than ordinarily vested in State agencies. Most State conservation statutes include the power and duty to protect correlative rights, so that the agency will not promulgate rules which will permit one lease owner to drain the natural resources from the land of his neighbor.

(c) This subsection puts teeth into the rules and regulations of the Secretary and makes a violation of his rules a criminal offense. Similar provisions are contained in the conservation statutes of most States.

(d) (1) and (2) This subsection gives the Secretary the same right to cancel a nonproducing lease on the outer Continental Shelf that he has under the Mineral Leasing Act to cancel a nonproducing lease on public lands, and requires the same character of notice for the same period of time. (See sec. 31, Mineral Leasing Act, and Regulation of Bureau of Land Management issued thereunder, 43 C. F. R. sec. 192.161.) This subsection permits him, in case of a producing lease, to bring a suit to cancel the lease for noncompliance with its provisions, his regulations, or of this act, and in this regard he has the same, but no greater powers, than he has under the Mineral Leasing Act. This subsection together with subsection (c) imposing criminal penalties, assures compliance with the act, the rules and regulations, and the terms of the lease.

(e) This subsection makes certain provisions of the Mineral Leasing Act applicable to leases covered by S. 1901. Section 17 (b) of the Mineral Leasing Act, if adopted, would authorize the cooperative or unit plan development and operation of the outer Continental Shelf. The Secretary is given the same power with reference to directing and approving unitization agreements that he has under the Mineral Leasing Act. These powers are closely connected with conservation of the natural resources. Section 30 (a), if adopted, would require the Secretary's approval of all assignments and subleases, and would provide a public record of such transfers of title. Section 30 (b), if adopted, would control the relinquishment of leases and prescribe the conditions under which they can be released. Section 36, if adopted, would authorize the Secretary to take in kind the Government royalty on oil or gas, and to sell it. Section 39, if adopted, would authorize the Secretary, in the interest of conservation, to waive or reduce the rentals or royalties, thereby preventing the premature abandonment of a well, and to assent to the suspension of operations and production on certain conditions.

(f) This subsection, if adopted, would offer a solution to some of the questions with regard to pipelines raised in the hearings. The Secretary could declare any pipeline to be a common carrier, in which event the Interstate Commerce Commission would have jurisdiction to the same extent that it has jurisdiction under the Interstate Commerce Act, and could prescribe tariffs in the same manner that it does under the act.

4. Amend page 9, section 6 (a) (1), line 9, by inserting after the words "period or periods" the words "as provided in Sec. 7 hereof or".

Explanation.—Perfecting amendment to coordinate the provisions of section 6 (a) (1) with the provisions of section 7 (a) and 7 (c).

5. Amend page 10, section 6 (a) (4), line 9, by adding after the word "thereof", the following: "or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection."

Explanation.—As presently written, section 6 (a) (4) provides that operations may be continued if "all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof", are paid to the Secretary. This overlooks the fact that since December 11, 1950, rents and royalties have been paid either to the Secretary of the Interior or to the Secretary of the Navy instead of being paid to the States issuing the leases. This amendment corrects the oversight. It also gives the Secretary the right to require the lessee to pay any additional sums he finds to be due after he has had an opportunity to become familiar with the leases and to audit the accounts and payments. Furthermore, it limits the time within which the lessee must make such payments and correct any accounting errors.

6. Amend page 10, section 6 (a) (4), line 12, by substituting in lieu of the word "them" the words "such payments".

Explanation.—Perfecting amendment.

7. Amend page 10, section 6 (a) (5), line 14, by changing the word "certified" to "certifies".

Explanation.—Perfecting amendment.

8. Amend page 10, section 6 (a) (8), line 21, by inserting after the words "to the lessor" the words "on oil and gas".

Explanation.—We know of no leases issued on the outer Continental Shelf providing for a royalty on oil and gas of less than 12½ percent, but in the event there are, they will not be validated by the act unless the royalty on oil and gas is increased to the minimum of 12½ percent. The new leases to be issued under this act, and those issued under the Mineral Leasing Act, provide for a royalty of not less than 12½ percent on oil and gas.

9. Amend page 11, section 6 (b), lines 20 and 21, by inserting in lieu of the words "extension, renewal, or replacement" the words "extensions, renewals, or replacements".

Explanation.—Perfecting amendment.

10. Amend page 11, section 6 (b), line 22, by changing the word "law" to "laws" and adding after the word "whose" the word "political".

Explanation.—Perfecting amendment.

11. Amend page 11, section 6 (b), line 25, by adding after the figures "1950", the words "or if the primary term of such lease has expired since December 11, 1950,".

Explanation.—The clause included in this amendment may have been omitted from this bill by oversight. It is contained in the Submerged Lands Act where it was used in connection with preserving the rights of the lessees who had purchased leases from the State and maintained them in effect until June 5, 1950 (See sec. 3 (c), p. 33, lines 6 and 7). This clause is also contained in H. R. 5134, section 11 (a). Most State leases gave the lessees 5 years within which to discover minerals or commence operations, and if minerals were discovered within that period, the lease then continued in force and effect as long as they were produced. The pendency of the litigation and the decisions of the Supreme Court stopped exploratory operations, and in some instances, the primary term of the lease has expired without the lease owner having had a sufficient opportunity to conduct exploratory operations. This amendment, together with other provisions of the bill, will protect such lessees but gives them no longer time to explore the land for oil or gas than they would have had on December 11, 1950, had it not been for the Court's decision.

12. Amend page 12, section 6 (d), lines 10 to 15, inclusive, by eliminating subsection (d) therefrom.

Explanation.—This amendment eliminates section 6 (d). There is no provision in the bill which waives any claim that the Government may have against a State or its lessee. In the Texas and Louisiana cases the United States sought to recover from the States all sums of money paid to the States by the lessees after June 23, 1947, the date of the California decision. The question was briefed by both sides and the Supreme Court held against the United States, thereby refusing to require the States to account for any funds received prior to its decision on June 5, 1950. The United States has not sought since the entry of the decrees to recover from the lessees the sums which the Supreme Court refused to allow them to recover from the States. Furthermore, section 6 (a) (4) requires the lessees to pay to the United States any sums of money due after June 5, 1950, which they have not theretofore paid. This subsection insures full protection of the rights which the United States was held to have by the Supreme Court in the Louisiana and Texas opinions and decrees.

13. Amend page 12, section 6, line 16, by changing "(e)" to "(d)".

Explanation.—Perfecting amendment.

14. Amend page 12, section 7, line 20, by substituting for the words "CONTROVERSY OVER JURISDICTION" the words "INTERPLEADER, DISCLAIMER AND INTERIM ARRANGEMENTS".

Explanation.—Perfecting amendment (see explanation, amendment 15.)

15. Amend page 12, section 7, line 20, by inserting a subsection in front of the words "In the" as follows:

"(a) Notwithstanding the other provisions of this Act if any lessee under any lease of submerged lands granted by any State, its political subdivision or grantee isued prior to the effective date of this Act shall file with the Secretary a certificate under oath stating that doubt exists as to whether an area covered by such lease lies within the outer Continental Shelf, the lessee may interplead the United States and with its consent, if necessary, the State or States or the agency, political subdivision or grantee thereof concerned, in an action brought to determine the location of the leased area with reference to the outer Continental Shelf and in the event the State, its agency, political subdivision or grantee concerned be so interpleaded, the lessee may deposit with the clerk of the court in which such action is filed all rents, royalties, and other sums thereafter payable, and such deposit shall be considered full payment of sums in accordance with the provisions of such lease and of paragraph (4) of subsection (a) of section 6 hereof.

"(b) The Secretary is authorized, with the approval of the Attorney General of the United States and upon the application of any lessor or lessee of a mineral lease issued by or under the authority of a State, its political subdivision or grantee, on submerged lands, to certify that the area covered by such lease does not lie within the outer Continental Shelf."

Explanation.—This amendment expands section 7 where a State and the United States cannot make a satisfactory agreement during the pendency of the controversy as to which one is to collect and hold the rentals and royalties. It permits a lessee to bring an interpleader suit against the United States and a State if the laws of the State authorize such a suit. Presently the Louisiana statutes are deemed sufficient to authorize the filing of such an interpleader suit. The suit would not preclude the United States, in the event it desired to litigate the controversy in the Supreme Court, from bringing an original action for a decree fixing the line in dispute. The amendment would name a depository to which

the royalties could be paid while the controversy was pending and would prevent the lessee from being in default or having to make double payments during the pendency of the controversy. If the Justice Department should deem it advisable, a provision could be added to the amendment requiring the district court to stay the interpleader suit should the United States thereafter bring an original action in the Supreme Court.

Subsection (b) of the proposed amendment would permit the United States through its duly authorized officials to certify that an area covered by a lease does not lie within the outer Continental Shelf. This subsection is substantially the same as that contained in S. 107 by Senator Anderson (see sec. 2, p. 5) and would tend to reduce the amount of litigation and enable the Department of Justice to limit the size of an area involved in a controversy with a State.

16. Amend page 12, section 7, line 20, by inserting the letter "(c)" before the words "In the event of a controversy".

Explanation.—Perfecting amendment. (See explanation, amendment 15.)

17. Amend page 14, section 7, line 5, by eliminating the word "and".

Explanation.—Perfecting amendment.

18. Amend page 14, section 7, line 6, by inserting in front of the word "respectively", the following:

"March 25, 1952 (17 F. R. 2821) and June 26, 1952 (17 F. R. 5833),".

Explanation.—Perfecting amendment.

19. Amend page 14, section 8 (a), lines 9 and 10, by eliminating the words "during the present emergency".

Explanation.—Perfecting amendment to make the act permanent instead of interim.

20. Amend page 14, section 8 (a), line 13, by inserting after the word "highest" the word "cash".

Explanation.—The competitive bidding should be on the basis of cash and not deferred payment or royalty payments.

21. Amend page 14, section 8 (a), line 14, by inserting after the word "competitive" the word "sealed".

Explanation.—We believe that the United States will receive larger bonuses for leases if they are sold on the basis of competitive sealed bidding. Sealed bidding requires each bidder to value the prospect and offer the largest sum he deems it to be worth. A bidder could not buy the lease at a sum below its value even though there were no other bidders.

22. Amend page 14, section 8 (b), line 18, by inserting in lieu of the word "A" the words "An oil and gas".

Explanation.—Perfecting amendment. (See explanation, amendment 24.)

23. Amend page 15, Sec. 8 (b), line 1 by inserting after the words "per centum" the words "in the amount or value of the production saved, removed, or sold from the lease,".

Explanation.—Perfecting amendment.

24. Amend page 15, section 8, line 3, by adding three new subsections as follows, and relettering the remaining subsections:

"(c) In order to meet the urgent need for further exploration and development of the sulfur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive sealed bidding sulfur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulfur and meet the requirements of subsection (a) of section 6 of this Act, and which sulfur leases shall be offered for bid, and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

"(d) A sulfur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of ten years and so long thereafter as sulfur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations looking to the production of sulfur, as approved by the Secretary, are conducted thereon, (3) require the payment of a royalty of not less than 5 per centum of the value of the sulfur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe in advance of offering the area for lease.

"(e) Notice of sale of leases authorized by this section shall be published at least 30 days before the date of sale in the Federal Register in accordance with rules and regulations promulgated by the Secretary".

Explanation.—Without this amendment new leases can be made on the outer Continental Shelf only for oil and gas. Subsections (c) and (d) of this amendment woud permit the Secretary to lease for sulfur any part of the outer Continental Shelf not subject to a sulfur lease.

Subsection (e) requires notices of sale to be published in the Federal Register. This will give notice to each person interested in purchasing a lease, thereby assuring the highest bonus to the United States.

25. Amend page 15, section 8, line 8, by inserting after the word "act", the words "the making of any interim arrangements by the Secretary pursuant to section 7 of this act,".

Explanation.—Perfecting amendment (See Explanation, Amendment 15).

26. Amend page 15, section 8, line 10, by eliminating the word "any".

Explanation.—Perfecting amendment.

27. Amend page 15, section 9, line 15, by changing the word "payable" to "paid".

Explanation.—Perfecting amendment.

28. Amend page 15, sec. 9, line 17 by eliminating the words "paid into" and inserting in lieu thereof "deposited by the Secretary and Secretary of the Navy in".

Explanation.—Perfecting amendment (see Explanation, Amendment 5).

29. Amend page 15, line 18 by adding sections Nos. 10 and 11 as follows and by renumbering the subsequent sections:

"SEC. 10. REFUNDS.—When it appears to the satisfaction of the Secretary that any person has made a payment to the Secretary or 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 or his legal representative, if a request for repayment of such excess is filed with the Secretary within 2 years after the issuance of the lease or the making of the payment. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such payments out of any moneys not otherwise appropriated and to issue his warrant in settlement thereof.

"SEC. 11. 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 maintained or granted pursuant to this act, is hereby recognized."

Explanation.—Section 10 of this amendment permits the Secretary to make refunds in case of overpayments. Where the Secretary concludes that an overpayment has been made, he should be permitted to make the refund without the necessity of a suit being filed.

Section 11 of this amendment is the same as section 17 of H. R. 5134. Geological and geophysical explorations must be conducted before the prospective bidders know what areas they are interested in and the amount to offer for leases. If adopted, this amendment will result in the Government obtaining the maximum prices for the areas it decides to lease.

30. Amend page 16, line 15 by adding a new subsection (d) as follows:

"(d) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas."

Explanation.—This amendment permits the Government to have the same rights in helium produced from the outer Continental Shelf that it has in helium produced from the public domain under the Mineral Leasing Act.

EQUITIES OF THE OFFSHORE OPERATORS

S. 1901 validates no lease issued after December 21, 1948, the date that the Texas and Louisiana cases were filed. The equities of the operators who purchased leases from Texas and Louisiana on the outer Continental Shelf prior to December 21, 1948, have been fully explained by many witnesses at previous hearings. (See Hearings on H. R. 5991 and 5992, 81st Cong., 1st sess., testimony of Walter S. Hallanan, pp. 103–108; E. F. Bullard, pp. 120–129; H. K. Kaveler, pp. 129–137; Hines H. Baker, pp. 137–164; Hearings on S. 155, S. 923 and other bills, 81st Cong., 1st sess., testimony of Walter S. Hallanan, pp. 320–334; Hines

H. Baker, pp. 354–417; H. H. Kaveler, pp. 437–445; E. F. Bullard, pp. 445–451; Hearings on S. J. Res. 195, 81st Cong., 2d sess., testimony of Walter S. Hallanan, pp. 53–58; Clayton L. Orn, pp. 58–80; Rex G. Baker, pp. 82–109; Lucius M. Lamar, pp. 248–259; Hearings on S. J. Res. 20, 82d Cong., 1st sess., testimony of Walter S. Hallanan, pp. 74–92; Hearings on S. J. Res. 13 and other bills, 83d Cong., 1st sess., testimony of James J. Cosgrove, pp. 617–623 and Clayton L. Orn, pp. 602–617).

The only leases that have been made on the outer Continental Shelf were sold by Texas and Louisiana under the laws of their States which had been enacted before the United States asserted any claim to the outer Continental Shelf. The Attorney General of the United States knew that the leases were being sold, that large sums of money were being collected by the States, and that the lessees were spending millions of dollars in developing the leases, but took no action to establish any Federal rights in the area until December 21, 1948.

The sale of the State leases, under the circumstances, caused the executive branch of the Government during the 82d Congress to recommend that any legislation enacted should protect the good faith investments, and it endorsed bills which would have confirmed and ratified the leases on the outer Continental Shelf issued prior to filing of the Texas and Louisiana cases. Moreover, the Supreme Court in the California case, being aware that its decision would affect the good faith investments of many citizens, said that it did not assume that Congress, which has constitutional control of Government property, would exercise its powers in such a way as to bring about injustices to the States or to persons acting pursuant to their permission. Furthermore, in the Louisiana and Texas cases, the Court declined to order the States to account for moneys received under the leases prior to June 5, 1950, the date of its decision. It thereby in effect held that until the United States established its paramount rights in court, it could not complain of any action taken by the States or recover any money paid to them for leases. Former Solicitor General Perlman, in his testimony before this committee on Senate Joint Resolution 20 (pp. 21–25), so interpreted the action of the Court when he recommended that the Congress enact S. J. Res. 20 which contains substantially the same provisions with regard to leases issued by the States as section 6 of S. 1901.

The records of the hearings contain no testimony in opposition to the validation of leases on the outer Continental Shelf issued by Texas and Louisiana prior to December 21, 1948.

In closing, may I express my appreciation and the appreciation of my committee for your able and tireless work in connection with this legislation and for the consideration of these suggestions.

Very truly yours,

CLAYTON L. ORN,
Chairman, Legal Committee of Offshore Operators' Committee.

Senator DANIEL. Mr. Orn, throughout the years, you have made quite a study of the international law aspects of our claims to the Continental Shelf, have you not?

Mr. ORN. Yes, sir; I have studied the problem quite a bit, Senator Daniel.

Senator DANIEL. And I believe that you have expressed to this committee your opinion that the claims of the United States have been strengthened in this area by the extensions of State boundaries, and by the actual possession of the area by State lessees?

Mr. ORN. I have said that, Senator, and I think the Supreme Court said it in the Louisiana case.

Senator DANIEL. Do you feel that by recognizing these State leases and the possession which has been had under these leases, and the possession which has been had by Louisiana off of its shores, will tend to strengthen the claim of the United States to this area?

Mr. ORN. Yes, I think so. I think that possession having been taken, the possession is an element in perfecting international claims. Repudiation of that possession and claim would certainly weaken the claim of the United States from an international standpoint.

Senator DANIEL. In other words, there is a theory in international law advanced by some people that you actually have to take possession and occupancy of the Continental Shelf to gain it from an objecting nation.

Mr. ORN. I do not think that I could state that with regard to the Continental Shelf because claims to the shelf are new, but, as I understand, with reference to marginal sea and deposits of minerals in the sea possession taken and acquiesced in by other nations, is an element of international law, and may mature rights.

Senator DANIEL. Do you consider that the State jurisdiction that has been exercised over this area by Texas and Louisiana, under their State laws, has been disturbed by the Supreme Court decision; that is, as to political powers as distinguished from ownership?

Mr. ORN. Yes. The Supreme Court held that the United States has paramount rights in and dominion over the area and, as I understand, the fact that they did not require the States to account for the money they had collected from the lessees means that the court did treat the States as trespassers out there.

Senator DANIEL. What I am getting at, do you understand that anything the court has done has negated the State's extension of their political powers over the area?

Mr. ORN. No. In the Louisiana case the court said it was not necessary for them to determine the validity of the State extension.

I might say this, though, Senator: It may be that the Submerged Lands Act in which Congress asserts jurisdiction and control in the United States to the outer Continental Shelf may have disturbed the boundary extensions of the States.

Senator DANIEL. At least whatever jurisdiction the State should exercise there in the future will be a matter that Congress will have the right to determine fully?

Mr. ORN. Yes, sir.

Senator DANIEL. And if it should approve the extensions heretofore made by Texas and Louisiana, for certain limited purposes, that could give life to those extensions?

Mr. ORN. Yes, I think so—I am not sure about that, Senator. If you mean in this sense: Would it be necessary for the State legislature to take some action? My view is that since the Congress in the Submerged Lands Act has asserted jurisdiction and control, and has entered the field, and since the Supreme Court held that the States did not have paramount rights and dominion, if Congress, in its wisdom, should adopt alternate amendments one or two, which I have laid before the committee, I think some State action would be necessary in order for them to accept the benefits.

Senator CORDON. Might not the United States have certain dominion and control over the land and its resources, or over the resources in the land, and still the political jurisdiction remain in the States?

Mr. ORN. Yes; it could be done. I think that is right.

Senator CORDON. The Chair has always taken the position that there is nothing in the preceding act nor in this bill as it is set up, that determines that problem at all.

Senator DANIEL. I agree with the Chair fully, and was just wanting to lead up to this final point I was trying to make: That States that have already extended jurisdiction out there, would not have to pass a new act in their legislatures to extend their jurisdiction, provided

Congress approves their previous extensions. That was the point that I had in mind.

Senator CORDON. The suggested amendment with respect to extension of State law in the area, particularly the first one, indicates that a State has to give its consent before its jurisdiction is extended. That would indicate that State jurisdiction does not now extend over the area.

Senator DANIEL. I was thinking Congress could very easily approve a previous extension to a limited extent, and then the State legislature would not have to pass that particular act over again.

Mr. ORN. Senator, I would not want to make a definite statement. I would want to study its effect. I think that the next to the last section of the Submerged Lands Act, where the United States does assert jurisdiction and control over the area——

Senator DANIEL. It follows the words of the Presidential proclamation. I agree with the chairman that it certainly does not change the situation.

Mr. ORN. I have always had the theory that the President in his proclamation, could not extend the jurisdiction of the United States. He could announce an international policy, but only Congress can extend the jurisdiction of the United States. I think you are aware of my views on that, and what they have been for a long ime. However, the Supreme Court held that the United States had jurisdiction and control over the outer Continental Shelf. I never could see how it could obtain that control by the President issuing a proclamation. He could announce the foreign policy of this Nation, but I do not think he could extend the jurisdiction of the courts of the United States but, as I say the Court, for some reason or other, decided that the States had no title to an area that I never thought was within the continental limits of the United States, and was beyond the Court's territorial jurisdiction.

Senator DANIEL. The Court disagreed with you and me on that question.

Mr. ORN. They did, Senator, and we have to bow to it, but I am not convinced that the President can extend the jurisdiction of the United States from the domestic standpoint. He can announce an international policy.

Senator DANIEL. As I understand your testimony, you are not taking sides, one way or the other, as to whether State laws, insofar as they do not conflict with Federal laws, ought to be applied, or whether this should be an exclusive area of Federal jurisdiction?

Mr. ORN. No, sir. Senator Cordon, has invited us to make comments from a practical standpoint, and from our study of the law during this long period. As my statement shows, we can resume operations, and the rights and interests of the companies and of their employees will be protected, if Congress does extend State laws. We are not opposing such extension. We have no objection at all. I think it is a matter that Congress must decide, and if it decides in favor of the States, these operations can be resumed. I do not believe that the extension of State laws will retard the operations.

On the other hand, if Congress, in making the policy, decides that the States should not have any jurisdiction, then I think that S. 1901 with the amendments that we have suggested, sets up a system of laws under which the operations can be resumed.

Senator DANIEL. As a practical matter, your operators have to work from the shore. Your workmen come from the shore, as has been shown here many times. As a practical matter, you already know the laws that would apply if the State laws are extended to the area, do you not, and would not that be a simpler and easier way for the operators to carry on out there?

Mr. ORN. Senator, on the State laws, yes. We know what they are and if the committee is interested in relieving us of a lot of work, research and study on admiralty law, it can do so by adopting State laws.

Senator DANIEL. I am not trying to lead you into taking sides on it, not too much, except I guess I did want to point that out. There is one thing, though, that I would like to have your opinion on, and that is as to the matter of extension of conservation laws.

Do you feel that on conservation and proration allowables, since this oil and gas is moved in to the shore, there ought to be some integration of the conservation system on the outer Continental Shelf, with the conservation system of the adjacent State?

Mr. ORN. Senator, again if you come back to the convenience of operations, and consideration of us, it would be much easier for us to have a set of conservation laws that will apply to the areas within the traditional boundaries and the areas outside. Of course, that does not solve all problems because we have one set of laws in Louisiana and a different set of laws in Texas.

Senator CORDON. It is going to have to cost you a little more money, too. You are going to have to pay a tax.

Mr. ORN. Yes. We are not objecting to the State extending the law because it is going to cost us a tax.

Senator DANIEL. You never have objected to the collection of taxes by the States, on leases within or beyond historic State boundaries, have you?

Mr. ORN. No, sir. I think you will find the record of the oil industry in these States has been fairly liberal on the matter of taxes. They have always been willing to bear their proportionate part of the taxes.

Senator DANIEL. Mr. Orn, as I understand it, you are speaking for the committee of operators?

Mr. ORN. I am speaking for the legal committee, and the committee of operators created the legal committee to study the legislation.

Senator DANIEL. Mr. A. M. Gee was general counsel of your company?

Mr. ORN. He still is.

Senator DANIEL. In 1949?

Mr. ORN. Yes, sir.

Senator DANIEL. And I believe that he presented the witnesses for the operators at a hearing in 1949 on H. R. 5991 and H. R. 5992?

Mr. ORN. Yes, sir.

Senator DANIEL. He and Mr. Hines Baker of the Humble Oil Co., testifying for the operators, presented the evidence on their recommendation on application of State police powers and conservation and taxation on the outer Continental Shelf?

Mr. ORN. Yes, sir. Congress was then considering a bill that would permit the States to exercise their conservation powers, and we appeared and introduced testimony showing that the States bordering

on the Gulf coast had very good conservation laws. We said we could abide by them and gave some of the reasons why they would be satisfactory in the operations.

Mr. DANIEL. I would like, Mr. Chairman, to introduce at this time the section of Mr. Baker's testimony on pages 163 and 164 entitled "Application of State Police Powers."

Senator CORDON. If there is no objection, it will be inserted in the appendix of the record.

Senator DANIEL. Among the recommendations made at that time was that State conservation laws should apply to the adjacent area, because application of Federal conservation in the area would necessitate creation of a new Federal Agency to handle that work and an administrative body with headquarters in Washington, with the employees having to come down to the property to see how it operated, and it would be a great saving to the Federal Government if it permitted the State laws to apply to conservation; is that not correct?

Mr. ORN. Senator, you have it before you. I have forgotten the testimony, but I know you would summarize it correctly.

Senator DANIEL. That is one of the recommendations. Now Mr. Orn, it having been shown that you have studied the international aspects of this thing, too, as much as any lawyer in the industry that I know about, do you consider that this area of the Continental Shelf is now extraterritorial area outside of the jurisdiction of the United States, or that it is a part of continental United States?

Mr. ORN. Senator, as I construe the Submerged Lands Act, which takes the place, probably, of the Presidential proclamation, the boundaries of the United States are not extended over this area. They have asserted jurisdiction and control over the natural resources, and they still have left the high seas as they were before asserting jurisdiction and control. As to whether international complications would arise if the United States took the position that for all practical purposes its boundaries extended to the edge of the Continental Shelf is something I could not answer. I assume that when the proclamation was issued, as is the custom in international law, this Nation furnished a copy of the proclamation to the nations of the world. The attitude of the nations of the world with reference to the proclamation would have some effect upon the proclamation, and upon what can be done, from an international standpoint. I assume that what the President was attempting to do was to follow the precedent in the Guano Island cases, thinking that less international complications would ensue by following that procedure.

Senator DANIEL. Those Guano islands were a long way from the United States. Do you think that we ought to apply that kind of law to this area, adjacent to our States, or apply the same type of land law that we apply with respect to the continental United States?

Mr. ORN. That is something that I could not answer, because, to answer that I think a person must know the reception that the Presidential proclamation received from other nations, and the way they have construed the proclamation. I understand that since the President issued his proclamation—and this is just a matter of, you might say, hearsay—some nations have actually extended their jurisdictional sovereignty over the Continental Shelf adjacent to their shores. Whether the United States has protested this action would also have

some effect on what the international complications would be if Congress should extend the boundaries of this Nation to the outer Continental Shelf.

Senator DANIEL. I may say to you that 17 nations have extended their boundaries and have used the term "sovereignty" or "boundaries" or "ownership" in referring to the sea bed and subsoil of the Continental Shelf. There is only one nation of the whole group, the Philippines, that has followed the United States terminology. The rest have followed more of Britain's terminology, which annexes the sea bed and subsoil to the adjacent land, leaving the waters of the high seas completely outside of their sovereignty. I am just wondering, as far as securing this land for the Nation and upholding our claims as against other nations, if probably the British "annexation" is not a better practice. It goes the full way of extending the territorial jurisdiction of the Nation to cover the sea bed and the subsoil adjacent to the Nation.

Mr. ORN. Senator, this law is so new, and in the making, that I do not believe I could give you an intelligent answer, without having available to me for study, the records of the State Department and the exchange of correspondence with other nations as to what they have done and what the position of this Nation has been.

Senator DANIEL. Ordinarily, in an oil, gas and mineral lease, would you rather not have it from the party who claims the land on which you buy the lease, than from a party who claims only paramount rights to the natural resources of the land?

Mr. ORN. Gentlemen, if we had our choice about it, we would rather see an instrument that gives title in the legal sense. I do not mean to say that we would feel insecure. By the way that S. 1901 handles this matter. I think, with the Congress proclaiming its jurisdiction and control over the area, this Nation will protect us in the event of any international involvement, and we are willing to go out there on that basis.

However, having practiced land law for many, many years, I am familiar with titles, and when I see an instrument that I know gives title, I feel much better about it.

Senator DANIEL. That is all.

Senator CORDON. Are there any questions, Senator Long?

Senator LONG. You have testified here that you have no objection to paying the State taxes?

Mr. ORN. No, sir, Senator; we are not opposing the extension of State laws because it will incur or place an obligation on us to pay a State tax.

Senator LONG. As a matter of fact, you took State leases in good faith, feeling that the validity of those leases depended upon the ability of the State to grant them?

Mr. ORN. Yes, sir.

Senator LONG. And if the State had the ability to grant the lease, then the State had the ability to collect its taxes?

Mr. ORN. Yes, sir.

Senator LONG. So in regard to what it costs, even if it costs you more, you do not object to paying the taxes?

Mr. ORN. No. If Congress concludes that as a matter of policy the State law should apply, we will not object because we may be required to pay more taxes.

Senator LONG. From what I understand, you preferred not to be put in the position of choosing between exclusive Federal jurisdiction and the dual concept of State and Federal jurisdiction?

Mr. ORN. I would rather not express any opinion on a matter that will be within the discretion of Congress. We are willing to offer you any evidence that we have, from our experience in operations, and finally let you decide what should be best.

Senator LONG. Those are all the questions I have of Mr. Orn. Thank you.

Mr. Chairman, some time back we had some discussion of the part the Army engineers played in the granting of permits for navigation on the high seas, and beyond the States' historic boundaries.

I would like to submit for the record three memoranda issued by the Army engineers giving notice of the intention to permit certain companies to place buoys and to erect structures in the sea beyond the State's historic boundaries. I would like to submit those three samples for the record.

Senator CORDON. Without objection, they will be made a part of the record.

(The memoranda referred to follow:)

CORPS OF ENGINEERS, UNITED STATES ARMY,
OFFICE OF THE DISTRICT ENGINEER, NEW ORLEANS DISTRICT,
New Orleans, La., 4 May 1953.

To Whom It May Concern:

The Superior Oil Co., Houston, Tex., has applied for revival and extension of the time limit for 3 years for completing installation and maintenance of steel pile platforms and appurtenant structures for use in connection with drilling an exploratory well for oil production in the Gulf of Mexico. The structures are to be located within an area about 326 feet long and 151 feet wide, extending lengthwise northwesterly and southeasterly, central to a point about S. 13°04'56'' W., 62,520 feet from United States Coast and Geodetic Survey Station "Hack" at latitude 20°35'19'' and longitude 93°08'49'' approximately 15 miles southwesterly from Creole, La., in Cameron Parish. The highest point of the structures is to be approximately 180 feet above mean low water.

Plans for the proposed work are now on file in the office of the district engineer, New Orleans District, Foot of Prytania Street, New Orleans, La., and may be seen by anyone having interest in the matter. Protests to the proposed work, suggestions for modification thereof or objections to it from the standpoint of navigation, stating reasons therefor, will be received up to and including May 19, 1953.

You are requested to communicate the information contained in this letter to any other parties whom you deem likely to have interest in the matter.

Sincerely yours,

C. T. TENCH,
Colonel, Corps of Engineers, District Engineer.

CORPS OF ENGINEERS, UNITED STATES ARMY,
OFFICE OF THE DISTRICT ENGINEER, NEW ORLEANS DISTRICT,
New Orleans 9, La., May 4, 1953.

To Whom It May Concern:

The United Geophysical Co., Inc., Houston, Tex., has applied for a Department of the Army permit to authorize the temporary installation of casings (pipes), buoys, stakes, detectors, etc., for use in connection with seismographic operations in the Gulf of Mexico. Operations are to be conducted within an area about 90 miles long, easterly and westerly, extending approximately 40 miles channelward from the shoreline, central to a point about 47 miles southwesterly from Weeks Island, La., in St. Mary, Iberia, Vermilion, and Cameron Parishes. The pipes are to be marked with flags by day and red lights by night.

Plans for the proposed work are now on file in the office of the district engineer, New Orleans District, foot of Prytania Street, New Orleans, La., and may be

seen by anyone having interest in the matter. Protests to the proposed work, suggestions for modification thereof or objections to it from the standpoint of navigation, stating reasons therefor, will be received up to and including May 19, 1953.

You are requested to communicate the information contained in this letter to any other parties whom you deem likely to have interest in the matter.

Sincerely yours,

C. T. TENCH,
Colonel, Corps of Engineers, District Engineer.

CORPS OF ENGINEERS, UNITED STATES ARMY,
OFFICE OF THE DISTRICT ENGINEER, NEW ORLEANS DISTRICT,
New Orleans 9, La., May 20, 1953.

To Whom It May Concern:

The Sinclair Oil & Gas Co., Baton Rouge, La., has applied for a Department of the Army permit to authorize the temporary installation of casings (pipes), buoys, stakes, detectors, etc., for use in connection with seismographic operations in the Gulf of Mexico; Bays Timbalier, Caminada, Barataria, Adams, Bastian, West, Quarantine and Grand; Bayous Blue, Lafourche, Wilkinson, Grand, and Scofield; Passes Spanish; Red Tante Phine and Grand; Lake Grande Ecaille and other connecting waterways except the Mississippi River and Southwest Pass. Operations are to be conducted within an area about 77 miles long and 45.5 miles wide extending lengthwise easterly and westerly central to a point about 10 miles southeasterly from Grand Isle, La., in Plaquemines, Jefferson, Lafourche, and Terrebonne Parishes. The pipes are to be marked with flags by day and red lights by night.

Plans for the proposed work are now on file in the office of the district engineer, New Orleans District, foot of Prytania Street, New Orleans, La., and may be seen by anyone having interest in the matter. Protests to the proposed work, suggestions for modification thereof or objections to it from the standpoint of navigation, stating reasons therefor, will be received up to and including June 4, 1953.

You are requested to communicate the information contained in this letter to any other parties whom you deem likely to have interest in the matter.

Sincerely yours,

JOHN F. ARFMAN,
Lieutenant Colonel, Corps of Engineers, Acting District Engineer.

Mr. ORN. Mr. Chairman, I may say on behalf of the operators, that we appreciate the time that this committee has given to us over the period of several years. We have been invited to appear, not only by the acting chairman, but by the previous chairman of this committee, and we have tried to be helpful and cooperative with the committee and have tried to give them the information that we had. We appreciate very much the opportunity of appearing.

Senator CORDON. The Chair, and I am sure, every member of the committee, is appreciative of the efforts you have put forth, and the fair and open way in which you have presented suggestions, the presentation of which, sir, was requested.

We will now hear from Major Cosgrove, the witness who has been here the longest time.

STATEMENT OF JAMES J. COSGROVE, CHAIRMAN OF THE BOARD OF DIRECTORS OF THE CONTINENTAL OIL CO., ACCOMPANIED BY IRA H. CRAM, SENIOR VICE PRESIDENT OF THE CONTINENTAL OIL CO.

Mr. COSGROVE. I appreciate the willingness of the members of the committee to stay this long and listen to the story which I hope will be short.

I appreciate that you have invited me down here to give some testimony. It is a responsibility that I have to the industry, and I hope I am able to meet it.

Mr. Orn has already testified to some of the material facts which I would testify to and that will enable me to shorten this presentation.

I am not an operator, never have been, and for that reason I would like to have Mr. Cram, who is senior vice president of the Continental Oil Co., sit here with me in the event any questions involving operations should be asked.

I better identify myself, a little. My name is James J. Cosgrove. I am chairman of the board of directors of the Continental Oil Co., with offices in New York.

Our company, together with associates, has an interest in over 4,000 acres of offshore properties, acquired through competitive bidding from the States of Louisiana and Texas.

These were all acquired on or before December 21, 1948.

I testified on Senate Joint Resolution 13 in collaboration with Walter S. Hallanan, and I gave a summary of the operations of the offshore operators up to date.

There has been little change in the physical facts in connection with those operations at that time. I think I appeared in February. There are still no producing leases or producing wells off the coast of Texas, except 1 gas well, which is shut in. You did have 1 oil well that produced for about 9 months and then was plugged.

Today there are about 105 producing wells off the Louisiana coast, having a daily average allowable production of about 18,000 or 19,000 barrels. About 55 of these wells are within the traditional boundaries of the State.

Senator LONG. How many?

Mr. COSGROVE. About 55, and there are 45 outside—those are approximate figures.

Senator LONG. That is guessing by the 3-mile limit?

Mr. COSGROVE. That is right. Those figures are not entirely in line with the figures given by Mr. Parks the other day, I think, for the reason he probably included some wells which were in inland bays and waters, whereas we started out farther, thinking that the inland bays and waters were not within the controversy.

On the other hand, there has been a very big change in the legal situation. With the signing of the Holland bill, or the Submerged Lands Act, there has been a substantial amount of land released or freed for exploration and development. Plans for that purpose are being made by the oil companies themselves, and undoubtedly within a short time you will find a lot of leasing activity on the part of the States.

The Submerged Lands Act solves only a part of the offshore problem. The greater part of the prospective acreage lies outside of the traditional State boundaries and are consequently not covered by that act. Reserves can only be located by discoveries. The extent of the reserves can only be determined by drilling. Their importance has already been emphasized in all the hearings on the submerged lands legislation. Some discoveries have already been made, some fine subsurface structures have already been located, and it is expected that other attractive subsurface areas will be found.

Much more exploratory and development effort will have to be done, however, before anyone can say or make any determination of the extent or value of the offshore oil and gas reserves. Oil companies are ready to carry on with the exploratory and development efforts, and only await legislation enabling them to do so.

Representatives of the companies for which I speak have examined S. 1901, the subject of today's hearings.

The bill contains provisions which are essential to and will facilitate the development of the offshore resources.

If the bill should become a law, with some amendments, which have already been discussed by Mr. Orn before you today, then the oil companies are ready to go to work and try to find more oil out there and locate those reserves.

There has already been much discussion as to what law should apply to particular situations under the bill now under consideration.

I have not made a study of the detailed problems which those provisions may cover, and therefore cannot be of much help to the committee on that part of the bill.

Now, what laws should apply are, of course, within the designation by Congress. Perhaps what is now written with some amendments may be sufficient.

I do know that we have been operating for over 5 years in the submerged lands, and to the best of my knowledge, no cases, except the cases against Louisiana and Texas by the United States, have arisen where recourse has had to be made to either a State or Federal court, for determination of the issues. We hope none will arise, but we also know litigation is just like a blister, it may arise when you least expect it.

I doubt if anyone has the clairvoyance to know all the legal problems that may arise in this offshore area. As with any unique and novel venture, the problems can be known only as the venture progresses. As new legal and practical problems arise, new legal and practical solutions will have to be conceived.

For that reason it may be well to defer any attempt to solve every conceivable theoretical or practical problem before we have the experience to know what the real and practical problems actually are.

Moreover, development of important reserves would be delayed if we awaited a perfect solution that is, perfect to meet the theoretical problems of today, but perhaps imperfect to cope with the practical problems revealed by tomorrow's experience. The sounder method, it seems to me, would be to use the approach that the Congress has taken heretofore when writing major legislation in a new field of law.

Congress should now devise the best system of laws that it can, with the knowledge and understanding that adjustments may have to be made in the future when we learn better what additional problems will confront us.

If S. 1901 or some similar legislation should become law, the companies will have a landlord, for which they have been looking, and can carry forward their programs of exploration and development on the offshore submerged lands.

That is all I have in the way of a statement.

Senator CORDON. Thank you very much, Major. I express the regret of the committee that we have had you here day after day, not giving you an opportunity to present your statement and go about your business, but we do appreciate your patience.

Senator LONG. Major, your views on these State-Federal relationships, and desirability of State conservation laws being applicable in that area, are the same as expressed by Mr. Orn?

Mr. COSGROVE. Exactly.

Senator LONG. So, generally speaking, as a representative of the offshore lessees, he has expressed your views on these matters that we have not asked you about?

Mr. COSGROVE. That is right.

Senator DANIEL. During this 5-year period you have been operating in Texas and Louisiana, you have been operating under State conservation laws; is that correct ?

Mr. COSGROVE. Yes.

Senator DANIEL. And other State laws applicable. Has that been a satisfactory operation?

Mr. COSGROVE. It has, Senator.

Senator DANIEL. Do you think that you could operate in the future under State conservation laws?

Mr. COSGROVE. We have been operating under them now for many years.

Senator DANIEL. You agree that there must be some conservation law applicable to the area?

Mr. COSGROVE. There should be, yes; sir.

Senator DANIEL. Do you agree that there should be some integration, regardless of who runs it, between the conservation system on the outer shelf and the State?

Mr. COSGROVE. I do not know how you are going to do that, but I would not like to take sides whether you ought to have State conservation laws out beyond the 3-mile limit or not. I would like to keep off any partisan showing, if I can, on the part of the offshore lessees. We appreciate the fine conservation efforts that Louisiana and Texas have made. We know the stimulus given to those efforts, particularly General Thompson and Mr. Murray, who testified here the other day. We have had satisfactory relationships with the Interior Department.

Senator DANIEL. Even if we create a new Federal agency to handle conservation on the outer shelf, do you not think that there will be need for some integration between that agency and the State agency on shore, where the oil is taken?

Mr. COSGROVE. I would think so.

Senator DANIEL. I believe that is all.

Senator CORDON. Thank you very much.

Mr. COSGROVE. May I express my appreciation, as did Mr. Orn, on behalf of the offshore lessees?

Senator CORDON. I would like to have made a part of the record a statement by H. J. Duncan, of the United States Geological Survey of the Department of the Interior, and I hope we can have Mr. Duncan here if it is desired.

(The statement referred to follows:)

STATEMENT OF H. J. DUNCAN, CHIEF, CONSERVATION DIVISION, GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the committee, my name is Harold J. Duncan. I am Chief of the Conservation Division, Geological Survey, Department of the Interior.

The chairman of the committee has requested a statement on conservation as practiced or enforced on the public land.

The comments made herein are my own and have not had time to receive the approval of the Secretary.

As Chief of the Conservation Division of the Geological Survey, my principal function is the prevention of waste and the conservation of the natural resources occurring on lands under the supervision or control of the Federal Government. These lands are divided for administrative purposes into five categories: First, the public lands or, as sometimes referred to, the public domain; second, the acquired lands which are lands acquired by the Federal Government for various purposes; third, the Indian lands, both tribal and allotted, for which the United States acts as trustee for the Indian owners; fourth, certain naval petroleum reserve lands by virtue of a cooperative arrangement with the Department of the Navy; fifth, the so-called military and miscellaneous lands, which are not subject to any of the mineral leasing laws.

ACTIVITIES

I think it would be of interest to the members of this committee to cite a few facts regarding the magnitude of oil and gas leasing on Federal lands.

On March 31, 1953, there was of record 75,575 public-land leases embracing 57,534,771 acres in 25 states and Alaska. In addition to public-land leases, there are 1,814 leases for acquired lands embracing 1,692,218 acres. The Geological Survey also supervises operations on 8,115 Indian oil and gas leases embracing 1,770,353 acres. There are, as of March 31, 1953, a total of 85,504 leases under the jurisdiction of the Secretary embracing 61,097,342 acres. The above figures do not include 17 leases in Naval Petroleum Reserve No. 2 or certain leases for military lands that are not subject to the public-lands or acquired-lands acts. The value of the accumulated production supervised by the Geological Survey for the calendar year 1952 was $305,443,463 and the total royalty value was $36,368,681. Of this total, public lands accounted for a royalty value of $28,669,330. Since the enactment of the Mineral Leasing Act of February 25, 1920, the value of the oil and gas production from public lands alone, through 1952, amounts to $2,513,387,728 and the total royalty income is $290,822,987. As of December 31, 1952, 28,483 wells have been drilled on lands subject to the jurisdiction of the Secretary of which 15,561 are oil and gas wells. The Geological Survey supervises the operations, in addition to its oil and gas activities, on 743 public-land leases, 95 acquired-land leases, and 296 Indian leases, or a total of 1,134 mining leases embracing 1,358,540 acres.

The total value of the mineroals other than oil and gas for the fiscal year ending June 30, 1952, is $109,941,486 with a royalty value of $3,784,842.

There were 259 unit agreements in effect on April 30, 1953, embracing 4,399,454 acres. Unitized production for the calendar year 1952 accounted for 45,117,519 barrels out of a total oil production from Federal lands of 93,972,239 barrels or 48.01 percent.

From the above brief statistics it has been seen that the Secretary is responsible for a sizable business in connection with the development and operation of minerals under his jurisdiction.

There are three bureaus in the Department of the Interior that participate extensively in conservation activities under the mineral leasing laws: the Bureau of Land Management undertakes the issuance of legal administration of permits, licenses, and leases and the collection of bonuses and rentals; the Bureau of Mines conducts research into methods of development and use of mineral products and points the way to conservation, processing, and utilization; the Geological Survey has the duty of examining and classifying the mineral resources of the public domain; furnish technical information and advice to administrative agencies and supervising actual mineral-leasing operations.

Education has so far proved to be the most important factor in practical conservation. Mineral producers are no more or no less wasteful by nature than

other men. However, unless their business yields a profit it could not long exist.

The development of conservation laws has been a long, experimental and evolutionary development of legislative processes designed to promote conservation of oil and gas and to protect on an equitable basis the property rights of operators and owners of land. The problems and conflicts of opinion have made the enactment of legislation difficult and many compromises have resulted. No single conservation law has been accepted by all States but the need for adequate conservation legislation is recognized by practically all State authorities.

True conservation has emerged in different States at various rates of speed from a beginning of waste to a period of established principles of drilling, development, and production of oil and gas deposits.

Cooperation with the operators and with the State supervisory officers is essential to effective conservation work by the Federal supervisor. In the main, such cooperation is given freely.

Government policy is expressed in legislation. The executive branch of the Government may aid in shaping legislation but must conform administrative action to laws upon the statute books. The early concept of conservation placed great emphasis on saving or locking up for future use. Fortunately, this concept has given way to an extension or broadening of conservation so that it will provide proper maximum use as well as intelligent use for the future. This policy governs the Geological Survey in its supervisory and regulatory work.

LEGISLATION

The basic mineral leasing laws, particularly with respect to oil and gas leases, are contained in the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), with its various amendments. Perhaps the most important amendments are the Acts of August 21, 1935 (49 Stat. 674), and August 8, 1946. (60 Stat. 950).

The act includes many provisions under which the Department of the Interior may exercise control over operations and production on Federal lands in the interests of conservation. Section 16 of the act provides:

"Sec. 16. That all leases of lands containing oil or gas, made or issued under the provisions of this act, shall be subject to the condition that the lessee will, in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits. Violations of the provisions of this section shall constitute grounds for the forfeiture of the lease, to be enforced as provided in this act."

Section 30 requires provisions in each lease insuring the exercise of reasonable diligence, skill and care in the operation of the property; and it is provided that none of such provisions shall be in conflict with the laws of the State in which the leased property is situated.

The pertinent part of this section is as follows:

* * * Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of miners and for the prevention of undue waste as may be prescribed by said Secretary shall be observed, * * * for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare: *Provided*, That none of such provisions shall be in conflict with the laws of the State in which the leased property is situated."

Section 32 authorizes the Secretary to prescribe necessary and proper rules and regulations and to do any and all things necessary to accomplish the purposes of the act. For reference, the entire section is quoted:

"SEC. 32. That the Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this act, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this act: *Provided*, That nothing in this act shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States."

From this section stems the authority of the Secretary of the Interior to promulgate the operating regulations and many of the provisions of the oil and gas leases as will be discussed later.

The authority for the Federal oil and gas lessees to commit their leases to unitization agreements will be discussed hereafter as will the special conservation provisions contained in the agreement itself. There are, however, many other provisions in the Mineral Leasing Act affecting conservation.

The act of August 8, 1946, contains for the first time many provisions that authorize the Secretary to approve other conservation practices not heretofore provided for by applicable legislation and deemed necessary to keep abreast with new developments for oil and gas. Some of the provisions are as follows:

1. A provision under section 17 (b) of the act for the pooling of separate tracts to establish drilling or spacing units. This portion of the section reads:

"When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing when determined by the Secretary of the Interior to be in the public interest, * * *."

Under the above provisions there have been literally hundreds of communitization agreements approved wherein portions of Federal leases or Federal lands and fee and State acreage have been communitized to provide a drilling unit conformable to state spacing orders. A large majority are in the Hugoton gas field in Kansas and Oklahoma and in the San Juan gas field in northwestern New Mexico. In the latter field, it is necessary to combine the acreage in different amounts for two productive gas horizons, 1 for 160 acres on the shallow horizons and 1 for blocks of 320 acres in the Mesaverde formation. These drilling blocks, or communitized agreements, are made in the absence of unit agreements for a field, pool, or area.

2. Section 17 (b) of the act of August 8, 1946, contains for the first time, a provision concerning subsurface storage, as follows:

"The Secretary of the Interior, to avoid waste or to promote conservation of natural resources, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under this act. Such authorization may provide for the payment of a storage fee or rental on such stored oil or gas, or, in lieu of such fee or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities."

This authorization, granted the Secretary for the storage of gas, is a real conservation measure and there are several gas-storage agreements containing federally owned lands interspersed with fee and State acreage. The gas-storage projects that have been approved heretofore consist principally of agreements that provide for the injection and withdrawal of gas and, in so doing, supplement the peak demand of a gas transmission system in winter months and at the same time provide for the conservation of gas that would be flared needlessly.

Section 39 is a provision that authorizes the Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of oil and gas when in the interest of conservation of natural resources, to waive, suspend, or reduce the rental or minimum royalty or to reduce the royalty on an entire leasehold if in the judgment of the Secretary it is necessary to do so in order to promote development and to continue successfully the operations under the leases.

This same section also grants authority to the Secretary of the Interior, in the interest of conservation, to consent to the suspension of operations and production and the payment of acreage rental or minimum royalty. These provisions promote conservation of natural resources by granting relief to the lessee who operates stripper-well production and tends to increase the ultimate production because in granting the relief from the regular royalty provision of the lease, the wells will be continued in operation for a longer period of time. The provision for suspension of operations and production permits the lessee, in times of overproduction or low prices, to shut in his production until economically feasible to produce and develop and also provides for maintenance of the lease in good standing during the period of suspension.

UNITIZATION

In its generally accepted meaning, unit operation is the practice of consolidating or unifying the ownership or control of an actual or prospective oil or gas pool, field, or area by combining all titles or interests in the pool, field, or

area, so that it may be developed and operated as one property for the benefit of all interested parties. Under this plan the area is developed and operated as one large property at the proportional expense and for the proportional benefit of the several parties in interest. Under an equitable plan each property owner will receive his proportionate share of the production from the common source of supply.

Unitization is a procedure which increases the ultimate recovery of oil or gas from a field or pool, and which reduces to a minimum dissipation of gas content and reservoir energy. It permits a regulated progressive development rate and orderly engineering study of the unit, and makes it possible to take advantage of proper well-spacing, production rates, and pressure maintenance.

Ever since 1930 Congress has provided for the unit development of oil and gas deposits of the United States subject to leasing under the Mineral Leasing Act. Section 17 (b) of the act, added by the act of August 8, 1946 (60 Stat. 950, 952 (1946), 30 U. S. C. sec. 226e (1946)), contains the existing authority on the subject. Among other things, it provides:

For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of said oil or gas pool, field, or like area, is then subject to any cooperative or unit plan of development or operation), lessees thereof and their representatives may unite with each other, or jointly, or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary is thereunto authorized, in his discretion, with the consent of the holders of leases involved, to establish, alter, change, or revoke drilling, producing, rental, minimum royalty and royalty requirements of such leases and to make such regulations with references to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the public interest. The Secretary may provide that oil and gas leases hereafter issued under this act shall contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

Any plan authorized by the preceding paragraph, which includes lands owned by the United States, may, in the discretion of the Secretary, contain a provision whereby authority is vested in the Secretary of the Interior, or any such person, committee, or State or Federal officer or agency as may be designated in the plan, to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control under the provisions of any section of this Act.

It will be noted that the statute authorizes unitized development or operation of a pool, field, or like area, or any part thereof. The beneficial results of unit operation may be somewhat limited through lack of adequate control of an entire pool or field so as to permit pressure maintenance or secondary recovery by gas or water injection into the producing horizon. However, the conservation and economic advantages of partial unitization of a field or pool, may, in some circumstances, outweigh competitive development of individual tracts of land.

Beginning in 1932, the Department has included a provision in its leases requiring lessees to subscribe to and to operate under such reasonable unit plan, as the Secretary of the Interior may determine to be practicable and necessary or advisable. The first standard form of unit agreement for Federal lands was prepared by the Department and announced in 1934 and the latest revision thereof was approved December 22, 1950 (30 CFR, pt. 226). Among other things, it contains provisions concerning the drilling of the initial test well, participation in production, conservation practices and the rate of prospecting, development, and production. In addition, the regulations describe the procedure to be followed and the requirements to be met in developing a unit plan.

As of April 30, 1953, there were 259 unit agreements in effect, covering 4,399,454 acres of Federal lands. The increase in agreements and acreage since January 1, 1940, is considerable. At that time there were 12 unit agreements in effect, covering 1,808,574 acres.

The form of the unit agreement contains adequate provisions for conservation of the oil and gas, providing, among other things, that the agreement is "for the purpose of more properly conserving the natural resources thereof whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest"; and

"Whereas it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operation of the area subject to this agreement under the terms, conditions and limitations herein set forth."

Section 1 of the agreement covers the enabling act and regulations, reading as follows:

"1. *Enabling act and regulations.* The act of February 25, 1920, as amended, supra, and all valid pertinent regulations, including operating and unit plan regulations, heretofore issued thereunder or valid pertinent and reasonable regulations hereafter issued thereunder are accepted and made a part of this agreement as to Federal lands, provided such regulations are not inconsistent with the terms of this agreement; and as to non-Federal lands, the oil and gas operating regulations in effect as of the effective date hereof governing drilling and producing operations, not consistent with the terms hereof or the laws of the State in which the non-Federal land is located, are hereby accepted and made a part of this agreement.".

Under this section it is noted that the State regulations are recognized and many States in approving the unit agreement that involves State or fee land, provide in their certificate or in the body of the unit agreement for joint approval of operating provisions of the agreement. There has been no particular difficulty or delay in accomplishing the purposes of the unit agreements as a result of dual control.. The unit agreement form provides in section 10 for the submittal of a plan of development by the unit operator which covers development operations for a fixed period of time. It provides in part as follows:

"* * * Any plan submitted pursuant to this section shall provide for the exploration of the unitized area and for the determination of the area or areas thereof capable of producing unitized substance in paying quantities in each and every productive formation and shall be as complete and adequate as the supervisor may determine to be necessary for timely development and proper conservation of the oil and gas resources of the unitized area and * * * specify the operating practices regarded as necessary and advisable for proper conservation of natural resources."

These plans are approved by the supervisor.

Section 16 is the conservation provision of the unit agreement and it reads:

"16. *Conservation.*—Operations hereunder and production of unitized substances shall be conducted to provide for the most economical and efficient recovery of said substances without waste, as defined by or pursuant to State or Federal law or regulation."

Section 21 provides for the rate of prospecting, development, and production, as follows:

"21. *Rate of prospecting, development, and production.*—The director is hereby vested with authority to alter or modify from time to time in his discretion the quantity and rate of production under this agreement when such quantity and rate is not fixed pursuant to Federal or State law or does not conform to any statewide voluntary conservation or allocation program, which is established, recognized, and generally adhered to by the majority of operators in such State, such authority being hereby limited to alteration or modification in the public interest, the purpose thereof and the public interest to be served thereby to be stated in the order of alteration or modification. Without regard to the foregoing, the director is also hereby vested with authority to alter or modify from time to time in his discretion the rate of prospecting and development and the quantity and rate of production under this agreement when such alteration or modification is in the interest of attaining the conservation objectives stated in this agreement and is not in violation of any applicable Federal or State law.

"Powers in this section vested in the director shall only be exercised after notice to unit operator and opportunity for hearing to be held not less than 15 days from notice."

The unit plan regulations, in addition to the form of agreement acceptable to the Department, may be adjusted to meet special conditions. However, to show cooperation with the State authorities, section 226.7 provides that where State-owned land is to be unitized approval of the agreement must be obtained from the State officials prior to the submission to the Department for final approval

and authorizes the use of the laws of the State in which the unitized land is situated to the extent that they are applicable to non-Federal unitized land.

No substantial difficulties have been encountered with respect to the inclusion of State and fee lands in unit agreements. Of all the States, only Oklahoma, since 1945, and Arkansas, since 1951, have general compulsory unitization statutes. In these two States the amount of land subject to leasing, under the Mineral Leasing Act, is very small. However, the compulsory unitization agreements in Oklahoma do embrace restricted Indian oil and gas leases.

REGULATIONS

Pursuant to the above-cited statute (sec. 32), certain rules and regulations governing the operations on federally controlled lands have been promulgated by the Secretary of the Interior. These regulations are published under CFR, title 30, part 221. These regulations are intended to set forth the jurisdiction and functions of the oil and gas supervisor and the requirements placed on all lessees. They govern the development and production of oil and gas and associated products and lands containing such deposits owned, or controlled, by the United States, and under the jurisdiction of the Secretary by law or administrative arrangement. They are administered by the Director, Geological Survey. See section 221.1.

The supervisor, under section 221.4, is authorized to require compliance with lease terms, with the regulations in CFR, title 30, part 221, and all other applicable regulations, and with applicable law so that all operations conform to the best practice and are conducted in such manner as to protect the deposits of the leased lands and result in the maximum ultimate recovery of oil, gas, or other products with minimum waste. He shall, under section 221.5, prevent waste, damage to formations or deposits containing oil, gas, or water, or to coal measures or other mineral deposits, and injury to life or property.

There follow several pertinent sections of the Oil and Gas Operating Regulations, or parts thereof, relating to conservation:

"SEC. 221.2 (n). *Waste of oil or gas.* Waste of oil or gas, in addition to its ordinary meaning, shall mean the physical waste of oil or gas, and waste, loss, or dissipation of reservoir energy existent in any deposit containing oil or gas and necessary or useful in obtaining the maximum recovery from such deposit.

"(1) Physical waste of oil or gas shall be deemed to include the loss or destruction of oil or gas after recovery thereof such as to prevent proper utilization and beneficial use thereof, and the loss of oil or gas prior to recovery thereof by isolation or entrapment, by migration, by premature release of natural gas from solution in oil, or in any other manner such as to render impracticable the recovery of such oil or gas.

"(2) Waste of reservoir energy shall be deemed to include the failure reasonably to maintain such energy by artificial means and also the dissipation of gas energy, hydrostatic energy, or other natural reservoir energy, at any time at a rate or in a manner which would constitute improvident use of the energy available or result in loss thereof without reasonably adequate recovery of oil.

"SEC. 221.6. *Reports and recommendations.* The supervisor shall make reports to his superior administrative officer as to the general condition of leased lands, and the manner in which operations are being conducted and departmental orders are being obeyed, and submit from time to time information and recommendations for safeguarding and protecting surface property and underlying mineral-bearing formations.

"SEC. 221.8. *Required samples, tests, and surveys.* When deemed necessary or advisable, the supervisor is authorized to require that adequate samples be taken and tests or surveys be made in acceptable manner without cost to the lessor to determine the identity and character of formations; the presence or waste of oil, gas, water, or reservoir energy; the quantity and quality of oil, gas, or water; the amount and direction of deviation of any well from the vertical; formation, casing, tubing, or other pressures; and whether operations are being conducted with due regard to the interests of the lessor.

"SEC. 221.9. *Damage to mineral deposits, directional drilling, lease obligations, well abandonment.* The supervisor shall require correction, in a manner to be prescribed or approved by him, of any condition which is causing or is likely to cause damage to any formation containing oil, gas, or water or to coal measures or other mineral deposits, or which is dangerous to life or property or wasteful of oil, gas or water; require substantially vertical drilling when necessary to protect interests in other properties; demand drilling in accordance with the terms of the lease or of the regulations in this part; * * *

"SEC. 221.10. *Well potentials and permissible flow.* The supervisor is authorized to fix the percentage of the potential capacity of any oil or gas well that may be utilized or the permissible production of any such well when, in his opinion, such action is necessary to protect the interests of the lessor, or to conform with proration rules established for the field; and to specify the time and method for determining the potential capacity of such wells.

"SEC. 221.11. *Well-spacing and well-casing; technical assistance to lessees.* The supervisor shall approve well-spacing and well-casing programs determined to be necessary for the proper development of the leases and assist and advise lessees in the planning and conduct of tests and experiments for the purpose of increasing the efficiency of operations.

"SEC. 221.14. *Suspension of operations and production.* On receipt of an application for suspension of operations or production or for relief from any drilling or producing requirement under a lease, the supervisor shall forward such application, with a report and recommendation, to the appropriate official and, pending action thereon, grant such temporary approval as he may deem warranted in the premises, or reject such application, subject to the right of appeal as provided in section 221.66. (See appendix.)

"SEC. 221.16. *Enforcement.* The supervisor shall enforce the regulations in this part, and his orders issued pursuant thereto by action provided for in sections 221.53 and 221.54 whenever, in his judgment, such action is necessary or advisable."

There follow the requirements for all lessees including their designated operators:

"SEC. 221.18. *Lease terms, regulations, instructions of supervisor, waste, damage, safety, and bond.* The lessee shall * * * take all reasonable precautions to prevent waste, damage to formations or deposits containing oil, gas, or water or to coal measures or other mineral deposits, and injury to life or property. * * *

"SEC. 221.21. *Well-spacing and well-casing program, well operations, required offsets, diligence, compensation in lieu of drilling.* (a) When required by the supervisor, the lessee shall submit an acceptable well-spacing and well-casing program for the lease or area. Such program must be approved by the supervisor and may be modified from time to time as conditions warrant, with the consent and approval of the supervisor.

"SEC. 221.23. *Well records and reports, plats and maps, samples, tests, and surveys.* (a) The lessee shall keep on the leased lands or at his headquarters in the field, or otherwise conveniently available to the supervisor, accurate and complete records of the drilling, redrilling, deepening, repairing, plugging, or abandoning of all wells and of all other well operations, and of all alterations to casing. These records shall show all the formations penetrated, the content and character of oil, gas, or water in each formation, and the kind, weight, size, and landed depth of casing used in drilling each well on the leased lands, and any other information obtained in the course of well operations.

"SEC. 221.24. *Precautions necessary in areas where high pressures are likely to exist.* When drilling in 'wildcat' territory, or in any field where high pressures are likely to exist, the lessee shall take all necessary precautions for keeping the well under control at all times and shall provide at the time the well is started the proper high-pressure fittings and equipment; under such conditions the conductor string of casing must be cemented throughout its length, unless other procedure is authorized or prescribed by the supervisor, and all strings of casing must be securely anchored.

"SEC. 221.28. *Water shutoffs; formation tests.* (a) By approved methods, the lessee shall shut off and exclude all water from any oil- or gas-bearing stratum to the satisfaction of the supervisor, and to determine the effectiveness of such operations, the lessee shall make a casing and a water shutoff test before suspending drilling operations or drilling into the oil or gas sand and completing the well.

"(b) The lessee shall test for commercial productivity all formations that give evidence of carrying oil or gas, the test to be made to the satisfaction of and in a manner approved in advance by the supervisor. Unless otherwise specifically approved by the supervisor, formation tests shall be made at the time the formations are penetrated and in the absence of excessive back pressure from a column of water or mud fluid. Records of such tests shall be furnished in duplicate."

"SEC. 221.30. *Open flows and control of 'wild' wells.*—The lessee shall take reasonable precautions to prevent any oil, gas, or water well from blowing open,

or 'wild,' and shall take immediate steps and exercise due diligence to bring under control any such well or burning oil or gas well."

"SEC. 228.32. *Pollution and surface damage.*—The lessee shall not pollute streams or damage the surface or pollute the underground water of the leased or other land. If useless liquid products of wells cannot be treated or destroyed or if the volume of such products is too great for disposal by usual methods without damage, the supervisor must be consulted, and the useless liquids disposed of by some method approved by him."

"SEC. 221.35. *Waste prevention; beneficial use.*—The lessee is obligated to prevent the waste of oil or gas and to avoid physical waste of gas the lessee shall consume it beneficially or market it or return it to the productive formation. If waste of gas occurs the lessee shall pay the lessor the full value of all gas wasted by blowing, release, escape, or otherwise at a price not less than 5 cents for each 1,000 cubic feet, unless, on application by the lessee, such waste of gas under the particular circumstances involved shall be determined by the Secretary to be sanctioned by the laws of the United States and of the State in which it occurs. The production of oil and gas shall be restricted to such amount as can be put to beneficial use with adequate realization of values, and in order to avoid excessive production of either oil or gas, when required by the Secretary, shall be limited by the market demand for gas or by the market demand for oil."

In closing, I would like to thank the committee for its patience and the time offered for presentation of the conservation features and practices applicable to operations affecting Federal mineral-leasing activities.

Senator LONG. Might I ask, Mr. Chairman, that if Louisiana is able to work out arrangements with Mr. Young in sufficient time, that he be heard with regard to the international aspects of the bill?

We have sought diligently to obtain the best qualified advice we could on the international aspects of this problem. We only have one witness in mind that we would like to have testify. We would like to have him testify if we can work it out and if he can be here before these hearings close.

Senator CORDON. We will see how that works out. In any event, have the gentleman send in his written statement.

Senator LONG. All right.

Senator CORDON. Thank you very much. The hearings on the bill are now closed, except as to representatives of the departments, who will be called.

We will now recess subject to the call of the Chair.

(Whereupon, at 7:15 p. m., Monday, May 25, 1953, the committee recessed, subject to the call of the Chair.)

OUTER CONTINENTAL SHELF

THURSDAY, MAY 28, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met, pursuant to call, at 10 a. m., in the committee room, room 224, Senate Office Building, Washington, D. C., Senator Guy Cordon (acting chairman) presiding.

Present: Senators Guy Cordon, Oregon; George W. Malone, Nevada; Henry C. Dworshak, Idaho; Thomas H. Kuchel, California; Russell B. Long, Louisiana; Earle C. Clements, Kentucky; Henry M. Jackson, Washington; and Price Daniel, Texas.

Also present: Kirkley S. Coulter, chief clerk; N. D. McSherry, assistant chief clerk; and Stewart French, staff counsel.

Senator CORDON. The committee will come to order.

Mr. Jack Tate and other members of the State Department are here this morning at the request of the committee to answer questions with reference to the position of the State Department as to the effect of S. 1901 on the international relationships of the United States.

Mr. Tate, would you come forward, please, with members of your staff.

This morning, members of the committee, we have available for you a confidential committee print in which suggested amendments are included. Those where there is one suggestion will be shown in the confidential print in italics. Where there are alternate suggestions, that is, those where the italics show first, represent change or addition. Where suggestions have been made in the alternative, such suggestions are set out in black face.

This is for the use of the committee only because it is simply a work-sheet. I wanted you to have this for study over the weekend.

There will be a mimeographed copy of the statement that was made before the committee by Clayton Orn, who is chairman of the legal committee of the Offshore Operators Committee. That is available for each member of the committee.

The memorandum from the Geological Survey of the Interior Department with reference to the present rules and regulations that could be made applicable solely by reference, if that were needed, or which are available for administrative purposes because they already apply to the lands under the Mineral Leasing Act, that statement is now mimeographed and will be placed in the hands of each member of the committee.

We will have a mimeographed copy during the day of a memorandum from the Department of Justice comparing S. 1901 in its original form with H. R. 5134 which has passed the House. There

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are, in addition to the comparison, certain comments, and suggestions of the Department of Justice and that will be in the hands of the committee during the day.

Mr. Tate, the committee is of course interested in endeavoring to minimize any complications that might be thought to be possible under legislation implementing the President's proclamation and the congressional confirmation thereof with respect to the outer Continental Shelf and resource therein.

There has been furnished to you a copy of S. 1901 for your consideration in that respect.

The Chair has only a couple of questions to ask and the committee may take over the chore.

The first question that I would like to have you pay attention to, Mr. Tate, is this: Take S. 1901 as though enacted in its shape as it was introduced and without reference to any changes but having in mind the philosophy and policy as outlined in the bill as introduced, what is the view of the State Department as to whether the bill as introduced creates or may tend to create any international complications of any character other than those that may necessarily flow from the proclamation of the President himself? If there be anything in the bill that would, in any way, tend to such complications, have you any suggestions as to changes that would minimize such things?

STATEMENT OF JACK B. TATE, DEPUTY LEGAL ADVISER OF THE DEPARTMENT OF STATE

Mr. TATE. I should say we have had copies of this bill and have had studies made of it. We have followed in general the testimony that has been given before this committee. Our feeling was that we did not need to ask to testify on the bill because we felt that no serious international complications would result from the passage of the bill in the form in which it was presented to us.

I have here a very brief statement. If you would like, I could give just an outline of what the Department's position is.

Senator CORDON. Would you make the statement, please.

Mr. TATE. I appear at the request of the committee and I will devote myself to testifying about the foreign relations aspects of S. 1901.

The international problems arising from the discovery and exploitation of the resources of the Continental Shelf are for the most part new problems. Some of our problems are still hypothetical, problems which have not yet arisen in practice. Thus, I do not come here with ready answers to all of the possible questions which may come up. I propose to set forth in general terms the conclusions and suggestions which represent the experience of the Department up to the present date in this field of international relations.

The practical importance of the Continental Shelf principle is that it furnishes the basis for utilization by the contiguous state of the resources, especially oil, in the submerged lands beyond the limit of territorial waters. The undisputed—and I would like to emphasize that fact, that the claim is undisputed—claim by this Nation of the right to the exclusive exercise of jurisdiction and control over such resources accomplishes this purpose.

The assertion of jurisdiction and control in accordance with the President's 1945 proclamation is believed to be preferable to an assertion of sovereignty. Sovereignty, traditionally an absolute concept, might be regarded as affecting the freedom of the waters and the airspace above the seabed and subsoil despite the disclaimers to the contrary.

Claims to sovereignty over the waters and airspace above the Continental Shelf, extending as far as 200 miles from the coast, have in fact been made by a number of nations. This Government opposes such claims. They constitute in its view unwarranted extensions of the Continental Shelf principle and violations of the principle of freedom of the seas traditionally supported by the United States.

The exercise of jurisdiction and control permits full utilization of the resources of the Continental Shelf without casting doubt on our continued support of the principle of freedom of the seas. We consider it important, in dealing with the resources of the Continental Shelf, to make this point clear.

The character as high seas of the waters above the Continental Shelf remains unaffected by the assertion or exercise of jurisdiction and control over its resources. And consequently, rights to free navigation and fishing in such waters also remain unaffected.

In order to reduce to a minimum the interference with navigation and fishing which may result from the presence in the waters of structures erected for the exploitation of the resources of the shelf, adequate warning signals or other devices should be placed on or near the structures.

As there is need to exercise a certain amount of control around the structures, for purposes such as safety, the control should be limited to such purposes and not be made a pretext for claiming extensive rights of jurisdiction around these structures similar to those normally exercised in territorial waters.

Extension of the laws of the contiguous territory to the area of exploration and exploitation of the Continental Shelf should be limited to the structures erected in the high seas and to the seabed and subsoil and should not apply to the waters themselves.

This outlines the principles which have guided the Department in its handling of the international aspects of the Continental Shelf question. We believe that the domestic problems of exploitation of the resources of the Continental Shelf should be resolved within this framework.

From our reading of the bill we think it is within the framework that I have outlined.

Senator CORDON. I appreciate that statement, Mr. Tate. You state that the view of the Department is that the implementation of the proclamation should not in any way affect the freedom of the seas which of course includes free passage through and over the water, and I believe you stated also free fishing within the water. That being the case, there could be no objection, I take it, from the standpoint of the State Department, if paragraph B at the top of page 3 were to be amended in this respect:

In line four (S. 1901) strike out the words "navigation and" and in lieu thereof insert the word "navigation—comma." Then follow-

ing the comma, after "servitude," add the words "and fishing," so that the paragraph will read:

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, the navigational servitude and fishing shall not be affected.

Mr. TATE. I think that has an advantage in that it makes it clear that fishing is unaffected and the people in the fishing industry, I think, would feel better if "and fishing" were included.

Senator CORDON. There is one other question. One of the problems, if not the problem before the committee is this: The implementation of the proclamation as confirmed by the Congress may be had in the general manner set forth in S. 1901; that is, by applying existing law of the United States to the implementation, furnishing in that way the basic housekeeping and placing in an agency of the Government, in this instance the Department of the Interior, the power and duty of administering the act with respect to the necessary structures and incidental matters; or, two, by extending over the area, for the purposes of implementation, the domestic laws of the abutting States or such portions of those domestic laws as may be deemed to be essential for this purpose.

With respect to the approaches, does the Department have any view as to which would best serve the Government's international position? In other words, is there any reason to believe that the philosophy of S. 1901 is preferable to the approach of application of State law, or is there reason to believe that the application of State law would be preferable to the approach of S. 1901?

Mr. TATE. I do not think the Department has any view or could properly express a view on that, other than to support the administration's position which I think has already been supplied to you by the Attorney General. Those are matters of applicability of domestic law, whether the domestic law of the Federal Government or domestic law of the adjacent States, or a combination of the two should apply. They are not really international questions, and are questions on which I am not competent to pass.

Senator CORDON. Then if the Chair understands you correctly, the State Department has no affirmative objection to either approach so far as the effect thereof upon the international picture is concerned?

Mr. TATE. That is correct. As far as our position is concerned, it relates merely to the international aspect.

Senator CORDON. You then take the position that the administration has indicated a position that might be said to be purely in the domestic policy field, and you support that position because it is the administration's position. But from the standpoint of international effect only, either approach might be used?

Mr. TATE. That is right.

Senator CORDON. Thank you very much. Are there any other questions that any member of the committee desires to ask Mr. Tate?

Incidentally, Mr. Herrington of the State Department's Fisheries Division is here in case there are any questions anyone might desire to ask him.

Senator MALONE. Mr. Chairman?

Senator CORDON. Senator Malone?

Senator MALONE. Mr. Tate, you spoke in your original statement especially of oil. What effect does the mining or recovery of the other minerals like sulfur and phosphate have in this connection?

Mr. TATE. I would think the other minerals would fall in the same category, as far as international law is concerned, as oil. I merely mentioned oil because the greatest emphasis has been on the production of oil. The reference would be to any mineral, any of the resources, minerals or otherwise, of the seabed.

Senator MALONE. What is the Attorney General's position in regard to these lands? What did he say about it?

Mr. TATE. I would rather not try to interpret the Attorney General's statement. As I understand it, the Attorney General sent a letter to the chairman of the committee the day before yesterday which fully presented the Department of Justice's position.

Senator CORDON. May I say that before you arrived I advised the committee that that memorandum was now being mimeographed and would be in the hands of each member of the committee during the day. It is quite a sizable memorandum and compares S. 1901 with the House bill that was recently passed and has some suggestions with respect to changes in S. 1901. It does not in any way change the position that the Attorney General expressed when he first appeared before the committee in the hearings on Senate Joint Resolution 13.

(NOTE.—The Department of Justice memorandum is carried in the appendix.)

Senator MALONE. I recall he opposed Senate Joint Resolution 13 in its form that finally passed. Does he oppose this?

Senator CORDON. No. There was no opposition. In his appearance at that time, and of course we have the hearings for that, he recommended on behalf of the administration a different approach to Senate Joint Resolution 13 with respect to the outer Continental Shelf and he differed between the two areas, but he recommended that area be under the sole dominion and control of the United States and administered solely by the United States.

Senator MALONE. Without any reference to adjacent States at all?

Senator CORDON. That is right. That was his recommendation as I recall it.

Senator MALONE. As far as this bill is concerned he wants that amended to direct the United States to do the job.

Senator CORDON. That is right.

Senator MALONE. As I recall, he was against deeding the lands, the sea bottom lands, to the States. He wanted merely to allow them to take the resources from the lands within the State boundaries.

Senator CORDON. That is right.

Senator MALONE. But to retain the ownership of the land in the Federal Government.

Senator CORDON. That is my memory.

Senator MALONE. Under this bill he differs from most—I was going to say "witnesses," but I guess that is not correct. But he differs violently then with the adjacent States, the representatives therefrom and their desires to regulate or extend their police power over this area.

Senator CORDON. That was the position he took in the first instance. There is nothing in this memorandum to indicate a change.

Senator MALONE. He opposes any interference or any regulation by the States of this Continental Shelf.

Senator CORDON. That would be my interpretation of it.

Senator MALONE. What does this bill provide?

Senator CORDON. This bill provides in S. 1901 complete control and administration by the United States.

Senator MALONE. Mr. Tate, then you agree with the chairman that that is the interpretation of the statement by the Attorney General? That is his position?

Mr. TATE. My understanding of S. 1901 is that it provides for Federal control and administration. My understanding of the Attorney General's position is that in general he favors that approach. But as I said before, I do not think I am a competent witness to interpret the Attorney General's letter to this committee.

Senator CORDON. May I interrupt you. I was in error and I want to get the record straight.

In the memorandum which you have not had a chance to carefully read since you received it, on page 4 appears this statement with respect to the outer Continental Shelf, and I quote it:

> Particularly in view of the intermingling of national and international rights in the area, it is important that the Federal Government, which has the responsibility for handling foreign relations, have the exclusive control of lawmaking and law enforcement there.

I would like to say that it would not necessarily follow that the Government had lost its exclusive right, if it applied State law in the area, inasmuch as it could undo at any time that which it had done. If it delegated lawmaking power to the State, that still would be law enforcement of the United States through a State agency.

My view is, despite those conclusions, that the Department of Justice intended to say by this, that it be done physically by the Government of the United States.

Senator MALONE. If the Government wanted to make any arrangements with the State, it could do so under its usual procedure and delegate any authority. Would it have that right to delegate the police power to the State under this legislation?

Senator CORDON. The Chair is not prepared to answer the question. There are some relative constitutional questions involved there. That the government would have the right to extend to the area the laws of any States, there can be no question. That has been done on numerous occasions.

I am speaking now about the law of a State being extended and made applicable rather than laws of the United States Government. But with respect to jurisdiction, that is, the act of administering, of enforcement, of judicial determination of questions, that is another and different problem.

Until I have further information with respect to the precedents, there is a big question mark in my mind as to whether, even though the United States might itself delegate such jurisdiction, it would have the power to thereafter control it and a greater question as to whether the State itself could extend its jurisdiction outside its State boundaries.

The extrajudicial jurisdiction on the part of the State under its constitution is the one that bothers me, and I have no conclusion on it.

Senator MALONE. What you are trying to say is that this may leave the control entirely up to the Government since it may not be legal

or constitutional for the police power of the State, through its officially elected and appointive officers, to exercise such control?

Senator CORDON. That is right. As long as we say "may" or "is not." We need to know it if we reach a place where we feel that it would be advisable to extend State jurisdiction. If we determine it would not be advisable, then the question is moot. It does not make any difference whether we could or could not. If we consider it advisable, then certainly we must know.

Senator MALONE. You are entirely familiar with the Mineral Leasing Act commonly known as the 1920 Oil and Gas Leasing Act which is applicable to all public lands. The Secretary of the Interior found some reason why the act was not applicable to the public lands covered by the sea, the sea bottom lands, but I read his reasons for them and they seemed rather weird, at least, even if he is right.

The case is in court. He will be upheld or repudiated in the decision which I understand is ready to be made in a United States Federal court. Even if the court upholds decision, a very simple amendment to the act could make it applicable to the sea bottom lands.

Is there any reason that you know of why the Mineral Leasing Act could not be made applicable to the lands in question?

Mr. TATE. There is no reason I know of, because I am not really familiar with the Mineral Leasing Act. I believe that the question is also covered in the letter from the Attorney General.

Senator MALONE. What does he say about the Mineral Leasing Act in his letter?

Mr. TATE. It is quite a long letter. I just had a chance to glance over it breifly.

Senator MALONE. Mr. Tate, I want to point out again with regard to the 1920 Mineral Leasing Act that it was purely an administrative ruling which held that the 1920 Mineral Leasing Act does not apply to submerged lands. There has never been any court decision, although there is one pending, and it has already been argued here in the city of Washington. This administrative ruling was made August 8, 1947, very soon after the Supreme Court decision handed down in the California case on June 23, 1947.

The Secretary's decision was appealed then to the United States Federal Court, and has been argued and is ready for decision, which is supposed to be rendered following the decision of the Supreme Court on the masters report dividing the inland waters from the open sea. That report has not as yet been accepted or amended.

If the decision of the court reverses the Secretary, then the Mineral Leasing Act of 1920 does apply, obviously. If it approves his decision, then a very simple amendment, as I have pointed out many times, enacted by the Congress, would make the act apply.

Mr. CHAIRMAN. I ask permission to have inserted in the record at this point the opinions of Mastin G. White, starting on page 27 of Senate Report No. 1143, 82d Congress, 2d session, and ending on page 31, which includes the decision of Mastin White and of Tom C. Clark, Attorney General, and also a statement by Secretary Ickes.

Senator CORDON. Without objection, that will be made a part of the appendix in the record.

Senator MALONE. I do not think it has reference to another matter. I think it is very pertinent to this matter. That is the reason I would like to have it in the record at this point. It is about two pages and

a half right on the point of whether or not the Mineral Leasing Act is applicable to these particular lands. And I believe it is applicable. Of course, the decision of the court will be final.

Senator CORDON. Does the whole of the opinion go to the question you have mentioned?

Senator MALONE. It does.

Senator CORDON. Without objection, it will be made a part of the record at this point.

Senator MALONE. I thank the Senator.

EXCERPT FROM SENATE REPORT 1143 (S. J. RES. 20) 82D CONGRESS, 2D SESSION, PAGES 27–31.

EXECUTIVE ORDER 9633

RESERVING AND PLACING CERTAIN RESOURCES OF THE CONTINENTAL SHELF UNDER THE CONTROL AND JURISDICTION OF THE SECRETARY OF THE INTERIOR

By virtue of and pursuant to the authority vested in me as President of the United Sates, it is ordered that the natural resources of the subsoil and seabed of the Continental Shelf beneath the high seas but contiguous to the coasts of the United States declare this day by proclamation to appertain to the United States and to be subject to its jurisdiction and control, be and they are hereby reserved, set aside, and placed under the jurisdiction and control of the Secretary of the Interior for administrative purposes, pending the enactment of legislation in regard thereto. Neither this order nor the aforesaid proclamation shall be deemed to affect the determination by legislation or judicial decree of any issues between the United States and the several States, relating to the ownership or control of the subsoil and seabed of the Continental Shelf within or outside of the 3-mile limit.

HARRY S. TRUMAN.

THE WHITE HOUSE,
September 28, 1945.

APPENDIX E

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington 25, D. C., July 20, 1950.

Hon. JOSEPH C. O'MAHONEY,
United States Senate, Washington 25, D. C.

DEAR SENATOR O'MAHONEY: In accordance with your oral request of yesterday, I am glad to send to you:

(1) A copy of an opinion was rendered on August 8, 1947, by the Solicitor's office regarding the applicability of the Mineral Leasing Act of 1920 to the submerged lands of the Continental Shelf;

(2) A copy of an opinion which was rendered by the Attorney General on August 29, 1947, concerning the same subject; and

(3) A copy of an official statement which was made by Secretary of the Interior Ickes on this subject in testifying before the Senate Judiciary Committee on February 5, 1946.

Sincerely yours,

MASTIN G. WHITE, *Solicitor.*

DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

MINERAL LEASING ACT
August 8, 1947

SUBMERGED LANDS—CONTINENTAL SHELF—OIL AND GAS LEASES

The Mineral Leasing Act of February 25, 1920, as amended (41 Stat. 437, 30 U. S. C. 181 et seq.), does not authorize the issuance of oil and gas leases

with respect to the submerged lands below low tide off the coasts of the United States and outside the inland waters of the States.

MASTIN G. WHITE, *Solicitor.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington 25, D. C., August 8, 1947.

Memorandum
To: The Secretary.
From: The Solicitor.
Subject: Applicability of Mineral Leasing Act to submerged coastal areas below low tide.

You have orally requested my opinion on the question whether the Mineral Leasing Act of February 25, 1920, as amended (41 Stat. 437, 30 U. S. C. 181 et seq.), authorizes the issuance of oil and gas leases with respect to the submerged lands below low tide off the coasts of the United States and outside the inland waters of the States. This question arises by reason of the fact that there are awaiting disposition in the Department a number of applications for oil and gas leases in submerged areas of the Pacific Ocean and the Gulf of Mexico below low tide and outside the inland waters of the adjacent States.

On September 28, 1945, the President issued Proclamation No. 2667, announcing that the "United States regards the naural resources of the subsoil and sea bed of the Continental Shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control" (10 F. R. 12303). And by Executive Order No. 9633 of the same date, the resources of the Continental Shelf were placed under the jurisdiction and control of the Secretary of the Interior "for administrative purposes, pending the enactment of legislation in regard thereto." (10 F. R. 12305.) On June 23, 1947, the Supreme Court held in *United States* v. *California* (Original No. 12) that the Federal Government has paramount rights in and power over the 3-mile marginal belt along the coast, "an incident to which is full dominion over the resources of the soil under that water area, including oil" (slip copy, p. 17).

The answer to the question submitted by you turns on the construction of the following portion of section 1 of the Mineral Leasing Act, as amended:[1]

"That deposits of coal, phosphate, sodium, potassium, oil, oil shale, or gas, and lands containing such deposits owned by the United Sates, including those in national forests, but excluding lands acquired under the act known as the Appalachian Forest Act * * *, and those in incorporated cities, towns, and villages, and in national parks and monuments, those acquired under other acts subsequent to February 25, 1920, and lands within the naval petroleum and oil-shale reserves, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this act * * *."

It is conceivable that some of the submerged land areas and minerals may turn out to be in one of the categories of lands expressly excluded from the provisions of the Mineral Leasing Act (e. g., naval petroleum reserves). As to them, of course, no problem will arise. In the main, however, this will not be the case.

With regard to the submerged lands and mineral deposits that are not expressly excluded from the provisions of the act, they appear at first glance to be included in the phrase "deposits * * * and lands containing such deposits owned by the United States" quoted above. However, the Attorney General has held that this language is limited in its application to the "public lands" of the United States,[2] principally by reason of the presence of the words "public domain" in the title of the act.[3] Therefore, the Mineral Leasing Act is a statute providing generally for the disposition of "public lands."

Land situated below high-water mark has not been regarded heretofore as included in the term "public lands."[4] For this reason alone, it may be concluded

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[1] The language quoted is from the amendatory act of August 8, 1946 (Public Law 696, 79th Cong., 2d sess., ch. 916, sec. 1, 60 Stat. 950); it is in no material respect different from that used in the original 1920 act, 41 Stat. 437.

[2] 40 Op. Atty. Gen., No. 1 (January 3, 1941); 34 Op. Atty. Gen. 171 (1924); see p. 195, Government's brief, *United States* v. *California,* United States Supreme Court (Original No. 12).

[3] The words "public domain" appear in the title of the amendatory act of August 8, 1946, as well as in the original act of February 25, 1920.

[4] *Barney* v. *Keokuk* (94 U. S. 324, 338); *Mann* v. *Tacoma Land Co.* (153 U. S. 273; 284); Frederick A. Curtiss et al., General Land Office Decision, September 18, 1934, affirmed by Department February 7, 1935, A–18167 unpublished.

that the Mineral Leasing Act does not apply to the submerged lands, as they are, of course, below low tide. In fact, in the Government's brief in the California case, the Attorney General so argued (p. 195).

Apart from the reasoning indicated above, the Mineral Leasing Act, like other general public land laws, applies to any particular category of lands only if Congress has indicated that such lands are held for disposal under it.[5] For the reasons that follow, I do not believe that Congress has indicated that the submerged coastal lands are held for disposal under the Mineral Leasing Act.

In one aspect, the act is clearly inconsistent with any assumption that it was intended to apply to submerged lands. The act contains provisions that lands affected by it are to be surveyed and described by the legal subdivisions of the public land surveys,[6] and the public-land surveys have not heretofore extended beyond high tide.[7]

Furthermore, as the Court said in its opinion in the California case, "the record plainly demonstrates that until the California oil issue began to be pressed in the thirties, neither the States nor the Government had reason to focus attention on the question of which of them owned or had paramount rights in or power over the 3-mile belt" (slip copy, p. 18). No suit was brought by the Federal Government until May 29, 1945, when an action was brought by the United States against the Pacific Western Oil Co. in the United States District Court for the Southern District of California. That suit was thereafter dismissed by the Government at the same time that it filed the original suit against California in the Supreme Court on October 19, 1945. In the latter suit, the Government took the position (brief, p. 70), and the Court in its opinion agreed (slip copy, pp. 15, 17), that the case judicially raised the issue of Federal versus State ownership for the first time. Therefore, until the Court decided the case in favor of the United States on June 23, 1947, no one could have known with any degree of certainty whether the Federal Government or the States owned this vast area of coastal submerged lands. Consequently, in the absence of evidence to the contrary (and there is none), we cannot assume that Congress intended on February 25, 1920, and August 6, 1946, the respective dates of the original Mineral Leasing Act and the amendatory act, to address itself to these submerged lands when it used in section 1 of the act general language indicating that the act was to be applicable to "* * * lands * * * owned by the United States."

Congress recently enacted the Mineral Leasing Act for Acquired Lands (Public Law 382, 80th Cong., approved August 7, 1947). The "acquired lands" which are the subject of the act are, so far as relevant, defined in section 2 to "include all lands heretofore or hereafter acquired by the United States to which the 'mineral leasing laws' have not been extended * * *." In the same section the term "mineral leasing laws" is defined to include the act of February 25, 1920, and all acts amendatory of or supplementary to it. It is significant that while this legislation was being considered in the House (as H. R. 3022), it was amended on July 23, 1947—a month after the decision of the Supreme Court in the California case—so as expressly to exclude the submerged lands and the Continental Shelf from its purview (sec. 3 of the act; Congressional Record, July 23, 1947, p. 9973). The language which conceivably could have been regarded as including the submerged lands and the Continental Shelf in the absence of the amendment was the reference to lands "to which the 'mineral leasing laws' have not been extended." The reason for the amendment was not discussed in either the House or the Senate (Congressional Record, July 23, 1947, p. 9973; July 24, 1947, pp. 10095, 10157). In adopting it, Congress may be regarded as assuming that the mineral leasing laws, including the 1920 act, as amended, had not been extended to the submerged lands, and, therefore, that such lands would be covered by the new act unless expressly excluded from its provisions.[8]

Finally, I should point out that in executing on July 26, 1947, the stipulation in the California case regarding interim oil and gas operations in the submerged lands off the coast of California pending the establishment of the line separating

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[5] See *Oklahoma* v. *Texas* (258 U. S. 574, 599–602); *West* v. *Work* (11 F. (2d) 828, cert. denied, 271 U. S. 689).

[6] Oil and gas, secs. 13 and 14, 41 Stat. 441, 442, 49 Stat. 675, 676, 30 U. S. C. 223; oil shale, 30 U. S. C. 241; phosphate, 30 U. S. C. 212; sodium, 30 U. S. C. 262; potash, 30 U. S. C. 282.

[7] *Barney* v. *Keokuk* (94 U. S. C. 324, 338); *Mann* v. *Tacoma Land Co.* (153 U. S. 273, 284); Manual of Instructions, Survey of Public Lands, Department of the Interior, 1930, Reprint 1934, p. 5; Frank Burns, 10 L. D. 365, 369 (1980).

[8] Another possible inference is that Congress viewed the submerged lands as acquired rather than as public lands. (See secs. 2 and 3.) And acquired lands were held by the Attorney General to be outside the scope of the Mineral Leasing Act. (See note 2, supra.)

the inland waters of California from the marginal seas, the Attorney General held by implication that the Mineral Leasing Act was not applicable to the submerged land areas. If the act had been applicable to such areas, the stipulation presumably would have been unauthorized.

For the reasons indicated above, it is my opinion that the Mineral Leasing Act of February 25, 1920, as amended, does not authorize the issuance of oil and gas leases with respect to the submerged lands below low tide off the coasts of the United States and outside the inland waters of the States.

(Signed) MASTIN G. WHITE, *Solicitor.*

APPENDIX D

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., August 29, 1947.

The honorable the SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: You have asked my opinion on the question whether the Mineral Leasing Act of February 25, 1920, as amended (41 Stat. 437, 30 U. S. C. 181, et seq.), authorizes the issuance of oil and gas leases with respect to the submerged lands below low tide off the coasts of the United States and outside the inland waters within the States.

In considering the steps which should be taken to protect the interests of the United States in the submerged lands off the coast of California, following the decision of the United States Supreme Court rendered on June 23, 1947, in *United States* v. *California*, No. 12 Original October term, 1946, one of the questions which your Department and this Department had to examine was whether the provisions of the Mineral Leasing Act required that the procedures set forth in that act be followed with regard to the property which the Supreme Court held in that case to be that of the United States. The Acting Solicitor General and the Solicitor of your Department concluded that the act imposed no such requirement. After consideration I reached the same conclusion, and I now adhere to it. The stipulations were signed on that basis.

Sincerely yours,

(Signed) TOM C. CLARK,
Attorney General.

OFFICIAL STATEMENT RELATIVE TO APPLICABILITY OF MINERAL LEASING ACT TO SUBMERGED COASTAL LANDS

Testimony of Secretary of the Interior Harold L. Ickes before the Senate Committee on the Judiciary, February 5, 1946, on Senate Joint Resolution 48 and House Joint Resolution 225, 79th Congress:

"Implicit in these recommendations is the thought that the Mineral Leasing Act of 1920 is not applicable to submerged lands. A reading of the act will reveal that in many particulars its provisions would not fit the problems presented in the administration of submerged lands. For example, there is the matter of acreage limitation. Another problem relates to royalties and the distribution, if any, of receipts from these lands. More importantly, the problem of the submerged coastal lands was not considered when the act was passed, and Congress is entitled to and should fix its policy with specific reference to these lands. These, however, are matters more properly to be presented at another time and to a different committee" (p. 11 of printed hearings).

APPENDIX F

(COMMITTEE NOTE.—Because of the recent interest in applications under "script," there is set forth below the headnote to the formal legal opinion of the Solicitor of the Department of the Interior, dated June 25, 1951, holding that submerged lands beneath the open ocean are not subject to scrip location.)

DEPARTMENT OF THE INTERIOR,
June 25, 1951.

SCRIP APPLICATIONS FOR SUBMERGED COASTAL LANDS

Valentine, Gerard, Crow, Porterfield, Wyandott, Sioux Half Breed, Forest Lieu, Soldiers' Additional, Public lands, withdrawals, mineral lands, surveys, occupancy under claim of right.

Tidelands and lands beneath navigable inland waters belong to the States within whose boundaries they are situated (or to the States grantees).

Only public lands can be selected under scrip.

The term "public lands," when used in Federal provisions of law relating to the disposition of land, does not include submerged coastal lands.

Submerged coastal lands cannot be selected under public-land scrip.

Withdrawn lands are not subject to scrip locations.

Land known to be valuable for oil is "mineral" land for the purpose of scrip location.

Submerged coastal lands are not subject to being surveyed.

Land occupied by another person under a claim of right cannot be selected under scrip as vacant or unoccupied or unappropriated land.

Senator MALONE. Maybe we ought to hire an attorney to interpret the letter. This is no reflection on the Attorney General. After we repudiated him once, I suppose he wanted to be on the safe side.

Senator CORDON. There is no question in my mind, even though I am not familiar with the letter, as to whether there is any objection to an extension of the Mineral Leasing Act to that area insofar as it could be applicable to it. There is no constitutional prohibition on the Congress that would prevent the doing of it if the Congress so desired.

Senator MALONE. In other words, it is a tested act. It has been in operation 34 years. There are court decisions and we know what that act stands for. You can drill for oil on public lands under the Mineral Leasing Act, is that not true?

Senator CORDON. Yes.

Senator MALONE. You can mine phosphate and sulfur and other minerals that are mentioned today, is that not true?

Senator CORDON. I doubt that the Mineral Leasing Act extends to all of the public lands of the United States in the field of sulfur. There is only one provision that I know of in it and it is intended to apply, and therefore does apply. I mean the States of Louisiana and New Mexico.

Senator MALONE. A very simply amendment could make it apply?

Senator CORDON. Yes.

Senator MALONE. In other words, we have an established act that apparently does all of the work and answers all of the questions that are necessary without raising any new ones, is that not true?

Senator CORDON. Senator Daniel, you intended to ask a question or to make a statement to clarify something there.

Senator DANIEL. I think it was cleared up.

Senator CORDON. Do you have any questions, Senator Clements?

Senator CLEMENTS. No, unless you would throw some light on what the Attorney General has to say with reference to conservation and its being handled by the States versus the Federal Government.

Senator CORDON. What I would like to do would be to presently read this document aloud so that we can consider it.

Senator DANIEL. We are going to question Mr. Tate some more?

Senator CORDON. I would like to have that go forward now because the representatives are here solely to discuss the international aspects of this matter, and not the domestic aspects. Clearly a man may well be an expert in the field of international law and not be fully ad-

vised with respect to domestic law and the practical aspects of its application and administration. That is what interests the committee.

Senator DANIEL. I do have some questions.

Senator MALONE. I was going to make this suggestion before the distinguished Senator from Texas starts his questioning: I note this letter was written by J. Lee Rankin, Assistant Attorney General, Office of Legal Counsel. I was wondering in view of the length of this letter—it has 19 pages—why we could not have Mr. Rankin down here and ask him a few questions and clear it up.

Senator CORDON. There is no reason in the world why we cannot have him here if we need him, but I suggest we take a look at the letter and determine whether there is anything that needs clearing up.

Senator MALONE. I would not have time to study the letter here before the next couple of days.

Senator CORDON. If there are any questions to ask Mr. Rankin we will be glad to call him.

Senator MALONE. Probably if you read the letter you will still be in doubt as to what he means. These attorneys have a way of confusing engineers unless they have a chance to talk to them.

Senator CORDON. I am not at all certain that the engineers are as ignorant in the field of law as some of them would indicate.

Senator DANIEL. I know of no one who advocates extension of State laws exclusively over this area. There are some of us who do advocate an extension of the Constitution and laws of the United States and of the abutting States when not in conflict with Federal laws over the area the same as we have over the adjacent territorial belts and over the adjacent shore.

As I understood your testimony before us earlier this year and your testimony today, as far as our international relations are concerned, as long as we treat the seabed and the subsoil of the outer Continental Shelf separately from the overlying waters, the Congress has the right to legislate as to domestic law in any way that it deems best, is that correct?

Mr. TATE. As you know, we feel that the legislation ought to be directed solely to the jurisdiction and control over the seabed and the subsoil. To the extent that you legislate within that realm, we see no international objection. If there is a purported exercise of sovereignty over more than that, the water and the air above, we would think that would cause us international difficulty.

Senator DANIEL. In other words, as long as we limit whatever laws we pass, whatever assertions of sovereignty we make to the seabed and the subsoil, you think that we have the power in international law to do?

Mr. TATE. As I indicated in my testimony, we think we are in a much better position internationally if there is not an assertion of sovereignty. I grant you the difference between jurisdiction and control over the seabed and subsoil, and sovereignty over the seabed and subsoil with a disclaimer of sovereignty above the seabed, makes very little practical difference. But it is true that a number of States have made sovereignty claims and it confuses the issue as to whether they mean above or below or part of both.

Senator DANIEL. Does it confuse the issue if they limit whatever words they use to the seabed and the subsoil alone?

Mr. TATE. Sovereignty has become in international law something of a work of art. It means the whole of the jurisdiction and control.

Senator DANIEL. Do we not have the whole of jurisdiction and control over the seabed and the subsoil?

Mr. TATE. You have the whole of jurisdiction and control over the seabed and subsoil. But if you start talking in terms of sovereignty, I think you accomplish very little in the way of practical result, if anything, and at the same time confuse other nations as to what your claims are because they are apt to think of sovereignty in terms of the usual definition of sovereignty.

Senator DANIEL. In the last hearing that you appeared in, the acting chairman, Senator Cordon, said "it is difficult for the Chair to understand an exclusive jurisdiction and control by a sovereign nation without importing sovereignty," and I believe that you made the statement, and I will quote it: "Certainly, aspects of sovereignty are covered by claims to jurisdiction and control."

Mr. TATE. That is quite correct. I think I also pointed out that what was suggested then was a claim to, shall we say, 50 percent of sovereignty, sovereignty down, and no claim of the other 50 percent sovereignty through the waters and the air. I do think it is a misnomer to refer to a 50 percent sovereignty as sovereignty. I grant you it could be done in such a way that you would say the same thing as jurisdiction and control over the seabed and subsoil, but I see little practical advantage in it and I think it would cause confusion.

Senator DANIEL. I am just trying to get it clear as to whether you think that the seabed and the subsoil of the adjacent Continental Shelf comprise an extraterritorial area or an area that is subject to domestic legislation by the United States?

Mr. TATE. I think the seabed and subsoil of the Continental Shelf is subject to domestic legislation of the United States. That is what this bill purports to do. As I said earlier in my testimony, we have no objection to this bill.

Senator DANIEL. You feel that our Nation can have exclusive jurisdiction and control over the seabed and subsoil out to the edge of the Continental Shelf so long as we do not interfere with the overlying waters. Your answer was that that is the basis of the 1945 proclamation?

Mr. TATE. That is correct. That is the basis of the 1945 proclamation. Our interest is to see that we stay within the limits of the 1945 proclamation. We think we will be in a better position to assert in the international forum our rights to jurisdiction and control within the framework of the 1945 proclamation. After all, that proclamation has been out 8 years now. There has been no protest against it.

We also have the further advantage, if we stay in that framework, in that it is a framework adopted by the International Law Commission of the U. N. We feel we have been successful in getting them, so far, to go along with us on that. They are preparing a report for the U. N. If the U. N. adopts the report—and on this part I think there is very little indication of any objection to it—we will be in a much stronger position in asserting jurisdiction and control than we would be if they rejected it.

Senator DANIEL. Well, now, Mr. Tate, did you know that Great Britain, France, the Union of South Africa, Iceland, and several other

nations have objected to the U. N. Commission's failure to use the word "sovereignty" when it refers to the seabed and subsoil?

Mr. TATE. Yes, some of the nations in the debates in the International Law Commission and in their comments on the suggestions of the International Law Commission have made such assertions. However, I believe it is true to say that up to date those claims have not prevailed with the International Law Commission.

Senator DANIEL. Mr. Chairman, may I at this time read into the record the reply of the British Government to the recommendations of the International Law Commission? This is from the United Kingdom and is in the records of the United Nations International Law Commission.

Referring to article 2 of the draft proposals of the United Nations Commission on International Law:

> Her Majesty's Government would prefer to say that the Continental Shelf is subject to the sovereignty of the coastal state. In the opinion of Her Majesty's Government there is no sufficient reason for substituting for the familiar concept of sovereignty the new and undefined expression "control and jurisdiction" even though the two expressions are probably intended to have the same meaning. If the expression "sovereignty" were used, there would be no doubt that a crime committed in a tunnel under the Continental Shelf would come within the jurisdiction of the coastal State. If the expression "control and jurisdiction for the purpose of exploring the Continental Shelf and exploiting its natural resources" were used, there might be some doubt on this point. In the opinion of Her Majesty's Government the rights of the coastal State over the territorial shelf are of the same nature as its rights over its land territory, and it would be desirable to state this precisely in the draft.

Now, France made a similar objection, pointing out that there is really no difference between "jurisdiction and control" and "sovereignty," providing you are talking about only the seabed and the subsoil. I believe that one place in your testimony before us last time you acknowledged that the terms "jurisdiction and control" are tantamount to "sovereignty."

I quote this sentence from your testimony.

> Jurisdiction and control as far as the seabed and subsoil are concerned, I think, could in most respects be said to be tantamount to sovereignty.

Do you still think that is true?

Mr. TATE. I think that is quite correct, Senator.

Senator DANIEL. I certainly agree with you that it is. And I think it makes our problem a whole lot easier for this committee if we not necessarily use the word "sovereignty" but if we have a clear understanding that as far as the domestic rights of this Nation are concerned, we can apply the domestic law over this area just as though it were part of our land territory.

Mr. TATE. I believe that is correct, Senator. I am glad you say "whether you use the word 'sovereignty' or not." We do not, of course, agree with the position that the British took, and there are a number of other nations that do not agree. Belgium, for example. They feel, and maybe I am laboring the point too much, that when you talk about jurisdiction and control of the seabed and subsoil, it is clear that you mean something that is less than full sovereignty, which would include supra-adjacent waters and the air.

Senator DANIEL. We certainly could agree with you on that.

Mr. TATE. We can get into a semantic argument that wouldn't be profitable for either of us. I think that jurisdiction and control, as

set forth in the proclamation and as now used in S. 1901, gives you, as far as I can see right now, everything that you would want by use of the word "sovereignty" with the qualification that you did not refer to the waters above.

Senator DANIEL. I thank you. That is exactly what I was trying to bring out. For all practical purposes, our Nation has the same rights as if we had used the word "sovereignty."

Now, in the interpretation of the President's proclamation, which is limited to mineral resources of the ground, it seems that both the Secretary of State in the concurrent press release, the Attorney General of the United States in his lawsuits against Texas and Louisiana, and the Supreme Court in its decrees, have treated the proclamation as though it covered the land itself, all of the area of the seabed and subsoil of the Continental Shelf. Is that not correct?

Mr. TATE. That is correct.

Senator DANIEL. And for all practical purposes, when we claim exclusive jurisdiction and control over the natural resources of the seabed and subsoil, have we not asserted exclusive jurisdiction over the seabed and subsoil itself?

Mr. TATE. For all practical purposes that I can think of, sir.

Senator DANIEL. We have?

Mr. TATE. Yes, sir.

Senator DANIEL. Is it not true that all the other nations of the world that have asserted similar claims, with the exception of the Philippines, have made their assertion applicable to the seabed and subsoil itself, and have not limited their assertions to natural resources?

Mr. TATE. I am not sure on that. I think that is probably correct, but I am just not sure of it, Senator.

Senator DANIEL. Last night, up to midnight, I reviewed all of these proclamations of the other nations, and I might say for the benefit of the committee that there are nearly 30 of them. Several of them, of course, are British colonies, and every one of them, except the Philippines, asserts jurisdiction and control or sovereignty over the seabed and subsoil itself and not just over the natural resources of the seabed and subsoil. And I think that Mr. Tate's testimony that our claims amount to as much as an assertion of jurisdiction and control over the seabed and subsoil itself is certainly correct. At least, it is the interpretation made by Secretary of the Interior Ickes when he took over the property under an Executive order in 1945.

Mr. Ickes, in his 1945 report says this:

> The Continental Shelf cost only the forethought that was required to assert our sovereignty.

And throughout his report he speaks of the entire Continental Shelf rather than just the mineral resources.

Now, Mr. Tate, is it not true that when the Attorney General of the United States sued the State of Texas, he alleged that our Nation was the fee simple owner or had paramount rights, full dominion, and power over the lands, minerals, and other things of value under the Gulf of Mexico extending out to the edge of the Continental Shelf?

Mr. TATE. I believe that is correct, Senator.

Senator DANIEL. And in the Supreme Court's decree in the Texas case, is it not true that the Supreme Court of the United States decreed that the United States is, and I quote:

possessed of paramount rights in and full dominion and power over the lands, minerals, and other things underlying the Gulf of Mexico, extending seaward to the outer edge of the Continental Shelf?

Mr. TATE. I believe that is correct, Senator. You know much more about those decrees than I do.

Senator DANIEL. That is your understanding of them, is it not?

Mr. TATE. That is right.

Senator DANIEL. And then in the Louisiana case, similar claims were made by the Attorney General of the United States. They were not limited to natural resources in the lands of the outer shelf. He used exactly the same wording in suing Louisiana, only he limited his claim on the outer Continental Shelf to 27 miles offshore.

And the Court in its decree, and I will quote it, in the Louisiana case, says that the United States is possessed of the same rights over

The lands, minerals, and other things underlying the Gulf of Mexico, extending seaward 27 marine miles.

Now, these domestic interpretations of the effect of the proclamation as covering the land and resources of the seabed and subsoil of the Continental Shelf, the same as if sovereignty had been asserted over them, certainly would justify the Congress in legislating with respect to the entire seabed and subsoil, rather than just the natural resources, would it not?

Mr. TATE. Well, I am not sure what the distinction would be. I have no doubt that the Congress has authority to exercise full jurisdiction and control over the seabed and subsoil.

Senator DANIEL. Yes.

Mr. TATE. Those are very broad terms, and I don't understand quite what you mean to get, what you would want to do in addition to that.

Senator DANIEL. Nothing, except that I want to quit limiting the claim of this Nation to "natural resources" of the seabed and subsoil. I want to strike out "natural resources" and do like most every other nation of the world has done and say that our claim to exclusive jurisdiction and control is over the seabed and the subsoil of the outer Continental Shelf; always excluding the overlying waters. Is there anything wrong with that?

Mr. TATE. No, I can't see any difference between what I have said and what you have said. That is as broad an exercise of jurisdiction as I can contemplate anyone wanting to exercise.

Now, I suppose nobody is going to live down there and have little domestic quarrels and get into questions of domestic relations and things like that. That seems to me to be entirely unnecessary.

Senator DANIEL. That is just the point.

Mr. TATE. What we want to do, I take it, is to exercise control and jurisdiction over whatever resources are there.

Senator DANIEL. Right.

Mr. TATE. And it seems to me better to do it in the established framework of the President's proclamation, which has been generally accepted—at least it hasn't been protested by other nations—and which is being so far generally accepted by the International Law Commission. So if you can accomplish all you want to accomplish within an established framework, it seems to me better to do that than to use terminology which will confuse the issue and accomplish no practical purpose.

Senator DANIEL. Well, some of us are thinking about domestic law. That is what we are trying to write. Some of us think the issue is confused when you talk only about jurisdiction and control over natural resources, because that eliminates persons working on the seabed and subsoil. As you know, much of the seabed and subsoil today is being worked by tunnels from the shore, and some of those tunnels go out beyond the 3-mile limit. It is a simple matter to extend domestic jurisdiction over that area, if you treat it as though you have full jurisdiction and control over the body of land there, instead of limiting our jurisdiction to the natural resources of the land area. And as Britain pointed out—and that is the thing that seems to be worrying them—they want to know for sure that they have control over more than just the taking of natural resources. There are certain controls that are needed over the land body of the area if we are going to treat it like any other type of land that we know of, and as you said a moment ago, there certainly would seem to be no objection to going that far, since other nations have done so.

Now, has the United States objected to any of the claims of other nations to the seabed and subsoil, so long as they did not include the overlying waters?

Mr. TATE. No. That is quite correct.

Senator DANIEL. We have not, have we?

Mr. TATE. No, sir. And I think the only situation you have mentioned, the only one I have been able to think of, where there might be any question, doesn't seem to me a very real question; that is, the one that the British present; if you have a tunnel and somebody kills another man in that tunnel, can you handle the murderer through domestic law? I am sure there would be no protest in that case at all from any other nation.

Senator DANIEL. But do we have control over aliens outside our territorial limits?

Mr. TATE. We would have control over whatever happened in that tunnel, I think, as long as it related to the getting of the natural resources.

Senator DANIEL. What if it did not relate to getting the natural resources? Somebody simply came down there for robbery.

Mr. TATE. I think that would interfere with the procurement of the natural resources. I have no question, Senator, on these problems that you raise. I think in exercising jurisdiction and control over the seabed and subsoil, as far as the natural resources are concerned, you accomplish all of those things. Now, I have no doubt that you can extend the applicability of the domestic law in a tunnel under the seabed, if that is the problem that is worrying you.

Senator DANIEL. Yes, that is. And this whole problem of whether or not this area is going to be part of the United States for all practical purposes and subject to our constitution and laws is a problem that has worried me for quite a few years. And I am happy to say that all of our text writers and publicists on the subject, nearly, are coming to the conclusion that what the United States has already done amounts to an assertion of all the sovereignty any nation could have over the seabed and the subsoil, and not just over the natural resources.

For instance, are you familiar with the work of Mr. F. A. Valett of England, entitled, "The Continental Shelf" in the British Yearbook of 1946?

Mr. TATE. I have ssen that article, Senator. I can't say that I carry it in mind.

Senator DANIEL. For the benefit of the committee, I would like to read a paragraph from it.

Mr. Valett, who is certainly an outstanding authority on international law, says:

> It is difficult to see what distinction there is between control over the natural resources and control over the subsoil and seabed itself. Anything of value might be included in natural resources, and any use or interference with the subsoil or seabed might equally be regarded as an interference with the use of their natural resources. Therefore it does not seem that the use of this expression imparts any real limitation, and the claim may be taken as relating to the subsoil and seabed themselves.
>
> Indeed the contemporaneous press release—

talking about the White House press release after the Presidential proclamation—

> spoke simply of "jurisdiction over the Continental Shelf." Moreover jurisdiction and control are tantamount to sovereignty. Thus, not withstanding the restrained language of the proclamation, it does appear to amount to a declaration that the Government of the United States regards the sovereignty over the Continental Shelf as belonging to the United States.

Mr. TATE. I think, Senator, that is the position that the British have taken all along, the same position they took in their report to the International Law Commission. And, as I said before, I am not sure that we are arguing about anything that involves any practical consequences. I think there is an advantage, a tactical advantage, if you like, in staying within the framework of the proclamation. Because I think if you use the word "sovereignty" then you raise questions as to whether you are talking about the air and the water.

Senator DANIEL. I do not intend to advocate the use of the word "sovereignty" at all, as long as you tell me that jurisdiction and control are tantamount to it. But I do want to clear up this matter of whether or not our jurisdiction and control applies to the seabed and subsoil itself and is not limited only to natural resources.

Mr. TATE. I think that is correct, yes.

Senator DANIEL. And you think that it would be perfectly all right for our legislation to make that clear?

Mr. TATE. I have no question on that at all.

Senator DANIEL. Are you familiar with Mr. R. S. Trigg's article in the University of Pennsylvania Law Review, National Sovereignty Over Maritime Resources?

Mr. TATE. I am not.

Senator DANIEL. I would like to read a paragraph from it, because it is on this same point, as to the lack of difference between a claim to natural resources and the claim to the entire seabed and subsoil:

> The United States claims only "jurisdiction and control" of the "resources of the subsoil and seabed" of the contiguous Continental Shelf. Thus in two ways the claim may be minimized in argument. It has been suggested that the jurisdiction includes only the resources in the subsoil, and not the subsoil itself. This of course is mere sophistry; once may as logically claim the maple sirup and the wood while denying any interest in the tree. But the other argument has more force. "Jurisdiction and control," * * * is far different from "sovereignty"; and though international law does not tolerate sovereignty outside the territorial belt it has in many cases accepted claims of jurisdiction for certain purposes. This is, however, a distinction without a difference. * * *

Senator DANIEL. Now, Mr. Tate, I would like for us to look at the British practice with respect to the Continental Shelf a little bit, since the United States has not objected to it.

First, looking at the United Kingdom's annexation of the submarine areas off the shores of Tobago and Trinidad: By order of August 6, 1942, the United Kingdom said:

> Whereas, it is expedient that the rest of the submarine areas of the Gulf of Paria should be annexed to and form part of His Majesty's dominions and should be attached to the colony of Trinidad and Tobago for administrative purposes. Now, therefore, His Majesty is pleased, by and with the advice of his Privy Council, to order and it is hereby ordered—

and it goes on to describe the area out into the middle of the Gulf of Paria, and says:

> shall be annexed to and form part of His Majesty's dominions and shall be attached to the colony of Trinidad and Tobago for administration purposes, and the said submarine areas are annexed and attached accordingly.

Then it goes on to say that this shall have nothing to do with the overlying high seas.

Now, that method of annexing the subsoil and seabed to the dominion's adjacent colonies, and putting it under local administration of those two colonies was not objected to by the United States.

Mr. TATE. That is right.

Senator DANIEL. Now, let us go to the next instance of the British practice. That is on Jamaica.

With reference to Jamaica, we find that the order in council of November 26, 1948, extends the boundaries of the colony of Jamaica to include "the Continental Shelf contiguous to the coast of the colony," and it goes on and says that this does not include the overlying waters. Did the United States object to the United Kingdom's extension of jurisdiction and boundaries over that area?

Mr. TATE. No, we didn't protest those extensions at all, Senator. I don't think that means that we necessarily approved the way they were done.

Senator DANIEL. Now, on the Bahamas, by an order—I will ask, Mr. Chairman, if I may put these orders from which I have read in the appendix to the record. Is there any objection?

Senator CORDON. Without objection.

Senator DANIEL. The Bahamas, order in council, November 26, 1948, says this:

> The boundaries of the colony of the Bahamas are hereby extended to include the area of the Continental Shelf which lies beneath the sea contiguous to the coasts of the Bahamas—

And it goes on to say that:

> Nothing in this order shall be deemed to affect the character as high seas of any waters above the Continental Shelf and outside the limit of territorial waters.

Senator CORDON. What is the date of the order?

Senator DANIEL. That is November 26, 1948.

Did the United States file any objection to that?

Mr. TATE. No, sir. We didn't protest it.

Senator CORDON. May I ask, Mr. Tate: Did any nation at any time protest any of the orders, declarations, or proclamations to which reference has been made by the Senator from Texas, to your knowledge?

Mr. TATE. Not that we know of. Our protests have been directed to those claims that have been made to an extension of boundary over the Continental Shelf, some of them going beyond the Continental Shelf where there was no disclaimer of claim to the waters and the air above.

Senator CORDON. So far as you know, there have been no nations who have taken any view adverse to the assertion of a claim to the seabed and subsoil only?

Mr. TATE. Senator, we have not, and as far as I know, we have received no protest of our claim and as far as I know there have been no protests.

Senator DANIEL. Senator Kuchel asked a minute ago about the extension of boundaries of an adjacent State, and I understand fully the State Department's objection to using the term "sovereignty" or "boundaries." If we spoke in terms of extension of the jurisdiction and laws of the States to the seabed and subsoil only, would that meet the objection that you just made as far as international law is concerned?

Mr. TATE. As far as international law is concerned, whether you extend the law of the United States or of the particular States of the United States, and those laws relate to jurisdiction and control of the seabed and subsoil, the State Department has no objection.

Senator DANIEL. Or if you extended part of both bodies of law?

Mr. TATE. That is correct.

Senator KUCHEL. Then do I understand that we are dealing here with an area over which we could apply some State laws, if those State laws dealt with jurisdiction and control, but we could not apply State laws to this area if they dealt with sovereignty, such as penal jurisdiction? Would you make that type of distinction?

Mr. TATE. No, sir; I do not intend to make that type of distinction. I think whatever laws are necessary, as far as our international law and international relations are concerned, may apply to the seabed and the subsoil.

Senator KUCHEL. I do not want to interrupt Senator Daniel's line of questioning, but just to pursue this one point further: Can the Congress exercise penal jurisdiction, in other words provide for the punishment for crime in this area?

Mr. TATE. I would assume, Senator, that the Congress would have to do that, if there is going to be any effective exercise of jurisdiction and control over such structures as may be erected on the seabed and subsoil to extract the resources.

Senator KUCHEL. As distinguished from the rest of the sea area surrounding such installations.

Mr. TATE. That is right.

Senator DANIEL. Now, back to the British practice: I believe I was about to take up with you the case of British Honduras. By order in council, October 9, 1950, the boundaries of British Honduras were altered, according to the terms used, and the order provides as follows:

The boundaries of the colony of British Honduras are hereby extended to include the area of the Continental Shelf which lies beneath the sea contiguous to the coast of British Honduras. Nothing in this order shall be deemed to affect the character as high seas of any waters outside the Continental Shelf and beyond the limits of territorial waters.

Was any objection filed by the United States to that assertion?

Mr. TATE. No, sir. I would say the same answer applies to all these situations. I think claims were made in Saudi Arabia, Bahrein, Iran, Philippines, Guatemala, Pakistan, Brazil, the Bahamas, and Jamaica, British Honduras, the Falkland Islands, Panama, and Nicaragua, although there are various interpretations of what was claimed in the last two cases and where the claim was limited to the seabed and subsoil no protests were made.

Senator DANIEL. I thank you. That will shorten it. And then, Mr. Chairman, may I offer in the appendix, the original copies of these decrees of these other countries named?

(NOTE.—These decrees are set forth in the proceedings for Saturday, May 23, 1953, and in the appendix.)

Senator CORDON. Very well.

Senator DANIEL. I would like, for the benefit of the committee, to read exactly how the United Kingdom handled the Falkland Islands case, reading only one sentence, and I quote from the order in council of the United Kingdom, December 21, 1950:

The boundaries of the colony of the Falkland Islands are hereby extended to include the area of the Continental Shelf, being the seabed and its subsoil contiguous to the coasts of the Falkland Islands.

And thereafter follows the same declaration, that it does not affect the high seas.

The same language, or practically the same, is used with reference to the Union of South Africa, and I would like to call attention to different language used by Pakistan. By declaration of the Governor General, March 9, 1950, the Governor General of Pakistan says that he hereby declares, in pursuance of clause (b) of subsection (1) of section 5 of the Government of India Act, 1935:

that the seabed along the coast of Pakistan, extending to the 100-fathom contour in the open sea, shall, with effect from the date of this declaration, be included in the territories of Pakistan.

I believe you said that no objection was filed to that.

Mr. TATE. That is right.

Senator DANIEL. So therefore our country has made no objection to other countries using the term "boundaries" or "territory" in annexing their Continental Shelves, provided they made it clear that they were not covering any of the overlying high seas.

Mr. TATE. We have not objected, Senator, to any claim made by these other countries to the seabed and subsoil. Now, we would object to the method in which they were made in some cases. But we have been guided by pragmatic considerations. Where they were exercising jurisdiction and control over the seabed and subsoil and no more, we have not thought that he had a substantive basis for objection.

Senator DANIEL. Yes.

Mr. TATE. If we had been making those claims, we would have done it in a different way. We made our claims in the terms of the presidential proclamation.

Senator DANIEL. We did make claims that are just as inclusive as their claims for all practical purposes; is that not correct?

Mr. TATE. For all practical purposes that I can think of, they are the same.

Senator DANIEL. In other words, we can legislate with reference to our sea bed and subsoil, just as completely and as effectively as the countries that use the word "annexation" or "boundaries" or "sovereignty" in speaking of their sea bed and subsoil?

Mr. TATE. Well, I don't know that I am prepared to say what every other country can do under its claim. I would say that they can do what we can do, and that what we can do is exercise full jurisdiction, full control, over this area.

Senator CORDON. That is, the land itself.

Mr. TATE. The land itself.

Senator DANIEL. We can treat it as though it was annexed or a part of the territory of the United States. Is that not correct?

Mr. TATE. As I said earlier, I don't see what the practical difference would be.

Senator DANIEL. That is what I want to make clear. Now, then, in your statement, you say that extension of the laws of the contiguous territory to the area of exploration and exploitation of the Continental Shelf should be limited to the structures erected in the high seas and to the seabed and subsoil and should not apply to the waters themselves.

As I understand you, then, the Congress has the right, as far as international law is concerned, and the claims of other nations, to extend our domestic law to the subsoil and seabed and the structures that are fixed in the subsoil and seabed for the purpose of exploring what is underneath.

Mr. TATE. That is correct.

Senator DANIEL. Now, in international law, of course, these fixed structures would not be treated as islands for a purpose of a territorial marginal belt, would they?

Mr. TATE. They would not.

Senator DANIEL. But with respect to domestic law being applicable to the structures, they would be treated the same as you would treat a lighthouse or an artificial island. Is that not correct?

Mr. TATE. That is correct.

Senator DANIEL. And is not this true: We will take for instance a lighthouse built beyond territorial waters. It it not correct that it is considered in international law as a part of the territory of the country which has erected it?

Mr. TATE. That is right; except for the territorial waters question.

Senator DANIEL. That is correct; except for the fact that you do not give it a surrounding 3-mile boundary of territorial waters.

Mr. TATE. That is right.

Senator DANIEL. And therefore is there any reason why we might not treat structures fixed on the seabed, tied to the seabed, the same as we treat lighthouses built beyond territorial waters?

Mr. TATE. No.

Senator DANIEL. Is there any reason why we should not treat them the same?

Mr. TATE. No, there is no reason why we shouldn't treat them the same. For example, the British have several lighthouses that they built out on rocks that are regularly under the surface. And they treat that as part of their territory. They do not treat it as an island would be, which would have its own territorial waters.

Senator DANIEL. That is right.

Mr. TATE. We can do the same.

Senator DANIEL. But as far as applying domestic law, the same law that applies within territorial water or on the shore, it is permissible in international law to apply that same law to a lighthouse or to a structure fixed to the bottom of the seabed outside the territorial waters.

Mr. TATE. To the extent there is any international law on the question, the answer is "Yes."

Senator DANIEL. In other words, international law has, of course, recognized the territorial right and the law of the nation which has built a lighthouse beyond territorial waters. That is true, is it not?

Mr. TATE. I don't think there is any firm law on the question. There are so few instances of it. There has never been any question, so far as I know, about the few instances in which they exist. I don't think there will be any.

Senator DANIEL. You are acquainted with the Fur Seal arbitration case of 1893?

Mr. TATE. It has been a long time since I read that case, Senator.

Senator DANIEL. Well, that is the language from which I have been reading, in which the lighthouse was treated in the manner I have described.

Are you familiar with the article on artificial islands in the International Law Quarterly of 1951, written by D. H. N. Johnson?

Mr. TATE. I don't recall that article, but I am familiar with the British thesis. As I said, they have several instances of lighthouses. They have one, I think, at Folkestone. They have some on Scillies Islands. And there may be others; I think the Bell Island Lighthouse. They have all been so treated, and I would see no objection to that treatment.

Senator LONG. May I ask this question: Do we treat our lighthouses in that fashion? I know, for example, that we have one structure that partakes of the nature of a lighthouse about 20 miles off Louisiana, the Ship Shoals Light.

Mr. TATE. Senator, I don't know that we have any lighthouses that are on submerged lands and not on an island. If we do, my answer would be that we could treat them that way, and I suppose that we do. I think most of our lighthouses are on islands or rocks that appear above water at some time.

Senator LONG. I was told that we have a light about 20 miles seaward of Louisiana off Shop Shoal, and that the structure would be considered similar to a lighthouse.

Mr. RAYMOND T. YINGLING (accompanying Mr. Tate). That is not in the nature of a lightship, is it, Senator? We have those.

Senator LONG. I understand it is a lighthouse built on Ship Shoal, which is shallow water about 20 miles from Louisiana.

Mr. TATE. I would assume we could treat it as the British treat theirs, and there would be no objection to it.

Senator DANIEL. Then you see no objection so far as international law is concerned to the Congress extending the jurisdiction and laws of this country over the seabed and subsoil and the artificial islands or fixed structures that might be built on the seabed and subsoil?

Mr. TATE. I see none.

Senator CORDON. May I inquire, Senator Daniel, about how long you expect to pursue your inquiry?

Senator DANIEL. I imagine about 10 more minutes. I believe that the last time you appeared before the committee, Mr. Tate, in answer to a question by Senator Cordon you said that it would be, in international law, considered as a reasonable use of the waters to build these structures going down into the waters for the purpose of exploring the subsoil.

Mr. TATE. It would be reasonable, and there would be no objection to it in international law. It would have to be reasonable, of course. You could not put a structure that would be a barrier to navigation there, and that sort of thing. But I would asume you could do anything reasonably necessary in order to extract the resources of the seabed and subsoil.

Senator DANIEL. According to your testimony, then, you said, and I quote, "The police power of the United States could be exercised with respect to such structure."

Mr. TATE. That is correct.

Senator DANIEL. Now, are you familiar with Dick Young of Harvard Law School?

Mr. TATE. Yes.

Senator DANIEL. Have you read any of his articles on the Continental Shelf?

Mr. TATE. I don't think I have.

Senator DANIEL. Do you know of Sir Cecil Hurst, of London?

Mr. TATE. Yes.

Senator DANIEL. You have read some of his articles on the shelf?

Mr. TATE. Yes.

Senator DANIEL. You recognize him as an authority in this field?

Mr. TATE. A very distinguished authority.

Senator DANIEL. Now, have you examined the House bill that has been passed twice by the House this year on the outer Continental Shelf?

Mr. TATE. I only examined that in a rather casual way, Senator. You are referring to H. R. 5134?

Senator DANIEL. To. H. R. 5134.

Mr. TATE. Yes, sir.

Senator DANIEL. And the paragraph in the center of page 3?

Mr. TATE. Let me get that.

Senator DANIEL. Suppose I read it, so that you will have a chance to consider it as we go along.

> Except to the extent that they are inconsistent with applicable Federal laws now in effect or hereinafter enacted or such regulations as the Secretary may adopt, the laws of each coastal State which so provide 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 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 estates in the amount of the reasonable cost of the administration of such laws.

Is there anything in that provision extending State laws as well as Federal laws over the area, that would conflict in any way with our rights in international law?

Mr. TATE. As far as international law is concerned, there would be nothing to conflict, in my understanding. As far as domestic law is

concerned, of course, the Attorney General would speak on that question.

Senator DANIEL. Yes. As far as international claims are concerned, you would consider whatever the Congress does with reference to the seabed and the subsoil and the structures built thereon as a matter of domestic law?

Mr. TATE. I would .

Senator DANIEL. And our domestic law can apply to it?

Mr. TATE. That is right.

Senator DANIEL. As far as international claims are concerned?

Mr. TATE. That is correct.

Senator CORDON. May I interrupt to ask this: I call your attention to the letter of the Attorney General at the bottom of page 3, and I read the comment:

> Section 9 (a) of the House bill further provides that coastal States may extend their laws other than tax laws over the outer Continental Shelf within their projected boundaries as determined by the Secretary so far as such laws are not inconsistent with Federal laws and regulations, and that the Secretary shall reimburse the States for reasonable costs of administering their laws so extended.
>
> This is objectionable on several grounds. It raises serious constitutional questions of delegation of constitutional power. This is a Federal area, outside State boundaries, and to give the State a sort of extraterritorial jurisdiction over it is unnecessary and undesirable. The situation is not comparable to that of federally owned land within a State, as to which State law has some measure of applicability.

And this is the particular portion I want to call to your attention:

> Particularly in view of the intermingling of national and international rights in the area, it is important that the Federal Government, which has the responsibility for handling foreign relations, have the exclusive control of law-making and law enforcement there.

Do you care to make any comment with respect to that view of the Department of Justice, Mr. Tate?

Mr. TATE. No, sir. I think that is self-explanatory. I think that he is correct in his statement in the last sentence. I suppose that kind of situation could be handled internationally. It would be more difficult if you had to handle it through the State and back through the Federal Government than otherwise. But as far as international application is concerned, I have said to Senator Daniel it could be done either way.

Senator LONG. When you make it a provision of Federal law, as this bill does, that it is against the law to permit any person to erect these structures who has not qualified himself by entry into the United States under its immigration laws, what possible difference could it make as far as some foreign power is concerned whether it is the State or the Federal Government enforcing the law on the structures?

Mr. TATE. I suppose it could have all sorts of possibilities. The one that occurs to my mind at the moment is that if you have a claim against the United States by a foreign government for an injury inflicted on one of its nationals on one of these structures, you would have to handle that claim through the State governments and back through the Federal Government, rather than directly by the Federal Government.

Senator LONG. In view of the fact that the Federal Government has accepted the responsibility of doing what foreign nations have, and in

view of the fact that it is provided here that it would be illegal for any foreign citizen to be found on such a structure, what possible difference could that make to a foreign power who would be enforcing a domestic law with regard to American citizens?

Mr. TATE. I think, as I recall this bill, as far as those provisions are concerned, there is no absolute prohibition of foreigners being on the structures, for example. It merely relates to those who would otherwise be inadmissible to the United States. I may be wrong about that, but that is my recollection.

Senator LONG. I believe there is a provision in this bill which has the effect of limiting those that are on the structure.

Senator CORDON. Maybe to the same extent they are limited within the continental limits of the United States.

Senator DANIEL. As to Senator Long's question, what would be the difference between this situation as to an alien occurring on a platform just across the State boundary, and it happening just inside the State boundary?

Mr. TATE. There wouldn't be any difference. You would have also situations, I suppose more likely, in this area, of collisions with ships or failure to post warnings, and that sort of thing.

Senator DANIEL. Well, now, you understand that the admiralty law relating to vessels is already there and applicable to the high seas. Is that not correct? Nothing we would do in this bill with reference to vessels on the high seas and collisions would change the present law at all.

Mr. TATE. I thought the question was whether it could or not, not whether it does under this bill. As I understand this bill, it treats these structures as though they were vessels.

Senator DANIEL. That is right.

Mr. TATE. In which event, you don't have the question.

Senator DANIEL. Well, in that event does the United States Government have jurisdiction over aliens on foreign vessels?

Mr. TATE. It has jurisdiction over aliens on its own vessels on the high seas.

Senator DANIEL. But not on foreign vessels?

Mr. TATE. Not on foreign vessels.

Senator LONG. Why would it be any more necessary to go through the State in order for a foreign national to enforce his claim than it would be if the cause of controversy arose in the port of New Orleans, or on Long Island?

Mr. TATE. It probably wouldn't be.

Senator LONG. So, actually, it would not make any difference. It would be the same problem regardless, would it not?

Mr. TATE. Well, let me say this. I just will raise the question that came to my mind immediately. If you are applying Federal law, and the Federal Government is handling the claim, it seems to me obvious it would be easier than if you were applying State law and both the Federal and State Government were handling the claim. Now, you are quite right in saying, Senator, that that would not be unusual. I mean if an alien falls afoul of State law while he is in New York or New Orleans or wherever, in the inland waters for example, you have to handle it that way.

Senator LONG. Are you familiar with the testimony of Mr. Zito before this committee, in pointing out the difficulties that are involved,

in legislatively declaring that a fixed structure is a ship, for the purposes of maritime law?

Mr. TATE. I have seen that testimony sir, but I am not a maritime lawyer myself, and I don't feel that in my position I can testify on that. I certainly am not qualified to do it.

Senator LONG. Well, maritime law, of course, and admiralty law, does in large measure relate to wharves and docks as well as to ships.

Mr. TATE. That is right.

Senator LONG. Mr. Zito pointed out some of the complications and difficulties that you get into, however, when you declare a fixed structure, which partakes of the nature of a wharf or a platform to which a ship is to be tied, to be a seagoing vessel rather than a fixed structure.

I wonder if it occurred to you that there was any reason why you should not pursue the traditional view with regard to platforms, wharves or docks, that they are just exactly what they are, and legislate accordingly.

Mr. TATE. No, I am not saying you have to do it one way or another. I think I said earlier in my testimony that either way you did it, it would not raise questions in the international community, as long as you do what is necessary for this purpose.

Senator LONG. Here is a point that has been made in this bill. I am reading:

> (g) (1) No alien shall be employed on any structure referred to in subsection (a) for any period unless the Attorney General shall have certified—
>
> (A) that such alien has been lawfully admitted to the United States for permanent residence within the meaning of the Immigration and Nationality Act; or
>
> (B) that such alien has been lawfully admitted to the United States as a nonimmigrant within the meaning of such Act, and that such alien would not violate any provision of such Act or lose his status as a nonimmigrant by remaining in, and being similarly employed in, the United States during such period.

When an alien comes in under those conditions, would he not have the effect of subjecting himself to the laws of the United States and the State, while he is within the State?

Mr. TATE. That is correct.

Senator LONG. Do you see any objection to an alien who has so subjected himself to the laws of the United States and the State being subject to those laws while he is on such a platform erected in the sea?

Mr. TATE. No; I haven't raised any objection to that at all.

Senator LONG. So, actually, under international law there would be no difficulty.

Mr. TATE. That is right.

Senator DANIEL. Senator, may I finish up here? You will agree, though, with the testimony previously given in this committee that there are going to be a lot more United States citizens and citizens of Texas and Louisiana out there on the Continental Shelf structures then there will be aliens, will you not?

Mr. TATE. Oh, I assume they would be predominantly American citizens.

Senator DANIEL. So if we are thinking of legislation that would be best known and most adaptable to the persons out there, we should think more of our own citizens than aliens, should we not?

Mr. TATE. Yes, sir; you certainly would.

Senator DANIEL. The philosophy of our rights and claims to exclusive jurisdiction and control over the Continental Shelf is based on several things; one of them happens to be that it is an extension of the land mass of the adjacent nation. Is that not correct?

Mr. TATE. That is right.

Senator DANIEL. And another one, in the words of the proclamation, "since the effectiveness of measures to utilize or conserve these resources would be contingent upon cooperation and protection from the shore." In line with that philosophy, do you think that we should, in passing our legislation, provide in every possible way for cooperation with the shore in the utilization and conservation of these minerals?

Mr. TATE. I think you have to do that, Senator. And in doing that, I don't mean to pass on the State-Federal question, of course.

Senator DANIEL. I know. But as far as our claims as against other nations are concerned, we do not want to separate this area out, here, and cut it off from the United States by any legislation we pass, but we should provide for implementing every cooperation possible with the shore where our claim to the land originates.

Mr. TATE. Well, I had assumed, Senator, that everybody that had anything to do with this bill felt that, that you had to have some kind of law, either State or Federal or both, applying to these structures. You do not want just nobody's territory out there, nobody's structure. You have to regulate these things. You have to exercise some police power. You have to exercise perhaps some conservation measures. I think everybody recognizes that. I certainly do not dispute that in the slightest.

Senator DANIEL. Especially since they are being operated by people who come from the shore, and the resources are being delivered back to the shore.

Mr. TATE. That is correct.

Senator DANIEL. Now, are you familiar with the argument that has been made by some of the people in international law that prescription and occupancy play a part in the right of a nation to such territory as this?

Mr. TATE. Prescription and occupancy are usually used, certainly occupancy is, as to territorial claims, extension of the territory. For example, there are a variety of claims in the Antarctic, and there is a great deal of controversy over them. And some of the controversy goes as to whether you have acquired prescriptive right by occupancy, and so on.

Senator DANIEL. And some countries, such as Ceylon, were claiming exclusive jurisdiction and control over the seabed for fisheries and for mining beyond 3 miles offshore; is that not correct?

Mr. TATE. I think they claimed certain rights there, just as we claim certain conservation rights over fisheries.

Senator DANIEL. And you are familiar with the fact that some authorities in international law claim that prescription and occupancy, actually taking possession either directly or constructively, is necessary to have a valid claim to the seabed and subsoil of the Continental Shelf, are you not?

Mr. TATE. I am, yes.

Senator DANIEL. That is argued in some of the high councils of international law.

Mr. TATE. That is right.

Senator DANIEL. Now, that being true, and the States of Texas and Louisiana—Let us take Louisiana and leave out Texas. We talk about it too much, they say.

Let us take Louisiana. They have had 15 years' possession and occupancy under their lessees of a 27 mile extent of the Continental Shelf off of their shores, and, whether legally or not, they have been exercising jurisdiction. They extended their jurisdiction out there and made leases, and have had people working out there. The Supreme Court of the United States said in its opinion in the Louisiana case that Louisiana's extension of boundaries over this area inured to the benefit, or simply strengthened the claim of the United States, to the subsoil and seabed of that area. Now, that being true, I will ask you: As far as our rights in international law are concerned, do you not think that we, as a nation, should take advantage of that possession and occupancy under the State of Louisiana, and not cut it off?

Mr. TATE. If you want to reinforce your claims, which I think are already valid, to the Continental Shelf, by the argument that there have been certain rights already exercised there, I see no objection to that from the international point of view. I think you have the valid claim without it. But I see no objection to adding that argument.

Senator DANIEL. And do you not agree with the court that it does strengthen the claim of the Nation to this area that one of its component States has been exercising jurisdiction over the area for many years?

Mr. TATE. It strengthens the claim, but I do not think it is a prerequisite to the claim.

Senator DANIEL. No. We are in perfect understanding. You do not think it is a prerequisite, and neither do I, because I think international law today does not require occupancy. But the minority view, and it is a strong minority view, is that we must have occupancy that is at least constructive. We meet their claim if we take advantage of what the States have done in this area previously, do we not?

Mr. TATE. I have no disagreement with that.

Senator CORDON. May I inquire again how long the Senator expects to continue his inquiry?

Senator DANIEL. No longer.

Senator JACKSON. Mr. Chairman?

Senator CORDON. Senator Jackson.

Mr. Tate is appearing here, Senator, solely with respect to the international aspects of the problem.

Senator JACKSON. My questions will be strictly limited to the international aspects. I do not want to enlarge the jurisdiction. As I understand it, the second proclamation of 1945 stipulated that we would in effect exercise police jurisdiction over the conservation of fishery resources in the Continental Shelf, giving equal rights to all nations to fish in the waters. Is that right, in substance?

Mr. TATE. That had nothing to do with the Continental Shelf. That was related to fishing rights in grounds which we had developed.

Senator JACKSON. Yes, but beyond the 3-mile limit, did we not provide that the nations that fish in those waters would have to submit if we saw fit, to the conservation laws that might be promulgated by our Government?

Mr. TATE. Where the area had been developed by the United States alone. Where the area had been worked by others or was new area, the proclamation contemplated agreement with other countries.

Senator JACKSON. On what basis can we make the distinction claiming complete jurisdiction and control over the resources of the seabed and subsoil, and then at the same time exercise quasi-jurisdiction over the waters above the subsoil?

Mr. TATE. Well, we have claimed jurisdiction and control over the seabed and subsoil on the Continental Shelf, and we have expressly disclaimed any desire to interfere with the freedom of the seas, navigation, and so on, and fishing. We did claim, in the fishing proclamation, the right to exercise controls over fishing grounds which we had developed.

Senator JACKSON. Yes, but I am trying to reason this out in my own mind. As I read the proclamation, we could say that we will not allow these big mother ships to come in, for example, with all of their smaller ships, to fish in the waters, on the grounds that it might constitute an unreasonable taking, and, therefore, interfere with the resources and result in a depletion. I take it that that is possible, if it is established that that is a necessary function of conservation.

Senator CORDON. Senator Jackson, do you attach any connection whatever between (1) the jurisdiction and control of the land mass beneath the water, and (2) control of the water above? Or are you discussing, as a separate matter entirely, some sort of control in the waters above, wholly unrelated to a control of the shelf or land below?

Senator JACKSON. Mr. Chairman, first of all, I can reason out to, I think, a substantial point why we exercise control over the land mass beneath the waters. It also follows, to me, that we can do those things necessary and incidental to the control of that land mass and the waters above. If, logically, you are entitled to the subsoil and the resources in it, you have the right to take the necessary steps in the waters above to get those resources. But now we are in a situation with fisheries, which are totally disconnected from the subsoil. I am trying to get in my own mind the theory on which we laid claim to the right to exercise police powers, I take it, over the resources that have no connection.

Senator CORDON. Well, specifically, where have we done that?

Senator JACKSON. We did that in the proclamation of 1945. And I should add in my question to you, Mr. Tate, assuming that we had developed those waters historically.

Mr. TATE. I think, Senator, it is confusing that these two proclamations were issued at the same time. They related to 2 entirely different things and are based on 2 entirely different theories. I think if we bear that in mind, I have already explained the theory of the Continental Shelf and subsoil.

Senator JACKSON. Yes, I understand that.

Mr. TATE. The theory of the fishing proclamation, as I understand it, is that, one, we have always exercised rights over our citizens. That is one. And two, the fishing proclamation essentially is based on theories of conservation.

Now, if we go out into the Atlantic, say, and develop a fishing ground, it is accepted by the international community that we have the right to take certain steps, conservation steps, to preserve those fishing grounds from being despoiled.

Senator CORDON. By whom?

Mr. TATE. By Americans, or by others, if it is ground that we have developed ourselves.

Senator CORDON. May I read at this time into the record a portion of the proclamation itself, which I think is self-explanatory?

Passing by the preamble, and reading the proclamation itself, I now quote:

> In view of the pressing need for conservation and protection of fishery resources, the Government of the United States regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale. Where such activities have been or shall hereafter be developed and maintained by its nationals alone, the United States regards it as proper to establish explicitly bounded conservation zones in which fishing activities shall be subject to the regulation and control of the United States. Where such activities have been or shall hereafter be legitimately developed and maintained jointly by nationals of the United States and nationals of other states, explicitly bounded conservation zones may be established under agreements between the United States and such other states; and all fishing activities in such zones shall be subject to regulation and control as provided in such agreements. The right of any state to establish conservation zones off its shores in accordance with the above principles is conceded, provided that corresponding recognition is given to any fishing interests of nationals of the United States which may exist in such areas.

And then is provided a disclaimer as to any interference with the seas as high seas.

Just one question arises in my mind there, Mr. Tate, and that is with respect to this portion of the last statement.

First, I will read one sentence:

> Where such activities have been or shall hereafter be legitimately developed and maintained jointly by nationals of the United States and nationals of other states, explicitly bounded conservation zones may be established under agreements between the United States and such other states. * * *

Now, this is what I call attention to:

> and all fishing activities in such zones shall be subject to regulation and control as provided in such agreements.

Has there been any interpretation of that particular portion of the sentence with respect to whether that regulation and control, as provided in the agreements, goes beyond the nationals of the nations who are parties to the agreement?

Mr. TATE. Yes. For example, we have agreements with Canada about fishing on the west coast, the Alaskan waters and west coast waters, and those agreements provide for the take and proper conservation, proper exploitation, and we assert a right to require that those be adhered to, and we would contest any other government than the United States and Canada that came in and tried to despoil those grounds and seek their agreement not to do so.

Senator CORDON. Well, would the action taken under this word "control" be limited to a protest? Is that as far as it could go? Not as far as it may be desirable.

Mr. TATE. It is pretty well established, Senator, that the nations that fish in the same grounds may get together and regulate and control the method of fishing within those areas. The North Atlantic fisheries agreements, for example, have always been accepted.

Senator CORDON. Now, in fact, there, you have gathered in all of the nations that did any fishing of consequence in the area, and all

became party to that treaty. But is international law clear on that subject, as to whether, if a sixth or a seventh or an eighth nation, not parties to the agreement, were to have their nationals fish in the area, would the fact that there was such a treaty empower the treaty nations to either control or refuse fishing in the area to the nations not party to the treaty? That is the question.

Senator JACKSON. Is it binding on the other nations of the world?

Mr. TATE. Yes, it is invoked against the other nations.

Senator JACKSON. What about in the Antarctic, the whaling? The Norwegians and the British, I suppose, historically have been engaged in whaling operations in the Antarctic for the last half century. Do they have, shall we say, collective prescription rights that preclude other nations from going into those waters?

Mr. TATE. Well, Senator, we are getting into questions of degree now; and, of course, they are always hard to answer.

The fact is that there have been a number of treaties between nations who fish on certain grounds, as to how those grounds should be regulated.

Senator JACKSON. That is not binding on third parties, though.

Mr. TATE. I think it would be invoked against third parties. Now, we have for example the recent cases several years ago of the Norwegian fisheries, in which the British and the Norwegians were before the International Court of Justice. Of course, that involved many other questions; but it recognized a prescriptive right on Norway's part to extensive territorial waters and to take fish there.

Senator JACKSON. Did they limit that to 4 or 10 miles?

Mr. TATE. I don't think it was the question of how many miles. It was a question of measurements of the territorial waters, and the territorial waters in that case were recognized to be 4 miles.

Senator JACKSON. Now, just one last question, Mr. Chairman.

What I am trying to get at: We know that there are resources in the water above the subsoil in the Continental Shelf. There is uranium in the water. Suppose someone comes in with a fine process that is workable and starts extracting uranium out of the water. How does that tie in with our precedents to date in connection with the Continental Shelf?

Mr. TATE. Any answer I might give to that question, Senator, would be purely hypothetical. It would be sort of guesswork.

I would assume we might do something about regulating such extraction, as long as our regulations were reasonable, did not interfere with other people's interests, and did not interfere with the character of that part of the ocean as high seas. But I am just engaging in guesswork.

Senator JACKSON. I am not trying to get unrealistic situations in the record. I mean, there are so many possibilities here.

Mr. TATE. But this is a developing field of international law, and there are no pat answers to all questions.

Senator JACKSON. Well, Mr. Tate, I think you have done very well in trying to give some exploratory answers to some of these questions. I have been a bit confused in my own mind about this business concerning the subsoil, on one hand, the seabed and the subsoil, on one hand, and the waters above, and the extent to which we can apply a little bit of sovereignty into the waters to maintain the basic thing that we have been talking about; namely, the seabed and subsoil.

Senator CORDON. Mr. Tate, let me say this, and then I will recognize the Senator from California.

I think, as far as this inquiry is concerned, it is limited to just one question and answer. Does the effect of the proclamation as confirmed, the Presidential proclamation of 1945 as confirmed by the Congress in the recent legislation, create any different situation in any respect whatsoever, internationally, with respect to the rights or obligations of the United States or any other nation in the waters above the Continental Shelf adjacent to the United States, than existed prior to the proclamation? And my question goes only to the waters above the seabed and the subsoil.

Mr. TATE. As I understand the submerged lands legislation and this proposed legislation, so far as the waters outside the territorial limits are concerned, it does not.

Senator CORDON. My question is limited to that.

Mr. TATE. That is right.

Senator KUCHEL. Mr. Chairman, as you suggested earlier, Dr. Chapman, who testified earlier, from California, is here. He asked me a question, which I would like to ask Mr. Tate.

Is the jurisdiction and control which the United States asserted on the seabed and subsoil of the Continental Shelf outside territorial waters, or the boundaries, the historic boundaries of the State, tantamount to an assertion of title or of ownership in the seabed and subsoil by this Nation?

Mr. TATE. If you use the word "tantamount" and underscore it, I think the answer is probably "Yes." But, as I said earlier in my testimony, I think we confuse rather than clarify the issue, in the international field, by using words like "title" and "sovereignty" that are used ordinarily in quite different connotations.

Senator KUCHEL. Would you say that it is the exact equivalent of the doctrine of paramount rights, as enunciated by the Supreme Court?

Mr. TATE. It would be not only, I think, paramount, but it would be exclusive.

Senator KUCHEL. And would you explain what you mean?

Mr. TATE. As far as the subsoil and seabed are concerned, as I indicated in answering the question of Senator Daniel, I can think of no practical case that might arise, or situation which might arise, that would interfere with our exclusive jurisdiction and control; that would go beyond, I should say, jurisdiction and control.

Senator KUCHEL. You would, would you not, state that the United States has paramount rights, as that term was used in the Supreme Court decisions, over the seabed and subsoil?

Mr. TATE. That is right.

Senator KUCHEL. Would you say it has anything more than paramount rights, as used in the Supreme Court decision, by reason of the proclamation of the President?

Mr. TATE. Well, I think they have exclusive rights. I mean, what is the difference between "paramount" and "exclusive"? We might, I suppose, dance on the point of a needle on that one. But we have rights to exploit this and to keep other people out of the exploitation. It is not "paramount" in the sense of who gets there first, who has first rights.

Senator KUCHEL. The Governor of Louisiana—I think I quote him correctly—recommended to this committee consideration of enlarg-

ing the boundaries of the abutting States by including within their boundaries the areas immediately adjacent to the States running out to the end of the Continental Shelf. Without asking you to comment on any policy involved, would you say that it is within the constitutional authority of the Government of the United States to accede to the Governor's suggestion and enlarge the boundaries accordingly?

Mr. TATE. I would think it unfortunate to go into the enlargement of boundaries or go into uses of terms like "sovereignty or "title." I mean, what we have been faced with in the past few years are countries that assert that their boundaries go out so far. We have had to protest that. Because, in making that assertion, they have intended to include the waters above the shelf and the air above the waters. And that would be a serious interference with the rights of the high seas, shipping, aviation, and so forth and so on.

Now, I think we are in a better position to maintain those protests and to have our position accepted in the international community if we stay away from using terms that are used in other connotations, where the claim is greater than I understand any claim desired by this committee would be.

Senator KUCHEL. Yes, sir. Now, when you suggest that that would be unfortunate, I take it that you are making an opinion with respect to the policy involved. Beyond that, however, would you be able to suggest the constitutionality, or would you question the constitutionality, of such congressional legislation?

Mr. TATE. I have not gone into the constitutional question at all, myself. The Attorney General has handled that question, and I felt it proper for the law officers of the Government to do that, and that was not part of the responsibility of the State Department.

Senator KUCHEL. Prior to the enactment of the Holland resolution, was there any difference, Mr. Tate, in the jurisdiction and control between that part of the submerged lands which were included in the Holland resolution and that part which we are dealing with here today?

Was there any distinction in the jurisdiction or the control with respect to the immediate 3-mile area, or, in the Texas and Louisiana situations, a little bit more?

Mr. TATE. Yes. Because in the submerged lands legislation you are dealing with territorial waters, where you assimilate not only the ground, the seabed, but you assimilate waters, for most purposes, to the territory of the State.

Now, in this legislation, in the Continental Shelf legislation, you are not perporting to deal with waters at all. You are purporting to deal with the seabed and subsoil and what is necessary to exploit their resources.

Senator KUCHEL. But beyond that distinction, did the United States Government have actual sovereignty over the seabed and subsoil out to the limits of the territorial belt, in your judgment?

Mr. TATE. In the submerged lands legislation, we quite clearly were dealing with questions of sovereignty in its classical sense.

Senator KUCHEL. Which we are not here.

Mr. TATE. And here you are dealing with questions that are not questions of sovereignty in the classical sense, because they do not relate to the whole of the sovereignty, namely, the sovereignty from the seabed up, as well as the sovereignty from the seabed down.

Senator KUCHEL. I think that is all I have, Mr. Chairman.

Senator CORDON. May I ask one or more question? Then I will be happy to yield, Senator.

The pending bill, S. 1901, or the bill as passed by the House recently, H. R. 5134, neither carry any general prohibition against any type of what we might term trespass, or, putting it another way, against any exploitation of the subsoil and seabed, except in accordance with this or other Federal legislation.

In your opinion, should any legislation that we may pass carry such a prohibition? Would it be advisable, or not advisable? I think from the standpoint of protection, it would be advisable. Are there any international aspects of such a prohibition that would render it inadvisable?

Mr. TATE. Well, in the very nature of the legislation, Senator, you are purporting to exercise the claim of the United States to complete jurisdiction and control over this seabed, and the subsoil beneath it. You are justifying extending to that seabed and subsoil whatever laws you may think necessary, whatever they may relate to, so long as they go to your purpose, which is the exploration and exploitation of the seabed and subsoil.

Senator CORDON. And I take it there is no objection, so far as the State Department is concerned, to such a program?

Mr. TATE. No, sir.

Senator LONG. I would like to ask a few questions.

Senator CORDON. How long does the Senator expect to continue?

Senator LONG. I do not think I will be any longer than 10 minutes, perhaps 5.

Senator CORDON. All right.

Senator LONG. Is it any concern to a foreign power under international law whether it is the State or the Federal Government that is enforcing domestic law upon citizens of the United States?

Mr. TATE. No.

Senator LONG. With regard to nationals of foreign powers who subject themselves to the jurisdiction of this Nation by entry upon property of the United States, whether it be a ship, or whether it be a platform, or whether it be territory of the United States in the traditional sense, do they, under international law, have any valid objection to becoming subject to the laws of a component part of the United States, namely, the State governments?

Mr. TATE. No; no objection, as long as it is the law of a civilized country.

Senator LONG. Therefore, the problem of Federal-State relationship is not a problem of international law but one of domestic and constitutional law within this Nation?

Mr. TATE. Entirely so; yes.

Senator LONG. In other words, by and large, it is a policy decision of this Nation, rather than a problem of international law?

Mr. TATE. It is a policy and legal and constitutional determination by this Nation entirely.

Senator LONG. But you do not see international complications involving the question of whether or not a State law is applicable to the area?

Mr. TATE. Whether it be a State or Federal law applicable to the area, the platform, vessel, or whatnot, I think makes no difference in

international law, as long as it is related to a valid international purpose.

Senator LONG. Inasmuch as Louisiana and Texas have extended their boundary, and this matter has been before the courts, and the courts have declined to rule that such extension was not valid——

Senator CORDON. Or that it was.

Senator LONG. Or that it was valid, but certainly it has had the cognizance of the courts, would it not be necessary that the Federal Government undertake to exclude the State from jurisdiction over the subsoil and resources insofar as the State is exercising jurisdiction?

Mr. TATE. I think that is a constitutional question rather than an international law question, Senator.

Senator LONG. And you do not think that that comes within your sphere?

Mr. TATE. I wouldn't have anything to do with that.

Senator LONG. You are familiar with the draft articles on the Continental Shelf?

Mr. TATE. That is right.

Senator LONG. I notice that one of those articles, namely, article 6, reads as follows——

Mr. TATE. That is the February 1953 report?

Senator LONG. I do not have the date. It says:

> The exploration of the Continental Shelf and the exploitation of its natural resources must not result in substantial interference with navigation or fishing. Due notice must be given of any installations constructed, and due means of warning of the presence of such installations must be maintained.
>
> (2) Such installations shall not have the status of islands for the purpose of delimiting territorial waters, but to reasonable distances safety zones may be established around such installations, where the measures necessary for their protection may be taken.

Is not the inference of that article that except with regard to the territorial waters question there appears to be no objection to the complete sovereignty of a nation being asserted on a structure erected in the sea?

Mr. TATE. So far as the exercise is related to the purpose.

Senator LONG. In other words, there seems to be no objection to regarding a structure erected for the purpose of exploiting the Continental Shelf as an island, except for the question of territorial waters?

Mr. TATE. That is right.

Senator LONG. Those are all the questions I had.

Thank you.

Senator CORDON. The Chair will direct to have printed in the appendix of the record the work entitled "Draft Convention on Territorial Waters and Related Questions," of the Inter-American Juridicial Committee, and request that the State Department comment on the document and furnish the committee with comments to go in the appendix in connection with this particular item.

Mr. TATE. We will be glad to do that, Senator.

Senator CORDON. The committee will now stand in recess, and I suggest that if it can be done, the Chair will call the committee back into session Saturday morning.

(Whereupon, at 12:20 p. m. the hearing was recessed, to reconvene at the call of the Chair.)

OUTER CONTINENTAL SHELF

MONDAY, JUNE 1, 1953

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met, pursuant to call of the Chair, at 8 p. m., in the committee room, room 224, Senate Office Building, Washington, D. C., Senator Guy Cordon (acting chairman) presiding.

Present: Senators Guy Cordon, Oregon (acting chairman) presiding; Eugene D. Millikin, Colorado; George W. Malone, Nevada; Arthur V. Watkins, Utah; Thomas H. Kuchel, California; Frank A. Barrett, Wyoming; Russell B. Long, Louisiana; Earle C. Clements, Kentucky; Henry M. Jackson, Washington; and Price Daniel, Texas.

Also present: Kirkley S. Coulter, chief clerk; N. D. McSherry, assistant chief clerk; and Stewart French, staff counsel.

Senator CORDON. The committee will come to order.

The Chair expresses his regret that it is necessary to have evening sessions of the committee. However, time is becoming of the essence, and it appears that we are going to have to put in some overtime in order to get this matter at issue.

The Chair has requested Mr. Lee V. Rankin, Assistant Attorney General, who has been delegated by the Attorney General to deal with the committee in connection with the discussion of this matter, and with comments on the bill, S. 1901, with respect to suggestions not only as to changes that might be made in that bill, but as to policy, and so forth.

Mr. Rankin is here this evening, and has with him other members of the staff of the Department of Justice. It is the Chair's view that Mr. Rankin should be heard from at this time, and I will ask him to come forward.

Mr. Rankin, in compliance with my request for the committee that you submit your comments with respect to S. 1901 and H. R. 5134, the committee has received from you a letter dated May 26, with such comments and suggestions as are offered there. For your information, this document of May 26 has been mimeographed, and has been placed in the hands of all members of the committee so that they might become familiar with it before you appeared before the committee.

Since the request went to you from the committee, the Chair has asked Mr. Clayton Orn, who is the chairman of the legal group representing operators in the Continental Shelf area to likewise make suggestions from the operator's standpoint, with respect to the same subject matter.

The Chair took the liberty of suggesting to Mr. Orn that it might be well for him to discuss the matter with members of your staff. That I understand has been done, and Mr. Orn appeared as a witness before the committee, and advised that he had discussed the matter with your staff.

After he appeared before the committee, there was prepared a confidential committee print, including in it the suggestions made by Mr. Orn, those suggestions appearing in italics, except where they were in the alternative, and there in blackface.

(The documents referred to are as follows:)

[S. 1901, 83d Cong., 1st sess.]

A BILL To provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act".

SEC. 2. DEFINITIONS.—When used in this Act—

(a) The term "outer Continental Shelf" means all submerged lands (1) which lie outside and seaward of lands beneath navigable waters as defined in the Submerged Lands Act, and (2) of which the subsoil and natural resources appertain to the United States and are subject to its jurisdiction and control;

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

(c) The term "mineral lease" means any form of authorization for the exploration for, or development or production of deposits of, oil, gas, or other minerals; and

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

(e) *The term "law of the State" wherever used in this Act in connection with a lease issued by a State which was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing the lease, shall mean such laws of the State as were valid, or would have been valid had the State had paramount rights in and dominion over the lands included in the lease.*

SEC. 3. 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.

(b) 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] *navigation*, the navigational servitude, *and fishing* shall not be affected.

SEC. 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—(a) All acts occurring and all offenses committed on any structure (other than a vessel), which is located on the outer Continental Shelf or on the waters above the outer Continental Shelf for the purpose of exploring for, developing, or removing the natural resources of the subsoil or seabed of such outer Continental Shelf, shall be deemed to have occurred or been committed aboard a vessel of the United States on the high seas and shall be adjudicated and determined or adjudged and punished according to the laws relating to such acts or offenses occurring on vessels of the United States on the high seas.

(b) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, or removing the natural resources, or involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district nearest the place where the cause of action arose.

(c) With respect to disability or death of an employee resulting from any injury occurring as the result of operations described in subsection (b), com-

pensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act if recovery for such disability or death through workmen's compensation proceedings is not provided by State law. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

(1) the term "employee" does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and the waters above the outer Continental Shelf.

(d) (1) The provisions of the Ship Mortgage Act shall be applicable to any structure referred to in subsection (a) in the same manner as if such structure were a "vessel of the United States" within the terms of such Act. For the purpose of the extension of the provisions of such Act under this subsection, every such structure shall be registered in accordance with regulations established by the Secretary of Commerce, and the term "documented" means registered in accordance with this paragraph.

(2) The Secretary of Commerce shall establish such regulations as he deems necessary to the efficient execution of this subsection.

(e) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any structure referred to in subsection (a) shall be deemed to have occurred within the judicial district nearest the place of location of such structure.

(f) For the purposes of the Fair Labor Standards Act of 1938, goods produced upon or at any structure referred to in subsection (a) shall be deemed to have been produced within a State.

(g) (1) No alien shall be employed on any structure referred to in subsection (a) for any period unless the Attorney General shall have certified—

(A) that such alien has been lawfully admitted to the United States for permanent residence within the meaning of the Immigration and Nationality Act, or

(B) that such alien has been lawfully admitted to the United States as a nonimmigrant, within the meaning of such Act, and that such alien would not violate any provision of such Act or lose his status as a nonimmigrant by remaining in, and being similarly employed in, the United States during such period.

(2) The Attorney General shall, by regulations, prescribe the conditions under which an alien, other than an alien employed on any structure referred to in subsection (a), may be permitted to be on any such structure, and the period during which any such alien may remain thereon.

(3) Any person who—

(A) knowingly employs an alien on a structure referred to in subsection (a) in violation of paragraph (1) of this subsection, or

(B) having authority to exclude an alien from any such structure, knowingly permits such alien to be on such structure in violation of the regulations prescribed by the Attorney General under paragraph (2) of this subsection, or knowingly permits such alien to remain on any such structure for a period longer than prescribed by such regulations,

shall be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or both.

(h) (1) No merchandise of foreign growth or manufacture shall be brought upon any structure referred to in subsection (a) from any foreign port or place unless it shall have been entered for consumption in the United States in accordance with the customs laws and regulations.

(2) If any person fraudulently or knowingly brings or assists in bringing any merchandise upon any such structure in violation of the provisions of this subsection, or in any manner facilitates the transportation, concealment, or sale of such merchandise after it has been brought upon such structure, knowing the same to have been brought thereon in violation of the provisions of this subsection, the offender shall be punished by a fine not to exceed $5,000 or by imprisonment for not to exceed two years, or both.

Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this subsection.

Merchandise brought upon any such structure in violation of the provisions of this subsection shall be forfeited to the United States in the same manner as in the case of merchandise introduced into the United States in violation of section 545 of title 18 of the United States Code.

(i) All provisions of law applicable with respect to the exportation of any commodity, article, material, or supply from a place in a State of the United States shall be applicable with respect to the exportation of any such commodity, article, material, or supply from any structure referred to in subsection (a).

(j) The Coast Guard shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the structures referred to in subsection (a) or on the waters adjacent thereto, as it may deem necessary.

(k) The specific application by this section of certain provisions of law to structures referred to in subsection (a) or to acts or offenses occurring or committed on such structures shall not give rise to any inference that the application to such structures, acts, or offenses of any other provision of law is not intended.

[PROPOSED ALTERNATIVE NO. 1]

(l) (1) Each coastal State may extend its jurisdiction to the natural resources of the subsoil and seabed of such portion of the outer Continental Shelf as may be defined by the Secretary as being contiguous to the seaward boundaries of the State. The Secretary, upon request of a State, shall define, and publish in the Federal Register, the area which he finds to be contiguous to the seaward boundaries of the State. No State shall exercise its jurisdiction over such area so as to interfere with the jurisdiction, control and power of disposition vested in the United States by this Act.

(2) Any State so extending its jurisdiction may also extend its laws to the portion of the outer Continental Shelf within its jurisdiction, except to the extent that its laws are inconsistent with the laws of the United States heretofore or hereafter enacted, or with the rules and regulations of the Secretary issued in pursuance to the provisions of this Act. When a State has so extended its laws, the provisions of subsection (a) of this section shall no longer apply to acts occurring and offenses committed on any structure located on the portion of the outer Continental Shelf within the jurisdiction of the State.

(3) Any State which extends its jurisdiction and laws pursuant to the provisions of this section shall furnish a certified copy of the Act so providing within thirty days of its passage to the Secretary who shall publish it in the Federal Register.

[PROPOSED ALTERNATIVE NO. 2]

(l) (1) Each coastal State may, for the limited purpose of prevention of waste, protection of correlative rights, and conservation, extend its jurisdiction to the natural resources of the subsoil and seabed of such portion of the outer Continental Shelf as may be defined by the Secretary as being contiguous to the seaward boundaries of the State. The Secretary, upon request of a State, shall define and publish in the Federal Register, the area which he finds to be contiguous to the seaward boundaries of the State. No State shall exercise its jurisdiction so as to interfere with the jurisdiction, control, and power of disposition vested in the United States by this Act.

(2) Any State so extending its jurisdiction may also extend its laws relating to the prevention of waste, protection of correlative rights and conservation of natural resources to the portion of the outer Continental Shelf within its limited jurisdiction, except to the extent that such laws are inconsistent with the laws of the United States heretofore or hereafter enacted, or with the rules and regulations of the Secretary issued in pursuance to the provisions of this Act.

(3) Any State which extends its jurisdiction and laws pursuant to the provisions of this section shall furnish a certified copy of the Act so providing within thirty days of its passage to the Secretary who shall publish it in the Federal Register.

[SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF. The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may prescribe such rules and regulations as he determines to be necessary and proper in order to provide for the conservation of the natural resources of the outer Continental Shelf. The continuance in effect of any lease, or of any extension, renewal, or

replacement of any lease, maintained or granted under the provisions of this Act, may be conditioned upon compliance with the regulations prescribed by the Secretary under the provisions of this section.]

Sec. 5. Administration of Leases on the Outer Continental Shelf.—(a) The Secretary shall administer the provisions of this Act reltaing to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions.

(b) The Secretary is authorized to prescribe, publish, and enforce such rules and regulations as he deems necessary for the prevention of waste, the protection of correlative rights, and the conservation of the natural resources of the outer Continental Shelf.

(c) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

(d) (1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, of the regulations issued thereunder, or of the lease, such lease may be canceled by the Secretary if such default continues for the period of thirty days after the service of notice as provided in the next succeeding sentence. Such notice in advance of cancellation shall be sent by registered letter to the lease owner at his record post office address, and in case such letter shall be returned as undelivered, such notice shall be posted for a period of thirty days in the United States land office nearest the area covered by the lease.

(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, of the regulations issued thereunder, or of the lease, such lease may be forfeited and canceled by an appropriate proceedings in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

(e) The provisions of sections 17 (b), 30 (a), 30 (b), 36, and 39 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended, to the extent that such provisions are not inconsistent with their application to the outer Continental Shelf or with the terms of this Act, are made applicable to leases granted or maintained under the provisions of this Act.

(f) The Secretary is authorized to grant rights-of-way on the outer Continental Shelf for pipelines for the transportation of natural resources on such terms and conditions as he may prescribe. After notice and hearing, if at any time he should find that public convenience and necessity so require, the Secretary may order, subject to judicial review as provided in the Administrative Procedure Act, any such pipeline to be operated and maintained as a common carrier and thereafter, the provisions of part I of the Interstate Commerce Act shall apply to the same extent that the Act would apply if the pipeline extended from one State to another State.

SEC. 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.—(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State or political subdivision or grantee thereof (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods *as provided in section 7 hereof or* as may be fixed from time to time by the Secretary;

(2) such lease was issued (A) prior to December 21, 1948, and was on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it or whose political subdivision or grantee issued it, or (B) with the approval of the Secretary and was on the effective date of this Act in force and effect in accordance with its terms and provisions and the laws of such State;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it was in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease was so in force and effect;

(4) except as otherwise provided in section 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof, *or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection,* and all rents, royalties, and other sums payable under such lease after the effective date of this Act, are paid to the Secretary, who shall deposit [them] *such payments* in the Treasury in accordance with section 9 of this Act;

(5) the holder of such lease [certified] *certifies* that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor *on oil and gas* of not less than 12½ per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) such lease will terminate within a period of not more than five years from the effective date of this Act in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretray, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(10) the holder of such lease 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.

(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with its provisions, for the full term thereof and of any [extension, renewal, or replacement] *extensions, renewals, or replacements* authorized therein or heretofore authorized by the *laws* of the State issuing or whose *political* subdivision or grantee issued such lease, or, if oil or gas was not being produced from such lease on or before December 11, 1950, *or if the primary term of such lease has expired since December 11, 1950,* then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State.

(c) The Secretary shall exercise such powers of supervision and control with respect to any mineral lease that meets the requirements of subsection (a) of this section as may be vested in the lessor by law or the terms and provisions of the lease.

[(d) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to the effective date of this Act.]

[(e)] *(d)* Any persons complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia.

SEC. 7. [CONTROVERSY OVER JURISDICTION] *INTERPLEADER, DISCLAIMER, 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 subdivision, or grantee issued prior to the effective date of this Act shall file with the Secretary a certificate under oath stating that doubt exists as to whether an area covered by such lease lies within the outer Continental Shelf, the lessee may interplead the United States and with its consent, if necessary, the State or States or the agency, political subdivision, or grantee thereof concerned, in an action brought to determine the location of the leased area with reference to the outer Continental Shelf and in the event the State, its agency, political subdivision, or grantee concerned be so interpleaded, the lessee may deposit with the clerk of the court in which such action is filed all rents, roy-*

alties, and other sums thereafter payable and such deposit shall be considered full payment of sums in accordance with the provisions of such lease and of paragraph (4) of subsection (a) of section 6 hereof.

(b) The Secretary is authorized, with the approval of the Attorney General of the United States and upon the application of any lessor or lessee of a mineral lease issued by or under the authority of a State, its political subdivision, or grantee, on submerged lands, to certify that the area covered by such lease does not lie within the outer Continental Shelf.

(c) In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this Act, the Secretary is authorized, notwithstanding the provisions of subsections (a) and (c) of section 6 of this Act, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this Act. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 6 (a) (4) hereof. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this Act, the lessee, if he has not already done so, shall comply with the requirements of section 6 (a), and thereupon the provisions of section 6 (b) shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F. R. 8835), as amended by the notice dated January 26, 1951 (16 F. R. 953), and as supplemented by the notices dated February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6404), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), [and] December 21, 1951 (17 F. R. 43), *March 25, 1952 (17 F. R. 2821), and June 26, 1952 (17 F. R. 5833), respectively,* is hereby approved and confirmed.

SEC. 8. LEASING OF OUTER CONTINENTAL SHELF.—(a) In order to meet the urgent need [during the present emergency] for further exploration and development of the oil and gas deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest *cash* bonuses on a basis of competitive *sealed* bidding oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act.

(b) [A] *An oil and gas* lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12½ per centum, *in the amount or value of the production saved, removed, or sold from the lease,* and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe in advance of offering the area for lease.

(c) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive sealed bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

(d) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations looking to the production of sulphur, as approved by

the Secretary, are conducted thereon, (3) require the payment of a royalty of not less than 5 per centum of the value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe in advance of offering the area for lease.

(e) Notice of sale of leases authorized by this section shall be published at least thirty days before the date of sale in the Federal Register in accordance with rules and regulations promulgated by the Secretary.

[(c)] *(f)* All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

[(d)] *(g)* The issuance of any lease by the Secretary pursuant to this section 8 of this Act, *the making of any interim arrangements by the Secretary pursuant to section 7 of this Act,* or the refusal of the Secretary to certify that the United States does not claim any interest in submerged lands pursuant to section 7 of this Act, shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is outer Continental Shelf.

SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums [payable] *paid* under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be [paid into] *deposited by the Secretary and the Secretary of the Navy in* the Treasury of the United States and credited to miscellaneous receipts.

Sec. 10. Refunds.—When it appears to the satisfaction of the Secretary that any person has made a payment to the Secretary or 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 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. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys not otherwise appropriated and to issue his warrant in settlement thereof.

Sec. 11. 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 maintained or granted pursuant to this Act, is hereby recognized.*

SEC. [10] *12.* NATIONAL EMERGENCY RESERVATIONS.—(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf and reserve them for the use of the United States in the interest of national security.

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of the oil and gas produced from the outer Continental Shelf.

(c) All leases issued under this Act, and leases, the maintenance and operation of which are authorized under this Act, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after the effective date of this Act, to suspend operations under, or to terminate any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended or whose lease is thus terminated.

(d) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this Act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

SEC. [12] *13.* NAVAL PETROLEUM RESERVE EXECUTIVE ORDER REPEALED.—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. 14. 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.

WASHINGTON, D. C., *May 25, 1953.*

HON. GUY CORDON,
Acting Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: On Wednesday, May 20, 1953, you requested representatives of the offshore lessees to advise you from their experience in offshore operations (*a*) whether the provisions of S. 1901 are adequate to permit the resumption of oil and gas operations and to protect the rights and interests of employees engaged in those operations on the outer Continental Shelf, and if not, what amendments might be necessary; and (*b*) whether, if the Congress should decide as a matter of policy to permit the coastal States to extend their jurisdiction and laws to the outer Continental Shelf, the operations could be resumed and the rights of the employees protected.

Should Congress decide that only Federal laws should be applicable to the outer Continental Shelf, we believe that the operations can be resumed and the rights of our employees adequately protected under the provisions of S. 1901 with the amendments suggested and discussed herein.

The Submerged Lands Act establishes the jurisdiction of the United States over the natural resources of the outer Continental Shelf, but does not extend the boundaries of this Nation to the outer edge of the shelf. Section 3 of S. 1901 reaffirms that jurisdiction and control, but it likewise does not extend the boundaries of the United States. Inasmuch as it is apparently the view of Congress that extension of the boundaries would bring about international complications, it is necessary to adopt an adequate system of laws for the area. We have carefully examined section 4 of S. 1901, and we believe it does constitute an adequate system of laws to protect the rights of the United States, to enable the operators to resume development, and to protect the rights of the employees engaged in the operations.

Section 4 (a) applies to the platforms or structures from which the operations will be conducted the same admiralty and maritime laws, both civil and criminal, that are applicable to vessels on the high seas. These laws have evolved over a period of more than a century and cover the acts and offenses likely to be committed on a platform. Their application to the platforms follows a precedent set by Congress when it applied the admiralty and maritime laws to the operators and their employees engaged in removing guano from islands which the President, under congressional authority, had declared as appertaining to the United States and under its jurisdiction and control. (See Guano Island Act, 47 U. S. C., sec. 1417.) The validity of this act was sustained in *United States* v. *Jones* (137 U. S. 202), thus creating a court precedent for sustaining the validity of section 4 (a).

Section 4 (b) of S. 1901 confers jurisdiction upon United States district courts of cases and controversies arising out of operations on the outer Continental Shelf, and fixes the venue of such actions. In addition to applying and enforcing the provisions of this act, the Federal courts can and will determine and enforce the rights of the parties under the common law.

The rights of the employees are further protected in section 4 by the application of the Longshoremen's and Harbor Workers' Compensation Act, the National Labor Relations Act, and the Fair Labor Standards Act. The Federal compensation laws which will apply are more favorable to the workman than are the compensation laws of many of the States. Because of the nature of these operations and the uncertainty as to applicable laws, the operators now cover workmen under both State and Federal compensation laws.

Our opinion that the provisions of S. 1901 (with the amendments suggested herein) are adequate is based on our experience to date with these operations. However, the operations are new, and it may be necessary for additional laws to be enacted to meet unforeseen problems as they arise. The law can no more be static in this field than in any other. The Nation must not be denied the resources of this area until every problem conceivable in the mind of man can be anticipated and solved. S. 1901, with the suggested amendments, offers a reasonable solution of the known problems.

We recognize that whether the States are to be permitted to apply some or all of their laws is a matter of policy involving the delicate relationship between State and Federal Government. However, should Congress decide to permit State laws to apply, we deem those laws to be adequate to protect the rights

of the operators and their employees. The adequacy of the State Laws, as viewed from the operator's standpoint, is reflected by the amount of development in the offshore areas which occurred prior to the decrees in the California, Louisiana and Texas cases.

Should Congress conclude to allow the States to exercise some jurisdiction over the outer Continental Shelf, Federal laws must apply until the States elect whether to exercise their jurisdiction. Therefore, we think that section 4 should remain in the bill even though it is amended so as to allow the States to exercise some jurisdiction.

With that in mind, we have drafted two alternative amendments, either of which can be added to section 4 in the event Congress desires to permit the States to exercise some jurisdiction. Alternative 1 would permit the States to extend all of their laws to the area to the extent that they are not in conflict with Federal laws and regulations. If a State should so extend its laws, the application of section 4 (a) to the area contiguous to the State would no longer be necessary. Alternative 2 would permit the States to apply and enforce only their conservation laws, to the extent that they are not inconsistent with the rules and regulations of the Secretary under section 5.

The following is alternative 1:

BROAD STATE AUTHORITY

Amend page 8, section 4, line 10, by adding the following new subsection:

"(1) (1) Each coastal State may extend its jurisdiction to the natural resources of the subsoil and seabed of such portion of the outer Continental Shelf as may be defined by the Secretary as being contiguous to the seaward boundaries of the State. The Secretary, upon request of a State, shall define, and publish in the Federal Register, the area which he finds to be contiguous to the seaward boundaries of the State. No State shall exercise its jurisdiction over such area so as to interfere with the jurisdiction, control and power of disposition vested in the United States by this act.

"(2) Any State so extending its jurisdiction may also extend its laws to the portion of the outer Continental Shelf within its jurisdiction, except to the extent that its laws are inconsistent with the laws of the United States heretofore or hereafter enacted, or with the rules and regulations of the Secretary issued in pursuance to the provisions of this act. When a State has so extended its laws, the provisions of subsection (a) of this section shall no longer apply to acts occurring and offenses committed on any structure located on the portion of the outer Continental Shelf within the jurisdiction of the State.

"(3) Any State which extends its jurisdiction and laws pursuant to the provisions of this section shall furnish a certified copy of the act so providing within 30 days of its passage to the Secretary who shall publish it in the Federal Register."

The following is alternative 2:

LIMITED STATE AUTHORITY

Amend page 8, section 4, line 10 by adding the following new subsection:

"(1) (1) Each coastal State may, for the limited purpose of prevention of waste, protection of correlative rights, and conservation, extend its jurisdiction to the natural resources of the subsoil and seabed of such portion of the outer Continental Shelf as may be defined by the Secretary as being contiguous to the seaward boundaries of the State. The Secretary, upon request of a State, shall define, and publish in the Federal Register, the area which he finds to be contiguous to the seaward boundaries of the State. No State shall exercise its jurisdiction so as to interfere with the jurisdiction, control and power of disposition vested in the United States by this act.

"(2) Any State so extending its jurisdiction may also extend its laws relating to the prevention of waste, protection of correlative rights and conservation of natural resources to the portion of the outer Continental Shelf within its limited jurisdiction, except to the extent that such laws are inconsistent with the laws of the United States heretofore or hereafter enacted, or with the rules and regulations of the Secretary issued in pursuance to the provisions of this act.

"(3) Any State which extends its jurisdiction and laws pursuant to the provisions of this section shall furnish a certified copy of the act so providing within 30 days of its passage to the Secretary who shall publish it in the Federal Register."

Whatever may be the decision of the Congress with reference to State law, we believe that S. 1901 should be amended as follows:

1. Amend page 2, section 2, line 10 by adding the following new subsection:

"(e) The term 'law of the State' wherever used in this act in connection with a lease issued by a State which was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing the lease, shall mean such laws of the State as were valid, or would have been valid had the State had paramount rights in and dominion over the lands included in the lease."

Explanation: We believe that the legal term "law of the State" as the term is used in section 6 of the act should be defined. This section authorizes a person holding a mineral lease to continue to maintain the lease if it was issued "prior to December 21, 1948, and was on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing" such lease, provided other conditions are complied with. The term "law of the State," as used, is intended to include the statutes of the State, the decisions of the courts of the State, and the regulations of the State officials, even though at the time the lease was issued the State had no title. The definition, if adopted, would limit the act to such leases as were valid on June 5, 1950, under State law, or would have been valid had the State had the legal right to issue the leases which it assumed it had at the time of issuance. It eliminates any uncertainty about the meaning of the term, and follows the same language employed in H. R. 4198 as it reached the Senate, in that section 10 (a) authorizes the Secretary to issue an exchange lease for a State lease "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 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." The latter provision is also contained in H. R. 5134. (See sec. 11 (a).)

2. Amend page 2, section 3 (b), lines 19 and 20 by deleting in line 19 the word "and" following the word "Shelf" and by inserting in lieu thereof a comma; and by inserting in line 20 following the word "servitude" the following: "and the rights of fishing in the waters."

Explanation: This amendment makes certain that the act does not apply to fishing in the waters above the outer Continental Shelf, and should remove any fears of the fishing industry that the act will affect their rights to fish in the waters of the outer Continental Shelf, or will prejudice the rights of the United States to contend that the fishing industry has the right to fish in the waters of the outer Continental Shelf adjacent to any other nation.

3. Amend page 8, section 5, lines 11 to 23 by striking same and inserting in lieu thereof the following:

"SEC. 5. ADMINISTRATION OF LEASES ON THE OUTER CONTINENTAL SHELF—(a) The Secretary shall administer the provisions of this act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions.

"(b) The Secretary is authorized to prescribed, publish, and enforce such rules and regulations as he deems necessary for the prevention of waste, the protection of correlative rights and the conservation of the natural resources of the outer Continental Shelf.

"(c) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $1,000 and by imprisonment for not more than 6 months or by both such fine and imprisonment.

"(d) (1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this act, of the regulations issued thereunder, or of the lease, such lease may be canceled by the Secretary if such default continues for the period of 30 days after the service of notice as provided in the next succeeding sentence. Such notice in advance of cancellation shall be sent by registered letter to the lease owner at his record post-office address, and in case such letter shall be returned as undelivered, such notice shall be posted for a period of 30 days in the United States land office nearest the area covered by the lease.

"(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this act, of the regulations issued thereunder, or of the lease, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of this act.

"(e) The provisions of sections 17 (b), 30 (a), 30 (b), 36 and 39 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended, to the extent that such provisions are not inconsistent with their application to the outer Continental Shelf or with the terms of this act, are made applicable to leases granted or maintained under the provisions of this act.

"(f) The Secretary is authorized to grant rights of way on the outer Continental Shelf for pipelines for the transportation of natural resources on such terms and conditions as he may prescribe. After notice and hearing, if he should find that public convenience and necessity so require, the Secretary may order any such pipeline to be operated and maintained as a common carrier and thereafter, the provisions of part I of the Interstate Commerce Act shall apply to the same extent that the act would apply if the pipeline extended from one State to another State."

Explanation: This amendment in general enlarges the powers of the Secretary, prescribes penalties for a violation of his rules, and gives him the same right to cancel or forfeit a lease, that he has under the Mineral Leasing Act with reference to mineral leases on the public domain.

(a)—This subsection is the same as the first sentence of section 5.

(b)—This subsection not only authorizes the Secretary to make rules and regulations for the conservation of the natural resources, but it also permits him to make rules and regulations to prevent waste, and to protect the correlative rights of those who are affected by his conservation rules. Furthermore, it expressly authorizes him to enforce the rules. The power given to the Secretary follows somewhat the pattern of the State conservation statutes except that his authority is broader than ordinarily vested in State agencies. Most State conservation statutes include the power and duty to protect correlative rights, so that the agency will not promulgate rules which will permit one lease owner to drain the natural resources from the land of his neighbor.

(c)—This subsection puts teeth into the rules and regulations of the Secretary and makes a violation of his rules a criminal offense. Similar provisions are contained in the conservation statutes of most States.

(d) (1) and (2)—This subsection gives the Secretary the same right to cancel a nonproducing lease on the outer Continental Shelf that he has under the Mineral Leasing Act to cancel a nonproducing lease on public lands, and requires the same character of notice for the same period of time. (See sec. 31, Mineral Leasing Act, and Regulation of Bureau of Land Management issued thereunder, 43 C. F. R. Sec. 192.161.) This subsection permits him, in case of a producing lease, to bring a suit to cancel the lease for noncompliance with its provisions, his regulations, or of this act, and in this regard he has the same, but no greater powers, than he has under the Mineral Leasing Act. This subsection together with subsection (c) imposing criminal penalties, assures compliance with the act, the rules and regulations, and the terms of the lease.

(e)—This subsection makes certain provisions of the Mineral Leasing Act applicable to leases covered by S. 1901. Section 17 (b) of the Mineral Leasing Act, if adopted, would authorize the cooperative or unit plan development and operation of the outer Continental Shelf. The Secretary is given the same power with reference to directing and approving unitization agreements that he has under the Mineral Leasing Act. These powers are closely connected with conservation of the natural resources. Section 30 (a), if adopted, would require the Secretary's approval of all assignments and subleases, and would provide a public record of such transfers of title. Section 30 (b), if adopted, would control the relinquishment of leases and prescribe the conditions under which they can be released. Section 36, if adopted, would authorize the Secretary to take in kind the government royalty on oil or gas, and to sell it. Section 39, if adopted, would authorize the Secretary, in the interest of conservation, to waive or reduce the rentals or royalties, thereby preventing the premature abandonment of a well, and to assent to the suspension of operations and production on certain conditions.

(f) This subsection, if adopted, would offer a solution to some of the questions with regard to pipelines raised in the hearings. The Secretary could declare any pipeline to be a common carrier, in which event the Interstate Commerce Commission would have jurisdiction to the same extent that it has jurisdiction under the Interstate Commerce Act, and could prescribe tariffs in the same manner that it does under the act.

4. Amend page 9, section 6 (a) (1), line 9 by inserting after the words "period or periods" the words "as provided in section 7 hereof or".

Explanation: Perfecting amendment to coördinate the provisions of section 6 (a) (1) with the provisions of section 7 (a) and 7 (c).

5. Amend page 10, Section 6 (a) (4), line 9 by adding after the word "thereof", the following:

"or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection,".

Explanation: As presently written, section 6 (a) (4) provides that operations may be continued if "all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this act, *which have not been paid in accordance with the provisions thereof*", are paid to the Secretary. This overlooks the fact that since December 11, 1950, rents and royalties have been paid either to the Secretary of the Interior or to the Secretary of the Navy instead of being paid to the States issuing the leases. This amendment corrects the oversight. It also gives the Secretary the right to require the lessee to pay any additional sums he finds to be due after he has had an opportunity to become familiar with the leases and to audit the accounts and payments. Furthermore, it limits the time within which the lessee must make such payments and correct any accounting errors.

6. Amend page 10, section 6 (a) (4), line 12 by substituting in lieu of the word "them" the words "such payments".

Explanation: Perfecting amendment.

7. Amend page 10, section 6 (a) (5), line 14 by changing the word "certified" to "certifies."

Explanation: Perfecting amendment.

8. Amend page 10, section 6 (a) (8), line 21 by inserting after the words "to the lessor" the words "on oil and gas."

Explanation: We know of no leases issued on the outer Continental Shelf providing for a royalty on oil and gas of less than 12½ percent, but in the event there are, they will not be validated by the act unless the royalty on oil and gas is increased to the minimum of 12½ percent. The new leases to be issued under this act, and those issued under the Mineral Leasing Act, provide for a royalty of not less than 12½ percent on oil and gas.

9. Amend page 11, section 6 (b), lines 20 and 21 by inserting in lieu of the words "extension, renewal, or replacement" the words "extensions, renewals, or replacements."

Explanation: Perfecting amendment.

10. Amend page 11, section 6 (b), line 22 by changing the word "law" to "laws" and adding after the word "whose" the word "political."

Explanation: Perfecting amendment.

11. Amend page 11, section 6 (b), line 25 by adding after the figures "1950", the words "or if the primary term of such lease has expired since December 11, 1950,".

Explanation: The clause included in this amendment may have been omitted from this bill by oversight. It is contained in the Submerged Lands Act where it was used in connection with preserving the rights of the lessees who had purchased leases from the State and mainatined them in effect until June 5, 1950 (see sec. 3 (c), p. 33, lines 6 and 7). This clause is also contained in H. R. 5134, section 11 (a). Most State leases gave the lessees 5 years within which to discover minerals or commence operations, and if minerals were discovered within that period, the lease then continued in force and effect as long as they were produced. The pendency of the litigation and the decisions of the Supreme Court stopped exploratory operations, and in some instances, the primary term of the lease has expired without the lease owner having had a sufficient opportunity to conduct exploratory operations. This amendment, together with other provisions of the bill, will protect such lessees but gives them no longer time to explore the land for oil or gas than they would have had on December 11, 1950, had it not been for the Court's decision.

12. Amend page 12, section 6 (d), lines 10 to 15 inclusive by eliminating subsection (d) therefrom.

Explanation: This amendment eliminates section 6 (d). There is no provision in the bill which waives any claim that the Government may have against a State or its lessee. In the Texas and Louisiana cases the United States sought to recover from the States all sums of money paid to the States by the lessees after June 23, 1947, the date of the California decision. The question was briefed by both sides and the Supreme Court held against the United States, thereby refusing to require the States to account for any funds received prior

to its decision on June 5, 1950. The United States has not sought since the entry of the decrees to recover from the lessees the sums which the Supreme Court refused to allow them to recover from the States. Furthermore, section 6 (a) (4) requires the lessees to pay to the United States any sums of money due after June 5, 1950, which they have not theretofore paid. This subsection insures full protection of the rights which the United States was held to have by the Supreme Court in the Louisiana and Texas opinions and decrees.

13. Amend page 12, section 6, line 16 by changing "(e)" to "(d)".

Explanation: Perfecting amendment.

14. Amend page 12, section 7, line 20 by substituting for the words "Controversy over jurisdiction" the word "interpleader, disclaimer, and interim arrangements."

Explanation: Perfecting amendment (see explanation, amendment 15).

15. Amend page 12, section 7, line 20 by inserting a subsection in front of the words "In the" as follows:

"(a) Notwithstanding the other provisions of this act if any lesses under any lease of submerged lands granted by any State, its political subdivision or grantee issued prior to the effective date of this act shall file with the Secretary a certificate under oath stating that doubt exists as to whether an area covered by such lease lies within the outer Continental Shelf, the lessee may interplead the United States and with its consent, if necessary, the State or States or the agency, political subdivision or grantee thereof concerned, in an action brought to determine the location of the leased area with reference to the outer Continental Shelf and in the event the State, its agency, political subdivision or grantee concerned be so interpleaded, the lessee may deposit with the clerk of the court in which such action is filed all rents, royalties and other sums thereafter payable and such deposit shall be considered full payment of sums in accordance with the provisions of such lease and of paragraph (4) of subsection (a) of section 6 hereof.

"(b) The Secretary is authorized, with the approval of the Attorney General of the United States and upon the application of any lessor or lessee of a mineral lease issued by or under the authority of a State, its political subdivision or grantee, on submerged lands, to certify that the area covered by such lease does not lie within the outer Continental Shelf."

Explanation: Ths amendment expands section 7 where a State and the United States cannot make a satisfactory agreement during the pendency of the controversy as to which one is to collect and hold the rentals and royalties. It permits a lessee to bring an interpleader suit against the United States and a State if the laws of the State authorize such a suit. Presently the Louisiana statutes are deemed sufficient to authorize the filing of such an interpleader suit. The suit would not preclude the United States, in the event it desired to litigate the controversy in the Supreme Court, from bringing an original action for a decree fixing the line in dispute. The amendment would name a depository to which the royalties could be paid while the controversy was pending and would prevent the lessee from being in default or having to make double payments during the pendency of the controversy. If the Justice Department should deem it advisable, a provision could be added to the amendment requiring the district court to stay the interpleader suit should the United States thereafter bring an original action in the Supreme Court.

Subsection (b) of the proposed amendment would permit the United States through its duly authorized officials to certify that an area covered by a lease does not lie within the outer Continental Shelf. This subsection is substantially the same as that contained in S. 107 by Senater Anderson (see sec. 2, p. 5) and would tend to reduce the amount of litigation and enable the Department of Justice to limit the size of an area involved in a controversy with a State.

16. Amend page 12, section 7, line 20 by inserting the letter "(c)" before the words "In the event of a controversy."

Explanation: Perfecting amendment (see explanation, amendment 15).

17. Amend page 14, section 7, line 5 by eliminating the word "and."

Explanation: Perfecting amendment.

18. Amend page 14, section 7, line 6 by inserting in front of the word "respectively", the following: "March 25, 1952 (17 F. R. 2821), and June 26, 1952 (17 F. R. 5833),".

Explanation: Perfecting amendment.

19. Amend page 14, section 8 (a), lines 9 and 10 by eliminating the words "during the present emergency."

Explanation: Perfecting amendment to make the act permanent instead of interim.

20. Amend page 14, section 8 (a), line 13 by inserting after the word "highest" the word "cash."

Explanation: The competitive bidding should be on the basis of cash and not deferred payment or royalty payments.

21. Amend page 14, section 8 (a), line 14 by inserting after the word "competitive" the word "sealed."

Explanation: We believe that the United States will receive larger bonuses for leases if they are sold on the basis of competitive sealed bidding. Sealed bidding requires each bidder to value the prospect and offer the largest sum he deems it to be worth. A bidder could not buy the lease at a sum below its value even though there were no other bidders.

22. Amend page 14, section 8 (b), line 18 by inserting in lieu of the word "A" the words "An oil and gas."

Explanation: Perfecting amendment (see explanation, amendment 24).

23. Amend page 15, sec. 8 (b), line 1 by inserting after the words "per Centum" the words "in the amount or value of the production saved, removed, or sold from the lease,".

Explanation: Perfecting amendment.

24. Amend page 15, section 8, line 3 by adding three new subsections as follows and relettering the remaining subsections:

"(c) In order to meet the urgent need for further exploration and development of the sulfur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive sealed bidding sulfur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulfur and meet the requirements of subsection (a) of section 6 of this act, and which sulfur leases shall be offered for bid and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

"(d) A sulfur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of 10 years and so long thereafter as sulfur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations looking to the production of sulfur, as approved by the Secretary, are conducted thereon, (3) require the payment of a royalty of not less than 5 per centum of the value of the sulfur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe in advance of offering the area for lease.

"(e) Notice of sale of leases authorized by this section shall be published at least thirty days before the date of sale in the Federal Register in accordance with rules and regulations promulgated by the Secretary."

Explanation: Without this amendment new leases can be made on the outer Continental Shelf only for oil and gas. Subsections (c) and (d) of this amendment would permit the Secretary to lease for sulfur any part of the outer Continental Shelf not subject to a sulfur lease.

Subsection (e) requires notices of sale to be published in the Federal Register. This will give notice to each person interested in purchasing a lease, thereby assuring the highest bonus to the United States.

25. Amend page 15, sec. 8, line 8 by inserting after the word "Act," the words "the making of any interim arrangements by the Secretary pursuant to section 7 of this Act,".

Explanation: Perfecting amendment (see explanation, amendment 15).

26. Amend page 15, sec. 8, line 10 by eliminating the word "any."
page 15, sec. 8, line 10 by eliminating the word "any."

Explanation: Perfecting amendment.

27. Amend page 15, sec. 9, line 15 by changing the word "payable" to "paid."

Explanation: Perfecting amendment.

28. Amend page 15, sec. 9, line 17 by eliminating the words "paid into" and inserting in lieu thereof "deposited by the Secretary and the Secretary of the Navy in."

Explanation: Perfecting amendment (see explanation, amendment 5).

29. Amend page 15, line 18 by adding sections Nos. 10 and 11 as follows and by renumbering the subsequent sections:

"SEC. 10. REFUNDS.—When it appears to the satisfaction of the Secretary that any person has made a payment to the Secretary of the United States in con-

nection 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 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. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys not otherwise appropriated and to issue his warrant in settlement thereof.

"SEC. 11. 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 maintained or granted pursuant to this Act, is hereby recognized."

Explanation: Section 10 of this amendment permits the Secretary to make refunds in case of overpayments. Where the Secretary concludes that an overpayment has been made, he should be permitted to make the refund without without the necessity of a suit being filed.

Section 11 of this amendment is the same as section 17 of H. R. 5134. Geological and geophysical explorations must be conducted before the prospective bidders know what areas they are interested in and the amount to offer for leases. If adopted, this amendment will result in the Government obtaining the maximum prices for the areas it decides to lease.

30. Amend page 16, line 15 by adding a new subsection (d) as follows:

"(d) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this Act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas."

Explanation: This amendment permits the Government to have the same rights in helium produced from the outer Continental Shelf that it has in helium produced from the public domain under the Mineral Leasing Act.

Equities of the offshore operators.—S. 1901 validates no lease issued after December 21, 1948, the date that the Texas and Louisiana cases were filed. The equities of the operators who purchased leases from Texas and Louisiana on the outer Continental Shelf prior to December 21, 1948, have been fully explained by many witnesses at previous hearings. (See hearings on H. R. 5991 and 5992, 81st Cong., 1st sess., testimony of Walter S. Hallanan, pp. 103–108; E. F. Bullard, pp. 120–129; H. H. Kaveler, pp. 129–137; Hines H. Baker, pp. 137–164; hearings on S. 155, S. 923, and other bills, 81st Cong., 1st sess., testimony of Walter S. Hallanan, pp. 320–334; Hines H. Baker, pp. 354–417; H. H. Kaveler, pp. 437–445; E. F. Bullard, pp. 445–451; hearings on S. J. Res. 195, 81st Cong., 2d sess., testimony of Walter S. Hallanan, pp. 53–58; Clayton L. Orn, pp. 58–80; Rex G. Baker, pp. 82–109; Lucius M. Lamar, pp. 248–259; hearings on S. J. Res. 20, 82d Cong., 1st sess., testimony of Walter S. Hallanan, pp. 74–92; hearings on S. J. Res. 13 and other bills, 83d Cong., 1st sess., testimony of James J. Cosgrove, pp. 617–623, and Clayton L. Orn, pp. 602–617.)

The only leases that have been made on the outer Continental Shelf were sold by Texas and Louisiana under the laws of their States which had been enacted before the United States asserted any claim to the outer Continental Shelf. The Attorney General of the United States knew that the leases were being sold, that large sums of money were being collected by the States, and that the lessees were spending millions of dollars in developing the leases, but took no action to establish any Federal rights in the area until December 21, 1948.

The sale of the State leases, under the circumstances, caused the executive branch of the Government during the 82d Congress to recommend that any legislation enacted should protect the good-faith investments, and it endorsed bills which would have confirmed and ratified the leases on the outer Continental Shelf issued prior to filing of the Texas and Louisiana cases. Moreover, the Supreme Court in the California case, being aware that its decision would affect the good-faith investments of many citizens, said that it did not assume that Congress, which has constitutional control of Government property, would exercise its powers in such a way as to bring about injustices to the States or to persons acting pursuant to their permission. Furthermore, in the Louisiana and Texas cases, the Court declined to order the States to account for moneys received under the leases prior to June 5, 1950, the date of its decision. It thereby in

effect held that until the United States established its paramount rights in court, it could not complain of any action taken by the States or recover any money paid to them for leases. Former Solicitor General Perlman, in his testimony before this committee on Senate Joint Resolution 20 (pp. 21–25), so interpreted the action of the Court when he recommended that the Congress enact Senate Joint Resolution 20 which contains substantially the same provisions with regard to leases issued by the States as section 6 of S. 1901.

The records of the hearings contain no testimony in opposition to the validation of leases on the outer Continental Shelf issued by Texas and Louisiana prior to December 21, 1948.

In closing, may I express my appreciation and the appreciation of my committee for your able and tireless work in connection with this legislation and for the consideration of these suggestions.

Very truly yours,

CLAYTON L. ORN,
Chairman, Legal Committee of Offshore Operators' Committee.

STATEMENT OF J. LEE RANKIN, ASSISTANT ATTORNEY GENERAL OF THE UNITED STATES

Senator CORDON. I understand you have had an opportunity to give some consideration to the committee print.

Mr. RANKIN. That is right.

Senator CORDON. Are you prepared at this time, Mr. Rankin, to discuss the committee print in the light of your prior comments?

Mr. RANKIN. Well, I have a memorandum which has been prepared that deals with the committee print with reference to Mr. Orn's changes, and the things that are left out that were suggested in my letter of May 26.

Senator CORDON. The Chair would appreciate your presenting those comments orally to the committee at this time.

Senator JACKSON. Might it be appropriate at this time to inquire whether Mr. Rankin's views have been cleared with the Bureau of the Budget to determine whether the policy statements that he is making are those of the Attorney General, or of the President, and the executive branch?

Mr. RANKIN. I might answer that question by saying that the prior views, that is, evidenced by the letter, were cleared.

Senator JACKSON. You mean the May 26 letter?

Mr. RANKIN. That is right.

Senator JACKSON. They were cleared with the Bureau of the Budget?

Mr. RANKIN. Yes, sir.

Senator JACKSON. There was no objection by the Bureau of the Budget to the presentation of the views contained in your letter of May 26?

Mr. RANKIN. That is right. Those included in the memorandum that I present now, it was impossible to submit to the Bureau of the Budget because we got the request this morning, and we have been working on it; we did not have time.

Senator JACKSON. I understand, but you will take it up with the appropriate department.

Mr. RANKIN. Yes. It follows exactly the same policies that are laid down in the prior letter.

Senator CORDON. Do your amended views, or your views changed to fit the confidential committee print, vary at all in policy from the views stated in your letter of May 26?

Mr. RANKIN. No, they do not. They just clarify and show where Mr. Orn has taken care of matters that we have raised in the prior letter, and where he has not, by calling those to your attention.

Senator CORDON. Thank you. All right; if you will go forward now, Mr. Rankin.

Mr. RANKIN. In his statement, Mr. Orn took no position as to whether State law should be extended to the outer Continental Shelf, and he stated that operations could continue satisfactorily under either Federal law, as provided by S. 1901, or under State law.

Senator MILLIKIN. Did he say should or could? What was your word there?

Mr. RANKIN. I think I said "could."

Senator LONG. Actually his position was that he took no position whether it should. He assumed that it could.

Mr. RANKIN. That is right, but he took no position as to which was better. He thought that was a policy question. That is my understanding.

His first alternative permits coastal States to extend their jurisdiction and, if they wish, their laws, to the subsoil and seabed of the outer Continental Shelf, subject to Federal laws and regulations.

The second alternative is the same, but limited to jurisdiction and laws for prevention of waste, protection of correlative rights, that is, drainage of adjoining leases, and conservation.

It is not altogether clear what would be the effect of a State extending only its jurisdiction under section 4 (l) 1 of either alternative. That is, if it extended its jurisdiction, but not its laws under section 4 (l) 2. Otherwise, either alternative is satisfactory as to form, but unacceptable to the Department in substance.

Senator LONG. Do you want to let the witness complete his statement before any questions?

Mr. RANKIN. Whatever is agreeable. Section 2 (e) is a definition of the "law of the State," when used with reference to State leases issued before June 5, 1950, as meaning State law as it would have been if the State had had jurisdiction over the outer Continental Shelf. This meets a technical objection also raised by our letter of May 26, page 6, second paragraph, and it is probably preferable to the solution found in the House bill, there referred to.

Senator MALONE. Are these the amendments that the witness is suggesting we add to the bill?

Senator CORDON. The witness is now discussing the confidential committee print that he now has before him.

Senator MALONE. I have a copy, but I do not understand how he is referring to it here.

Senator CORDON. I would like to say to the Senator that Mr. Rankin was requested this morning to appear before the committee. He prepared himself by considering the confidential committee print in the light of the suggestions which he made in his letter of May 26, 1953, and he is now commenting on the contents of the confidential print, comparing the changes that are suggested to be made in the bill, and which appear either in italics or in blackface in the print. He is comparing those changes with his suggestions of May 26.

Senator MALONE. Is this an executive session?

Senator CORDON. No.

Senator MALONE. It would not be very confidential as to the committee print, would it?

Senator CORDON. In any event, that is what is being done. The print was not for publication.

Mr. RANKIN. Section 3 (b) is amended to preserve rights of fishing as well as navigation of the high seas over the outer Continental Shelf.

Senator CORDON. That is on page 3, the first paragraph.

Mr. RANKIN. Yes, this is desirable, although probably implicit in the former wording. However, reference to the navigational servitude should be deleted, as explained by our letter of May 26, at the top of page 3.

Senator MILLIKIN. That should be deleted, you say?

Mr. RANKIN. That is our suggestion, because the navigational servitude is confined to the navigable waters of the United States, and it does not extend to the high seas in ordinary application.

Senator WATKINS. The whole of (b) should be deleted?

Mr. RANKIN. No, just the reference to the navigational servitude.

Senator LONG. That section 3 (b) is the one there?

Mr. RANKIN. Yes. Section 5 is amended to make somewhat more explicit the Secretary's authority to make conservation regulations. It adds a provision that violation is a misdemeanor punishable by not over $1,000 fine or 6 months imprisonment, or both.

Senator CORDON. That is on page 11 of the bill.

Senator MILLIKIN. Would you read that again?

Mr. RANKIN. Section 5 is amended to make somewhat more explicit the Secretary's authority to make conservation regulations and adds a provision that violation is a misdemeanor, punishable by not over $1,000 fine or 6 months imprisonment, or both. These provisions seem desirable.

Section 5 (d) provides for cancellation for default——

Senator CORDON. That is on page 12.

Mr. RANKIN. By court action in the case of producing leases or by the Secretary on 30 days' notice in the case of nonproducing leases. This is approximately like 30 United States Code, section 188, of the Mineral Leasing Act, and is in general satisfactory. However, there may be a question about the desirability of the provision for posting notice of default "in the United States Land Office nearest the area covered by the lease." It appears that as to gulf leases this would be either the district land office at Santa Fe, N. Mex., or the regional land office for region 6 in Washington, D. C.

Now, it may have been overlooked that because of closing the land offices there were no land offices at a closer point than those two to this particular area, in making that provision, and we wanted to call it to your attention that you might not desire to have anything like that.

Section 5 (e) adopts 5 of the 9 sections of the Mineral Leasing Act which were adopted by H. R. 5134. Section 17b (erroneously designated as 17 (b)) 30 United States Code, section 226 (e): cooperative or unit plans——

Senator MILLIKIN. Would you wait a moment? What are you changing there?

Mr. RANKIN. Section 17b; it is designated 17 (b) erroneously, and it should be 17b.

Senator CORDON. Without the parentheses, you mean?

Mr. RANKIN. Yes.

Senator MILLIKIN. And the rest of it is all right?

Mr. RANKIN. I am following through the rest of it.

Cooperative or unit plans; regulations; approval of contracts; and prevention of waste. That is included in the section referred to of the Mineral Leasing Act. You see, they adopt it by reference. They include that by reference there. I am just describing the various things that are included by reference.

Senator CORDON. The reason for this curious reference of 17b is partially due to the fact that the Mineral Leasing Act of 1920 was amended, and some of these references go to the changes as they appear in the amended statute.

Senator MILLIKIN. Is this all right the way it is?

Mr. RANKIN. Yes; the only correction would be taking out the parentheses around the "b."

Senator CORDON. Would that be true of the parentheses around the "a" and the next 30 (b)?

Mr. RANKIN. Yes; they are both wrong with parentheses around them. That should be eliminated.

Section 30a covers assignment or subletting of leases; oil or gas leases; partial assignments. Section 30b is the same; oil and gas leases; written relinquishment of rights; release of obligations. Section 36, payment of royalties in oil or gas; sale of such oil or gas. Section 39, waiver, suspension, or reduction of rentals or royalties; extension of lease on suspension of operations. Omitted from the list in H. R. 5134 are section 17, lease of oil or gas lands; royalties and annual rentals; drainage agreements. Section 28, rights-of-way for pipelines. Section 30, assignment or subletting of leases; relinquishment of rights under leases; conditions in leases as to operations of mines, wells, and so forth; and section 32, rules and regulations; rights of States not affected. Adoption of these provisions appears satisfactory. That is by reference to the Mineral Leasing Act.

Senator CORDON. Do you mean by that that you recommend that this section 11, section 28, section 30, and section 32 of the Mineral Leasing Act be included?

Mr. RANKIN. No, I just called them to your attention for your consideration in drafting, whether you want to include them. Maybe it was intentional to leave them out.

Senator LONG. You mean it is all right with you to put them in?

Mr. RANKIN. Either way, whatever you think would serve your purposes better.

Section 5 (f) authorizes the Secretary to grant rights-of-way for pipelines and permits him to require them to operate as common carriers subject to regulation under part I of the Interstate Commerce Act, as if they were from one State to another. This will not cover gas pipelines, which are exempted from part I of the Interstate Commerce Act, and are regulated under the Natural Gas Act. Otherwise this provision for pipelines appears satisfactory.

We do not say whether the gas lines should be in there or not, but we want to call it to your attention for your consideration.

Senator MILLIKIN. Now, before you get to the next section, go back there to criminal penalties. Had the committee taken action on that?

Senator CORDON. No.

Senator MILLIKIN. Why a criminal penalty? Is there one in connection with the Leasing Act? I am informed that there is no criminal penalty in the Mineral Leasing Act, and why one here?

Senator CORDON. The suggestion was made by Mr. Orn, and it rested upon the basic proposition of one knowingly or willfully violating a rule or regulation, and it is in order that there be some requirement other than a requirement having to do with either canceling the lease or exacting some civil penalties, and the suggestion was made to the committee for its consideration.

Senator MILLIKIN. Do you want action on these now, or is this merely explanatory?

Senator CORDON. This is merely explanatory.

Senator MILLIKIN. All right; we will get to that later.

Mr. RANKIN. That was not our suggestion; it is a provision for enforcement.

Section 6 (a) (8) is modified to provide that the minimum 12½ percent royalty required to qualify a State lease for continuance under Federal jurisdiction applies only to oil and gas. This is because some Louisiana leases also cover sulfur as to which a 5 percent royalty is usual.

Senator MILLIKIN. Say that again. We were not quite up to you.

Senator CORDON. I call your attention to the italics in the second line or the third line from the bottom "as provided in section 7," on page 13. Is that the language that you have reference to?

Mr. RANKIN. No; to line 15 on page 15. That applies the minimum royalty of 12½ percent only to oil and gas, because as to sulfur apparently a common rate of royalty is 5 percent, which is below the 12½, and that would or should be excluded from that limitation.

We try to point out what the changes are as well as whether or not they are objectionable as far as we are concerned, or acceptable.

Section 6 (b) is amended to provide for extension of State leases, of which the primary term expired after December 11, 1950.

Senator CORDON. This is on page 16.

Mr. RANKIN. The extension of State leases of which the primary term expired after December 11, 1950, as well as those from which oil and gas was not being produced on or before that date, apparently this will apply to leases——

Senator MILLIKIN. How about discovery, as distinguished from production?

Mr. RANKIN. This deals with production. Apparently this will apply to leases where there was production before December 11, 1950, but none on that date, and the primary term expired thereafter. It is apparently considered important by Mr. Orn and is reasonable. We do not know the whole thinking back of it, of his inserting that, but we see no objection to it. It is a reasonable provision to cover that possibility.

Section 6 (d), providing that claims of the United States are not waived, is stricken by Mr. Orn's amendment on the ground that there is nothing in the bill that could be construed as a waiver. If that is true, there should be no objection to retaining the provision, and it might be considered that agreeing to continue State leases in effect is a settlement of all claims, particularly if there were a legislative history of having stricken this provision.

Senator MILLIKIN. Would you wait just a moment?

Senator LONG. Do you know of any claims the Government may have?

Mr. RANKIN. There is no question but what there are operations in that area, and there would be claims depending upon what Congress did in connection with those operations.

Senator CORDON. Since their inception?

Mr. RANKIN. Yes. Now, if you want to waive those claims, that is a matter within the power and discretion of Congress.

Senator LONG. Well, the court itself waived them from any time prior to the date of the judgment in the case of the States involved, did it not? It had that effect?

Mr. RANKIN. It had that effect. I would not call it a waiver, but the court just did not provide for it.

Senator LONG. They were responsible to the States, and the courts refused to make the States account for it, and so prior to that time it would appear that there was no responsibility toward the Federal Government.

Mr. RANKIN. That is right.

Senator MILLIKIN. Are you suggesting we ought to have an affirmative provision on whatever policy may be at that point?

Mr. RANKIN. Yes; that is right, and to follow the suggestion made in the committee print would probably amount to a waiver even though you did not intend it. Having it in, and taking it out, establishes a legislative history which might be construed to result in waiver.

Senator MILLIKIN. It seems to me if we are waiving, we ought to waive expressly and without any equivocation about it or indirect approach to it. We can discuss that later.

Mr. RANKIN. The title of section 7 is changed from "Controversy Over Jurisdiction" to "Interpleader, Disclaimer, and Interim Arrangements."

Section 7 (a) is added providing for interpleader, as in H. R. 5134, but without specifying that the suit must be brought in the district court for the District of Columbia. The Department of Justice feels strongly that that provision should be restored if the interpleader provision is adopted, but as indicated by our letter of May 26, the interpleader procedure should be given up altogether.

Senator MILLIKIN. Why is that?

Mr. RANKIN. I have set it out at length in the letter here.

Senator CORDON. The Chair will call the attention of the committee to a portion on page 8, and read it into the record.

S. 1901, section 7, authorizes the Secretary, with the concurrence of the Attorney General, to enter into agreements for operations pending settlement of a dispute as to whether an area is part of the outer Continental Shelf. The provision is a desirable one. It confirms the authority for interim operations given by the Secretary's notice of December 11, 1950 (15 F. R. 8835), as amended January 26, 1951 (16 F. R. 953) and supplemented February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6204), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), and December 21, 1951 (17 F. R. 43). It seems that to this list of supplementary orders should be added those of March 25, 1952 (17 F. R. 2821), June 26, 1952 (17 F. R. 5833), and December 24, 1952 (18 F. R. 48).

The House bill does not contain a similar provision. Instead it permits a lessee to file with the Secretary a certificate that an unadjudicated doubt exists as to whether a lease area is within the outer Continental Shelf or as to who

is entitled to payments under a lease; and the lessee may then interplead, in the district court for the District of Columbia, the United States and, if the State consents, the State, and make his payments into court until the dispute is determined (sec. 18 (a) (1)). This provision is unacceptable. It requires the United States to litigate as to such particular areas, and at such times, as lessees determine. It does not require the States to enter such litigation, and is entirely silent as to what shall happen if the State does not consent. It is understood that the State consent which lessees particularly hope to invoke under this provision is the consent given by Louisiana to suits against the State mineral board. Apparently referred to is the provision that "The board shall be a body corporate, with its domicile at the State capitol, may sue and be sued * * *" (La. Rev. Stats. 1950, sec. 30: 121). Certainly this is not a consent to suit in the District of Columbia and probably it is not a consent to suit in other than the courts of the State (*Great Northern Ins. Co.* v. *Read*, 322 U. S. 47, 54 (1944)). Thus, it appears that the proposed provision as it stands would not give to lessees the practical advantages which they hope for; and the Department of Justice is vigorously and unalterably opposed to broadening the provision so as to consent to suit in State courts or even in Federal district courts within the various States. The provision should be rejected as undesirable and unworkable.

Mr. RANKIN. Section 7 (b) is added.

Senator LONG. Might I ask what is it? Is the Government objecting to making itself subject to such a suit in a Federal district court?

Mr. RANKIN. Well, the difficulty of trying, paying the expense of, and handling litigation at so many points in the country, that would be brought by various parties, and the burden of that on the Federal Government would be tremendous. Without a line being established, the possibility of lawsuits in this whole field is almost beyond the imagination. It is best, it seems to me, in the interest of the United States at this time to have that litigation concentrated in the District of Columbia where you have the facilities of the Department of Justice to try to work with the least cost to the Government.

Senator CORDON. Mr. Rankin, the Chair apologizes to the Senator from Louisiana, and we are going to have to ask questions when we reach the point of discussion. Now, I suggest that we might wait until Mr. Rankin got through, but I do not believe that that is the best way to do it, because we will overlook something that way.

Senator JACKSON. Well, is it all right to go ahead with questions?

Senator CORDON. What is that?

Senator JACKSON. Is it in order now to ask questions?

Senator CORDON. In just a moment it will be.

Is there any objection on the part of the Department of Justice to this provision for interpleader, providing that jurisdiction is placed in the District of Columbia?

Mr. RANKIN. We have one further question about it, a very difficult one as to which we do not have an answer. An interpleader suit is of very little value to the Government or the lessee if the States cannot be made parties. Congress does not have the power to make the States appear or become parties, and if we just have a lawsuit between the lessee and the United States, we do not decide anything under principles of law. So that is the difficulty that we are in with an interpleader action.

Senator LONG. Of course, I agree with your analysis here that Louisiana cannot be sued without its consent. Under the Louisiana leases, the payments are not due to the State mineral board, but the State land office, and I do not believe there is any consent on the part

of the State for the State land office to be sued. But the State could consent to it if the Federal Government was willing to accept jurisdiction, and I believe the State would want the suit to occur in the district court of the State, rather than occur in the District of Columbia, but if the State wanted to consent to it, I am curious to know if the Federal Government would have objection to accepting jurisdiction in a Federal district court.

Mr. RANKIN. It seems to me, to answer the Chair, the only reasonable provision on that would be if you want to include an interpleader, that it be provided in cases where the State also comes in and consents to be sued.

Senator CORDON. It occurs to me that that is implicit in section 7 (a) now. Let us read that:

> Notwithstanding the other provisions of this Act, if any lessee under any lease of submerged lands granted by any State, its political subdivision or grantee issued prior to the effective date of this Act shall file with the Secretary a certificate under oath, stating that doubt exists as to whether an area covered by such lease lies within the outer Continental Shelf, the lessee may interplead the United States, and with its consent if necessary the State or States or the agency, political subdivision, or grantee thereof concerned in an action brought to determine the location of the leased area with reference to the outer Continental Shelf and the extent and in the event the State, its agency, political subdivision or grantee concerned be so interpleaded.

That must be with its consent. The lessee may deposit with the clerk of the court all rents, royalties, and other sums.

Now, so far as the protection of the lessee is concerned, it has to do with his having a stakeholder to whom he may pay his rents, royalties, and so forth. He could not have that stakeholder under this language unless the State or other original agency consents to be interpleaded.

Mr. RANKIN. We have somewhat less objection if the jurisdiction is given only to the Federal courts in the District of Columbia, and if the interpleader is conditioned upon the State consenting to being made a party where that is necessary.

Senator JACKSON. Should it not include subdivisions of the States? In other words, in order to have an effective interpleader, you would have to bring in all parties to your interpleader action, or your interpleader will be ineffective. Now, what about subdivisions of a State?

Mr. RANKIN. I think that that language ought to be added to include the State or any proper political subdivision thereof.

Senator WATKINS. Does not it say that now?

Senator JACKSON. I have not read completely through the bill.

Senator WATKINS. It says the State, its agencies, political subdivisions.

Senator JACKSON. It should include counties or any other political subdivision.

Senator WATKINS. You do not think it is broad enough?

Senator JACKSON. If you are going to have an effective interpleader action, you have to be able to litigate with reference to all possible parties of interest.

Senator CORDON. I think the language is broad enough when it states the State, its agency, political subdivision, or grantee concerned be so interpleaded. "Its grantee" would, I assume, be the division of the State to whom it has granted rights to make leases. But it is perhaps not fully clear with respect to that later.

Senator KUCHEL. I suppose if the State had granted to a municipality whose boundaries would extend to the sea, then its grantee in that instance would be the municipality which if the lease were within the boundaries might have an ad valorem right against the lessee. I think that language is broad enough as it is.

Senator JACKSON. It probably is. I am sorry. In the reading of the section, I did not hear that. Why would it not be reasonable to grant jurisdiction in the Federal district court in the State contiguous to the area in dispute? In other words, most of this is off Texas and Louisiana, and would it not be reasonable to suggest that the Federal district courts in the areas contiguous to the outer Continental Shelf have jurisdiction?

Let me ask you this, Mr. Rankin. What is the rule now in matters relating to any litigation that might arise under the Mineral Leasing Act, supposing that there is a matter which you could get into Federal court between the lessee and the Federal Government? Supposing it is out in New Mexico, the Federal District Court for New Mexico would have jurisdiction, or is the action brought in the District of Columbia?

Mr. RANKIN. The policy that Congress has laid down is generally to confine the Government's litigation of that type to the District of Columbia, except in exceptional cases. The Tort Claims Act is an example where an exception was provided. And tax matters are provided for. It is a matter entirely of your discretion.

Senator JACKSON. I understand, but I am just trying to get the precedent. You know what the rule is now. Supposing that there is litigation over the rights of a lessee, and take any State, the State may claim certain property rights that a lessee holds presently under a lease granted by the Federal Government, the Secretary of the Interior. So they get into the interpleader, or get into litigation that involves citizens of the State of New Mexico, we will say, for example.

Senator CORDON. Is there a general provision in law that where a department officer is a party defendant, then you rest in the District of Columbia?

Senator JACKSON. I understand that. I was wondering in view of the fact that where you are dealing with property rights and a vast number of them, such as involved in the Federal Mineral Leasing Act, possibly an exception had been made. If that is the case, I think we should check it, because it might be helpful in trying to follow precedents previously established, if they are sound.

Senator CORDON. I am advised by Mr. Harry M. Edelstein, the Asssitant Solicitor of the Interior Department, there is no such exception with respect to mineral leasing.

Senator JACKSON. They all have to be brought here.

Senator CORDON. Yes.

Senator LONG. Do you want the State to accept jurisdiction? It might encourage them to accept jurisdiction if they would not have to maintain an attorney in Washington to plead these cases.

Mr. RANKIN. Section 7 (b) is added, providing that the Secretary may stipulate that certain areas are not claimed by the United States. This conforms to the Department's recommendation in our letter.

Senator LONG. Again let me ask you, how are we ever going to clear up this boundary of the State? Is that going to be done by lawsuit between the State and the Federal Government again, or do you think

the Department would be willing to sit down with the States and attempt to work out some formula for establishing or adjudicating that boundary?

Senator CORDON. If the Chair may interrupt for a moment, the Chair has had in mind suggesting to the committee a provision to be added to the bill setting up some machinery for reaching an understanding and agreement between the United States and the several States, with the thought that such agreement would be presented to the Congress for its acceptance.

Senator MILLIKIN. You can do it with the ordinary constitutional compact procedure, and it might be a very effective way to settle things of that kind.

Senator LONG. The point I have in mind——

Senator MILLIKIN. That is for the purpose of this act, you could decide on what a boundary is for the purpose of this act without having it a boundary for any other purpose.

Senator LONG. That sounds like a wholesome proposal. As I recall, the idea was to say that the Secretary of the Interior and the Attorney General can say that the United States does not claim this property, but that it cannot prejudice the United States, and they can say that the Federal Government does not claim it, but at any time someone wants to change his mind and say they do claim it they can do that. Well, if you are going to try to clear up the doubt, it would seem that there should be some way that eventually we could get all of this controversy cleared away.

Senator WATKINS. What would be the purpose of that section permitting them to waive it away if it did not have any effect?

Senator LONG. If we are going to set up machinery for the United States Government to disclaim interest in property, we ought to set up some machinery by which it would have binding effect. Otherwise, there is no point of doing it. It would be revocable at any time.

Senator CORDON. I doubt that when the authority is granted as it is sought to be granted in paragraph b on page 18, that the United States could go behind and question any certification made by the Secretary upon the approval of the Attorney General.

Senator WATKINS. You say you doubt it could be done?

Senator CORDON. I doubt the United States could question it in any court. We have given that authority, and if the authority is meaningless, then we have given nothing and we have intended a vain act and that violates every rule of construction that I ever knew about.

Senator LONG. Is that your understanding of this provision, Mr. Rankin?

Mr. RANKIN. Well, certainly it would be as between those parties, and I have not studied it with regard to the binding effective indefinitely in the future. But as between the parties involved in that, if some oil company said, "Do you claim this area, or do you not, I would like to get a lease with the State"—as between that oil company and the United States I think the issue would be waived, and it would be settled in accordance with the procedure Congress had laid down.

Senator LONG. How about between the oil company and the State, would that apply?

Senator CORDON. It could not. We cannot here bind a State.

Senator LONG. Between the United States and the State, if the Secretary and the Attorney General said the United States does not claim

this property, is that binding on the United States as against the State for them to make that declaration to the oil company?

Mr. RANKIN. Well, you get into the question of the intention of Congress in the passage of the act. If it was clear that Congress intended the decision to be binding it would bind the United States unless it went beyond the scope of the act.

Senator LONG. But what you have said is that this section would protect the oil company. Would it protect the State for the Secretary to make such a declaration to the oil company?

Mr. RANKIN. The reason I do not include the State in that statement is because on the assumed facts, it would not be a party to the agreement. I feel that it would bind the parties to the agreement, but not necessarily anybody else at that point.

Senator WATKINS. Does not the language "any lessee or lessor of mineral issued by or under the authority of the State" presuppose that the lease has already been made by the State, and then the lessee makes the application to the Attorney General and the Secretary for a waiver or declaration. That is a stipulation and it seems to me that you would set up a situation that it states is in there and is protected.

Senator MILLIKIN. That does not take anything away from the State; that is a negative which might aggrandize the State, but I do not see how it could take anything away from a State. You might wind up with a no-man's land out there where the State could not claim it, and the Federal Government might not, but that is something that we could deal with if we ever came to it.

I do not see that this hurts the State in any way or disparagaes its own jurisdiction. It might aggrandize it. The Secretary and the Attorney General might conclude that something is not within the Continental Shelf that ought to be there.

Senator LONG. I was seeking some certainty at this point, and I do not see that we obtain it unless it is binding. Now, if it is only binding between the Federal Government and the oil company but not binding as between the Federal Government and the State, the Federal Government does not prejudice its claim against the State in this connection, then it seems to me as though you are still not resolving any of the issue when you say that the Federal Government does not claim the property.

Senator WATKINS. I do not see how you can arrive at that conclusion when it is definitely said that this application is made by a lessor or lessee who already has a lease issued by the State. When he applies there it seems to me that there should not be any doubt whatsoever that if the Government takes that position the State is protected.

Senator LONG. To give you a concrete case, Senator Watkins, and this type of thing has occurred many times in my State and I assume that it will occur again: Let us assume there is a lease on which the Secretary makes such a statement. The lease then expires and the Federal Government has indicated to one lessee it does not claim the property. Should the Federal Government then be in position to reverse itself and claim that when the State proposes to issue a second lease it does claim the property? Well, it just seemed to me it would be good to resolve that and determine which property is Federal and which is State. I was hoping that it would do it.

Senator WATKINS. Does that not go about as far as you can go in a situation of that kind?

Senator CORDON. Is this not clear that this is intended to settle an issue between an issued lease, and it is not intended to reach the thing that the Senator from Louisiana indicated is highly desirable, and what I think we all think is highly desirable? There we cannot have a unilateral certificate, and it has got to include a certificate of the State and the line ectablished so that it is a final establishment on both sides. That we need additional language for. I think it would be well to have it.

Mr. RANKIN. Section 7 (c) is amended to add two more supplemental notices given by the Secretary——

Senator CORDON. You will find that at the top of page 20.

Mr. RANKIN. To his notice of December 11, 1950. This conforms to our letter of May 26, but apparently a third additional supplemental notice there referred to should also be added, that of December 24, 1952.

Senator CORDON. The additional orders of the Secretary are found at the top of page 20.

Senator JACKSON. You mean the citations?

Senator CORDON. That is right, and there is a third one which should be inserted, of December 24, 1952, Mr. Rankin says.

Senator WATKINS. That is supposed to be a complete coverage of all of the orders affecting this?

Mr. RANKIN. Yes. Section 8 (a) is amended to omit reference to the present emergency, which agrees with our letter of May 26. It is also modified to require sealed bidding, and that bonuses be paid in cash, which is probably desirable, although apparently not required by the Mineral Leasing Act. It does not permit alternatively bidding as to royalties, as suggested by our letter of May 26. It is believed that such provision might be desirable.

Senator WATKINS. That is a matter of policy.

Mr. RANKIN. Yes; that is for you to determine. Section 8 (c) and 8 (d) are added to permit sulfur leases by the Secretary. Such provisions are probably desirable, but the technical desirability of these particular provisions seems a question for the Department of Interior.

You see, the provisions of the Mineral Leasing Act regarding sulfur and requiring a 5-percent minimum royalty are adopted here, but other provisions are not carried over. You may want to make a comparison of these provisions with those of the Mineral Leasing Act.

Section 8 (e) provides for 30 days' notice of leasing. This is not objectionable. Section 10 provides for refund of overpayments. This is desirable.

Senator LONG. Just a moment. With regard to that 30 days' notice for leasing, it was suggested by those representing some of the States that you should have at least 3 months before you lease these submerged lands because you ought to give the companies time to go in there and seismograph and conduct geophysical operations to see if they are interested in bidding on that property and to determine how much they would like to bid. Why do you feel that 30 days should be the minimum period?

Mr. RANKIN. It was Mr. Orn's suggestion, and I thought he knew more about operations than we did.

Senator LONG. Would not that be a big advantage to the person that asked that the lease be put up, in that it would make it more difficult for a competitor to get in there and conduct his geophysical operations to know whether he wanted to bid on the property?

Mr. RANKIN. I would have to defer to Mr. Edelstein.

Mr. EDELSTEIN. I think we would prefer that subsection (e) be taken out entirely; right now the Mineral Leasing Act does not require us to give any specific notice, and we think it should be left to our discretion as to the length of time and the place of publication. We issue press releases about our sales and it gets into the technical journals. It gets around very effectively without requiring us to publish in the Federal Register. We have lively bidding on our competitively offered leases.

On this sort of subject, as on most of the details of leasing, because of the peculiar conditions in the gulf and the limited experience in administering a leasing program out in the submerged lands, we would prefer to have wide discretion.

Senator LONG. If we are going to write some minimum standard in, what standard would you recommend? Would you recommend the 30 days, or would you prefer that there be more time?

Mr. EDELSTEIN. If the Congress wants to fix a limitation, we would not object to 60 days, particularly. I think we would prefer to leave it at 30, but preferably we would like to have it out entirely.

Senator CORDON. Well, there could be no basic objection to 30 days, 60 days, or 90 days notice, could there?

Mr. EDELSTEIN. No.

Senator CORDON. It is just a matter of judgment. The Chair likes to see legislation carry just as many standards as it is possible, and believes it is a protection of the executive, itself, if that is done.

Mr. EDELSTEIN. Normally, we would thoroughly agree with the Senator, but we are not too sure of what experience would show in the gulf to be the appropriate and desirable thing.

Senator MILLIKIN. I am unacquainted with sulfur wells. Does this language comtemplate the possibility of a sulfur deposit showing up in the course of exploration of an oil or gas lease?

Senator CORDON. It does. However, this language would separate the minerals and give no advantage to the operator whose exploration determined the fact. It provides for layer leases.

Now, there is no provision at the present time in the proposed bill with respect to what should be done in connection with leases heretofore granted by the States and for which validation is provided here, and which leases were for oil, gas, and other minerals. That is a policy question yet to be determined by the committee for recommendation to the Senate.

Senator JACKSON. I have to leave, and I take it that there is to be no vote here.

Senator CORDON. Nothing was contemplated except a further exploration here for the committee's benefit.

Mr. RANKIN. Section 11 permits exploration as in H. R. 5134. This is not objectionable except that permission of the Secretary might be required. See our letter.

Section 12 had reserves of helium rights to the United States. This conforms to our suggestion.

Other amendments suggested by Mr. Orn, and incorporated in the confidential committee print are only for clarification or verbal improvement, and are all desirable. Several suggestions made by our letter of May 26, are not embodied in this draft.

Senator MILLIKIN. Going back to section 11, what is meant there, the right of any person subject to applicable provisions of law, and of any agency of the United States? How far does that go? Does that mean agencies dealing with the subject matter, or for any agency of the United States? We have a multitude of agencies of the United States.

Senator CORDON. It seems to me that that language rather indicates that this act does not carry within it any prohibition in that general field. I know of no prohibition against any agency doing the same thing on the public domain. And if there is, I have not known about it.

Mr. RANKIN. That is to empower an agency of the United States to explore, as I understand it. Is that not the construction?

Mr. EDELSTEIN. It would include such agencies as the Bureau of Mines, the Geological Survey, or the Navy, which has been doing work of that nature.

Senator LONG. Have you covered that section on refunds?

Senator CORDON. You discuss that in your main paper.

Mr. RANKIN. That is refund of overpayments, and I said it is desirable.

Senator LONG. Does that not seem to be very general in that when it appears to the satisfaction of the Secretary that any person has made overpayments, and so forth, in any amount that he was lawfully required to pay. Should there not be some standards beyond just the satisfaction of the Secretary that the payment was in excess?

Senator CORDON. Is this not the language in the Mineral Leasing Act?

Mr. EDELSTEIN. It is sections 95 to 98 (a) of title 43 of the code, from which section 10 of S. 1901 this was taken, and it applies to public lands generally. There is no change of substance between those provisions of title 43 and this. I do not happen to have title 43 with me, but that is a fact.

Senator WATKINS. You will find it in many reclamation contracts.

Senator CORDON. I am not certain it is sound law, but I am certain that there is a provision in the code at the present time.

Senator MILLIKIN. Has there been any controversy over that in other directions?

Mr. EDELSTEIN. We have had no problems on that.

Senator LONG. It seems to me that you have left it wide open for the Secretary to decide almost on whim or caprice that he has been satisfied.

Mr. EDELSTEIN. There are many people dealing with us, and they sometimes pay small amounts of money in excess of what is required, and to require them to go through the red tape that they would otherwise not have to go through, this statute was requested in connection with public lands generally and it has worked out very satisfactorily.

Senator KUCHEL. It is an accounting problem; is it not?

Mr. EDELSTEIN. Yes, sir.

Senator MILLIKIN. It is an amazingly broad grant of power. In our refund procedure in tax matters, we require a filing of the inten-

tion to refund with the Joint Committee on Internal Revenue Taxation, where we can take a look, and there is some kind of a check on refunds. But as the gentleman says, there has never been any trouble over this one and I do not feel like messing with a law that has been working all right.

Mr. EDELSTEIN. The amounts involved are nowhere near as large here as they would be in the case of internal revenue.

Senator CORDON. What would you say about granting that power to the Secretary up to a prescribed maximum amount?

Mr. EDELSTEIN. We would have no objection, but there is no limitation in the sections in title 43.

Senator LONG. It does occur to me that you are going to be dealing with amounts far larger than you have had up to this point.

Mr. EDELSTEIN. We have the Mineral Leasing Act in which large amounts are also involved, the oil- and gas-leasing provisions of it. Of course, the General Accounting Office keeps an eagle eye on all of our fiscal operations, and we have had no problem in connection with it.

Senator CORDON. If I were the Secretary of the Interior, or any other officer, clothed with that authority, I think that I would come before the committee and ask for a maximum to be fixed in there.

Mr. EDELSTEIN. Incidentally, the authority to administer that has been delegated to the head of the Bureau of Land Management.

Mr. RANKIN. Reference to the navigational servitude should be omitted from section 3.

Senator CORDON. Let us stop there for a moment. I do not have the letter with me and I have received a letter from the Corps of Engineers wherein, among other things, it is indicated, and I believe the other day Mr. Jack Tate testified to the same effect, that there were navigational facilities outside our territorial waters. I am wondering, also, whether when we authorize fixed structures on this other Continental Shelf, we do not create a new condition that would perhaps require the navigational servitude. Have you any ideas about that, Mr. Rankin?

Mr. RANKIN. Well, as navigational servitude is understood in the law, it is not considered in that manner, and so it would be entirely a new concept and you are using an old phrase or term of art really, in the language to describe the new thought, it would seem to me.

Senator CORDON. Your navigational servitude as we understand it in navigable waters of the United States is a part and parcel of the constitutional right to regulate commerce, is it not?

Mr. RANKIN. Yes, sir.

Senator CORDON. And, of course, out here we do not claim that constitutional right and yet we are setting up a new right.

Mr. RANKIN. That is right.

Senator CORDON. I think that you made a suggestion in your letter on that, in your original comments, that this particular matter might be better handled by conferring authority on the Coast Guard in that field.

Mr. RANKIN. Yes.

Senator WATKINS. That is a reference to section 3 (b). There may not be any question in anybody else's mind, but I wondered about this unimpeded navigation. If you get a lot of wells out there, and platforms, and whatnot, can you say navigation will be unimpeded?

Senator CORDON. It would be unimpeded on a tangent.

Senator WATKINS. Is there any other way of saying it without using the word "unimpeded," where ordinarily we could go right straight through? Do we not put up certain impediments to navigation?

Mr. RANKIN. That is true. I think the language was developed with the idea of trying to be certain to protect the rights of other nations to navigate, without conrol of navigation in that area. That is so that there could not be any claim that the sovereign was asserting a territorial right, particularly in contradistinction to the bill that has been passed by the Congress and signed by the President.

Senator WATKINS. If I should see wells down in the Continental Shelf as thick as I have seen them down in California in places, I would say that the area would be impeded. At least the navigation would be impeded in that direction.

Mr. RANKIN. You might put in a word that we lawyers use rather loosely, "unreasonable."

Senator MILLIKIN. Or "except as provided in the act."

Senator LONG. Are you going to leave the determination up to the Corps of Engineers the way it is now?

Mr. RANKIN. You mean as to navigation?

Senator LONG. Erecting an obstruction on the seas.

Mr. RANKIN. It is not for me to say as to that.

Senator LONG. Would it be there under this act, the function of the Corps of Engineers to determine whether the structure unduly impeded navigation?

Mr. RANKIN. I should think so.

Mr. EDELSTEIN. The authority of the Corps of Engineers is not affected by this bill, as I read it.

Senator LONG. I do know as it stands at this moment, the Corps of Engineers is the agency that determines whether a permit should be granted to erect any structure in the sea, in determining the question of the effect on navigation.

Senator CORDON. The Chair has a letter addressed to the Chair as the Chair from the present Chief of Engineers on this very subject. He calls attention to the law and then to the practice of the Corps of Engineers under its interpretation of the law, and calling particular attention to the granting of a permit for a fixed structure 30 miles from shore in the gulf. The letter was not cleared through any other Department, and it simply was a factual statement as to the practice. The Chair's opinion is that the language would have to have a strained construction to give that authority outside of territorial limits, but the authority has been exercised and certainly there must be some authority at least to the extent of determining what measures must be taken for the protection of commerce on the high seas. It might as well be placed in the Corps of Engineers by express provision in this act as anywhere else, because that is the body that has handled the same situation in navigable territorial waters.

Mr. RANKIN. It seems to me there would be a contradiction with what we are trying to do, to say positively the right of free, unimpeded navigation, and it might create a situation there.

Senator CORDON. We are going to have to indulge the presumption of those structures as being so small with respect to the vast area of the sea, that they do not represent impediments.

Senator LONG. We should continue the usual procedure by which navigation interests are given notice that in a given area there will be

obstructions to navigation during a certain period of time where these operations are being conducted. Anyone who buys a map can see that if he charts a certain course he is sailing on the high seas where he need not worry about obstructions because of fog or anything like that, and then there is an established procedure for going through the Corps of Engineers to take care of those things. If you do not do it, you will get into some confusion and someone will run into one of those platforms out there where it was not charted on the map.

Senator WATKINS. What about the commerce of other nations on the high seas?

Senator LONG. When they enter the territorial waters, the standard procedure we go through is that the Engineers issue a permit and I assume they inform the Coast and Geodetic Survey, and they put out all of the notices and corrections to the charts and maps and that sort of thing.

Senator WATKINS. This is the first time we have claimed this as territorial waters, though.

Senator LONG. That is the effect. There should be some way where you follow some procedure to take care of those details, and the way to do it would be to allow the Engineers to handle that function beyond our 3-mile limit as they have been doing, as well as within our 3-mile limit, which they undoubtedly have the authority to do.

Senator MILLIKIN. Is there a point made that we cannot have any other language on the grounds that we would be upsetting some other right that we want to protect? Why could we not have necessary protective language here that would reconcile the right of navigation and the right to have these impediments?

Senator CORDON. We are faced with the proposition itself which denies that it in any way affects the waters above the Continental Shelf as a part of the high seas or the right to the unimpeded navigation of those waters.

Senator MILLIKIN. Is that phrase construed to permit reasonable impediments?

Senator CORDON. In practice it must have been so construed because there have been such impediments and are outside of our territorial waters, and the hearings indicate several of them around the world that come to the notice of the State Department. Of course, they were aids to navigation.

Senator WATKINS. The question has never been raised by someone being damaged; there has never been a case in court where it was raised.

Senator CORDON. The Chair knows of none.

Senator DANIEL. The United Nations Commission on International Law recognizes that such structures would not be considered as impeding navigation, and I do not think that there has been any evidence that any such structures have impeded navigation anywhere along our coast thus far, has there, Mr. Rankin?

Mr. RANKIN. I have never heard of it.

Mr. EDELSTEIN. This language was taken out of President Truman's proclamation of 1945 and that proclamation contemplated the exploitation of the natural resources.

Senator DANIEL. These derricks with lights out there at night are actually aids to navigation, instead of impeding the navigation, because you have plenty of water on all sides of the derricks.

Senator WATKINS. Suppose the light goes out or someone runs into it in a fog?

Senator DANIEL. All of the maps of the Coast and Geodetic Survey—I have just sent for them—have the area marked with language on there that anybody sailing those seas will look out for derricks, or oil structures, because the language says that they are in this area. But I want to point out, of course, that that is in a shallow area, and usually large vessels do not sail in an area shallow enough to permit the platforms to be erected, unless they are sailing through the channels which, of course, are always kept open.

Senator LONG. When you get into 40 feet of water, you can sail a battleship.

Mr. RANKIN. Section 4 (d) through 4 (i) should probably be broadened to cover the bed of the outer Continental Shelf itself.

Senator CORDON. Now, there comes the question.

Mr. RANKIN. And not be limited to structures thereon.

Senator CORDON. It seems to the chairman, Mr. Rankin, that that is a suggestion to the committee that it recommend to the Congress that it legislate in a field beyond that covered by the President's proclamation or the act of the Congress in the Submerged Lands Act in confirming the terms of the proclamation.

Now, there must be regulation on the shelf and it is perfectly apparent that we could not go forward with the recovery of natural resources in the seabed and subsoil without having regulation, but if we go to the extent—and the Senator from Texas has indicated that he believes we should—that Great Britain has gone in a number of cases, and other nations have of doing the equivalent of annexation of the seabed and subsoil exclusive of the water above, then certainly that suggestion is in good part. But if we are going to attempt to make that differentiation of dominion and control of the resources as distinguished from what somebody has termed a horizontal sovereignty of the seabed and subsoil, we are going to go beyond legal effect of the proclamation or the action we have already taken and I would like to have your views with regard to that.

Mr. RANKIN. It does not seem to us that by broadening it to cover the subsoil and keeping the waters above clear from any of the legislation that you are extending it so as to get into that international legal conflict.

Senator DANIEL. May I ask this question? Is there any reason why this committee is bound by the limitations of the Truman proclamation?

Since that proclamation, international law has developed to the extent that every other nation asserts its control and jurisdiction over the entire seabed and subsoil, and not just over the natural resources.

Now, I differ with Mr. Rankin as to the applicability of maritime law, to the seabed and subsoil. You would have a mighty big vessel out there, and I do not think it would work. But I do think that this committee would probably be amiss in its duties if it did not assert as great a right over the seabed and the subsoil as Great Britain, Pakistan, and all of these other countries, are asserting. There is no use

to keep on limiting this by the terms of the proclamation to natural resources, because you cannot control exclusively those natural resources if you do not have some control and legislation over the seabed and subsoil itself.

Senator WATKINS. The fact of the matter is we have ignored completely in the passage of the Holland bill, a proclamation made by the President of the United States, if you remember.

Senator DANIEL. You are thinking about the Naval Reserve proclamation. We have been speaking about the 1945 proclamation of the jurisdiction and control of the United States over the natural resources of the seabed and subsoil.

Senator LONG. Do we not have more authority to act than the President had to go out and claim something? Did the President have the right to go out and annex territory without an act of Congress?

Senator CORDON. Whether we do or do not have the authority, the philosophy of the bill was that we were not to exercise it, and I do not know of any reason why this committee should not as a matter of policy, determine what it wants to recommend to the Congress. There is no legal objection I know of to it.

Senator LONG. The point I had in mind was that even the Truman administration would have preferred to have actually claimed the seabed and subsoil in full ownership if they had had the authority to do it, but I just want to know whether or not they had that avenue open to them, and whether, as a legal matter, the Truman administration acting just through the President without a congressional declaration to back him up, had the authority to go out and claim new territory beyond the limits of the Nation.

Senator CORDON. A question might arise as to whether Congress had the authority, and then we get back into the ancient practices of the nations through all history.

Senator LONG. This Nation has annexed territory. We have done it before.

Senator CORDON. With the consent of those who have been occupants of it, in the cases of annexation, and it has claimed it by discovery, and by conquest, and it has by treaty acquired it, and in sundry ways it has been done. But I know of no case where there is anything comparable to the thing we have here. We have the precedents that have been put into the record by the Senator from Texas and I assume if the power rests anywhere it ought to rest in the legislative department of Government.

Senator LONG. It seems to me we have a chance to clear up some of this fog that has covered this question for a long time, and these nebulous concepts of paramount rights and inherent powers and that sort of thing, and I was just curious to know whether or not in your opinion the President could have actually annexed property to the United States in full ownership.

Mr. RANKIN. Well, I do not think that that question can be answered categorically. The real answer to it is that the President has in the past, and usually Congress came along and approved the action. So we never had any decision as to whether the President had the power by himself because it has not yet arisen.

Senator WATKINS. We agreed finally with the President; we agreed and at least we are not going back on it, and we assert whatever power

the Congress has and if the Congress and President operate together there is not any power in the country to question it.

Senator CORDON. The Chair would request that the good offices of the Department of Justice be used in suggesting legislative language that would carry out your suggestion. You will not in section 4, "Laws Applicable to Outer Continental Shelf" have only come in in acts occurring and offenses committed on structures that are set up for the purpose of exploring for, developing, or removing the natural resources of the subsoil or seabed.

Now you are suggesting that we make the law applicable to the shelf as a thing, not to structures that rest on the shelf for specified purposes, and the Chair would appreciate your idea of appropriate language that would do the thing you suggest.

Senator WATKINS. Does that mean that we have one law on the structures, and another law on boats and vessels?

Senator CORDON. My understanding is that that is not the thought that is in the mind of the Department of Justice.

Mr. RANKIN. No, we would not have any 2 laws; we would have 1.

Senator WATKINS. Is admiralty law there in effect at all?

Mr. RANKIN. It would be the same as you have done with regard to the island of Guam and the Guano Islands, and Congress in the past applied maritime law to those areas, as you know.

Senator WATKINS. That is what I am calling attention to, and now would we have maritime law there at the same time we had this other jurisdiction?

Mr. RANKIN. The maritime law is what you are applying here, on the structures.

Senator WATKINS. On the structures?

Mr. RANKIN. Yes, sir, and we would only extend it to that.

Senator WATKINS. I had not read the bill since this has been amended.

Senator LONG. Does admiralty law today apply to the island of Guam?

Mr. RANKIN. That is my understanding, maritime laws apply to the island of Guam.

Senator LONG. My understanding is that it does not.

Mr. RANKIN. It did originally. The enabling act was passed providing for a civil governor.

Senator LONG. I understand we passed the organic act to give Guam the benefit of self-government.

Senator CORDON. I believe that applies to Midway.

Mr. EDELSTEIN. I don't know.

Senator DANIEL. The Guano Islands, and Wake, and several other uninhabited islands at the time, and Johnson Island, and several of them.

Mr. Chairman, I would like to ask Mr. Rankin a question right there. Now, if you apply maritime law to the structures, and to the seabed, what law would apply as to civil rights and civil actions, and what property law would apply? Under admiralty law is it not true that the law of the State of the owner of the vessel applies in civil actions?

Mr. RANKIN. Well, wherever the Federal laws do not apply, that is true.

Senator DANIEL. That is true.

Mr. RANKIN. Yes, but there are Federal laws that apply in the civil field as well as criminal.

Senator DANIEL. If we apply maritime law out here, to this area instead of land law, and you have three or four different structures out there owned by different companies, domiciled in different States, then as to civil actions on those four different structures you would have laws of four different States applying as to civil actions not covered by Federal statutes, would you not?

Mr. RANKIN. Yes, that might be true.

Senator DANIEL. And if we apply maritime law to the entire seabed and subsoil of the Continental Shelf, and it is leased out to various people, is it your understanding that the law of the State of the owner of the lease would apply to the area which is leased to him?

Mr. RANKIN. It would depend upon what law you are talking about now.

Senator DANIEL. Well, I am talking about the law in civil actions where we have no Federal statute to cover it, and I understand we have no Federal law or body of law covering land matters, or tort actions or death through negligence of an employer, and various civil actions between employer and employee that are not covered by specific Federal statutes. Would you think that under those circumstances, that the laws of the State of the owner of the lease would apply?

Mr. RANKIN. Perhaps.

Senator DANIEL. Then, under the system that you have recommended, you would be applying State laws to this area, would you not, in civil actions?

Mr. RANKIN. Well, you would have the same situation as though you had 10 or 20 boats out there, and you had the people on the boats. That is the law that you now apply in regard to that. If you had 100 boats out there, the same thing would apply.

Senator DANIEL. In other words, in civil actions, if we follow your recommendations here, as to applying maritime law instead of the land law to this area—I have before me now the leases that have been issued off Louisiana and Texas, several hundred leases—you would have the laws of as many different States as you had lessees from different States applicable in the area, would you not?

Mr. RANKIN. Well, that is true, except as to our original recommendation. We suggested that you apply the District of Columbia Code wherever the Federal laws generally did not apply.

Senator DANIEL. Do you think it would be reasonable to apply the laws of the District of Columbia to this land here just off Texas and Louisiana?

Mr. RANKIN. Well, they are all passed by Congress, and they ought to be all right.

Senator DANIEL. Well, we are dealing with human beings who have to work from the shore out here, and do you not think it would be more advisable in dealing with their rights to apply laws that they know and that have been enacted to fit their economic and social conditions? That is in dealing with these human beings who come from Louisiana out to work, and stay 40 hours, and go back into the shore.

Mr. RANKIN. Well, the difficulty is that you have got people from so many areas that would be out there from the different States. It is common practice and there will be Texans working over in the Louisi-

ana area and Louisiana people over in the other, and there will be people from all parts of the Union come down there to work.

Senator DANIEL. I do not know how much of the evidence that you have read, but all of the evidence before this committee is that the great majority of the people working off Texas on the Continental Shelf come from Texas, and reside on the Texas shore. The great majority of those working off of Louisiana are domiciled and live in Louisiana and come from the Louisiana shore, and work out there and then come back to their homes in Louisiana.

Now, I suppose we will be legislating for the majority, and not for those individual cases that might be coming in from other States. But I am just wondering if you have ever known of the law of the District of Columbia being applied to people and to civil actions that far away from the people involved?

Mr. RANKIN. Well, you apply it to me, and all of the people that come here to work in the Government.

Senator DANIEL. We are living here, though, are we not?

Mr. RANKIN. That is true, but it is a law that you apply to people from all of the States of the Union.

Senator DANIEL. As far as the committee is concerned, I have never seen your recommendation that we apply the law of the District of Columbia, but the reason I was pointing this out was to show that under your recommendation of applying maritime law here, you actually are, for civil purposes, applying the laws of the various States of residence of the owner of the particular leases or structures.

Mr. RANKIN. That may be correct.

Senator DANIEL. That is correct, is it?

Mr. RANKIN. Yes, sir.

Senator DANIEL. Now, since you are going to have to apply some State law any way, because we do not have Federal law that covers this great body of civil actions and relations between employers and employees, and especially land law, would it not be more practicable to apply the laws of the adjacent States in those areas?

Mr. RANKIN. Well, the problem that you get into in that area is the constitutional question, and in order to have any body of law kept up to date, you have to have it amended from time to time. If you apply the law of Texas, then the State of Texas does the changing, and Congress, in our opinion, does not have the authority to delegate the power to amend the law to the State of Texas.

So if you had the District of Columbia Code applied to that area, Congress does change that constantly as it sees fit from time to time, and you do not have that constitutional question.

Senator LONG. Under the Truman administration, the Solicitor General testified at length on many occasions, and he gave a world of thought to this problem, and I disagreed with him on many things, but I certainly did agree with his recommendation when he said it was desirable that the States have police power in this area. Do you believe that there is any constitutional impediment that would prevent the States from exercising police power in this area?

Senator CORDON. I think that you are talking about two things there, if I may interrupt. One thing is the application of a law of a given State, and I think that might be done and it would be static if it were, although there is some authority in connection with the ancient mining laws to the contrary. But that rests upon the prop-

erty provision in the Constitution. It is quite another thing to extend jurisdiction and invest that in a State. Do you know of any constitutional prohibition with respect to the application, let us say, of the law of the State of Texas to the abutting area of the outer shelf as such, period, letting the law that is made applicable be the law as of the date of the signing of the legislation?

Mr. RANKIN. I have no problem with that question if Congress sees fit to apply that law, and so enacts. But if you are saying that the States can establish the law in that area, I think it is unconstitutional.

Senator LONG. Well, the Truman administration suggested through the Solicitor General, who won the case against us in the court on this matter, that it was desirable—and I assume he would not have so testified if he did not think it was constitutional—that the States should exercise police powers and administer domestic law in this area. Now, are you taking a different view from that?

Mr. RANKIN. Well I do not know whether you have his exact language, and I would like to see that and anything he would have in support of it. But I do not think that it would be constitutional to provide that the States would have the power to govern the territory that belongs to the United States.

Senator LONG. My understanding is that his recommendation to the Supreme Court of the United States was that it should not hold that a State cannot extend its boundary, because the Justice Department of the Truman administration felt it was desirable that the States should exercise police power along with the Federal Government in that area.

Mr. RANKIN. I think that you are talking about an entirely different thing. If the Congress would see fit to extend the boundaries of the States 100 miles out, I think that that would be within the power of Congress to do, and once you did that, then it becomes State territory to administer, but we are talking about something entirely different.

Senator LONG. He did not recommend that the States should have it; his position was that it did not make any difference whether the State boundary went out there or not, that he thought the Federal Government should own the land, but that the States should exercise police power in this area; that that was better for the domestic regulation and the domestic laws affecting the people. Now, what do you find objectionable about that?

Mr. RANKIN. I find it objectionable to give any single State the jurisdiction to administer and govern a portion of the property of the whole United States.

Senator LONG. Is that not the case with all of the property that the United States owns today in the continental United States?

Mr. RANKIN. There have always been Territories that have been governed by the United States, and not by any single State.

Senator LONG. Why should your recommendation not apply to every bit of Federal land owned west of the Mississippi River?

Mr. RANKIN. You mean the land within the State boundaries?

Senator CORDON. That would be ideal; you cannot unring a bell.

Senator LONG. Is that not contrary to the Federal policy for treatment of every parcel of land owned in the continental United States today?

Mr. RANKIN. Well, I think that you are talking about two different things; we are talking about land within a State boundary and land outside of a State boundary.

Senator LONG. Has it not been the policy of this Government to include all land in the United States within the boundary of some State?

Mr. RANKIN. If you are talking about Territories——

Senator LONG. All land within the continental United States, within the boundary of a State. That has been the policy of this Nation.

Senator MILLIKIN. We did not extend State law over our Federal Territories before they were admitted to a State.

Senator LONG. But as they were admitted they became States, and also in bringing in new Territories, as the Northwest Territory, the whole policy was that that area was to be divided into States, and likewise in the Louisiana Purchase the policy was that that was to be divided into States, and even property to remain Federal property would be subject to the laws of those States, and would be within those States.

Senator MILLIKIN. I wonder if I understand what the precise point is that we are exploring here. What is the point before the committee?

Senator DANIEL. May I get back to my line of questioning?

Senator MILLIKIN. I would like to know what it is.

Senator CORDON. The question now in argument is one that was raised by the Senator from Texas in his objections to the provisions of the current bill which made Federal law, and only Federal law, applicable to the outer Continental Shelf. A suggestion has been made and urged that it is sounder procedure to extend the law of the abutting States to the outer Continental Shelf, using, as the Senator from Texas terms it, land law for the area rather than maritime law.

Senator DANIEL. May I clarify the question that I intended a little bit there because it is not exactly what I had in mind. I do not object to extension of all of the Federal law this Congress wants to write, as to this area, but there is a great body of law in this country covering civil acts and contracts and relations between human beings that is not Federal law, and the Federal Government has never entered the field and does not propose to enter the field by S. 1901 as it is now written.

On the other hand, S. 1901 would apply the law of States to those actions and activities, and what State? They are the States of the owners of the leases and of the owners of the structures, and my point is that in that area, however much you want to limit it, in that area where the law of some State would apply, it is nothing but practical and sensible to apply the laws of the adjacent State where the people come from; the laws that they will know best. That has been the policy of our country in every new area over which we have extended the jurisdiction of the United States on this continent.

It has been the policy in every island we have extended our jurisdiction over except the Guano Islands, Midway, Wake, and a few of those uninhabited islands.

Now, my question is: It got to the point where I understand the objection is that such extension of State jurisdiction might not be

constitutional. That is, not constitutional for the States to extend their laws beyond their boundaries. Do you think it would be unconstitutional if Congress permitted the States to extend their jurisdiction and laws over the area to cover these matters that are not covered by Federal law?

Mr. RANKIN. Well, that gets back into the same old question of delegation of powers, and I do not think I need to tell you anything about that. You know the law in that regard.

Senator DANIEL. You say the constitutionality would be doubtful and you object to that. Have you briefed that question as to whether Congress has the power to permit the States to extend their jurisdiction outside of their boundaries and whether the States have the constitutional right to do it?

Mr. RANKIN. I have not briefed it in detail. I am familiar with the general principle and I am sure that your Congress cannot delegate its power to legislate.

Senator DANIEL. Do you know as a matter of fact that the State of Oregon, today, exercises its jurisdiction and applies its laws outside of its boundaries on the Columbia River? The boundary is the middle of the stream but Oregon applies its laws to the north bank of the stream, to the line of Washington, over all of the part of the Columbia River that is in the State of Washington, and the same is true of Washington over the Oregon part of the river. It was permitted by the act of admission. It said both States would have concurrent jurisdiction.

Are you familiar with the Supreme Court case which said that it was all right for the States to exercise jurisdiction and enforce their laws outside of their territorial boundaries, in the case of the Columbia River?

Mr. RANKIN. As each has concurrent jurisdiction in that area.

Senator DANIEL. Are you familiar with that case?

Mr. RANKIN. Just generally.

Senator DANIEL. Well, it did hold that the States could exercise their jurisdiction and laws beyond their boundaries in that case, did they not?

Mr. RANKIN. I think the Court held that they could exercise concurrent jurisdiction in that area.

Senator DANIEL. Each could; and are you familiar with the case of the Ohio River between Kentucky on the one side, and Ohio and Indiana and Illinois on the other side, and the fact that the entire river up to low-water mark on the north side is inside the boundaries of Kentucky, but yet Illinois and Ohio and Indiana exercise their jurisdiction concurrently with Kentucky all of the way over to the Kentucky side of the river?

Mr. RANKIN. I think that that is the same principle.

Senator DANIEL. And that has been upheld by the Supreme Court against a contention that it is an unconstitutional extention of State jurisdiction and law outside of State boundaries, is that not right?

Mr. RANKIN. Yes.

Senator DANIEL. Are you familiar with the fact that the State of New York exercises exclusive jurisdiction over the New Jersey side of the Hudson River, and over the New Jersey side of New York Bay—exclusive jurisdiction over the waters up to the New Jersey side?

Mr. RANKIN. No, I am not familiar with that.

Senator WATKINS. Is that through that port authority?

Senator DANIEL. There is an agreement between the two States fixing the boundaries in the middle of the Hudson River and going on into the middle of New York Bay, but providing that New York should have exclusive jurisdiction over the waters of the entire area, with New Jersey keeping the soil and the ultimate sovereignty on its side of the boundary.

Mr. RANKIN. Is that not by a compact between the States?

Senator DANIEL. Yes, approved by Congress, and that has been upheld by the Supreme Court. So do we not have 3 different instances—and there are many cases on it, 3 Supreme Court cases—in which States have with the consent of Congress extended their jurisdiction beyond their territorial limits?

Mr. RANKIN. But the consent of Congress is not all that is involved there, and you have a compact between the States.

Senator DANIEL. You do not have a State out here on the Continental Shelf, so Congress is the only other sovereignty that would have to consent, is it not?

Mr. RANKIN. Congress would have to act.

Senator DANIEL. Surely.

Mr. RANKIN. And it cannot delegate that action, and the compact has to be approved. That is the reason Congress had to consent to that.

Senator DANIEL. But, if Congress consents to the States exercising their jurisdiction in the areas where you have to apply State law, do you see any difference between that and Congress having assented to New York exercising its jurisdiction beyond its boundaries over into New Jersey?

Mr. RANKIN. Yes, that is entirely different.

Senator DANIEL. Entirely different?

Mr. RANKIN. Yes, sir.

Senator DANIEL. In what way?

Mr. RANKIN. Well, the other is based for its primary authority on the compact between the parties, and Congress' consent is required by the Constitution.

Senator DANIEL. Yes.

Mr. RANKIN. And this is a territory belonging to the United States that the Congress has the duty to provide laws for, and it cannot delegate that to the States.

Senator DANIEL. Does not the Congress of the United States have exclusive jurisdiction over many areas of land inside the continental United States, just as exclusive as it has over this area? For instance, Crater Lake National Park, 250,000 acres, and many of the other national parks, does it not either retain it or the States give to the Nation exclusive jurisdiction? Is that not true?

Senator WATKINS. Can I ask you a question there? In these cases, New York cases, there is no territory between New York and New Jersey that was not owned by one or the other of the States, and there is no Federal property in there.

Senator DANIEL. That is right.

Senator WATKINS. In this case we have Federal property that we are talking about, and it seems to me that there is a distinction there. In all of these cases you called attention to up to date, up to this point, are cases in which the Federal Government had no claim, but

the Federal Government does own this property under this doctrine beyond the historical boundaries of the States.

What you are asking us to do, and I raised the question myself and I have not satisfied my own mind on it, however, is that the Federal Government cannot delegate to the States the power to take over that area unless they put it within the States' boundaries, and they cannot delegate them to legislate for Federal property outside of their own boundaries. The States, themselves, probably would not have the constitutional authority to go outside either.

Senator DANIEL. They would have the authority to go outside and exercise their jurisdiction over New Jersey land, and I do not know why they would not have the authority to go outside their boundaries, and exercise jurisdiction over Federal land. I was coming to great areas of the Federal land where the exclusive jurisdiction of the United States is the same as you have right out here. If you say that the States are to have no jurisdiction, and it is true that there are such areas in the United States; is it not?

Mr. RANKIN. I think that there are many cases where it is recognized that there is concurrent jurisdiction with the State and the Federal Government within the boundaries of the States. There are, of course, reservations where the United States law applies alone and those reservations are controlled by Federal laws.

Senator DANIEL. In many of those instances, though, the Congress has permitted the States to extend their criminal jurisdiction and certain laws over the area and to enforce them; has it not?

Mr. RANKIN. Only where it was within State boundaries.

Senator DANIEL. But we do have three instances at least, where Congress has approved States exercising their jurisdiction and laws outside of State boundaries, in the ones I have mentioned; do we not?

Mr. RANKIN. Well, but that is based upon compacts between the States, and the congressional finding that it is reasonable goes along with it. It is not where Congress delegates the right to make laws for people outside of States.

Senator DANIEL. Do you see that the ownership of the land makes any difference as to who shall exercise political power over it? I am talking about these laws and powers that have nothing to do with ownership or revenue.

Mr. RANKIN. It seems to me that that is primary.

Senator MILLIKIN. I would like to ask, in those three cases cited, was there any Federal property affected by those agreements?

Senator DANIEL. There was no Federal property affected except the Federal Government's paramount right and control over the waters in each case. In one of the cases it was argued that because of the Federal Government——

Senator MILLIKIN. Was there a division of land claimed by two States?

Senator DANIEL. In one instance it was. That was included in the agreement setting their boundaries.

Senator MILLIKIN. Was there any Federal property changed in any way by those compacts?

Senator DANIEL. I do not think that any Federal property was changed by those compacts, and neither would it be changed by what I propose here. There was some Federal property, though, involved in the New York-New Jersey situation. I do not know on what hand,

but some of it was owned by the Federal Government, an island ceded by one of the States to the Federal Government. That was in New York Bay, and I do not know that that played any part in the matter at all.

I understood the objection was to a State extending its jurisdiction beyond its boundaries; whether that State has the constitutional power to do it. I say if it has the constitutional power to do it over in another State, it has the power to do it in the adjacent Continental Shelf. Out here, where the Federal Government is the only agency concerned, it is in a position not only of Federal Government agreeing to extension, but in the position of the State being the owner on the other side of the boundary.

Senator WATKINS. Would not the States make these agreements in their sovereign capacities?

Senator DANIEL. Yes.

Senator WATKINS. The Constitution requires a compact between them would have to be approved.

Senator DANIEL. And because of the fact the United States does have some concurrent jurisdiction in the waters.

Senator WATKINS. But at the point when they made this agreement, the land was in either one of the other States and none of it was outside of both States.

Senator DANIEL. Except the federally owned island.

Senator WATKINS. It was within one of the State boundaries.

Senator DANIEL. That is correct.

Senator WATKINS. That is a completely different situation, where you have property owned by the Federal Government and not claimed by either of the States.

Senator DANIEL. I will reserve my presentation on the briefing of the point later, but for the life of me I cannot see why there is any difference in the power of a State to extend its jurisdiction over the land of another State and the power to extend it over the lands of the national sovereign. It is over the lands of a sovereign that agrees to it, and so what difference does it make if it is a State or the Federal Government? I declare, I do not understand anybody's position that the national sovereign owning the land in the area is any more important than a State sovereign owning it in the case of New Jersey.

Senator WATKINS. All the Congress of the United States can do—it is not a matter of prohibition, it is a matter of the powers delegated to it.

Senator LONG. Let me ask you this question, Mr. Rankin. If Congress cares to pursue the same approach that was used by Great Britain in annexing the subsoil and making that a part of the Nation, is there any constitutional impediment to Congress in annexing such property, placing it within the boundaries of the adjoining States?

Mr. RANKIN. Not any that of I know of.

Senator LONG. If that approach is used, then there would be no constitutional objection to making the laws applicable in the same sense that the Federal laws are applicable to the subsoil?

Mr. RANKIN. That is true.

Senator LONG. Now, I notice that you made objection that international problems were involved, and you said particularly in view of the intermingling of national and international rights in the area—that is on page 2 of the letter to Senator Cordon—it is important that

the Federal Government which has the responsibility for handling foreign affairs have the exclusive control of lawmaking and law enforcement there.

The testimony of the representative of the State Department, Mr. Tate, was that it was not important that the Federal Government have exclusive authority and that it was purely a domestic matter and of no concern to a foreign power how we handled these domestic issues. Who should speak for this Government with regard to foreign-policy questions, the State Department or the Justice Department?

Mr. RANKIN. Well, the foreign-policy matters are for the State Department, and the legal matters are for the Justice Department.

Senator LONG. Well, now, inasmuch as your objection here relates to the policy question, would not the State Department be the appropriate agency to speak on this question?

Mr. RANKIN. No, because this involves the legal question of whether or not, by some action of Congress, you would be involving a matter in foreign affairs, or complicate the foreign relations, not as a matter of policy but merely by the action taken and its legal effects. That is all we are commenting on. If Congress sees fit to take any action in regard to foreign relations, that is within its power and its province.

Senator LONG. The State Department's position was that it did not concern a foreign power and it was purely a domestic position. Would it not seem that the State Department would be the agency best qualified to say whether there was any objection from the point of foreign policy, or international affairs, to the States affecting domestic responsibility in this area?

Mr. RANKIN. It depends upon how the question was asked the representative of the State Department. I think the committee's bill has tried with great care to avoid problems of international relations insofar as they might be bypassed in this legislation. That is a serious matter.

Senator LONG. Now, you are recommending that the Federal Government should have exclusive responsibility. Are you familiar with the fact that the previous administration was regarded as perhaps unduly solicitous of the rights and prerogatives of the Federal Government, and that that administration recommended that the Federal Government should not have exclusive authority, but rather that the States should exercise police power in this area?

Senator CORDON. When and where was that recommendation made?

Senator LONG. It was the testimony of Mr. Perlman and the testimony of the former Secretary of Interior, Mr. Chapman, before this committee.

Senator WATKINS. Did we not disagree with their positions?

Senator LONG. Do you agree with the positions taken by those witnesses?

Mr. RANKIN. No; and I am not responsible for it either. I do not agree with it.

Senator LONG. You agreed with the Executive orders, and here is your statement where you recommend that their Executive orders be approved. Did you not agree with that and recommend their Executive orders be confirmed?

Mr. RANKIN. Well, now, you will have to make that clear. You know that the Attorney General gave, I think, the chairman of the

committee a letter to the effect that in his opinion one Executive order was not intended to and did not cause these particular lands to be a reserve under the Naval Petroleum Reserves Act. That was the Executive order that was set aside in part by the bill you have just passed.

Senator LONG. Within the historic boundaries, within the 3-mile limit.

Mr. RANKIN. The offshore lands bill that was just passed.

Senator LONG. You did not recommend or you did not take the position that the Executive order was invalid, however, did you?

Mr. RANKIN. No; I did not.

Senator LONG. Well, on page 19 of this bill, are you not recommending that the following orders be confirmed: The order of the Secretary dated December 11, 1950, and the order dated January 26, 1951, supplemented by the notices of February 2, 1951, and March 5, 1951, and April 23, 1951, and January 25, 1951, and April 22, 1951, and October 24, 1951, and December 22, 1951?

Mr. RANKIN. Those are not Executive orders.

Senator LONG. Well, some of them are, are they not?

Mr. RANKIN. No, the Secretary has no power to issue an Executive order.

Senator LONG. They are agreements, are they?

Mr. RANKIN. I think they were declarations or orders by the Secretary with regard to the handling of these lands and the leases that were in effect so as not to destroy the rights that were being litigated. The Executive orders in regard to this were only two.

Senator LONG. Do you not have many of the same people to advise you on these legal matters, as the previous administration had, when they were advising that it was desirable for the States to exercise police power, and that legally they could exercise police power in this area?

Mr. RANKIN. Well, I have never heard that statement before that such advice was given to this committee. The people I have talked to in the Department that had anything to do with it have not indicated that there was such advice given.

Senator LONG. In the case of Louisiana, the State urged that it had the right to extend its boundaries 27 miles into the sea and the Supreme Court with that case before it declined to decide the question of boundary against the State. Now, when the Supreme Court had that case before it and declined to decide that question of boundary against the State, how do you propose to prevent the State from taking the position that it does have the right to extend its boundaries?

Senator CORDON. The Court did not decline to decide the thing, and the Court said that in view of the decision it was making, it was unnecessary to decide it.

Mr. RANKIN. That would be my construction of it.

Senator LONG. Do you take it that you have some legal authority that the State cannot extend its boundary in that area coterminous with the Federal Government?

Mr. RANKIN. Well, I have not studied that problem, whether the State has the power to extend its boundary over those Federal lands. In view of the decision of the Court in the Texas case, it would seem to be fraught with considerable doubt.

It would seem to me that that would be a matter between the States and the Federal Government, and up to the Congress to decide. I

doubt if the State could just take over Federal lands over the objection of the Congress.

Senator DANIEL. Mr. Rankin, as far as I am concerned, I am not questioning you about a thing in the world that would take over any of the land, any of the revenues, or anything of that kind. I am just trying to bring out here that there is an area of cooperation that we have followed under our dual system of sovereignties, which I understand President Eisehower favors very strongly. It would be a disappointment to me if this administration in treating with a new area of land adjacent to the States would want to cut out the dual system of sovereignties and keep the States from exercising certain powers and certain State laws from applying, when there is no Federal law.

Now, President Eisenhower called a meeting here of the governors, for cooperation between the States and the Federal Government, in which he said: "The Federal Government has assumed an increasing variety of functions, many of which originated in or duplicated State governments." Do you not think we should have complete cooperation between the State and Federal Government in this area here where there is a boundary line splitting right throught the middle of the State and the Federal territory?

Mr. RANKIN. Well, I do not see any ground for a claim that there is not cooperation where the Federal Government and the Congress decide to pass laws to control and handle Federal territory that is not within State territory. It seems to me that is a matter for the whole country and a problem for Congress to decide.

Senator DANIEL. And in saying that you want maritime law to apply, you have said that some State law has got to apply, but it will be the States of the owners of the leases, and I would like to read you a provision here that I understand you object to in the House bill. It is on page 8, and it is section 10 (h).

In the interest of economy and of cooperation between Federal and State leasing agencies within their respective jurisdictions, 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.

Now, on page 6 of your letter, you say that even though only permissive, such provision is undesirable. Would you explain why you object to a provision that simply says that the Secretary may, if he deems it feasible and only to that extent, make use of our State facilities that we have available, like boats, records, and maps. We have been administering the area for a pretty good while, and why is it objectionable for the Secretary of the Interior to make use of those facilities that the States are willing to offer if he thinks it will be helpful and feasible?

Mr. RANKIN. Well, it seemed to us that it was a poor way, in our humble opinion, to have the laws of this area handled by the Secretary deciding what should be done. It seemed the best way was for the Congress to develop a feasible system that would make Federal laws and the law decided by Congress apply to people in this Federal territory.

Senator DANIEL. But this does not refer to that at all. It simply says that in the interest of economy and of cooperation between Federal and State leasing agencies, the Secretary may, only to the extent he deems feasible, make use of any facilities available to him from

the States. Do you see any reason why the Secretary of Interior or his employees should not make use of our boats that we have out there?

Mr. RANKIN. Yes.

Senator DANIEL. Why is that?

Mr. RANKIN. Because the United States Government has plenty of boats in the Coast Guard to do the whole policing job out there.

Senator DANIEL. If the Secretary of Interior—some of his men want to go out and check the type of pipe that is being used, and make trips out there that have nothing to do with arresting anybody or policing the area, do you think it is objectionable for them to use State boats if the States are perfectly willing and in a cooperative effort are working together out there?

Mr. RANKIN. I do not think it is wise or necessary for the United States, where the United States Government has its own facilities. In the New York port, for example, the United States Government has many activities it carries on and it does not go and get a State boat to do it. The public officials always get the Government's boats and go out and take care of the Government's business.

Senator DANIEL. Do you think it is objectionable for the Secretary of the Interior to use the State maps that we have spent thousands of dollars for developing out there on the outer shelf?

Mr. RANKIN. No; but I presume they have got their own.

Senator DANIEL. Well, I have never seen them. The States entered the area first and made leases on their maps, and it was testified here that cost several thousand dollars. I am wondering what objection there is to cooperation? You do not think that they should be working at cross purposes?

Mr. RANKIN. Not at all.

Senator DANIEL. And some of the leases, the line between the State and Federal jurisdiction runs right through them, and half of the lease will be under Federal ownership, or Federal lessor, and the other half State lessor. Do you not think that there should be cooperation between the Federal and State officials in administering that lease?

Mr. RANKIN. Yes; I do not see any problem in that regard.

Senator DANIEL. Do you not think there necessarily is going to have to be cooperation between State and Federal Government in matters of conservation?

Mr. RANKIN. I think that is true, but you have plenty of States that are bordering on each other and just because they do and they work together on some problem where there is common ownership of property between the two, you do not have one giving up its rights or its obligations or whatever its responsibilities are, to the other.

Senator DANIEL. Do we ask that you give up any rights or responsibilities under this sentence that you object to here?

Mr. RANKIN. Well, in that sentence it is provided that the Secretary shall have the power to apply or use whatever facilities he should see fit, and it does not spell out, as the present committee bill does, the provisions as to how the entire matter should be handled.

Senator DANIEL. I am assuming that we will spell all of that out. I just wanted to get through my head why you would object to a sentence there that says the Secretary may, but only to the extent he deems feasible, cooperate with the State agencies and use any facilities that they make available to him. In other words, I do not under-

stand the philosophy behind this thing of not wanting the States to have any political jurisdiction or powers out there that do not relate to the lands or the revenues or any Federal law.

Mr. RANKIN. Well, if by having such language in the bill it would be implied that the Secretary had to do it, or if you would put the Secretary up against the pressure of the State that he had to do it, then I think it would be unsound to place the Secretary in that position.

Senator DANIEL. But we have the words: "but only to the extent he deems feasible," and did you not write those words yourself?

Mr. RANKIN. You construe it then that there would be no obligation at all to do it, and that he would not be subject to any censure or complaint or objection by the States if he did not do it?

Senator DANIEL. I cannot see how anybody could complain if he did not think it was feasible to use any facilities.

Mr. RANKIN. And if he construed it to mean that he could, but he did not have to in any way, you would believe that is what the language meant.

Senator DANIEL. I do not see how any human being could put any other interpretation on it.

Mr. RANKIN. If it is construed in that way and so understood as a part of the history of the bill, I see less objection to the Secretary being in that position, because it would be what we call precatory language in wills which means it is a suggestion, but there is no obligation.

Senator DANIEL. All it shows it that Congress realizes we should have, in the interest of economy and cooperation, the possibility of these agencies working together. Are there not many other areas where there has got to be cooperation? To pipe the oil back to shore you have to cross State land, do you not?

Mr. RANKIN. Yes, sir.

Senator DANIEL. And in order to get the derricks and all of the lumber and supplies down to the docks to be taken out to these structures, you have to use State roads, do you not?

Mr. RANKIN. Yes, sir.

Senator DANIEL. And the people working out there but living on shore send their children to State schools, and so actually do you not think that States' cooperation in this area, although they do not own a foot of the land or get any tax revenues from it, or any percentage of the revenues, is going to be important to the Federal Government in the outer Continental Shelf?

Mr. RANKIN. Well, I think the States' cooperation with the Federal Government is important every place.

Senator DANIEL. I am glad to hear you say that.

Senator LONG. I want to read for the record, and I hope the witness will comment on it, the position taken by the previous Solicitor General. I am reading from page 715 of this year's hearings on tidelands.

Mr. PERLMAN. Senator, Louisiana undertook to pass acts extending its boundaries, I think, a distance of 27 miles. In the case of Texas there were several acts passed, and the last one undertook to extend its boundaries to the edge of the Continental Shelf. Those acts were mentioned in the litigation before the Supreme Court, and we took the position with the Supreme Court that we did not ask the Supreme Court to pass on the validity of those acts.

I may say, I may have some doubt as to their validity, but we did not think it was necessary for the Supreme Court, in adjudicating the rights of the United States in the subsoil of the marginal sea, to deal with this legislation.

The reason, as you know, that we took that position was that we felt it would probably be in the best interests of the States and the Nation, under existing circumstances, because there was no other adequate means of policing these areas, of exercising police powers and regulatory powers that did not interfere with any activity or projected activity of the Federal Government. The regulation of fishermen, the conduct of other enterprises on the water, the taking of fish, the taking of other marine life, would be beneficial to the adjacent States and beneficial to the Nation, and we saw no reason to interfere with it.

The Government had never, as a matter of policy, indicated any desire to enter those fields; and we thought—and I still think correctly—that there was no particular reason why the Government should undertake to have these measures declared invalid when it would bring to an end, probably, these police activities by the States in those areas.

The commission of crimes in those areas may be prosecuted in State courts. And if the States undertake to enforce proper laws there, that certainly would be beneficial to the Nation as a whole.

Senator CORDON. Now may I read what the Court said on it to go along on that with what Mr. Perlman said? I am reading from 339, United States Reports, at page 705, in the case of *United States* v. *Louisiana:*

There is one difference, however, between Louisiana's claim and California's claim. The latter claimed rights 24 miles seaward of the 3-mile belt. We need note only briefly this difference. We intimate no opinion on the power of a State to extend, define, or establish its external territorial limits or on the consequences of any such extension vis-a-vis persons other than the United States or those acting on behalf of or pursuant to its authority. The matter of State boundaries has no bearing on the present problem.

If, as we held in California's case, the 3-mile belt is in the domain of the Nation rather than that of the separate States, it follows that the ocean beyond that limit also is. The ocean seaward of the marginal belt is perhaps even more directly related to the national defense, the conduct of foreign affairs, and world commerce than is the marginal sea.

Senator DANIEL. Would the Chair read the sentence right there, somewhere just before or just following, saying that Louisiana's extension of boundaries served to strengthen the Federal claim to the area?

Senator CORDON. "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." That is a part of the same paragraph.

Senator LONG. I want the witness to comment on the extension of police power.

Mr. RANKIN. In the first place, I may comment, I do not think the Solicitor General from the language you read, said what the Senator seems to understand him to have said. First he says, as I understand it, that Louisiana claimed a boundary out 27 miles and that he did not agree with that claim and thought there were serious doubts about it, but he was not presently raising that issue. The reason he was not was because if he did not raise that issue, the State boundaries would be extended out and the police power could be extended over that area, when if he raised the issue and it was established that the State boundaries were not validly extended that far, the police power could not properly be extended in the area. That is what I understand him to have said.

Senator LONG. Can you take this language where he says: "The commission of crimes in those areas may be prosecuted in State courts and if the State undertakes to enforce proper laws there that would be beneficial to the Nation as a whole." Can you interpret that as meaning anything other than that he thinks it would be desirable for the State to exercise police power in the area?

Mr. RANKIN. I think it is clear that he says it would be desirable, but he first premises it upon the doubts he has in you ever properly extending your area 27 miles, and that only if that was a valid extension would you have a right to exercise police powers in the area.

Senator LONG. Of course, his doubt was based on the question of whether a State could do it without the consent of the Federal Government. He apparently would recommend that the Federal Government give such consent, and that is what I take that statement to mean. I was curious to know why you feel it would be wrong and why you feel it would be unwise for the Federal Government to give such consent.

Mr. RANKIN. I do not go along with your claim that he would agree that the Federal Government should consent to the extension of 27 miles. I think that inherent in his statement is the fact that the case was decided by the Supreme Court on the question so that the boundaries were unimportant, and it had no bearing on the case once it was decided that the land belonged to the United States and it was a part of its sovereignty.

Senator KUCHEL. May I ask one brief question? Earlier the Department of State representative was very meticulous in asserting that whatever control we had over the seabed and the subsoil did not amount to sovereign jurisdiction and he declined to use the word "sovereignty."

Now, I want to understand whether the Department of Justice agrees with that in view of your suggestions of "territory belonging to the United States" in that area, Mr. Rankin. Do you agree with what I gathered with some difficulty from Mr. Tate, that the United States has less than sovereign jurisdiction over the resources of the seabed and subsoil?

Mr. RANKIN. No; I think that the difficulty with that is a fine legal problem in international law, in the difference between the water and the seabed. What was asserted was the rights of the United States in resources of the seabed. If you assert sovereignty over the water itself, then it ceases to be high seas.

Senator KUCHEL. No one has contended that we have sovereignty over the high seas. Do you now suggest that the legal effect of the Truman proclamation is that the United States has sovereignty over the seabed and subsoil?

Mr. RANKIN. Yes, I think that it amounts to that.

Senator KUCHEL. Well, then, Mr. Chairman, before we get around to voting on the policy of the bill, I frankly got the other connotation from the Department of State, and we ought to have some meeting of the minds between the two.

Senator DANIEL. I understood Mr. Tate to say it was tantamount to sovereignty.

Senator CORDON. I think the record speaks for itself. Mr. Tate was very careful to indicate that this was a hypertechnical distinction, that you had to consider the term "sovereignty" with all its

implications which meant dominion and control from the middle of the earth to the top of the skies, and that it was difficult to use the word "sovereignty" and to embrace less.

But he did say that with respect to the dominion and control of the subsoil and the seabed it was tantamount to sovereignty as far as it went. That is substantially what he said.

Senator LONG. I would like to ask the witness if he objects to the States adjoining this area rendering the services of State government to the people who work on these structures?

Mr. RANKIN. It is not my place to object, and I do not think that that is my proper function.

Senator LONG. Do you find it objectionable that the State law should apply beyond the 3-mile limit as far as Louisiana is concerned, and you object to the State rendering services to these people.

Mr. RANKIN. Do you mean when they come to land?

Senator LONG. Yes.

Mr. RANKIN. And not on the area?

Senator LONG. I mean in both instances.

Mr. RANKIN. If they are on land why there is no question but what they can render any services they want to.

Senator CORDON. They are spending their money there.

Senator LONG. Do you object to their rendering any services to the people beyond the 3-mile limit?

Mr. RANKIN. I do not like to answer a question as to my objecting; that is not my proper function.

Senator LONG. Do you find it undesirable for their laws to apply. Do you find it undesirable that the States should render services to them?

Mr. RANKIN. I find that you have a very serious legal problem if you try to extend the laws to that area, and I think that is all that my advice should be considered as being.

Senator LONG. I believe you said it was undesirable. You have testified that we cannot extend the laws to them, and we cannot follow the English concept of saying that this is annexed to the Nation, and it is annexed to a State. You did so testify.

Mr. RANKIN. That is an entirely different proposition from what you have just asked.

Senator LONG. Did you so testify?

Mr. RANKIN. Yes, sir.

Senator LONG. So if we want to pursue the same concept as England of saying this is a part of the United States, the seabed and subsoil, just as England has done, then that we could also say that this is also a part of the adjoining State, could we not?

Mr. RANKIN. Surely.

Senator LONG. Now, if we follow that concept as a matter of congressional decision, there is nothing to prevent us from making State laws applicable, is there?

Mr. RANKIN. That is right.

Senator LONG. No legal objection?

Mr. RANKIN. No.

Senator LONG. Now, as a matter of policy, do you know of any reason why it would be undesirable that the States should render services to these people?

Mr. RANKIN. Well, I know of the position of the administration, that it is opposed to anything being paid out of this area to the States.

Senator LONG. Now you are talking about revenue. Do you object to the States rendering services to these people for their benefit?

Mr. RANKIN. I think it is unfair to the States to make them do it for nothing.

Senator LONG. Well, would you answer the question of whether you object to the States if they cared to do it, rendering services to the people, as a policy matter?

Mr. RANKIN. If they want to do it for nothing, I see no objection as a policy matter.

Senator MILLIKIN. May I ask a question there? Why do the States wish to render those services?

Senator LONG. At the moment I want to ask the witness a question or two, and I will do my own testifying later.

Senator MILLIKIN. I am very serious about the question and I do not care to have it answered now, but I am serious about the question.

Senator DANIEL. I will answer it later on when we get to it. The main thing is that they are our citizens, and they are working out there, but I will wait until later.

Senator LONG. If they voted in your election, you would be interested in them, too.

Senator MILLIKIN. We have a lot of people in Colorado or Oklahoma who are working in New Mexico and I do not care to have the State of Colorado trying to govern those people because there are other people there, just as there will be other people working out here on these platforms who will not come from the adjoining States. They all do not come from Louisiana, or from Texas. I want to know what this spirit of altruism is that makes these adjoining States want to govern that area, and I want to discuss frankly and fully that question, because it is an important consideration.

Senator LONG. Let me get to another question of altruism. Do you recognize that the States are rendering services to those people right now? We are educating the children of all of those people, are we not?

Mr. RANKIN. Well, I assume if those people live in the States—I know they cannot live on the platforms—you are going to get a lot of taxes from the places in which they live and the things they buy, and you will get a reasonable return for such services you render in that way.

Senator LONG. Well, you do recognize that we do educate their children, and we provide the roads and are you familiar with the testimony on the shore-base problem? That a shore base costs around $2 million, while these structures can be constructed for about half a million dollars?

Mr. RANKIN. Who is going to tax the shore bases? The States will.

Senator LONG. Are you familiar with the short-base question?

Mr. RANKIN. Yes.

Senator LONG. That the huge portion of this operation is on shore?

Mr. RANKIN. Yes, sir.

Senator LONG. Then, do you recognize that this heavy equipment moves over State highways and the States do provide these facilities and these roads?

Mr. RANKIN. You are getting taxes for that; gasoline tax and other taxes to take care of that.

Senator LONG. You recognize the State does perform the service, however?

Mr. RANKIN. Yes.

Senator LONG. And you recognize that the States have hospitals and various institutions and provide various other functions of State government including the property protection of all of the property involved on the shore base and the homes of all of the people who work there?

Mr. RANKIN. All of that property will be taxed, though.

Senator LONG. Well, now, some of it is taxed and some of it is not. We have a homestead exemption in our State that we are very proud of for one thing. I just wonder if you recognize the fact that the operation of the oil industry on the Continental Shelf is just as much of a burden upon State services as the operation of an oil and gas industry within the States' boundaries?

Mr. RANKIN. Except I would say either a burden or benefit.

Senator LONG. Insofar as it is a burden, you recognize it is just as much of a burden beyond the State lines?

Mr. RANKIN. No, sir.

Senator LONG. If a State has adjusted its tax structure so that the revenue it collects from the oil and gas companies cannot be used or collected in terms of ad valorem taxes, but rather a severance of the resources, then the State would not be collecting the ad valorem tax on the oil and gas properties, would it?

Mr. RANKIN. Well, it would not be collecting that tax, but it certainly is getting lots of others.

Senator LONG. Well, I would assume that perhaps it might. The point I have in mind is that if the State provides for the education of its children primarily by severance of natural resources of the State, that there is very little distinction in the burden certainly of State services it provides for these companies, either within or without the States boundary on the Continental Shelf.

Mr. RANKIN. Well, that would be partially true, of course. There certainly are substantial operations out in the area that the State has nothing to do with.

Senator MILLIKIN. I might suggest that any community that services an oil field assumes burdens, but it also assumes business opportunities.

Senator CORDON. That appears to be perfectly apparent in the whole picture.

Senator MILLIKIN. And the communities welcome the opportunity for explorers to come in and find new oil fields, so that they can be further burdened, and so that they can make further profits.

Senator CORDON. I suggest, gentlemen, it is 20 minutes to 11, and I made a special concession here to you for some gentleman that you said might be down. I do not want to be put in the position of having to recess here today and still not have heard him.

Now, I do not want to cut off anybody in the discussions, and I would hope we would stay with the legal question and leave the basic argument and policy as far out as we can, but again I leave it to your judgment. But we must recess presently.

Senator DANIEL. Did anyone else have any question? I have just a few questions.

Senator Millikin asked why I wanted State laws to apply. I answered, of course, that because a great majority of the people working out there live in the State and they know the laws of the States, and they do not know maritime law.

Senator CORDON. Are we not really indulging that violent presumption, every man knows the law? I have lived for 6 years in the District of Columbia and I do not even know the traffic laws.

Senator DANIEL. Let us say they know some laws that the average citizen knows, and their lawyers know the law and are familiar with it, and I will say to you, sir, that in the last 2 days trying to read maritime law, I can see that it is a different field of law. If you start applying that out there, there will be difficulty.

They know the criminal laws and what they are protected in and what they are going to get punished for if they do wrong. If our State laws apply out there we can have service of processes out there. The people certainly know better what their rights are under the State law than they would under a law they have never heard of, such as the maritime law.

And then of great importance are our conservation laws. If we do not have conservation on the outer shelf where the oil is produced and brought to the shore, integrated with conservation on the inner shelf, and with conservation on the shore. I do not know any way that we can enforce our Hot Oil Act, either the Federal or State act, and it just seems to me that to set up a special bureau of the Federal Government out there, would be an unwise thing to do, and our administrator of our oil conservation program said it would cost the State more money to have a separate administration out there than it would cost the State if it handled the administration of conservation matters the same as it does on the shore. So those are some of the reasons.

Senator LONG. It is their own democratic government of that particular area, designed over a period of many years to meet their needs, rather than a law passed by some remote body of which they had very little to say in passing.

Senator MILLIKIN. If you have any more important reasons that you recall, would you mind stating them?

Senator DANIEL. Those are the main ones that I have in mind and I am sure that there will be more. For instance, getting to one of those in particular, I have just had checked the crimes provided under State law, and compared them with the offenses under criminal maritime law, and I find that Texas has 56 crimes exclusive of those punishable under Federal maritime law, and 38 of them happen to deal with important criminal offenses.

Now, do you see any objection in the world to those 56 criminal laws which are not covered by your maritime criminal law applying to this area, if any of them were committed out on a structure?

Mr. RANKIN. What if somebody comes from Mississippi and works over on a structure in front of Texas, what law are you going to apply to him?

Senator DANIEL. Under your maritime law theory you would apply the law of the State of the owner of that structure, even if it was Delaware or New York, and I say that if he is working opposite

Texas there, and in an area that would be just across our line in an extension of our boundaries, it seems that there is no reason why these criminal laws of Texas should not apply just as if one came over and worked on dry land in Texas, or across the line in our marginal belt. What is the objection, in other words, to us fixing this area out here to where these criminal laws would apply?

Mr. RANKIN. Well, there is no more objection to that than there is if you pick out the District of Columbia, or Nebraska, my State. It does not have as many crimes, I believe, as that; not a third of that.

Senator DANIEL. You mean as many laws punishing offenses?

Mr. RANKIN. I do not believe we commit as many crimes, either, but we do not have as many laws about it.

Senator DANIEL. Do you see any reason why these laws applicable on the shore should not apply to the area?

Mr. RANKIN. Well, suppose you change them next year, what are you going to do?

Senator DANIEL. If you made a change, that would not make any difference. You apply the State laws to practically all of the federally owned land we have in the continental United States now.

Mr. RANKIN. Only within the boundaries of the State, though.

Senator DANIEL. That is right, because Congress has always extended State boundaries and jurisdiction to newly acquired adjacent lands on this continent. Do you see any reason why these people should not have a local jury trial if they commit one of these acts that are punishable under Federal law? Do you see any reason why they should not have a local jury trial in the State court rather than in some Federal district court?

Mr. RANKIN. I do not see any difference as far as the Federal court or the State court is concerned.

Senator DANIEL. You said it would cost the Federal Government a lot of money to be trying lawsuits down there. Do you not think that would put an extra burden on the Federal Government in cost if the Federal Government has to take over the administration of criminal law in the area?

Mr. RANKIN. I think that there is a good portion of the law that it has got to administer anyway, and you have a great deal of maritime law that applies in that area and it is going to apply unless the Congress changes the whole maritime law.

Senator DANIEL. To anything that happens on the boats you are going to apply maritime law anyway. I am talking now about the structures or tunnels built into the area, as to whether there is any objection to these State laws applying and offenses being punished by the State courts rather than by the Federal courts?

Mr. RANKIN. The only way I can see that you can do it legally, and there the question is a matter for Congress to decide as to policy, is that you extend your State boundaries. If you get into that question you get into all of these problems of international law and the effect of that upon the claims of Texas people to the right to fish in waters off Mexico, and Mexicans to have the right to fish off waters off Texas, and many other claims.

Senator DANIEL. If you limit any claims of jurisdiction to what the Federal Government has extended its jurisdiction to, those problems would not arise, would they?

Mr. RANKIN. Oh, yes.

Senator DANIEL. If you limited the State extension of jurisdiction to what the Federal Government has extended its jurisdiction over?

Mr. RANKIN. If you extend State boundaries, you get squarely into all of these problems.

Senator DANIEL. I did not say a word about that. I said if you extend State jurisdiction in the same terms and for the same purposes that the Federal Government has extended its jurisdiction, but only for limited purposes.

Mr. RANKIN. Then I think that you get into the legal constitutional question.

Senator DANIEL. But you would not get into international problems.

Mr. RANKIN. No.

Senator DANIEL. Do you see any objection to the States having the right to serve their legal processes on these structures or to arrest someone who has violated the State law on shore?

Mr. RANKIN. Well, that gets into a question of sovereignty and you do not ordinarily give the authority of a State to go on to Federal lands to arrest somebody that is not within State boundaries.

Senator DANIEL. Do you know of any area of Federal land in continental United States or adjoining continental United States where the State does not have the right to serve its processes?

Mr. RANKIN. There are a number of military reservations.

Senator DANIEL. All I have been able to find provide that the States may serve their legal processes on them, military reservations, and national parks and every other area of exclusive Federal jurisdiction, and I just wondered if you knew of any specific instances.

Senator CORDON. You are referring to areas within their boundaries.

Senator DANIEL. That is true.

Mr. RANKIN. I think that there is a question up now, in the Department, as to the authority of a State to go into Indian reservations out in the State of Washington or Oregon.

Senator DANIEL. Let us just put it this way, if it is constitutionally possible for the States, with Congress' permission to extend their jurisdiction for such purpose, do you see any objection from the viewpoint of the administration to giving the States the right to serve their legal processes in this area?

Mr. RANKIN. No.

Senator DANIEL. All right, Mr. Chairman.

Senator CORDON. You have a witness, Senator.

Senator DANIEL. All right; Mr. Young? We have asked Mr. Richard Young to come before the committee with a short statement. Mr. Young is associated with Judge Manley O. Hudson of the Harvard Law School. Judge Hudson is a former judge of the World Court and a member of the United Nations Commission on International Law, and Mr. Young has been associated with him for several years in work on the Continental Shelf.

I would like to introduce in the record a list of the articles written by Mr. Young on the Continental Shelf and to say to the committee that, in my opinion, no one in this country has studied the problem more or knows any more about it. We have asked him to simply make a statement to the committee as to the type of domestic law that would best serve our claims as against other nations.

Senator CORDON. We will be happy to have any additional statement you desire made a part of the record at this time, and you may highlight that or use your own judgment with reference to reasonable cutoff time.

(The articles written by Mr. Young follow:)

ARTICLES BY RICHARD YOUNG ON THE CONTINENTAL SHELF AND RELATED SUBJECTS

1. "Recent Developments with Respect to the Continental Shelf." 42 American Journal of International Law 849 (October, 1948).
2. "Saudi Arabian Offshore Legislation." 43 *ibid.* 530 (July, 1949).
3. "Further Claims to Areas Beneath the High Seas." 43 *ibid.* 790 (October, 1949).
4. "The Legal Status of Submarine Areas Beneath the High Seas." 45 *ibid.* 225 (April, 1951).
5. "The International Law Commission and the Continental Shelf." 46 *ibid.* 123 (January, 1952).
6. "Lord Asquith and the Continental Shelf." 46 *ibid.* 512 (July, 1952).
7. "The Over-Extension of the Continental Shelf." 47 *ibid.* (to appear July, 1953).
8. "The Continental Shelf in the Practice of American States." Inter-American Juridical Yearbook 1950–1951 (published 1953).

Also various book reviews and short comments on the subject in the American Journal of International Law, the American Bar Association Journal, etc.

STATEMENT OF RICHARD YOUNG, ESQ., MEMBER OF THE NEW YORK STATE BAR

Mr. YOUNG. I will read the statement, which is not very long.

My name is Richard Young and I am a member of the New York Bar. For the past 6 years I have been associated with Judge Manley O. Hudson, who is professor of international law in the Harvard Law School, in research and practice in the field of international law.

I am a member of the executive council of the American Society of International Law, one of the editors of the American Journal of International Law, and international law editor of the American Bar Association Journal, but, of course, I do not speak for any of these groups.

For a number of years I have engaged in a continuing study of the problem of the Continental Shelf and have closely followed developments on the subject in all part of the world. I have written a number of articles and comments on the subject for various legal journals, and I am at present serving as rapporteur of a committee, composed of persons of several nationalities, which is studying the problem for the International Law Association.

I have been asked by members of the committee to address myself to the question of what approach to this problem of domestic legislation would be most acceptable in the international sphere and most efficacious in preserving the rights of the United States. I have been asked to comment particularly upon the question of whether maritime law or the law applicable to the adjacent land territory would be more desirable with regard to the position of this country as against other nations.

Let me remark, first, that great controversy has raged in recent years as to the status to be accorded to submarine areas beyond the limits of territorial waters. The questions in this controversy have been, first, whether a coastal nation can acquire any rights over such sub-

marine areas; second, if so, what rights; and, third, if so, how? With respect to the first, I would say that the actions of more than 30 governments, the studies of the International Law Commission, and the views of most commentators support the conclusion that a nation can acquire such rights.

In my opinion, these factors override the view which has sometimes been expressed that the principle of freedom of the high seas prevents a nation from having exclusive rights over the seabed and subsoil. The principle of freedom of the high seas was developed to insure freedom for navigation and fisheries; these affect only the waters, and there is no need for similar treatment of the seabed and subsoil. As for those who advocate international control and development, I cannot see how this is a realistic solution in the present state of world affairs.

On the question of what rights may be acquired, it has been conceded by most scholars that these are at least rights of exclusive jurisdiction and control. I, myself, have never been able to find, as a practical matter, any real difference between full rights of jurisdiction and control and rights of sovereignty. In this view, I am glad to say, I find myself in agreement with Sir Cecil Hurst, former president of the World Court at The Hague, with Professor Lauterpacht, of Cambridge University, and with many other students of the subject.

On the third question—how?—considerable difficulty has also been felt by some scholars as to the proper mode of acquiring rights in view of the general rule that sovereignty over land territory can only be acquired through effective occupation. Professor Waldock, of Oxford University, and Professor Green, of London, have both expressed the opinion that this requirement should be met in some way before a claim can be validly established. In their view the requirement is met in the British formula for claiming submarine areas which is to annex them or to extend the boundaries of a land area to include them. This extension of the boundary of an occupied territory is considered by them to be sufficient. I think this is sound, although it may be unnecessarily devious.

If such a theory should be considered applicable in the present connection, it may be noted that such an extension of the boundaries has been in effect off much of the American coast of the Gulf of Mexico since the Louisiana statute of 1938 and the Texas statutes of 1941 and 1947. I refer to the passage which the chairman read a few minutes ago, and as the Supreme Court said in *United States* v. *Louisiana* (339 U. S. 699):

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

My own view has been that since the nature of the shelf makes occupation an impractical and in some respects undesirable criterion, the requirement should not be applied. I would prefer to see submarine areas regarded as legally appurtenant to the adjacent coastal nation just as they are physically appurtenant. In this respect they may be considered analogous to the belt of territorial waters which is undoubtedly an "inseparable appurtenance" of the land territory without any requirement of occupation.

As a result of my studies on these conflicting views of the subject, I have come to the conclusion that the most logical and practical way

to deal with submarine areas beneath the high seas is to regard them as an extension of the land mass of the adjacent coastal nation. So far as I can discover, this view is geographically sound and in accordance with the physical realities. It is also the view taken in the United States proclamation of 1945 in which emphasis is correctly placed on the fact that submarine areas are dependent on the shore for proper development, conservation, and protection.

This view also gives full weight to what I consider to be an important distinction between submarine areas and the waters which cover them. The problems of the seabed and subsoil and the resources therein are land problems, even though the land is covered by water. These problems—or jurisdiction, of ownership, of leasing, of trespass, of working conditions—are much more akin to similar problems on dry land than to the problems which arise on and in the waters of the high seas. They are in their very nature "territorial" problems in a strictly literal meaning of that word.

Because of the nature of the areas involved and of the functions to be performed there, I doubt whether it is wise to submit them to maritime jurisdiction. Maritime law in the strict sense has never had to deal with the resources in the ground beneath the sea, and its whole tenor is ill adapted for that purpose. Hence, I would draw a clear horizontal boundary between the seabed and subsoil on the one hand and the superadjacent high seas on the other. Of course, as is true when any two spheres of jurisdiction meet, there will be problems of reconciliation. The obvious case is the erection of structures in the high seas in the course of developing resources in the subsoil. Yet such a case is not very different from problems that have been met before with lighthouses, with harbor works, and so forth, where land and maritime jurisdiction meet.

I think it is noteworthy that to the best of my knowledge no other nation in dealing with these problems has submited its submarine areas to a maritime regime. Instead, one finds frequent treatment of submarine areas in the same category as subsoil resources on land. In this connection, I might refer particularly to the practice of the British Government as applied to a number of British colonies in this hemisphere—Jamaica, the Bahamas, British Honduras, the Falkland Islands, Trinidad, and Tobago. This may be of particular value since British legal thinking and traditions have much in common with our own and since several of the colonies affected are not too far removed from the shores of the United States. With respect to Jamaica, the Bahamas, British Honduras, and the Falklands, the British in each case have simply extended the boundaries of each colony to the edge of the Continental Shelf with a saving clause preserving the status of the high seas of the waters above.

It seems to me indisputable that these are in essence claims to full sovereignty over the areas thus incorporated, and this view is supported by an examination of the various local laws and ordinances which have been promulgated to govern the development of petroleum resources. In these laws and ordinances no distinction of principle is made between onshore and offshore development. For example, the definition of "Crown lands" from the British Honduras Oil Mining Regulations of September 2, 1949, reads as follows:

"Crown lands" includes all lands, inland waters, caves, reefs, and submarine areas now being or hereafter becoming part of the colony.

Statements of similar tenor are to be found in the regulations of other colonies. In no instances are the problems involved dealt with as falling within the scope of admiralty and maritime law although that branch of the law is highly developed in English jurisprudence.

To summarize my views, I consider that submarine areas are to be regarded as tied to the land territory of the adjacent coastal nation. This is true physically and should be true legally. The reasons for preserving the freedom of the waters of the high seas have nothing to do with the resources of the submarine areas, and the maritime law applicable in the high seas is similarly not well suited for application to such areas. The emerging pattern of international practice confirms the view that submarine areas are to be connected with land territory rather than with the superjacent waters.

I believe it would be in keeping with the philosophy enunciated in the 1945 proclamation and with international practice to subject submarne areas to the law applicable in the adjacent land territory rather than to maritime jurisdiction.

Senator CORDON. Thank you very much, Mr. Young.

Senator MILLIKIN. Dr. Young, with reference to the British law as to its possessions in this hemisphere, do you see any distinction arising out of the difference in the legal relationships between the Crown and those possessions, and the United States Government and the States?

Mr. YOUNG. The British Government certainly is not faced with the Federal problem, the Federal-State problem. But I think my remarks are applicable to the fact that the submarine areas should be connected with the adjacent land territory. I do not feel, myself, really competent to speak on the Federal-State problem as distinguished from the international problem. I do think that, if you adopt the law of the adjacent land territory in the United States, you necessarily adopt a large amount of State law because there is no other substantive law in many fields. But I would not profess to say exactly where the allocation should be drawn.

Senator MILLIKIN. My question is not relevant to your point about whether we should have maritime or some other system of law control it; it is not relevant to this except that this whole problem is somewhat complicated when we try to preserve the relations of the States and the Federal Government.

Senator LONG. Would you elaborate somewhat on the manner in which the legal problem has been met on structures in the sea? You referred to lighthouses, I notice. How is that treated when a lighthouse might be located beyond the 3-mile limit?

Mr. YOUNG. I think it is safe to say as a general situation, that the lighthouse itself is territory subject to territorial jurisdiction and control of the State which built and maintained it. I do not think that you could attribute to that any territory around it.

Senator CORDON. In this Nation of ours in our concept of dual sovereignty, what would be your view with respect to the legal status of a lighthouse without a statutory State boundary?

Mr. YOUNG. Outside of statutory State boundaries, you mean?

Senator CORDON. Yes.

Mr. YOUNG. At the moment insofar as that question has arisen, I believe that all lighthouses are Federal, and have been under Federal control and jurisdiction.

Senator CORDON. And that no State laws are applied?

Mr. YOUNG. They are aids to navigation, and when you get to that category of material you move into the admiralty field.

Senator MILLIKIN. What would you say about a lightship anchored outside of the States boundaries?

Mr. YOUNG. I think it generally said a lightship remains a ship, as long as it floats.

Senator MILLIKIN. What is the situation so far as cables are concerned under the high seas and within the Continental Shelf?

Mr. YOUNG. The general rule in the past in international law has been that any nation was free to lay cables on the bottom of the high seas. In the discussions in the U. N. International Law Commission on the Continental Shelf, that question came up and I think it was the general concensus of opinion that even though the jurisdiction of coastal nations over their Continental Shelf were recognized, there should be preserved a servitude in favor of other nations to lay such cables. The point has not been settled.

Senator MILLIKIN. How about the policing of such cables? Supposing a shipmaster got careless and ripped up the cable by putting his anchor down at the wrong place. Who has jurisdiction over that?

Mr. YOUNG. If it occurs within the territorial waters of a nation, it can be dealt with there. If it occurs on the high seas——

Senator MILLIKIN. Let us say on the Continental Shelf.

Mr. YOUNG. On the Continental Shelf, certainly proceedings would lie, I think, in admiralty wherever the ship could be reached. Whether a nation claiming the Continental Shelf could proceed against a ship that destroyed a cable on the shelf is a point that is not settled, but I would be inclined to think it could.

Senator MILLIKIN. What about human-relations matters, tort actions on the Continental Shelf?

Mr. YOUNG. Occurring on a structure, for example?

Senator MILLIKIN. On a structure, yes. What do you think about that?

Mr. YOUNG. It seems to me that it is in that kind of case that the law of the adjacent land territory would normally be more suitable than maritime jurisdiction. I am assuming that the case you put does not include a vessel.

Senator MILLIKIN. That would be a matter of policy, would it not?

Mr. YOUNG. As to what law should be applied.

Senator MILLIKIN. Yes, the owner of the lands under the sea could determine whether it wants its own law to apply or whether it wants to adopt the laws of the adjacent territories.

Mr. YOUNG. You mean the owner in the sense of sovereign or, shall we say, quasi-sovereign?

Senator MILLIKIN. Let us call it either one or just plain owner.

Mr. YOUNG. I just did not want to take a private owner on that. Assuming that a nation has at least rights of exclusive jurisdiction and control over the shelf, it certainly may decide what form the exercise of those rights is going to take. That is a domestic question.

Senator MILLIKIN. I believe that answers the question.

Senator DANIEL. I would like to ask, in speaking of the domestic law of the land territory, you have not intended to be confining your remarks to State laws, have you; States within the Nation?

Mr. YOUNG. Oh, no.

Senator DANIEL. What you have said applies to all of the body of law, Federal law as well as State law; is that correct?

Mr. YOUNG. That is quite true.

Senator MILLIKIN. What you have said would not extend State law beyond its historic boundaries? I am talking about States within the United States.

Mr. YOUNG. No, I am inclined to think that, as the most practical and logical method of dealing with the whole Continental Shelf, the law of the adjacent land territory is the best law to look to.

Senator MILLIKIN. But there is no international-law reason why it must be looked to?

Mr. YOUNG. Only insofar as I think it is more desirable from the international point of view to consider the submarine areas as a territorial claim, as land connected with the dry land, than as a maritime area.

Senator MILLIKIN. Well, the Federal Government could assert that claim as well as the State within the meaning of the United States?

Mr. YOUNG. The Nation can certainly decide that point.

Senator MILLIKIN. I have no further questions.

Senator CORDON. Are there any other questions, gentlemen? If not, we are going to draw this protracted session to a close.

The Chair, without objection, directs that a statement by Judge Perez, of Louisiana, be made a part of the record at this time, pursuant to provision made therefor heretofore; and also a statement of Jefferson Lake Sulphur Co., likewise.

(The statements are as follows:)

STATEMENT OF L. H. PEREZ, DISTRICT ATTORNEY, PLAQUEMINES PARISH, LA., AND FRANK J. LOONEY, ATTORNEY, SHREVEPORT, LA., MAY 30, 1953

To the Senate Committee on Interior and Insular Affairs,
83d Congress, 1st session:

Why restrict States' historic boundaries?

Why should Congres repudiate State historic titles for illusory "policy" claim of United States ownership of the beds and resources beyond our so-called boundaries in international seas?

United States claim not based on historic title and in conflict with international law.

Why invite international controversy?

In connection with your committee's hearing on the outer Continental Shelf bill is it too late to ask: Shall we repudiate our historic titles to most of the Continental Shelf for an illusory declaration of "policy" 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?

It must be taken that Congress intends to act within the scope of its legal authority as may be found in the Constitution of the United States or under well-established principles of international law.

To declare that Congress acts in this instance to confirm the Presidential Proclamation of 1945, cannot be accepted as justification in law, constitutional or international.

Is it the purpose of Congress to claim the outer Continental Shelf seabed and resources as territory of the United States? Can a government establish territory beyond its boundaries under international seas?

Would that claim not run counter to principles of international law, which are subject to adjudication against the United States in such matters before the International Court of Justice?

Are we inviting criticism from our foes in the United Nations, that here the United States goes so far as to claim as its own property that which is international?

Have the sponsors of this outer Continental Shelf bill come up with the answers within reason and logic which might be offered to offset such propaganda against the United States?

What could our defense be?

The right of discovery of such outer Continental Shelf? No.

The right of long possession thereof? No.

The cession of those international seabeds outside the boundaries of the United States by some other authority having property rights thereto? No.

The right of conquest—against a former power who might lay claim of ownership to this outer Continental Shelf seabeds and resources? No.

Are there any other methods by which the United States may acquire new territory which could be offered as a defense when we are charged in the United Nations with having imperialistic designs against the international rights of all other nations in the high seas and in the beds thereof?

Did not the International Court of Justice in the Norwegian Fisheries case, in its judgment of December 18, 1951, hold as international law, the following:

"Historic waters are usually meant waters which are treated as internal waters but which would not have that character were it not for the existence of an historic title." * * * and that,

"Norwegian sovereignty over these waters would constitute an exception, historic titles justifying situations which would otherwise be in conflict with international law."

Upon what historic title is the declaration of United States ownership of the seabed outside of State boundaries based upon?

Isn't it clear that such declaration of "policy" is in the very teeth of the recent decision of the International Court of Justice that any such claim not based on historic title is in conflict with international law?

On the other hand, what is the solution of this problem within the framework of our Constitution and under the principles of international law recognized by the International Court of Justice only recently?

If our claim to historic title to the seabed of most of the Continental Shelf can be sustained by historic treaties, which have never been questioned or objected to by any other nation, would it not be just plain common sense to base our claims on those historic titles?

And, I submit, without fear of successful contradiction even by the most radical of leftists or Fair Dealers, that we do have unimpeacheable proof of historic title to most of the Continental Shelf, under which we would be in no danger of getting embroiled in international squabbles and useless litigation in the International Court of Justice.

In the first place, let us consider our great American heritage which stems from the Declaration of Independence of 1776; the successful War of the Revolution which was settled by the Treaty of Independence with the British Crown in 1783, and decisions of the United States Supreme Court based thereon, and interpreting the United States Constitution in point.

In 1823 the Court held that:

"By the treaty which concluded the war of our revolution, Great Britain relinquished all claim not only to the government but to the proprietary and territorial rights of the United States, whose boundaries were fixed in the second article. By this treaty the powers of government and the right to soil which had previously been in Great Britain passed definitely to these States."[1]

Again, in 1827, the Court held that the original States had acquired their title by grants from the Crown; the limit of their claims was asserted by the States in the Declaration of Independence, and the right to it was established by the most solemn of all international acts, the Treaty of Peace with the British Crown in 1783.[2]

Read that treaty and see for yourself, if you will, that the first article acknowledged the Thirteen Original States, by names, to be free, sovereign, and independent States, and to them the British Crown relinquished all claims to the government, proprietary, and territorial rights of the same and every part thereof; and it was thereby "agreed and declared, that the following are and shall be their boundaries,"

In the second article the boundaries on the Great Lakes were described as they stand today, and, upon the Atlantic Ocean, the State boundaries were also definitely described as a line drawn east in the Atlantic Ocean, comprehending

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[1] *Johnson* v. *McIntosh* ((1823), 8 Wheat. 543, 584).
[2] *Harcourt* v. *Gaillard* ((1827), 12 Wheat. 523).

all islands within 20 leagues of any part of the shores of the United States.

Then refer to the proceedings of the Constitutional Convention on August 25, 1787, when James Madison, often referred to as the Father of the Constitution, recalled for further consideration the article which provides that the Constitution and the laws of the United States made in pursuance thereof, and all treaties made, shall be the supreme law of the land, in order to add after the clause "all treaties," made the words, "or which shall be made," with the explanatory note in the record of the Convention, that this insertion was made to obviate all doubt concerning the force of treaties pre-existing, by making the words, "all treaties made" to refer to them, as the words inserted would refer to future treaties.

What treaty pre-existing was referred to there, if not the "most important of all international acts," in the words of the Supreme Court, the Treaty of Independence with the British Crown in 1783, which unalterably fixed the seaward boundaries of the original states.[3]

ATLANTIC COASTAL STATES

But, notwithstanding the fact that the seaward boundaries of the original States were fixed in that treaty; that it was made the supreme law of the land which we, as officials, State and Federal, are bound to uphold; that there has never been question or objection raised by any other government to its provisions fixing the boundaries of the original States in the Great Lakes as well as in the Atlantic, it becomes a regrettable fact that this Congress committed a grave oversight, to say the least, by providing in section 4 of the finally passed Senate Joint Resolution 13, that,

"The seaward boundary of each original coastal State is hereby approved and confirmed as a line 3 geographical miles distant from its coast line."

It is interesting to note that the boundary of the original coastal States on the Atlantic was fixed in the treaty as a line 20 leagues from shore in the Atlantic Ocean, as a result of a resolution of the Continental Congress adopted August 4, 1779, instructing our Commissioners negotiating said treaty, to insist on said boundary as an "ultimatum." A copy of the original of this resolution is being forwarded to the chairmen of your committee and subcommitee.[4]

By act of Congress approved February 10, 1807, the President was authorized and requested to have this 20 leagues line surveyed and charted.

Where is the authority for that 3 mile boundary declaration?

We hesitate to believe that such a provision was inserted in the hope of appeasing the Fair Deal leftists, because if it were, it did not prevent their long-winded filibuster.

What becomes of our historic titles held by the original Atlantic costal States between that imaginary 3 miles from coast belt and the 20 leagues from shore line legally established by the "most solemn of all international acts?"

Attached to this memorandum is a photostat of "An Accurate Map of the United States of America according to the Treaty of Peace of 1783," plainly showing "The Twenty Leagues Line" in the Atlantic Ocean. The Library of Congress will furnish any Member of Congress, upon request, a certified photostatic copy of this important map from its 1796 American Atlas.

Why should the Congress be guilty of attempting to cast away our historic title to the 20-leagues line in the Atlantic for a 3-mile-from-coast belt, and then claim the submerged lands and resources beyond 3 miles by an illusory claim to the beds of the international seas beyond our so-called boundaries?

Is it to appease the few leftist Members of Congress?

They were not appeased—they filibustered, none the less.

Is it to play in their hands to create embarrassing issues to confront us in the United Nations and before the International Court of Justice?

Why not stand upon our historic title?

The Senate bill on the outer Continental Shelf can still correct the grave error committed by Congress in "approving and confirming" a 3-mile belt for the original States by amending the bill presently under consideration so as to provide that "The term 'outer Continental Shelf' means that part of the submerged lands or Continental Shelf lying beyond the historic boundaries of the coastal States as originally fixed by treaty approved by the Senate of the United States or by act of Congress, within which such boundaries the submerged

[3] See Reprint of Proceedings of Convention in 69th Cong., 1st sess., H. Doc. No. 398, at p. 618.

[4] Report to the Continental Congress on August 4, 1779, from the General Records of the U. S. Government in the National Archives.

lands and all their resources are the property of said States, and outside of which said boundaries, the subsoil and seabed of the outer Continental Shelf appertain to the United States, and are subject to its jurisdiction and control."

That type of historic title would be sustained by the International Court of Justice, as the Norwegian historic title was sustained.

But we cannot expect the claim by the United States to the seabed of the international high seas beyond its boundaries to be sustained in any contest before the International Court of Justice.

GULF OF MEXICO

France acquired the Louisiana Territory by right of discovery through De la Salle. There is herewith submitted a map of the southern portion of that territory, including its territorial waters in the gulf made by an official French geographer in 1705. Please note the inscription below the dotted line in the gulf area on the attached 1705 map, warning battleships not to pass the coastline inside of which were the French coastal or territorial waters in the environs of the Mississippi River, as a part of the Louisiana Territory.

Now, let us consider the situation in the Gulf of Mexico. By treaty of April 30, 1803, France ceded the Louisiana Territory to the United States, and by successive acts from October 31, 1803, to April 14, 1812, Congress authorized the taking of possession of all the Louisiana Territory ceded by France, created the territory of Orleans, cut out of the southern portion including the territorial waters thereof in the gulf and, finally, Congress admitted the Orleans Territory as a State in the Union, under the name "Louisiana," fixing its gulfward boundary as 3 leagues from coast. What coast, if not the coastline of the Louisiana Territory, officially established and maintained by France at the time of its cession to the United States, as shown by the attached map?

When Congress by act of 1803 took over the entire Louisiana Territory ceded by France, did it take possession, any the less, of the territorial waters shown by this official French map, than it took possession of the poorly defined interior areas of the Louisiana Territory to the north and west?

The United States asserted claim to the coastal area of Alabama, to Mississippi, Louisiana, and Texas as a part of that Louisiana Territory, but ceded the Texas area to Spain in exchange for the Florida territory by the treaty of February 22, 1819. See Charters and Constitutions, etc., of the United States, part I, compiled by order of the United States Senate by Poore, 1877, page 308. The other part of the Louisiana Territory coastline necessarily was incorporated within the boundaries of Alabama, Mississippi, and Louisiana and therefore are part of the United States—unless our historic titles be repudiated to put these submerged lands outside our State boundaries in order to lay claim for the United States to the "outer Continental Shelf" beds and resources for revenue purposes.

FLORIDA HISTORIC TITLE

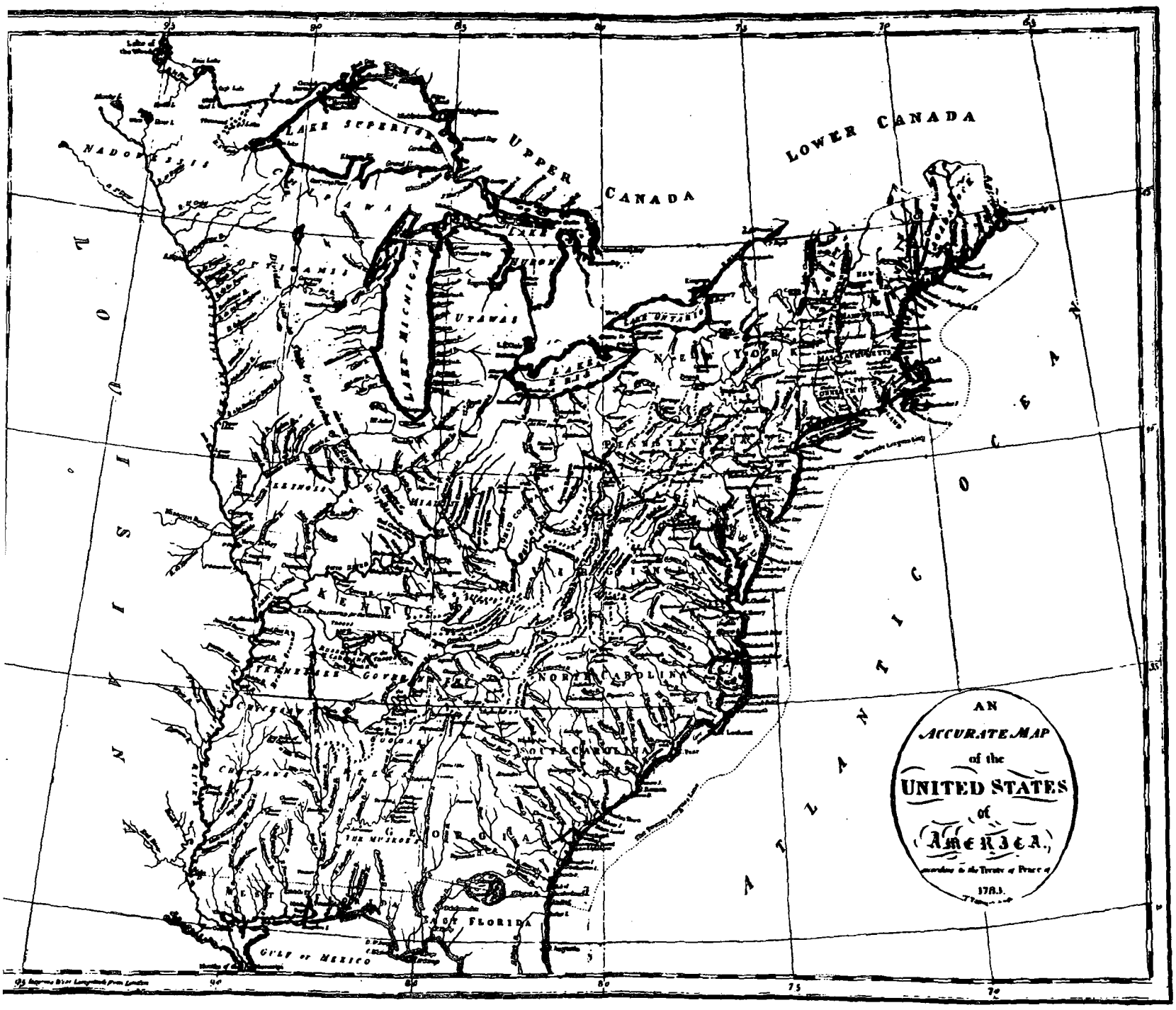
Florida was admitted as a State in the Union by act of Congress in 1845, section 5 of which act provided "That said State of Florida shall embrace the territories of east and west Florida, which, by the Treaty of Amity, Settlement, and Limits between the United States and Spain, on the 22d day of February 1819, was ceded to the United States." [5]

By treaty of February 10, 1763, Spain ceded this same territory to the British Crown.[6] On October 7, 1763, the British Crown issued a proclamation dividing its New World territories into four districts, the second and third being east Florida and west Florida and thereby fixed the Florida boundaries at 6 leagues of the seacoast.

As to that proclamation, in 1827, the United States Supreme Court hold that, in fixing the Florida boundaries by said proclamation, the British King had exercised a right, which was never questioned, over what were then called Royal Provinces.[7] Florida's northern boundary, so fixed, was accepted as the southern boundary of the United States in 1783, and is Florida's northern boundary today.

Early in 1783, the British Crown ceded the Florida territories back to Spain with their 6-league boundaries, and, in 1819, Spain ceded the east and west Florida territories to the United States with the same boundaries, and Florida was admitted as a State in the Union in 1845 with the same boundaries. These

[5] Charters and Constitutions by Thorpe, vol. 2, p. 678.
[6] American History Leaflets, No. 5, September 1892, by A. Lovell & Co., New York.
[7] *Harcourt* v. *Gaillard*, supra.


AN
ACCURATE MAP
of the
UNITED STATES
of
AMERICA,
according to the Treaty of Peace of
1783.
UPPER CANADA
LOWER CANADA
LAKE SUPERIOR
LAKE MICHIGAN
LAKE HURON
LAKE ERIE
LAKE ONTARIO
NEW YORK
PENNSYLVANIA
VIRGINIA
KENTUCKY
TENNESSEE
NORTH CAROLINA
SOUTH CAROLINA
GEORGIA
EAST FLORIDA
WEST FLORIDA
GULF OF MEXICO
ATLANTIC OCEAN
PACIFIC OCEAN

HOWARD-TILTON MEMORIAL LIBRARY
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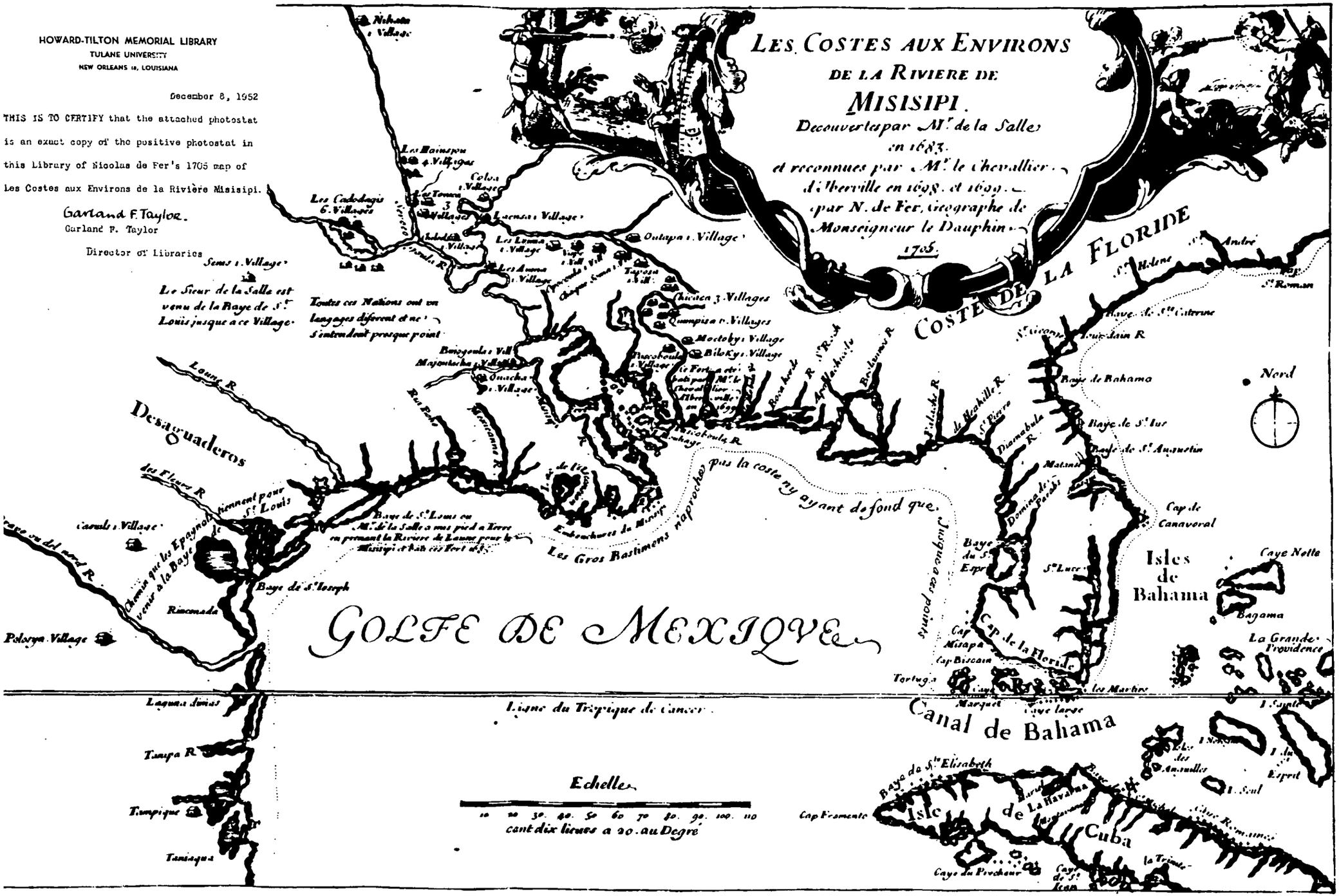
December 8, 1952

THIS IS TO CERTIFY that the attached photostat is an exact copy of the positive photostat in this Library of Nicolas de Fer's 1705 map of Les Costes aux Environs de la Rivière Misisipi.

Garland F. Taylor
Garland F. Taylor
Director of Libraries



are historic facts, supported by the record, and they establish Florida's historic boundary and title 6 leagues from coast.

PACIFIC COAST

On our western coast, of first importance is the Treaty of Guadalupe Hidalgo executed with the Mexican Government in 1848 by which Mexico ceded to the United States all of its territory and islands north of the line established to the Pacific coast.

That treaty also is the supreme law of the land, and definitely establishes the extent of the Pacific coast beyond the islands off California's shores.

When California was admitted as a State by act of Congress of September 9, 1850, its boundary was established as fixed in article XII of its constitution, ratified by Congress, as extending 3 English miles into the Pacific Ocean, following the direction of the Pacific coast, including all the islands, etc., adjacent to the Pacific coast.

Unless those islands which we secured by conquest from Mexico in its Treaty of Cession in 1848, are included within California's Pacific coastline established by that treaty, then the United States did not acquire those islands, and they would still belong to Mexico. No one would concede that these islands were not acquired by the United States by the Mexican Treaty and that they now belong to California. Therefore, no one can logically claim that all these islands are not within California's Pacific coastline.

Yet we have witnessed the efforts of the leftists and their fellow travelers in the late administration attempting to set up the California coastline as synonymous with its shoreline; thereby attempting to cast away our historic titles to the submerged lands within State boundaries and making our coastline more vulnerable to attack, because as noted in the old 1705 Louisiana French official map, in accordance with long established principles of international law, battleships may not enter territorial waters without permission of the sovereign.

With further reference to our western boundaries, it stands to reason that when the Congress admitted the States of Oregon and Washington, north of California, and established their boundaries at 3 miles from coast, it naturally intended to follow the same coastline northward as established for California by the treaty with Mexico in 1848.

To give a composite picture of the extent of our historic titles to the seabed or submerged land within State boundaries, there is attached hereto a map showing the Continental Shelf with the 20-league line, the Florida 6 leagues of coastline, the Louisiana territorial coastline and the Pacific coastline with the 3-mile limit therefrom.

It will be noted at a glance that there is very little left of the Continental Shelf beyond our historic State boundaries, unless we cast them away to appease the leftists or Fair Dealers and whatnots, constituting a small vocal minority engaged in attempting to fool the people of the United States with propaganda that the Congress is engaged in giving away to certain few coastal States that which belongs to all the people of the United States, instead of the truth that all submerged lands and resources within State boundaries belong to the respective States and their people under their hostoric titles.

If there is any doubt about that, please refer to a few of the United States Supreme Court decisions in point, most of which are cited in your committee report on Senate Joint Resolution 13.

"There was no territory within the United States that was claimed in any other right than that of some one of the Confederate States; therefore, there could be no acquisition of territory made by the United States distinct from, or independent of some one of the States" *Harcourt* v. *Gaillord* (12 Wheat. 523 (1827)).

"When the Revolution took place the people of each State became themselves sovereign; and in that character hold the absolute right to all their navigable waters and the soils under them for their own common use, subject only to the rights since surrendered by the Constitution to the General Government" *Martin* v. *Waddell* (16 Peters (41 U. S.) 367 (1842)).

"By the preceding course of reasoning we have arrived at these general conclusions: First, the shores of navigable waters, and the soils under them, were not granted by the Constitution to the United States but were reserved to the States respectively; secondly, the new States have the same rights, sovereignty and jurisdiction over this subject as the original States." *Pollard* v. *Hagan* (3 How. 212, 230 (1845)).

"The principle has long been settled in this Court, that each State owns the beds of all tidewaters within its jurisdiction, unless they have been granted away. In like manner, the States own the tidewaters themselves and the fish in them, so far as they are capable of ownership while running. For this purpose the State represents its people, and the ownership is that of the people in their united sovereignty * * *. The title thus held is subject to the paramount right of navigation, the regulation of which in respect to foreign and interstate commerce, has been granted to the United States. There has been, however, no such grant of power over the fisheries. These remain under the exclusive control of the State * * *. The right which the people of the State thus acquire comes not from their citizenship alone, but from their citizenship and property combined. It is in fact, a property right, and not a mere privilege of immunity of citizenship." *McCready* v. *Virginia* (94 U. S. 391 (1876)).

"The new States admitted into the Union since the adoption of the Constitution have the same rights as the original States in the tidewaters, and in the lands under them, within their respective jurisdiction." *Shively* v. *Bowlby* (152 U. S. 1 (1893)).

The same rule was applied holding that Louisiana owned the rivers, the seas and their shores within its boundary, and that the United States acquired title to the same under the Treaty of Cession from France, in trust only, for the State of Louisiana later created out of said territory.[8]

And again, in 1935, the United States Supreme Court held that—

"Upon the acquisition of the territory from Mexico, the United States acquired the title to tidelands equally with the title to upland, but held the former only in trust for the future States that might be erected out of that territory." *Borax Consolidated, Ltd.* v. *City of Los Angeles* ((1935), 56 S. Ct. 23, 26).

And if more authority were needed on this point, we might refer to the same Court with exactly the same personnel, who decided the California case in 1947 and held in 1949, as follows:

"Upon the acquisition of the territory from Mexico the United States acquired the title to tidelands equally with the title to upland; but with respect to the former they held it only in trust for the future States that might be erected out of such territory." *Hynes* v. *Grimes Packing Co.* (337 U. S. 86, (1949)).

In that case the Court cited approvingly the act of Congress of May 14, 1899, providing that when Alaska should be admitted as a State in the Union, title to the tidelands and beds of any of its navigable waters would pass to such State.

Naturally, we would include all of the territorial waters secured by the United States under the Treaty with Russia—unless the leftists and their fellow travelers are successful in influencing legislation which might sacrifice or cast away much of the Alaskan territorial waters to the gratification of the overseas enemy.

Suggestion that the coastal States be given "taxing power" and "law-enforcement jurisdiction" over the "outer Continental Shelf," cannot strengthen or justify the claim of the United States to the outer Continental Shelf beds of the international sea.

This could add nothing to claim of "historic title" in the United States.

Further, how can a State exercise governmental powers beyond its boundaries?

Early in our history it was settled law and jurisprudence that a State's jurisdiction cannot extend beyond its boundaries. Thus in 1818, the United States Supreme Court held:[9]

"What, then, is the extent of jurisdiction which a State possesses?

"We answer, without hesitation, the jurisdiction of a State is coextensive with its territory; coextensive with its legislative power."

But, under the term "boundaries" in the "Tidelands Act" finally enacted into law, the original boundaries of the coastal States and their historic titles were restricted by the Congress to 3 geographic miles from coast in the Atlantic or Pacific Ocean, and to not more than 3 marine leagues into the Gulf of Mexico.

Thereby Congress has repudiated the original boundaries and historic title of the original States between the 3-mile-from-coast line and the 20-league line from shore into the Atlantic, between 3 miles from coast and 6 leagues from the Atlantic Coast, east of Florida, and between 3 leagues and 6 leagues from coast in the gulf, west of Florida.

Isn't this in open conflict with article IV, section 2, of the United States Constitution, guaranteeing State boundaries against encroachment by Congress, without the consent of the legislatures of the States concerned?

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[8] *New Orleans* v. *United States* ((1836), 10 Peters 662).

[9] *U. S.* v. *Bevans* (3 Wheat. 336, 387).

As a substitute for these State historic titles, which cannot be successfully questioned, Congress has set up, as a "policy," the claim of the United States to the ownership of the seabeds beyond our so-called boundaries in the international seas, without any claim to historic titles in the United States thereto, and with the almost certain probability that this claim will be rejected by the International Court of Justice as being in conflict with international law, as already indicated by it in its last decision on the subject.

But in the meantime there will be controversy between Federal and State authorities resulting from the United States claiming more and more of the State areas belong to the "outer Continental Shelf" area and to the United States.

The net result of this unfortunate legislative incident, therefore, will be to place whatever valuable resources there may be in these waters and submerged lands within the original State boundaries and historic titles into the international domain possibly with the United Nations administering them in the final analysis.

What, then, will be the situation of the oil-company lessees, with respect to their leases about which there has been so much undue pressure and haste to have them ratified and confirmed to make possible "early operations"?

Therefore, it is respectfully submitted that the only manner in which most of the Continental Shelf can be claimed as a part of the United States is for a majority of Congress to give serious thought and study to the fundamental questions involved and to act accordingly—and that is to recognize the historic boundaries and titles of the original coastal States and of all other coastal States to their outer limits, instead of restricting such boundaries and abandoning our historic titles thereto.

We must hold on to our original coastlines and boundaries as established by relevant treaties and acts of Congress, if we are to maintain our right and title to the submerged lands and resources within them.

If your committee will adopt the necessary brief amendments to the pending outer Continental Shelf bill to accomplish this, and if the United States Department of Justice will cooperate with the coastal States to retain their historic boundaries and historic titles, then we need not apprehend protests in the United Nations against the acts of Congress in this matter, and neither should we fear the result of any litigation before the International Court of Justice with regard to the ownership of most of the Continental Shelf beds and resources.

Full responsibility falls upon, first, your committee which has the authority to report upon the outer Continental Shelf bill, and finally upon the Congress to enact appropriate protective legislation on this vital subject.

GENERAL SERVICES ADMINISTRATION NATIONAL ARCHIVES AND RECORDS SERVICE

No. 518

THE NATIONAL ARCHIVES

[SEAL]

To all to whom these presents shall come, Greeting:

I Certify That the annexed copy, or each of the specified number of annexed copies, of each document listed below is a true copy of a document in the official custody of the Archivist of the United States.

Report to the Continental Congress on August 4, 1779, of the Committee to whom were referred the letters from A. Lee, Esq., and the communications of the Minister plenipotentiary of France.

This document is from the General Records of the United States Government.

In testimony whereof, I, WAYNE C. GROVER, Archivist of the United States, have hereunto caused the Seal of the National Archives to be affixed and my name subscribed by the Acting Chief Archivist, Diplomatic and Judicial Records Branch of the National Archives, in the District of Columbia, this 6th day of March 1953.

[S] WAYNE C. GROVER,
Archivist of the United States.
[S] By CARL L. LOKKE.

The committee to whom were referred the letters from A. Lee, Esq. and the communications of the Minister plenipotentiary of France in his memorial of the 9th and in the private audience of the 15 Feby brought in a report, whereupon

Resolved That previous to any treaty or negotiation for peace the liberty sovereignty and independence absolute and unlimited of these United States as well in matters of government as of commerce shall be assured on the part of Great Britain agreeable to the eighth article of the Treaty of Alliance between his Most Christian Majesty and these United States.

And if the same shall be done

Resolved That the Minister or Ministers of these United States assist at and contract and stipulate in such negotiation for peace as may be set on foot under the mediation of his Catholic Majesty or otherwise.

That in the negotiations the *following ultimatum* be insisted on

1. That the thirteen United States are bounded North by a line to be drawn from the northwest angle of the boundary of Nova Scotia along the high lands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic to Connecticut River, thence down that river to the 45 degree of north latitude, thence in that latitude to the river St. Lawrence, thence to the south end of Lake Nipissing and thence to the source of the Mississippi; west by a line drawn along the middle of the river Mississippi from its source of that part of the said river which lies in latitude 31 degrees north from the equator; thence south, by a line drawn due east to the river Apalachicola or Catahouche, thence to the junction thereof with the Flint River, thence in a straight line to the head of St. Mary's and thence by a line along the middle of St. Mary's River to the Atlantic Ocean; East, by a line drawn along the middle of St. Johns from its mouth to its source, or by a line to be settled and adjusted between that part of the state of Massachusetts Bay formerly called the province of Maine, and the colony of Nova Scotia agreeably to their respective rights comprehending all islands within twenty leagues of any part of the shores of the United States between lines drawn due East from the points where their boundary lines between Nova Scotia on the one part and Florida on the other part shall touch the Atlantic Ocean, provided that if the line to be drawn from Lake Nipissing to the head of the Mississippi cannot be obtained without continuing the war for that purpose, then that a line or lines may be drawn more southerly so as not to be southward of a line in latitude 45 north.

2. Every post and place within the United States and every island, harbour, and road to them or any of them belonging be absolutely evacuated by the land and sea forces of his britannic Majesty and yielded to the powers of the states to which they respectively belong.

3. That in no case by any treaty of peace the common right of fishing be given up.

Resolved That a cessation of hostilities during the negotiation may be agreed to but not without the consent of our ally nor unless it shall be previously stipulated that all the force of the enemy shall be immediately withdrawn from the United States.

Resolved That it is essential to the welfare of all these United States that the inhabitants there of at the expiration of the war should continue to enjoy the free and undisturbed exercise of their common right to fish on the banks of Newfoundland and the other fishing banks and seas of North America preserving inviolate the treaties between France and the United States.

Resolved That an explanatory article be prepared and sent to our Minister plenipotentiary at the court of Versailles to be by him presented to his Most Christian Majesty whereby the said common right to the fisheries, shall be more explicitly guarantied to the inhabitants of these states than it already is by the treaties aforesaid.

Resolved That the faith of Congress be pledged to the several States that without their unanimous consent no treaty of commerce shall be entered into nor any trade or commerce whatever carried on with Great Britain without an explicit stipulation on her part not to molest or disturb the inhabitants of the United States of America taking fish on the banks of Newfoundland and other fisheries in the American seas any where excepting within the distance of three leagues of the shores of the territories remaining to Great Britain at the close of the war, if a nearer distance cannot be obtained by negotiation.

Resolved That if after a treaty of peace with Great Britain she shall molest the citizens or inhabitants of any of the United States in taking fish on the bank, and place, described in the last foregoing resolution, such molestation being in the opinion of Congress a direct violation and breach of the peace shall be a common cause of the said states and the force of the Union be exerted to obtain redress for the parties injured.

Resolved That a committee of five be appointed to prepare instructions for the Minister plenipotentiary of these United States to be appointed for negotiating a peace.

The members chosen W Morris W Laurens W Huntington W Dickinson and W McKean.

General records of the United States Government (RG 11).

Papers of the Continental Congress, Item 25: Reports of Committees, Volume 1.

Senator CORDON. The committee will now stand in recess at the call of the Chair.

(Whereupon, at 11:15 p. m., Monday, June 1, 1953, the committee recessed, subject to the call of the Chair.)

APPENDIX

H. R. 5134 AS PASSED BY THE HOUSE OF REPRESENTATIVES ON MAY 13, 1953

AN ACT To amend the Submerged Lands Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Submerged Lands Act is amended by adding at the end thereof the following paragraphs:

"(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."

SEC. 2. The Submerged Lands Act is further amended by striking out sections 9, 10, and 11 and inserting in lieu thereof the following:

"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 provide 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 jurisdictions, 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, trusteed, 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.

"(k) Nothing contained in this Act or any other Act shall prevent the leasing of a particular area for oil and gas, and also, at the same time, and for the same area, for sulphur or other minerals, and no person having been granted a lease for any particular mineral shall have any preference right to a lease for any other mineral on account of a discovery of such mineral in the area covered by his lease. No lease shall be for more than one mineral except that 'oil and gas' for the purposes of this Act shall be deemed to be one mineral. The Secretary is authorized and when requested by any responsible and qualified person interested in purchasing leases for any mineral other than oil and gas in any area of the outer continental shelf not then under lease for such requested mineral, shall offer for sale in a competitive sealed bidding, mineral leases for a mineral other than oil and gas in such area. The Secretary in his discretion shall fix all proposed terms of any such lease in his invitation to bid, as herein provided, as to royalty rates, area covered and otherwise as circumstances peculiar to development of the underseas area of the continental shelf may require: *Provided, however*, That the Secretary shall be and is hereby authorized to promulgate regulations of general application with respect thereto.

"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 lease 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 beliable 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."

Passed the House of Representatives May 13, 1953.

Attest: LYLE O. SNADER, *Clerk.*

A PROCLAMATION (No. 2668)

POLICY OF THE UNITED STATES WITH RESPECT TO COASTAL FISHERIES IN CERTAIN AREAS OF THE HIGH SEAS

(By the President of the United States of America)

Whereas for some years the Government of the United States of America has viewed with concern the inadequacy of present arrangements for the protection and perpetuation of the fishery resources contiguous to its coasts, and, in view of the potentially disturbing effect of this situation, has carefully studied the possibility of improving the jurisdictional basis for conservation measures and international cooperation in this field; and

Whereas such fishery resources have a special importance to coastal communities as a source of livelihood and to the Nation as a food and industrial resource; and

Whereas the progressive development of new methods and techniques contributes to intensified fishing over wide sea areas and in certain cases seriously threatens fisheries with depletion; and

Whereas there is an urgent need to protect coastal fishery resources from destructive exploitation, having due regard to conditions peculiar to each region and situation and to the special rights and equities of the coastal State and of any other State which may have established a legitimate interest therein;

Now, therefore, I, Harry S. Truman, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to coastal fisheries in certain areas of the high seas:

In view of the pressing need for conservation and protection of fishery resources, the Government of the United States regards it as proper to establish

conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale. Where such activities have been or shall hereafter be developed and maintained by its nationals alone, the United States regards it as proper to establish explicitly bounded conservation zones in which fishing activities shall be subject to the regulation and control of the United States. Where such activities have been or shall hereafter be legitimately developed and maintained jointly by nationals of the United States and nationals of other States, explicitly bounded conservation zones may be established under agreements between the United States and such other States; and all fishing activities in such zones shall be subject to regulation and control as provided in such agreements. The right of any State to establish conservation zones off its shore in accordance with the above principles is conceded, provided that corresponding recognition is given to any fishing interests of nationals of the United States which may exist in such areas. The character as high seas of the areas in which such conservation zones are established and the right to their free and unimpeded navigation are in no way thus affected.

In witness whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington this 28th day of September, in the year of our Lord nineteen hundred and forty-five, and of the Independence of the United States of America the one hundred and seventieth.

[SEAL]

By the President:

DEAN ACHESON,
Acting Secretary of State.

SEPTEMBER 28, 1945.

EXECUTIVE ORDER 9633

RESERVING AND PLACING CERTAIN RESOURCES OF THE CONTINENTAL SHELF UNDER THE CONTROL AND JURISDICTION OF THE SECRETARY OF THE INTERIOR

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that the natural resources of the subsoil and seabed of the Continental Shelf beneath the high seas but contiguous to the coasts of the United States declare this day by proclamation to appertain to the United States and to be subject to its jurisdiction and control, be and they are hereby reserved, set aside, and placed under the jurisdiction and control of the Secretary of the Interior for administrative purposes, pending the enactment of legislation in regard thereto. Neither this order nor the aforesaid proclamation shall be deemed to affect the determination by legislation or judicial decree of any issues between the United States and the several States, relating to the ownership or control of the subsoil and seabed of the Continental Shelf within or outside of the 3-mile limit.

HARRY S. TRUMAN.

THE WHITE HOUSE,
September 28, 1945.

EXECUTIVE ORDER 9634

PROVIDING FOR THE ESTABLISHMENT OF FISHERY CONSERVATION ZONES

By virtue of and pursuant to the authority vested in me as President of the United States, it is hereby ordered that the Secretary of State and the Secretary of the Interior shall from time to time jointly recommend the establishment by Executive orders of fishery conservation zones in areas of the high seas contiguous to the coasts of the United States, pursuant to the proclamation entitled "Policy of the United States With Respect to Coastal Fisheries in Certain Areas of the High Seas," this day signed by me, and said Secretaries shall in each case recommend provisions to be incorporated in such orders relating to the administration, regulation, and control of the fishery resources of and fishing activities in such zones, pursuant to authority of law heretofore or hereafter provided.

HARRY S. TRUMAN.

THE WHITE HOUSE,
September 28, 1945.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., June 8, 1953.

Hon. GUY CORDON,
Committee on Interior and Insular Affairs, United States Senate.

MY DEAR SENATOR CORDON: This is in response (1) to your letter of May 18, 1953, requesting our comments on, and suggestions for amendments to S. 1901 and H. R. 5134, both of which would authorize the Secretary of the Interior to lease the submerged lands of the outer Continental Shelf for certain purposes, and (2) to your letter of May 26, 1953, requesting recommendations on pipelines and on the amendments submitted by representatives of the offshore operating lessees in the hearing of May 25, 1953. The latter amendments have since been printed in the Confidential Committee Print of S. 1901 of May 28, 1953, hereinafter referred to as the committee print. All references herein to S. 1901 are to the said committee print. Except as those amendments are modified or deleted in the enclosed schedule of amendments, we concur in their adoption.

We recommend the enactment of S. 1901 providing it is amended as suggested herein and in the attached schedule of amendments.

S. 1901 is believed to be preferable to H. R. 5134. Among other things, H. R. 5134 provides for the extension by coastal States of their laws, except tax laws, to the outer Continental Shelf and the permissive use of their facilities and leasing agencies in that area (secs. 9 (a), 10 (h)). As pointed out by Assistant Attorney General Rankin in his letter to you, dated May 26, 1953 (pp. 2, 6, mimeographed copy), these provisions are subject to constitutional and other objections. Moreover, they appear to be inconsistent with a "statement by the President," dated May 22, 1953, issued by the White House on the occasion of the signing by him of the Submerged Lands Act, in which the President unqualifiedly said that the submerged lands outside of the historic boundaries of the States "* * * should be administered by the Federal Government * * *." (For the same reasons, proposed alternative No. 1 and proposed alternative No. 2 appearing at the end of section 4 in the committee print are objectionable.) Furthermore, in the light of the conditions peculiar to operations in submerged lands and the limited experience in conducting them, it seems more sensible to delegate a broad leasing authority to the Secretary along the lines of S. 1901, rather than one restricted by detailed provisions respecting the exercise of that authority, as provided in H. R. 5134.

However, a number of the provisions of H. R. 5134 included in the proposed amendments to S. 1901 appearing in the committee print are recommended for adoption.

Section 4 of S. 1901 makes provision for the applicability of certain laws to the outer Continental Shelf, which as defined in section 2 (a), would be beyond the seaward boundaries of any State. Section 4 (b) concerns itself with jurisdiction of the United States district courts with respect to cases and controversies arising out of or in connection with operations for the purpose "of exploring for, developing, or removing the natural resources" of or involving rights in the outer Continental Shelf. Whether the quoted language includes transportation by pipeline is doubtful. Hence, the words "or transporting" should be added to the quoted words.

Provisions for the granting of rights-of-way for pipelines, to some extent similar to those embodied in section 28 of the Mineral Leasing Act, as amended, should be added to section 5 of S. 1901 as introduced. They should provide for the granting of such rights-of-way by the Secretary of the Interior for the transportation of oil or natural gas upon the express condition that such pipelines shall transport or purchase without discrimination oil or natural gas produced from the submerged lands of the outer Continental Shelf in the vicinity of the pipelines in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable. The aforesaid express condition is substantially the same as one contained in section 28, except that the Federal Power and Interstate Commerce Commissions are respectively substituted for the Secretary of the Interior. This is suggested because those Commissions have broad regulatory authority with respect to oil and gas pipelines and are better able to make determinations of the kind described than this Department. Moreover, since all the oil and gas produced in the outer Continental Shelf will come from Federal lands, the additional "common carrier" obligation imposed by section 28 does not appear to be needed. For the reasons mentioned, we recommend against

the inclusion of subsection (f) of section 5 of S. 1901 as proposed in the committee print.

Section 5 of S. 1901 as introduced authorizes the Secretary of the Interior to promulgate rules and regulations as may be necessary to carry out the provisions of the act relating to leasing and to provide for the conservation of the natural resources. The expansion of that authority to include the prevention of waste and the protection of correlative rights, as suggested in section 5 (b) of the committee print, is desirable.

The last sentence of section 5 of S. 1901 as introduced provides that:

"* * * The continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, maintained or granted under the provisions of this Act, may be conditioned upon compliance with the regulations prescribed by the Secretary under the provisions of this section."

It is suggested that "shall" by substituted for "may" in this sentence, since there seems to be no basis for distinguishing between leases operating under a continuance, extension, renewal, or replacement of any lease, and any other lessee under the act, insofar as compliance with applicable regulations are concerned. In any case, this sentence, revised as aforesaid, and otherwise for clarification reasons, should be retained and not eliminated as suggested in the committee print. There appears to be no reason, and we are aware of none advanced by the sponsors of the deletion of the sentence, why the Secretary should not be authorized to promulgate regulations applicable to lessees complying with section 6 as well as other lessees under the act, as long as the regulations are consistent with the provisions of the act.

Section 5 of S. 1901 should be amended to expressly authorize the Secretary of the Interior to deal by regulations with such matters as unitization, pooling, subsurface storage of oil and gas, suspension of operations and production, waiver or reduction of rentals or royalties, compensatory royalty agreements, the assignment and surrender of leases, and the sale of royalty oil and gas. This authorization should, we believe, be provided for in general terms rather than more specifically as in effect provided for in section 5 (e) of the committee print by adoption of portions of the Mineral Leasing Act of 1920, as amended (secs. 17, 17 (b), 30 (a), 30 (b), 36, 39; 30 U. S. C., 1946 ed., secs. 187a, 187b, 226, 226e, 192, 209). If the authority to promulgate regulations on these subjects is cast in general terms, the Department would be free to incorporate the provisions of the Mineral Leasing Act on the same subjects, but would also be free to modify them as circumstances peculiar to operations and actual experience in administering a leasing program in the submerged lands made appropriate.

The proposed section 5 (c) of the print makes it a misdemeanor to violate a rule or regulation prescribed by the Secretary. The actions involved would in all cases be those of lessees of the United States under the act. It is believed that this provision is appropriate for and should be confined to violations of rules or regulations for the prevention of waste, conservation of natural resources or the protection of correlative rights. Otherwise, the remedies available to the Government by way of cancellation of the lease and other civil relief would appear to adequately protect the interests of the United States in the event the Secretary's rules and regulations are violated.

Section 6 of S. 1901 authorizes persons holding mineral leases issued by a coastal State or a political subdivision or grantee thereof on submerged lands of the outer Continental Shelf prior to December 21, 1948, to continue to maintain those leases and to conduct operations thereunder, if the other conditions prescribed in subsection (a) are met, except that the Secretary of the Interior would, in effect, be substituted as lessor. December 21, 1948, is the date on which the United States commenced the actions against Louisiana and Texas in the Supreme Court which culminated in the decisions of June 5, 1950, favorable to the United States on the controversy concerning the submerged lands of the Continental Shelf (*United States* v. *Louisiana* (339 U. S. 699); *United States* v. *Texas* (339 U. S. 707)). A similar decision had been rendered in the California case on June 23, 1947 (*United States* v. *California* (332 U. S. 19)). The executive branch of the Government has consistently adhered to the view that the United States ought to recognize the equities of persons who obtained leases on the submerged lands of the Continental Shelf from coastal States at a time when such persons had reason to believe that the lessors thereunder could validly issue them.

Subsection (b) of section 6 should be revised to provide that the person holding a mineral lease determined by the Secretary to meet the requirements of subsection (a) may continue to maintain such lease in accordance with its provisions as to area, minerals covered, rentals, royalties and term, subject to the

provisions of paragraphs (8), (9), and (10 [as redesignated] of subsection (a), and in accordance with such regulations as the Secretary may prescribe under section 5 of the act. As now written, subsection (b) is too broad in adopting in effect all the provisions of the State leases. For a similar reason, and because subsection (a) of section 5 will provide the Secretary with ample authority to promulgate regulations concerning supervision and control, subsection (c) should be eliminated.

Subsection (a) of section 7 of the committee print would permit the holder of a State lease who filed with the Secretary a certificate stating that doubt exists as to whether an area covered by his lease lies within the outer Continental Shelf to interplead the United States and with its consent, if necessary, the State in an action brought to resolve the doubt. In the event the State would be interpleaded, the lessee may deposit with the court all rents, royalties, and other sums payable under the lease. This subsection appears to be subject to the same objections which Assistant Attorney General Rankin makes in his letter of May 28, 1953, to you (p. 8, mimeographed copy) with respect to section 18 (a) (1) of H. R. 5134. That subsection of the committee print should, therefore, be eliminated.

Section 8 of S. 1901 as introduced makes no provision concerning the leasing of sulfur or other minerals, except oil and gas. The prospects for discovery of sulfur deposits in the submerged lands of the outer Continental Shelf in the Gulf of Mexico are good and the production of sulfur from those deposits by the Frasch solution method appears to be practical. Moreover, there may well be other minerals besides sulfur and oil and gas in those submerged lands and their production may be practical in the future, if not now. It is, therefore, suggested that a new subsection in general terms authorizing the leasing of minerals other than oil and gas and fissionable minerals be added to section 8. The proposed subsections (c) and (d) of section 8 of the committee print are objectionable because they are confined to sulfur and they are too detailed for the submerged lands at this time.

It should be pointed out that S. 1901 does not apply to Alaska. Because of the special problems involved in enacting legislation on the subject of mineral leasing of submerged lands adjacent to the Territory, it is suggested that the matter be hereafter treated in a separate bill.

The Bureau of the Budge has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

DOUGLAS MCKAY,
Secretary of the Interior.

SCHEDULE OF AMENDMENTS

The following are suggested by the Department of the Interior as amendments to S. 1901 as proposed to be revised in the confidential committee print of the Senate Interior and Insular Affairs Committee, dated May 28, 1953. Unless otherwise indicated herein, the Department concurs in the proposed amendments to S. 1901 appearing in the committee print.

SECTION 3

Revise subsection (b) to read as follows:

"(b) 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 to fishing therein shall not be affected."

SECTION 4

In subsection (b) strike "or" before "removing" and insert after "removing", the words "or transporting" (p. 3, line 22).

Neither the amendment designated "Proposed Alternative No. 1" nor the one designated "Proposed Alternative No. 2" (pp. 8–10) should be adopted.

SECTION 5

Revise to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF. (a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary

and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, communitization, or drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or other easements necessary for operations or production. Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources or the protection of correlative rights shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $2,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, and each day of violation shall be deemed to be a separate offense. The issuance and continuatance in effect of any lease, or any extension, renewal, or replacement of any lease under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof or with the regulations issued under the provisions of section 6 (b) clause (2) hereof if the lease is maintained under the provisions of section 6 hereof.

"(b) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 7 hereof, or of the regulations issued under the provisions of section 6 (b) clause (2) hereof if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in section 8 (i), if such default continues for the period of thirty days after the mailing of notice sent by registered letter to the lease owner at his record post office address. Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6 (b) clause (2) hereof if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

"(c) (1) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary of the Interior for pipeline purposes for the transportation of oil or natural gas under such regulations and upon such conditions as to the application therefor and the survey, location and width thereof as may be prescribed by the Secretary of the Interior, and upon the express condition that such pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed thereunder shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act."

SECTION 6

Redesignate paragraphs "(9)" and "(10)" of subsection (a) "(10)" and "(11)", respectively.

Add a new paragraph "(9)" to subsection (a), reading as follows:

"(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing

the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and the effective date of this Act and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on the effective date of this Act;"

Subsection (b) should be revised to read as follows:

"(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to area, the minerals covered, rentals and, subject to the provisions of paragraphs (8), (9), and (10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing or whose political subdivision or grantee issued such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since December 11, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 5 of this Act prescribe within 90 days after making his determination that such lease meets the requirements of subsection (a) of this section."

Subsection (c) should be eliminated.

SECTION 7

The title should read: "Disclaimer and Controversy Over Jurisdiction."

The proposed subsection "(a)" should not be included (see Assistant Attorney General Rankin's letter to Acting Chairman Cordon, May 26, 1953, second full paragraph, p. 8, mimeographed copy).

Subsections "(b)" and "(c)" should be renumbered "(a)" and "(b)", respectively.

In line 3, page 20, "and" should be stricken and after "(17 F. R. 5833)," there should be inserted "and December 24, 1952 (18 F. R. 48),".

SECTION 8

The word "sealed" before "bidding" in subsection (a) should not be added, as proposed (p. 20, line 11).

In subsection (b) "by regulation" should be eliminated, and "at the time" should be substituted for "in advance" (p. 21, lines 1 and 2).

The proposed subsections "(c)" and "(d)" should not be included. Subsections "(c)" and "(d)" should read as follows:

"(c) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil and gas in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

"(d) No lease issued under this section shall in any event include uranium, thorium, or any other material determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946 to be peculiarly essential to the production of fissionable material."

Subsections (h) and (i) should be added as follows:

"(h) The Secretary may cancel any lease obtained by fraud or misrepresentation.

"(i) Any person complaining of the cancellation of a lease by the Secretary may have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review within 60 days after the Secretary takes such action."

SECTION 12

In subsection (b) substitute "any mineral" for "the oil and gas" (p. 24, line 3).

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington 25, D. C., June 5, 1953.

Hon. GUY CORDON,
Committee on Interior and Insular Affairs,
United States Senate.

MY DEAR SENATOR CORDON: During the hearings on May 22, 1953, before the Senate Committee on Interior and Insular Affairs on S. 1901, a bill to provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes, Senator Millikin requested that "the Solicitor of the Department [of the Interior] give this committee a memorandum opinion as to the conflict between conservation practices, State conservation practices, and Federal conservation practices, if there should be a conflict; not policing practices, but conservation practices, as to which would prevail and so forth." (Typewritten transcript of hearings, p. 821.)

This question was asked as the result of a discussion as to whether State conservation laws could be extended to lands in the outer Continental Shelf, which in turn led to a discussion of the extent to which State conservation laws are applicable to public lands owned by the United States in the upland area of the States. It is believed that Senator Millikin's question encompasses such matters as well spacing, proration of production, prohibition of waste, and other such regulatory measures.

This opinion, therefore, is addressed to the following question: With respect to public lands of the United States which are leased for mineral development pursuant to the Mineral Leasing Act, as amended (30 U. S. C., 1946 ed., sec. 181 et seq.), in the event of a conflict between conservation practices applicable to such lands prescribed by Federal and State laws, regulations, or orders, which would prevail, the Federal or the State laws, regulations, or orders?

It is well established that Congress has exclusive power over the public domain both in a sovereign and proprietary capacity, and can control the occupancy and use or prescribe the conditions upon which rights may be acquired in the public domain. This proposition is based not only upon article IV, section 3, clause 2, of the Constitution, which provides that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States * * *," but also upon the implied power of the United States to protect its property. *Utah Power & Light Co.* v. *United States*, 243 U. S. 389 (1917); *Hunt* v. *United States*, 278 U. S. 96 (1928); *Camfield* v. *United States*, 167 U. S. 518 (1897); *Griffin* v. *United States*, 168 F. 2d 457 (8th Cir., 1948); *Shannon* v. *United States*, 160 Fed. 870 (8th Cir., 1908); *Forbes* v. *United States*, 125 F. 2d 404 (9th Cir., 1942).

It is also well established that the exercise of the power of the Congress over public lands cannot be interfered with by the States and that any inconsistent State legislation must give way to Federal legislation or action. Thus, in *Hunt* v. *United States*, supra, it was held that the United States, acting through the Secretary of Agriculture, could permit the killing of surplus deer in a national forest and national game preserve in numbers and in a manner violative of the State game laws. In *Griffin* v. *United States*, supra, it was held that the defendant could not graze livestock on certain public land which was declared by a board of county commissioners to be open range but which was administered by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U. S. C., 1946 ed., sec. 1010 et seq.) and had been included in a grazing lease issued by the Secretary to another. See also *Shannon* v. *United States*, supra; *United States* v. *Thompson*, 41 F. Supp. 13 (D. C. Wash., 1941); *King* v. *Edward Hines Lumber Co.*, 68 F. Supp. 1019 (D. C. Oreg., 1946).

Except for the King case, which concerned the authority of a State to extend its traffic laws to a road constructed and maintained by the United States on public land in a forest reserve, the cases just cited involved measures taken by the United States for the conservation of its lands, i. e., the protection of the timber and forage resources of public lands. The regulation of the drilling, spacing, and abandonment of oil and gas wells on public lands is likewise in the interest of conservation. See *Forbes* v. *United States*, supra, in which an order to an oil and gas permittee under the Mineral Leasing Act to plug an abandoned well was sustained as a valid exercise of power vested in the Secretary of the Interior by the act. Consequently, there is no doubt that, if Congress so desired, it could enact legislation relative to conservation practices in the development of the mineral resources in public lands which would take precedence over any

inconsistent State legislation, regulations, or orders which might otherwise be applicable to public lands. Any administrative regulations or orders authorized by such legislation would also take precedence over conflicting State legislation, regulations, or orders.

However, in the enactment of the Mineral Leasing Act, Congress has provided that certain provisions in mineral leases shall not be in conflict with the laws of the State in which the leased property is situated. Section 30 of the act (30 U. S. C., 1946 ed., sec. 187) provides in part as follows:

"* * * Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by said Secretary shall be observed, including a restriction of the workday to not exceeding 8 hours in any 1 day for underground workers except in cases of emergency; provisions prohibiting the employment of any boy under the age of 16 or the employment of any girl or woman, without regard to age, in any mine below the surface; provisions securing the workmen complete freedom of purchase; provision requiring the payment of wages at least twice a month in lawful money of the United States, and providing proper rules and regulations to insure the fair and just weighing or measurement of the coal mined by each miner, and such other provisions as he may deem necessary to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare: *Provided*, That none of such provisions shall be in conflict with the laws of the State in which the leased property is situated."

This proviso therefore limits the extent to which the administrative descretion of the Secretary of the Interior may be exercised in prescribing provisions of the kind enumerated in section 30 for incorporation in leases, to provisions consistent with State laws.

It is my opinion, therefore, that, except as limited by the proviso in section 30, the provisions of the Mineral Leasing Act and all administrative regulations and orders issued under the Act with respect to conservation practices on public lands take precedence over any conflicting State laws, regulations, or orders which may be applicable to such lands.

Sincerely yours,

CLARENCE A. DAVIS, *Solicitor.*

TREASURY DEPARTMENT,
Washington, June 1, 1953.

Hon. HUGH BUTLER,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your committee's request for the views of the Treasury Department on S. 1901, to provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes.

The proposed legislation would declare 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. It would provide for the continuation of certain existing mineral leases on the outer Continental Shelf, and would authorize the Secretary of the Interior to grant new oil and gas leases in that area. Laws of the United States applicable to acts occurring and offenses committed aboard a vessel of the United States on the high seas would be applicable to acts and offenses occurring on structures located on the outer Continental Shelf. Provision would also be made for extension of certain specific acts, and the application of certain provisions of the customs laws and laws relating to safety at sea to such structures and to personnel employed thereon.

The Treasury Department wishes to point out that not all laws of the United States would be made applicable by S. 1901 to the operations, personnel, and structures on the outer Continental Shelf with the consequence that acts may not be regulated, and goods and income may not be taxable on the outer Continental Shelf to the same extent as they are in the continental United States. An accompanying memorandum indicates those areas where laws administered by this Department would not appear to be applicable to the outer Continental Shelf under the provisions of the bill.

Although a number of questions involving the application of existing law to the outer Continental Shelf are likely to arise should the legal status of structures thereon be assimilated to that of vessels on the high seas, as provided in the bill, the Treasury Department does not consider such problems to be insurmountable, inasmuch as remedial legislation could be enacted if necessary. There are, however, a number of technical changes in the bill which the Department believes should be adopted in order to minimize any later difficulties in interpretation or application which may arise. The Department's recommendations in this regard are likewise contained in the attached memorandum.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

MEMORANDUM

Subject: S. 1901, To provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes.

I. NONAPPLICABILITY OF EXISTING LAWS TO OPERATIONS, PERSONNEL, OR STRUCTURES ON THE OUTER CONTINENTAL SHELF UNDER S. 1901

A. INTERNAL REVENUE LAWS

At present the internal revenue laws are geared in major part to a definition of the United States which is defined in the United States Internal Revenue Code to include the 48 States, the District of Columbia, and the Territories of Alaska and Hawaii. In general, this definition has been interpreted so as to include the waters adjacent to the United States within a 3-mile limit. The application of the internal revenue laws in many instances will depend upon whether the outer Continental Shelf will be considered within the United States. This problem may be understood more fully if illustrations are submitted as to the areas where the definition of the United States could present a problem insofar as determining whether the internal revenue laws are effective.

Income taxes

Citizens and corporations of the United States will be taxable on any income derived while carrying on business or performing services on the outer Continental Shelf, and, thus, it would appear that no problem arises with respect to this group of taxpayers. However, with respect to nonresident alien individuals it should be pointed out that under the Internal Revenue Code the wages paid to such individuals for services performed on the outer Continental Shelf will be deemed to have been derived from sources outside the United States, resulting in exemption from United States income tax on such wages. Furthermore, foreign corporations which derive income from operations under leases granted with respect to the outer Continental Shelf, or from any other activity on the outer Continental Shelf, may be exempt from United States income tax on such income. For example, if the sale and delivery of oil takes place on the outer Continental Shelf, the profits derived from such sale might not be subject to United States income tax.

Excises

With respect to the tax imposed on tobacco products under chapter 15 of the Internal Revenue Code, section 2197 would exempt from such tax tobacco products exported to the outer Continental Shelf. Moreover, the occupational tax on retail dealers in liquors provided in section 3250 (b) and (e) would not be applicable to dealers making retail sales on the outer Continental Shelf. Similarly, the special tax on coin-operated amusement and gaming devices provided in section 3267 would not be applicable to any person maintaining or operating any such amusement or gaming devices on the outer Continental Shelf. The tax imposed by section 3469 on the transportation of persons would not be applicable to transportaiton paid for on the outer Continental Shelf in certain types of cases in which the tax would be applicable if the transportation charges were paid within the United States. Similar problems exist with respect to the tax imposed on the transportation of property provided in section 3475 of the Internal Revenue Code; the tax imposed by section 3465 on telegraph, telephone, radio,

and cable facilities; the tax on the transportation of oil by pipeline imposed by section 3460; and the retailers' excise taxes imposed under chapters 19 and 9A of the Code.

The Department believes that the internal revenue taxes should apply to the activities on the outer Continental Shelf to the same extent and under the same conditions as if such activities were carried on within the continental United States. It appears that as a matter of equity taxpayers should not be given any special tax advantages under the income tax or under the excise taxes solely by reason of the fact that they are performing their operations on the outer Continental Shelf. Accordingly, the Department suggests that your committee give serious consideration to this problem.

The Department considers it desirable to call to the attention of your committee a special problem involving the employment taxes imposed by subchapter A and subchapter C of chapter 9 of the Internal Revenue Code. At the present time, the taxes imposed by the Federal Insurance Contributions Act (Federal old-age and survivors' insurance) is generally applicable with respect to services performed within the United States irrespective of citizenship or residence and outside the United States by a citizen of the United States for an American employer. If it is desirable to cover services performed on the outer Continental Shelf by a citizen or alien to the same extent as if such services were performed in the United States, it would be necessary to amend the definition of "United States" in the Internal Revenue Code accordingly. To assure that such services would be covered under the Social Security Act for purposes of the old-age and survivors' insurance benefits, it is necessary to correlate the definition of United States contained in the Social Security Act.

A similar problem exists with respect to services covered by the Federal Unemployment Tax Act. At the present time the Federal Unemployment Tax Act generally applies only to services performed within the United States. If it is desirable to cover such services performed on the outer Continental Shelf, it would seem necessary to have the definition of the "United States" in the Internal Revenue Code amended accordingly, and would also seem necessary to extend jurisdiction over such services to appropriate States so as ot permit payment of unemployment insurance benefits based upon such services.

B. CUSTOMS LAWS

Under subsection 4 (i) of the bill, the laws applicable to the exportation of any commodity, article, material, or supply from a place in a State of the United States would be made applicable to the exportation of any such item from any structure located on the outer Continental Shelf.

The exportation of merchandise by sea under the customs and navigation laws is controlled by the clearance of vessels and the procedures incident to that operation. Clearance for the high seas from the United States is not required, however, under existing law nor is clearance necessary in the case of a vessel proceeding from a point on the high seas for a foreign port or place.

C. NARCOTICS LAWS

1. Section 4 (h) (2) of the bill would provide a different penalty for unlawful importation of narcotic drugs to the outer Continental Shelf than is provided by the Narcotic Drugs Import and Export Act as amended (21 U. S. C. 171) in that section 2 of the act provides for maximum imprisonment of 10 years, wherever the bill provides for maximum imprisonment for 2 years.

2. The Harrison Narcotic Act would not appear to be applicable to the outer Continental Shelf in view of the territorial extent of the act as set forth in 26 U. S. C. 2563. However, under existing regulations vessels may acquire narcotic drugs from their medical chests, and thus could make such drugs available to the structures in the outer Continental Shelf in the event of an emergency.

3. The provisions of 21 U. S. C. 184a making it unlawful for any person to bring or have in his possession on board any vessel of the United States, while engaged in a foreign voyage, any narcotic drug or marihuana not constituting a part of the cargo or ships stores, would not appear to apply to the structures on the outer Continental Shelf, as it is doubtful, even though such structures were considered to be vessels, whether they could also be considered to be engaged on a foreign voyage.

4. The Marihuana Tax Act of 1937 would probably not be applicable to the outer Continental Shelf area under S. 1901.

II. Technical Amendments to S. 1901 Recommended by the Treasury Department

A. INTERNAL REVENUE LAWS

Because of time limitations the Department has not prepared specific technical amendments to the tax laws. The Department would be pleased to furnish the committee with any technical assistance which it may consider desirable.

B. CUSTOMS LAWS

1. It is recommended that section 4 (h) (1) be amended to read as follows:

"No article of any kind shall be brought upon any structure referred to in subsection (a) directly or indirectly from any foreign port or place without compliance with the customs laws and regulations applicable to like articles imported into the United States."

2. In order to provide for a more complete coverage of the customs laws to merchandise found to have been illegally brought upon any structure referred to in subsection (a) of section 4 of the proposed bill, to provide for the authority for the seizure of such merchandise and the apprehension of the individual involved, and to provide jurisdictional access to such property, it is recommended that the following paragraphs be inserted in lieu of the paragraph beginning on line 12, page 7, of the transcript of S. 1901:

"Any officer of the customs as defined in section 1401 of title 19 of the United States Code may at any time go on board any such structure, without as well as within his district, and examine, inspect, and search the structure and any part thereof, as well as any person, trunk, package, or other container found thereon.

"Merchandise brought upon any such structure in violation of this subsection shall be seized and forfeited and any person engaged in any such violation shall be arrested. All provisions of law relating to the seizure, summary, and judicial forfeiture and condemnation of merchandise for violation of the customs laws, the disposition of such merchandise or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures hereunder incurred, or alleged to have been incurred, insofar as applicable and not inconsistent with the provisions hereof."

3. Section 4 (b) should be amended to provide for jurisdiction by the customs court over customs matters arising on the outer Continental Shelf.

4. Section 4 (d) would extend to the structures referred to in subsection (a) the provisions of the Ship Mortgage Act (46 U. S. C. 911–984) and empower the Secretary of Commerce to establish for them by regulation a registration system. Any such structure would then be considered to be a documented vessel, i. e., a vessel of the United States, within the meaning of that act.

The Ship Mortgage Act was designed for an ambulatory instrument of commerce, and, in the Department's judgment, a proposal to apply its provisions to a fixed structure located on the outer Continental Shelf raises serious questions of administration.

For example, each vessel of the United States has a home port, designated by the vessel owner and approved by the Commissioner or collector of customs, at which the vessel's current title records are retained. This requirement is necessary because of the wide area in which vessels normally operate. In view of the fact that a structure attached to the outer Continental Shelf is not likely to be moved from place to place, it would appear to be inappropriate to require owners of such structures to designate "home ports."

Further, the Ship Mortgage Act contemplates that vessels subject to its provisions shall be named, shall have masters, shall have documents upon which the existence of a preferred mortgage may be endorsed, and shall be denied clearance if no such endorsement is made. Obviously, these requirements are not susceptible of application to fixed structures. Extended study of the Ship Mortgage Act and related provisions of the navigation laws governing the documentation of vessels would doubtless reveal several other difficulties which would be encountered by making that act applicable to the structures in question.

In addition to the foregoing, and of even greater importance, S. 1901 contemplates that the Ship Mortgage Act, as extended to structures on the outer Continental Shelf, is to be administered by the Secretary of Commerce, although that act and related vessel documentation laws are now administered solely by the Secretary of the Treasury through the customs service. The impracticability of ad-

ministering the navigation laws by the former Bureau of Marine Inspection and Navigation of the Department of Commerce through collectors of customs employed and supervised by the Treasury Department resulted in the permanent transfer of the administration of those laws to the Treasury Department in 1946 (Reorganization Plan No. 3 of 1946; 3 CFR 1946 supp. ch. IV). The proposal in S. 1901 to extend the Ship Mortgage Act under the administrative leadership of the Secretary of Commerce is subject to the objection resulting in the 1946 transfer and to the further objection that it would place the administration of the act in the hands of officers serving two separate Departments of the Government.

Rather than to attempt an extension of the system of documentation and recording to a subject for which present law is not designed, your committee may wish to consider a new and separate system designed by those familiar with the operations to fit the particular needs of the situation. Since the purpose, use, ownership, and area of operation of vessels are so alien to fixed structures, it is the view of the Treasury Department that any such legislation should be administered by the agency charged with the administration of leasing and other problems pertinent to the structures in question.

C. LAWS ENFORCED BY THE COAST GUARD

1. Since the functions of the Coast Guard have been vested in the Secretary of the Treasury, and since the Coast Guard operates as a service in the Navy Department in time of war, it is recommended that "Coast Guard" be deleted from section 4 (j) of the bill and the words "head of the department in which the Coast Guard is operating" be inserted in lieu thereof.

2. A provision should be added to section 4 (j) to make it clear that the cost of marking the structures will be borne by the owners, and provision for penalties for failure to conform to regulations issued hereunder should be made. It is suggested that the following be added to section 4 (j):

"The head of the department in which the Coast Guard is operating may mark for the protection of navigation any such structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof. Any person, firm, company, or corporation who shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation shall continue shall be considered a new offense."

3. It is believed that the Corps of Engineers, United States Army, would be a more appropriate agency for establishing standards for safety equipment on structures on the outer Continental Shelf, rather than the Coast Guard, in view of the Corps' authority as contained in 33 U. S. C. 401 et seq. It is therefore recommended that the words "safety equipment" be deleted from section 4 (j).

DEPARTMENT OF JUSTICE,
ASSISTANT ATTORNEY GENERAL,
Washington, May 26, 1953.

Hon. GUY CORDON,
Acting Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

DEAR SENATOR CORDON: In compliance with your request to the Attorney General, I submit the following comparison of S. 1901 and H. R. 5134, with comments and suggestions.

In form, H. R. 5134 is an amendment to the Submerged Lands Act, whereas S. 1901 is an independent act. It seems immaterial which form is adopted. (For convenience of citation, the Submerged Lands Act as proposed to be amended by H. R. 5134 is designated herein as "House bill," with section numbers of that act, rather than of H. R. 5134 itself.)

Definitions

"Outer Continental Shelf" is defined identically in the two bills (S. 1901, sec. 2 (a); House bill, sec. 2 (i)).

"Secretary" is defined as the Secretary of the Interior in both bills (S. 1901, sec. 2 (b); House bill, sec. 2 (j)).

"Mineral lease" is defined by S. 1901, section 2 (c), as any form of authorization to explore for, develop, or produce minerals. The House bill, section 2 (k), defines "lease" as "including any form of authorization for the use, develop-

ment, or production from lands beneath navigable waters or lands of the outer Continental Shelf and the natural resources therein and thereunder." This definition is grammatically defective, in that it does not specify what is to be used, developed, or produced. The Senate definition is also preferable in that it covers Federal as well as State leases. Reference to lands beneath navigable waters and the outer Continental Shelf is unnecessary in the definition, as the substantive provisions of the bill always specify, as they should for clarity, the particular area to which they relate. Mineral leases apparently are the only kind involved, at least at present, in this area; there may be a question whether it is desirable to define "leases" generally. The meaning of "lessee" seems to be an inevitable corollary of the definition of "lease," and no specific definition of it should be necessary.

"Person" is defined by S. 1901, section 2 (d), in the same way as by section 2 (h) of the present Submerged Lands Act. Being an amendment of the latter act, the House bill needs no new corresponding definition.

"Mineral Leasing Act" is definied by section 2 (1) of the House bill. S. 1901 does not refer to that act, and contains no such definition. It should be added if the Senate adopts the provisions of the House bill, or others referring to the Mineral Leasing Act.

General provisions

H. R. 5134, section 2, repeals section 11 (separability) of the Submerged Lands Act, and substitutes an identical section 21. S. 1901, section 12, is identical (except for provisions applicable only to the present Submerged Lands Act, and unnecessary in a separate act).

H. R. 5134, section 2, repeals section 10 of the Submerged Lands Act (revoking Executive Order No. 10426 as to lands beneath navigable waters) and substitutes section 19, revoking that order in toto. S. 1901, section 11, is identical with section 19 of the House bill.

H. R. 5134, section 2, repeals section 9 of the Submerged Lands Act (reserving Federal rights in the outer Continental Shelf), and substitutes sections 9–18, providing for leasing and exchange of leases in that area. S. 1901, being a separate act, not inconsistent with the Submerged Lands Act, needs no repealing provision; it makes corresponding, but different provisions for leasing and exchange of leases, discussed below.

S. 1901, section 3, declares that the subsoil and seabed of the outer Continental Shelf are subject to the control of the United States, but that the overlying waters retain their character as high seas, and the right to their free and unimpeded navigation and the navigational servitude shall not be affected. Similar provisions are made by section 9 (a) of the House bill. Reference to the navigational servitude should be deleted. That is a right of the Federal Government in navigable waters of the United States; as these are not waters of the United States, the servitude does not exist here. Reference to it is only confusing, and seems to conflict with the declaration that control over the waters is not asserted.

Jurisdiction

Section 9 (a) of the House bill makes a blanket provision that Federal laws shall apply to the entire area of the outer Continental Shelf. This is not sufficiently specific, in that it does not indicate what applicability is intended to be given to Federal laws which by their terms apply only to specified places that would not in terms include the outer Continental Shelf. For example, laws relating to national parks, or to public buildings, would not be understood as being extended to the entire seabed of the Continental Shelf. However, it is not clear whether that group of criminal laws applicable to the "special maritime and territorial jurisdiction of the United States," as defined in 18 United States Code, section 7, would be so extended; the outer Continental Shelf seems not to be within the literal definition of that special jurisdiction, yet those laws probably should be made applicable. Some other Federal laws could not be given full applicability without some specific provision; for example, the Longshoremen's and Harbor Workers' Act by its terms applies only to maritime workers, and so even though extended territorially to this area probably would not apply to most workmen found there. Section 9 (a) of the House bill gives the Secretary power to make regulations for the area; this would enable him to clarify these situations by regulation, and makes the provisions adequate, to the extent that is is considered sufficient for the applicable law to be found in regulations rather than in statutes.

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Section 9 (a) of the House bill further provides that coastal States may extend their laws, other than tax laws, over the outer Continental Shelf within their projected boundaries as determined by the Secretary, so far as such laws are not inconsistent with Federal laws and regulations, and that the Secretary shall reimburse the States for reasonable costs of administering their laws so extended. This is objectionable on several grounds. It raises a serious constitutional question of delegation of legislative power. This is a Federal area, outside State boundaries, and to give the States a sort of extraterritorial jurisdiction over it is unnecessary and undesirable. The situation is not comparable to that of federally owned areas within a State, as to which state law has some measure of applicability. Particularly in view of the intermingling of national and international rights in the area, it is important that the Federal Government, which has the responsibility for handling foreign relations, have the exclusive control of law making and law enforcement there.

S. 1901 presents a different approach to the problem of providing a body of law. Section 4 (a) provides that acts and offenses on structures (other than vessels) shall be governed by the law applicable to vessels of the United States on the high seas. This clearly specifies, as the House bill does not, the manner in which Federal law is to apply, and insofar as it relates to Federal law it is satisfactory, although it should probably be broadened to include the seabed and subsoil as well as structures. Where structures are owned by persons or corporations, this would make applicable the law of the domiciliary State of the owner, to the extent that it did not conflict with Federal law. This constitutes a delegation of Federal legislative power to a State, and raises the same constitutional question mentioned above with respect to adjoining coastal States. However, the provision may well be left as it is in that respect. Even if the courts hold it inoperative to adopt State Law, that should not impair its effectiveness to adopt those Federal laws applicable to American ships on the high seas.

In addition to this blanket adoption of laws applicable to American vessels on the high seas, S. 1901, section 4 (c) through 4 (i), makes specific provision for the application, with modifications in some instances, of Federal laws relating to workmen's compensation, mortgage recordation, labor relations, fair labor standards, immigration, and importation and exportation of goods.

S. 1901, section 4 (c), making the Longshoremen's and Harbor Workers' Compensation Act applicable to employment in exploration or development of resources of the outer Continental Shelf is explicit and adequate.

S. 1901, section 4 (d) makes the Ship Mortgage Act applicable to structures, subject to such regulations as the Secretary of Commerce may establish. The reference should be to the Secretary of the Treasury, in view of Reorganization Plan No. 3 of 1946, section 102 (60 Stat. 1097), substituting the Commissioner of Customs for the Secretary of Commerce with respect to this act, and Reorganization Plan No. 26 of 1950, section 1 (64 Stat. 1280), substituting the Secretary of the Treasury for all officers of the Treasury Department (of whom the Commissioner of Customs is one). A provision for liens and recording is highly desirable, but the Ship Mortgage Act is so peculiarly adapted to the special problems of liens on ships that there may be a serious doubt whether its application to these structures will be altogether satisfactory. However, it will probably be reasonably workable, and consideration of a more satisfactory expedient may well be deferred until experience has developed the problems to be met. It might be desirable, however, to broaden this subsection so as to apply to the outer continental shelf as a whole; in that way it could provide for recordation of liens on leaseholds where no structure has yet been built.

S. 1901, section 4 (e) through 4 (i), should be similarly broadened to cover the entire outer Continental Shelf, and not merely structures thereon.

S. 1901, section 4 (k), contains a very desirable provision that specific reference to the application of certain laws does not imply that others are not applicable.

S. 1901, section 4 (j), gives the Coast Guard authority to establish and enforce safety regulations. This is desirable, but might be broadened to include specifically authority to enforce all other laws and regulations applicable to the area.

S. 1901, section 4 (b), provides for jurisdiction and venue in Federal district courts for controversies arising in connection with operations on the outer Continental Shelf, or involving rights there. Section 13 of the House bill makes a similar provision, but only as to proceedings involving a lease or rights under a lease on the outer Continental Shelf. The broader form of the Senate version is preferable, but might itself be broadened to include all causes of action arising on the outer Continental Shelf or structures thereon.

S. 1901, section 5, authorizes the Secretary to make regulations relating to leasing and conservation. Section 9 (a) of the House bill authorizes the Secretary to make regulations for the area, without limitation as to their subject matter. The latter provision is preferable, as there may be a need for various regulations not directly relating to leases or conservation.

Confirmation of State leases

Both bills protect the rights of lessees under existing leases, but with various differences, some minor and some very important (S. 1901, sec. 6; House bill, sec. 11).

Section 11 (a) of the House bill requires the Secretary to issue exchange leases, with provision for interim operation under existing leases. S. 1901, section 6 (b), provides that State leases which meet the specified requirements shall remain in effect. The provision for exchange leases is preferable from an administrative point of view; and has the advantage of permitting inclusion of new terms and conditions desired by the Secretary.

Both bills apply to leases issued, without fraud, before December 21, 1948 (the date on which the Louisiana and Texas bases were begun), and in effect on June 5, 1950 (the date of the decisions in those cases) (House bill, sec. 11 (a); S. 1901, sec. 6 (a) (2)). The Senate bill also covers leases issued with the approval of the Secretary and in effect on the effective date of the act, without restriction as to date of issuance. The latter appears to be a fair and reasonable provision. The language of the House bill in this respect, "which would have been in force and effect * * * had the State issuing such lease had such paramount rights" etc., is technically more correct than that of S. 1901, "which was * * * in force and effect," etc. However, the words "except as modified as to additional royalties provided later in this section" should be omitted from the first sentence of section 11 (a) of the House bill. That phrase of course relates to the exchange lease, but is there made part of an enumeration of the conditions which the original lease must meet in order to qualify for exchange. It has no relevancy to those conditions, and if given any effect would make all leases ineligible for exchange. Both bills provide for review, by the District Court for the District of Columbia, of a determination by the Secretary that a lease is not qualified for continuance or exchange (House bill, sec. 11 (a); S. 1901, sec. 6 (e)). Such provision is desirable.

The other conditions which a lease must meet to qualify for continuance under S. 1901 are largely different from those prescribed by H. R. 5134 for exchange. S. 1901, section 6 (1) requires filing of the lease or a copy with the Secretary within 90 days from the effective date of the act, or further time fixed by the Secretary. The House bill allows 6 months, or such further time as the Secretary allows, from the effective date of the act (sec. 11 (b) (i)), or 6 months from determination in interpleader that the area involved is part of the outer Continental Shelf (sec. 18 (a) (3)). Six months seems not too liberal a time limit, although there is no real obligation to the 90-day limit, especially in view of the Secretary's authority to extend it. The provision relative to interpleader is appropriate, if an interpleader procedure is adopted; but it should be required that the interpleader proceedings be begun within the time allowed for filing a lease or application for exchange, in order to toll the time for such filing.

S. 1901, section 6 (a) (3), and section 11 (b) (v) of the House bill make similar requirements as to filing evidence that the original lease was in effect as required by the act.

Section 11 (b) (iii) of the House bill requires, as a condition precedent to exchange, that the lessee pay to the United States all sums due to the original lessor after June 5, 1950 (the date of decision of the Louisiana and Texas cases), not already paid to the lessor or to the Secretary. Section 11 (a) provides that the exchange lease shall provide for payment to the United States of the same rentals, royalties, and other payments as were provided for by the original lease, plus an additional royalty equal to "any severance tax charged by an abutting State." The provision for additional royalty is important, as it prevents a windfall to lessees through their being relieved of State severance taxes which presumably were taken into consideration in fixing the terms of the original leases. However, it might be preferable to refer to "any severance tax imposed by the State issuing, or whose grantee issued, the lease." The provision does not specify whether the State tax referred to is to be that in effect when the original lease was executed, when the exchange lease is issued, or as it may be from time to time. This should be made specific; probably the date of the exchange lease is the most desirable.

S. 1901, section 6 (a) (4), prescribes as a condition for continuance in effect of a State lease that the lessee shall pay to the Secretary all sums due and unpaid under the lease between June 5, 1950, and the effective date ofthe act, and all sums due thereafter. This does not impose any obligation on the lessee to make such payments, but only makes them a prerequisite to continuance of his lease. The issuance of an exchange lease, obligating the lessee to pay the United States according to its terms, as provided by the House bill, is preferable; and it is particularly important to provide for additional payments equal to the State severance tax.

S. 1901, section 6 (a) (5), requires the lessee to certify that the lease shall remain subject to the same overriding royalty obligations existing on the effective date of the act. This is believed to be a desirable provision. Section 11 (b) (ii) of the House bill requires a similar statement to be included in an application for an exchange lease, but does not specify a critical date. The date of issuance of the exchange lease should probably be specified, in that case.

S. 1901, section 6 (a) (7), requires leases issued on or after June 23, 1947 (the date of decision of the California case), to have been issued upon competitive bidding, to qualify for continuance. The House bill has no corresponding provision. This requirement seems appropriate but not essential.

S. 1901, section 6 (a) (8), requires that the lessee consent to pay a royalty of 12½ percent, in cases where the lease as originally issued requires less. The House bill makes no corresponding requirement. Conceivably, this requirement could work hardship on a lessee who paid a very high cash bonus for his lease, in consideration of a very low royalty; but in practice it is believed that no difficulty will arise.

S. 1901, section 6 (a) (9), requires that if a lease will not terminate within 5 years from the effective date of the act, in the absence of drilling or production, the lessee must file a consent to such termination within 5 years. The House bill has no corresponding provision. The requirement seems reasonable and desirable.

S. 1901, section 6 (a) (10), and the House bill, section 11 (b) (iv), require such surety bond and compliance with such other requirements as the Secretary may impose to protect the interests of the United States. This is desirable.

S. 1901, section 6 (b), provides that the lessee under a qualifying lease may continue operations for the full term thereof, or if oil or gas was not being produced on or before December 11, 1950 (the date of the decrees in the Louisiana and Texas cases), then for a term from the effective date of the act equal to the term remaining unexpired on December 11, 1950; together with extensions authorized by the lease or heretofore authorized by State law. The House bill, section 11 (a), makes a similar provision as to the term of exchange leases, applicable also to any lease of which the primary term has expired since December 11, 1950. These provisions are designed to protect lessees against forfeitures due to suspension of operations as a result of the Supreme Court decrees. The Senate version appears adequate for that purpose.

Section 11 (a) of the House bill provides that exchange leases shall be, in other respects, for the same term, upon the same area, and for the same payments as the original lease, and upon such additional terms as the Secretary may prescribe, consistent with the act. S. 1901 has no such provision for additional terms, since it does not provide for new leases. As stated above, this is one reason why the exchange procedure is preferable.

Section 11 (c) of the House bill provides that where a State lease covers areas both within and without the outer Continental Shelf, the exchange provisions apply only to the area within the outer Continental Shelf. This is a highly desirable provision which is lacking from the Senate bill, and should be added. However, under the Senate procedure for continuance of operations under the original lease, it presumably would take the form of proration of payments, with consents as to increase of royalty and reduction of term made applicable only to the portion of the lease area within the outer Continental Shelf. The complications that this would involve are another cogent reason for preferring the exchange lease procedure.

S. 1901, section 6 (c), vests in the Secretary such powers of supervision and control as the lessor may have by law or under terms of the lease. This may give the Secretary different powers as to different leases or areas, which will be confusing, and may raise a question of delegation of legislative power if the State law is changed. Under the exchange-lease procedure of the House bill, no such provision is made or needed, as it is implicit that the Secretary will have the same control over exchange leases as over new leases. Again, the exchange procedure is preferable.

S. 1901, section 6 (d), preserves claims of the United States arising out of operations before the effective date of the act. Section 15 of the House bill, on the other hand, waives such claims arising before June 5, 1950 (date of the decision in the Louisiana and Texas cases), except where there was fraud in securing or operating under the lease. However, these provisions probably are similar in effect, since in the Louisiana and Texas cases accounting was ordered only for production after June 5, 1950, so it appears that claims arising after that date are the only ones the United States can enforce in any event.

New leasing

Both the Senate and House bills authorize the Secretary to make new oil and gas leases. The House bill establishes a permanent procedure, with detailed provisions (House bill, sec. 10); the Senate bill is designed only to meet "the present emergency" and imposes a minimum of restrictions on the complete discretion of the Secretary (S. 1901, sec. 8). It is believed that a permanent procedure is preferable; the practice of limiting the Secretary's discretion as to leasing procedure and lease provisions follows the precedent of the Mineral Leasing Act, and is not objectionable.

Both bills are permissive only, which is desirable (S. 1901, sec. 8 (a); House bill, sec. 10 (a)).

Both bills provide for issuance of leases upon the highest cash bonus bid of a qualified person (S. 1901, sec. 8 (a); House bill sec. 10 (a)). However, it is believed that serious consideration might well be given to permitting alternatively, competitive royalty bidding, with minimum royalty fixed by the act and by the Secretary.

Both bills provide for terms of 5 years, and as long thereafter as drilling or paying production continues (S. 1901, sec. 8 (b) (2); House bill, sec. 10 (c), 10 (d), 10 (e)). Both bills fix a minimum royalty of 12½ percent (S. 1901, sec. 8 (b) (3); House bill, sec. 10 (d)). These provisions seem satisfactory.

The Senate bill gives the Secretary discretion as to other lease terms (S. 1901, sec. 8 (b) (4)) and as to the size and shape of leased areas (S. 1901, sec. 8 (b) (1)). The House bill fixes maximum sizes of leasing units and requires them to be reasonably compact in form (House bill, sec. 10 (b)), provides against forfeiture for cessation of production if reworking commences within 90 days or, during the primary term, if rental payments or reworking are resumed by the next rental date after 90 days (sec. 10 (d)), and requires leases to provide for skillful and diligent operation (sec. 10 (c)), delay rentals of at least $1 an acre after the first year (sec. 10 (d)), and minimum royalty of at least $1 an acre after discovery of oil or gas (sec. 10 (d)). Those provisions are not objectionable. The House bill gives the Secretary discretion as to other lease terms (sec. 10 (h)).

The House bill makes detailed provisions for leasing procedures, which are not objectionable (sec. 10 (a)). S. 1901 has no corresponding provisions.

The House bill permits the Secretary to refuse leases to aliens whose nation denies similar privileges to Americans, and to cancel leases where such ownership arises, subject to a 2-year grace period where it arises by inheritance or judgment. It forbids control of leases by combinations in restraint of trade (sec. 10 (i)). S. 1901 has no corresponding provisions. These provisions are not objectionable.

The House bill permits the Secretary to cancel leases obtained by fraud (sec. 10 (j)), and also permits cancelation, on 20 days' notice, for default (sec. 10 (f)), reviewable in either case by the District Court for the District of Columbia (sec. 10 (f)). Such provisions are desirable, and should be added to S. 1901.

The House bill provides that where a lease or interest therein is owned or controlled in violation of the act, the Secretary may cancel the lease or forfeit the interest, or compel disposal of it in a court proceeding (sec. 10 (f)). This provision should be clarified; it leaves doubt whether the Secretary has discretion to cancel entire lease where only an interest in it is held in violation of the act; and because of the arrangement of the paragraph leaves a serious doubt as to whether such cancelation or forfeiture is included in the provision for judicial review. Probably the Secretary should be allowed to cancel or forfeit only the offending interests, and the provision for judicial review should be made applicable. With those modifications, it would be desirable to add such provision to S. 1901.

The House bill permits the Secretary to use facilities of adjacent States and their leasing agencies (sec. 10 (h)). Even though only permissive, such provision is undesirable. As already stated, it is the view of the administration that

the outer Continental Shelf is a Federal area and should remain subject to purely Federal control in all respects. S. 1901 has no corresponding provision.

The House bill adopts certain provisions of the Mineral Leasing Act, so far as not inconsistent with the terms of the act (sec. 10 (g)). This is not objectionable. S. 1901 has no corresponding provision. The sections of the Mineral Leasing Act adopted by the House bill are section 17 (30 U. S. C., sec. 226): Lease of oil or gas lands; royalties and annual rentals; drainage agreements; section 17b (30 U. S. C., sec. 226e): Cooperative or unit plans; regulation; approval of contracts; prevention of waste; section 28 (30 U. S. C., sec. 185): Rights-of-way for pipelines; section 30 (30 U. S. C., sec. 187): Assignment or subletting of leases; relinquishment of rights under leases; conditions in leases as to operation of mines, wells, and so forth; section 30a (30 U. S. C., sec. 187a): Same, oil or gas leases; partial assignments; section 30b (30 U. S. C., sec. 187b): Same, oil or gas leases; written relinquishment of rights; release of obligations; section 32 (30 U. S. C., sec. 189): Rules and regulations; rights of States not affected; section 36 (30 U. S. C., sec. 192): Payment of royalties in oil or gas; sale of such oil or gas; and section 39 (U. S. C., sec. 209): Waiver, suspension or reduction of rentals or royalties; extension of lease on suspension of operations.

The House bill authorizes delegation and subdelegation of the Secretary's authority (Sec. 10 (h)). This is unnecessary in view of section 2 of Reorganization Plan No. 3 of 1950, 64 Statutes 1262, permitting the Secretary to provide for performance of any of his functions by any other officer, agency, or employee of the Department. S. 1901 has no corresponding provision.

S. 1901, section 8 (d), provides that the Secretary's issuance of a lease, or his refusal to certify that the United States does not claim a particular area pursuant to section 7, shall not prejudice the ultimate adjudication of whether the area is part of the outer Continental Shelf. This is a desirable provision, but the reference to section 7 is confusing, since that section makes no provision for such certification. Probably such a provision should be added there. The House bill has no corresponding provision.

Scrip and Mineral Leasing Act applicants

The House bill specifically rejects claims arising otherwise than under the act (i. e., claims under the Mineral Leasing Act or based on any land scrip) (sec. 9 (b)). This conforms to the recommendation of the Department of Justice as to the Submerged Lands Act; but in that act the recommendation was not followed, and rights of such claimants were preserved (but not confirmed). There may be a question whether the two bills should not be uniform in that regard, as a matter of policy. S. 1901 has no provision on the subject.

Revenues

Both bills provide that payments for the period beginning June 5, 1950 (date of the decision in the Louisiana and Texas cases, and from which accounting was ordered therein), shall be deposited in the Treasury. (S. 1901, sec. 9; House bill, sec. 12.) The Senate bill specifically provides that they are to be credited to miscellaneous receipts. Such provision is desirable, particularly in view of the fact that payments heretofore received have been held in a special fund, under the Secretary's notice of December 11, 1950 (15 F. R. 8835), as amended. It may be qualified, however, by the suggestion made below regarding refunds.

Refunds

The House bill, section 14, provides for refund of overpayments made to the United States, as determined by the Secretary, on application filed within 2 years of issuance of the lease or of the payment. Such provision is desirable, but it seems that the time for applying for refund should run from the date of payment in every case; it is not clear under what circumstances the present provision intends the time to run from the issuance of the lease, or why it should be so computed in any case. Appropriations will be necessary for payment of refunds, unless some provision is made for a special fund under the control of the Secretary. A fund of appropriate size might be established for that purpose, from moneys now held or hereafter received from leases, with provision that maintenance of the fund at the designated amount should be a first charge on all receipts under the act, and only receipts in excess of the amount so needed should be credited to miscellaneous receipts.

Interpleader and jurisdictional disputes

S. 1901, section 7, authorizes the Secretary, with the concurrence of the Attorney General, to enter into agreements for operations pending settlement of a dispute as to whether an area is part of the outer Continental Shelf. The pro-

vision is a desirable one. It confirms the authority for interim operations given by the Secretary's notice of December 11, 1950 (15 F. R. 8835), as amended January 26, 1951 (16 F. R. 953), and supplemented February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6204), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), and December 21, 1951 (17 F. R. 43). It seems that to this list of supplementary orders should be added those of March 25, 1952 (17 F. R. 2821), June 26, 1952 (17 F. R. 5833), and December 24, 1952 (18 F. R. 48).

The House bill does not contain a similar provision. Instead it permits a lessee to file with the Secretary a certificate that an unadjudicated doubt exists as to whether a lease area is within the outer Continental Shelf, or as to who is entitled to payments under a lease; and the lessee may then interplead, in the District Court for the District of Columbia, the United States and, if the State consents, the State, and make his payments into court until the dispute is determined (sec. 18 (a) (1)). This provision is unacceptable. It requires the United States to litigate as to such particular areas, and at such times, as lessee determine. It does not require the States to enter such litigation, and is entirely silent as to what shall happen if the State does not consent. It is understood that the State consent which lessees particulary hope to invoke under this provision is the consent given by Louisiana to suits against the State mineral board. Apparently referred to is the provision that "The board shall be a body corporate, with its domicile at the State capitol, may sue and be sued * * *." Louisiana Revised Statutes, 1950, section 30:121. Certainly this is not a consent to suit in the District of Columbia and probably it is not a consent to suit in other than the courts of the State. *Great Northern Ins. Co.* v. *Read*, 322 U. S. 47, 54 (1944). Thus, it appears that the proposed provision as it stands would not give to lessees the practical advantages which they hope for; and the Department of Justice is vigorously and unalterably opposed to broadening the provision so as to consent to suit in State courts or even in Federal district courts within the various States. The provision should be rejected as undesirable and unworkable.

Alternatively, the House bill permits the lessee, after filing the certificate with the Secretary, to continue making his payments to the State or to its grantee as provided in the lease, until there is an adjudication that the United States is entitled to them. The State or its grantee is then required to account for payments so received (sec. 18 (a) (2)). This apparently leaves it to the United States to seek adjudication when and where it chooses. In that respect the provision would be desirable; but there may be doubt as to the ability of the United States to require the States to account in this way.

The House bill further provides that a lessee may apply for an exchange lease within 6 months after an adjudication that his lease area is part of the outer Continental Shelf (sec. 18 (a) (3)). As pointed out above, this should be modified so that time for applying for an exchange lease will not be tolled except by filing of a suit, whether interpleader under section 18 (a) (1) or other, under section 18 (a) (2), within the time provided for making application for an exchange lease.

If either the provisions of section 18 (a) (1) or 18 (a) (2) of the House bill, or both, are adopted, two points should be noticed respecting the subjects of doubt which may be certified to the Secretary. Point (ii), "as to whom," should be "as to to whom," etc.; to avoid that rather awkward wording, it would be possible to substitute "regarding to whom" or "as to who is entitled to the rentals, royalties, or other sums payable under such lease." Point (iii), "as to the validity of the claims of the State * * * to the area" etc., is not clear. If it means a doubt as to whether the area is within the outer Continental Shelf, it duplicates point (i) and should be omitted for that reason. If it does not mean that, it should be omitted as meaningless as no State has or has had a right to issue leases on the outer Continental Shelf.

Section 18 (b) of the House bill permits lessees to intervene in any suit between the United States and a State to determine jurisdiction over a lease area, and to make their payments into court pending determination of the suit. It would be preferable to permit payment into court, without actual intervention, as it will be undesirable to have numerous parties entitled to participate in the conduct of such litigation as ordinary intervenors would be. With that modification, the provision is a reasonable one.

As pointed out above, S. 1901, section 7, does not contain the provision, referred to in section 8 (d), for certification by the Secretary that the United States does not claim a lease area. Probably such provision should be added.

Explorations

The House bill, section 17, recognizes the right of any person, subject to applicable provisions of law, and of Federal agencies, to conduct geological and geophysical explorations that do not interfere with or endanger actual operations under any lease issued pursuant to the act. Such provision may be desirable, but might well be conditioned on securing a permit from the Secretary (in the case of private persons), rather than leaving it to the individual, as this seems to do, to decide what will interfere with or endanger operations. S. 1901 has no corresponding provision.

Rights reserved to the United States.

S. 1901, section 10 (a), provides that the President may withdraw and reserve unleased areas for Federal use in the interest of national security. This provision is unnecessary, since leasing is not mandatory in any case; and it is undesirable, in that it may imply that it constitutes the only permissible reason for refusing to lease. It should be omitted, or at least the final phrase, "for the use of the United States in the interest of national security," should be deleted. The House bill has no corresponding provision.

S. 1901, section 10 (b), gives the United States the right of first refusal to purchase any oil or gas produced, at market price, in time of war or when the President prescribes. Section 16 (a) (i) of the House bill gives a right of first refusal to purchase, in time of war or when the President or Congress so prescribes. It does not mention market price, but its practical effect is probably not materially different in that respect. Such provision is desirable; the House version, being slightly less restrictive, is probably preferable from the Government's point of view.

S. 1901, section 10 (c), authorizes the Secretary, on recommendation of the Secretary of Defense, to suspend operations or terminate leases during a state of war or national emergency declared by Congress or the President after the effective date of the act, with payment of just compensation. The House bill provides that in time of war or when necessary for national defense, and the President or Congress so prescribes, the United States may terminate leases, becoming owner of improvements and liable to pay just compensation determined as in condemnation (sec. 16 (a) (ii)) or it may suspend operations, thereby suspending payments by the lessee, extending the lease correspondingly, and becoming liable for just compensation (sec. 16 (a) (iii)). The somewhat more specific and less restrictive terms of the House version are probably preferable.

The House bill also permits the Secretary of Defense, with the approval of the President, to designate areas needed for defense, where no explorations or operations may be conducted without the approval of the Secretary of Defense; with provision for suspension of payments, extension of terms, and payment of just compensation where this interferes with operations under a lease. Section 16 (b): This is a desirable provision. S. 1901 has no corresponding provision.

Helium

The House bill reserves to the United States the right to extract helium from all gas produced. Section 16 (c): This is a desirable provision. S. 1901 has no corresponding provision.

Naval petroleum reserve

Both bills revoke Executive Order No. 10426 (S. 1901, sec. 11; House bill, sec. 19). This is necessary.

Appropriations

The House bill includes an authorization for appropriations. Section 20: This is a desirable provision, but of course is lacking from S. 1901.

In addition to the foregoing, the following comments may be made with respect to suggestions advanced by representatives of certain oil companies:

Enforcement of regulations

It seems desirable to add to S. 1901, section 5 (or to the House bill, sec. 10 (f)), provision that violation of applicable laws or regulations of the Secretary shall be punishable as a misdemeanor, and shall not be ground for cancellation of a lease unless continued or repeated after specific notice to comply. This would assist enforcement, in cases where the Secretary did not want to invoke the stringent remedy of cancelaltion, and would protect the lessees from highly punitive forfeitures for minor infractions.

Liability for past operations

The oil companies are particularly concerned that claims based on operations before June 5, 1950, be waived as provided by section 15 (a) of the House bill. For certainty, S. 1901, section 6 (d), should so provide. As indicated above, the Supreme Court has declined to enforce earlier claims against the States, and the lessees should not be held to a greater liability.

Pipelines

The oil companies suggest that provision be made for authorization of pipelines by the Secretary, and for their operation and regulation as common carriers. This is desirable, and could be accomplished by adopting the provisions of section 28 of the Mineral Leasing Act (30 U. S. C., sec. 185) as provided by section 10 (g) of the House bill, plus specific provision that such lines should be operated as common carriers, and be subject to regulation as interstate pipelines under part I of the Interstate Commerce Act (49 U. S. C., secs. 1–27) as to oil lines and under the Natural Gas Act (15 U. S. C., secs. 717–717w) as to gaslines. Such gaslines would apparently be "interstate" within the terms of the Natural Gas Act without specific provision; but oil lines would not be, within the terms of the Interstate Commerce Act. For certainty, specific provision should be made for the applicability of both acts. Because of the problems of location, it might be desirable to provide for a right-of-way wider than the 50 feet allowed by section 28 of the Mineral Leasing Act (30 U. S. C., sec. 185). That is primarily a question for the Department of the Interior.

Mineral Leasing Act

The oil companies are particularly anxious that sections 17 (b), 30 (a), 30 (b), 36, and 39 of the Mineral Leasing Act (30 U. S. C., secs. 226e, 187a, 187b, 192, and 209) be adopted for this area. As discussed above, with respect to section 10g of the House bill, adopting those and certain other provisions of the Mineral Leasing Act, the seems reasonable and appropriate.

Sulfur and other minerals

Where a State lease relates to minerals other than oil or gas, continued exploitation of the same minerals is provided for by S. 1901, section 6 (b), permitting operation under the State lease, and by the House bill, section 11 (a) providing for exchange leases covering "the same natural resources." However, under both bills new leasing is limited to oil and gas (S. 1901, sec. 8 (a); House bill, sec. 10 (a)). The oil companies urge that new leasing be permitted for other minerals, particularly sulfur, which apparently is often found in connection with the same salt dome formations as oil and gas. The desirability of this, and the provisions appropriate to effectuate it, seem primarily questions for the Department of the Interior.

Leasing procedures

The oil companies prefer to have statutory specification of leasing procedures, particularly 30 days' publication of notice of proposed sale of leases, as provided by section 10 (a) of the House bill, rather than leaving the subject to the discretion of the Secretary, as under S. 1901, section 8. The requirements of the House bill in this respect appear reasonable; and while they constitute a restriction on the Secretary, they are also a protection to him, as compliance with the statutory requirements will preclude any challenge to the reasonableness of his procedures. There seems to be no objection to their adoption.

Definition of "State law"

Both bills require that a State lease, to qualify for continuance or exchange, shall have been validly issued and in effect under the law of the State (S. 1901, sec. 6 (a) (2), 6 (a) (3), 6 (b); House bill, sec. 11 (a), 11 (b)). Technically no lease on the outer Continental Shelf has been validly issued or in effect under State law, since State law has no applicability to that area. This is taken care of by the House bill at the first point where it makes such reference, by use of the phrase, "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" (sec. 11 (a)). However, that phrase is not repeated at subsequent points in the section, and to do so would be unduly cumbersome. S. 1901 has no corresponding qualifying phrase at any point. There seems to be much merit in the suggestion of the oil companies that there be added to the definitions (S. 1901, sec. 2: Submerged Lands Act, sec. 2) a provision that the "law of a State," when used with reference to

leases issued by the State or its grantee covering land of the outer Continental Shelf, shall be understood to mean the law of the State as it would have been if the State had had jurisdiction over the area so purported to be leased. However, care should be taken to restrict the definition to that particular subject; to define "State law" in that way for all purposes might extend the scope of State workmen's compensation laws, under S. 1901, section 4 (c), beyond what is intended, or could produce difficulty in constructing the second paragraph of section 9 (a) of the House bill.

Sincerely yours,

J. LEE RANKIN,
Assistant Attorney General,
Office of Legal Counsel.

WASHINGTON, D. C., *June 5, 1953.*

Hon. GUY CORDON,
Acting Chairman, Committee on Interior and Insular Affairs,
Senate Office Building, Washington, D. C.

DEAR SENATOR: I have been asked to express to you and your committee my views on S. 1901, the bill introduced by you to provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes.

S. 1901 is intended to give the appropriate Federal officials the authority to dispose of the oil and gas resources in the submerged lands of the sea beyond the boundaries of coastal States. The recently passed Submerged Lands Act attempts to surrender all Federal rights in the submerged lands of the sea to the adjacent States from the low-water mark to the seaward boundaries of such States. That act, popularly or unpopularly known as the tidelands bill, did not locate the seaward boundaries of the coastal States, and neither does S. 1901, so that matter is still open, to be resolved either by legislation or litigation. As was made clear during your hearings, Louisiana, Texas, and Florida will claim boundaries extending at least 3 leagues or 10½ miles into the Gulf of Mexico, although such boundaries are beyond the historic seaward boundary of 3 miles claimed by the United States since the early days of the Republic.

A letter sent to the Attorney General, and signed by 22 Senators, asked whether the Government would resist any claims by Louisiana, Texas, and Florida for seaward boundaries in excess of 3 miles, but so far as I know the letter has not yet been answered. S. 1901 must, therefore, be considered as applying to the submerged lands beyond State boundaries, wherever they may be eventually located, and seaward to the outer edge of the Continental Shelf.

I have read a copy of the letter sent you under date of May 26, 1953, by J. Lee Rankin, Assistant Attorney General, in which the difference between S. 1901, as introduced, and H. R. 5134, the bill on the same subject which has passed the House and is now pending in the Senate, is discussed. I have also read a copy of the letter sent you under date of May 25, 1953, by Clayton L. Orn, chairman of the legal committee of Offshore Operators' Committee. Both of these letters contain valuable suggestions which I assume your committee will consider carefully. I regret I do not have the views or suggestions of the Secretary of the Interior, if any have been submitted to your committee, as it seems to me of vital importance that the question of the proper policy to be adopted for the development of the mineral resources of the submerged lands of the Continental Shelf be examined exhaustively before Congress takes action. It should always be borne in mind that when such development is authorized or begins, private rights are vested and these may not be disturbed, except perhaps at great cost to the Government.

Congress has given to the States exclusive rights to the mineral resources in the submerged lands of the marginal sea. The act which made that gift reiterates the jurisdiction of the United States over the natural resources in submerged lands beyond the States' boundaries. S. 1901 would, if enacted, exercise Federal control for the first time. It would seem to me that Congress should take a new look at the whole problem, in consideration of its recent history, or authorize the appropriate Federal officials to do so, before any final action is taken.

For example, S. 1901, as does the House bill, provides for confirmation of State leases, either by permission to continue under such leases or by providing that they may be exchanged for a Federal lease. The Justice Department seems to take it for granted that the confirmation should be made, and its comments and

suggestions relate only to the manner of ratification and the conditions to be imposed. Nowhere is it stated that such an action by Congress, ratifying leases which are illegal even after the passage of the so-called tidelands bill, will result in permanent loss to the Federal Government. California, Louisiana, and Texas have already been given all the millions of dollars in revenues received by them through the leases made for the extraction of oil and gas from the submerged lands within the boundaries as defined in the tidelands bill. These States have been allowed to retain such revenues received even after the decisions of the Supreme Court that they had no rights in the mineral resources of the marginal sea, an dbefore the passage of the act which purports to give them such rights. S. 1901, as I read it, does protect the Federal Government's rights to the revenues from oil and gas taken from areas beyond the States' boundaries from the dates of the decisions by the Supreme Court.

There is no doubt that the leases made by the States, so far as they apply to areas beyond State boundaries, were illegal when made, and are of no legal validity today, although the Secretary of the Interior, during the interim since the Supreme Court decisions in the Louisiana and Texas cases accepted payments from the lessees under the terms of such leases. (The revenues from operations off California have been collected by that State but have been segregated under the provisions of agreements between that State and the Federal Government.) As the members of the committee are aware, Louisiana and Texas have adopted the practice of advertising oil and gas leases carrying a royalty to the lessor of 12½ percent of the production, and annual rentals. The leases are awarded to the highest bidders, and the cash payments (known as bonuses) are the amounts which determine which are the successful bidders. It is clear, therefore, that the bonus payments are taken into consideration in determining the uniform royalty of 12½ percent. Therefore, if the illegal State leases on areas outside of State boundaries are now to be confirmed by the Federal Government, such an action would mean that the Federal Government would thereafter be restricted, during the term of such leases, or renewals, to royalties of 12½ percent, although the Federal Government never received any part of the bonus payments on which the leases were originally awarded.

The Federal Government is now in a position where it has the right to readvertise for sale of leases of all areas outside of States boundaries. It can determine what royalties and rentals it will charge, and it can award each lease to the bidder paying the highest bonus to the Federal Government. I do not urge such a course of action. The lessees have made, in some instances, substantial investments for exploration and equipment on the strength of the State leases. On the other hand, the State of Texas did not enter into its leasing program until after the decision in the California case, in which it participated. It knew then that its right to make leases for the production of oil and gas within its actual or its claimed "historic" boundaries was open to serious doubt, and it had no real reason to believe that it had any rights in the submerged lands beyond its claimed seaward boundaries. The oil operators had the same information. They made their bids with full knowledge of the risks they were assuming. The same situation is true as to the leasing of areas off the shores of Louisiana, except that Louisiana had begun its leasing program before the Supreme Court decision in the California case, and continued thereafter to make leases as if the question had not been determined. Inasmuch as most, if not all, of the operations off California are within 3 miles of the low-water mark, the matter of ratification of illegal State leases is only of particular importance in areas off Louisiana and Texas. There seems to be no good reason why the Federal Government should be deprived of the bonus payments illegally paid to and retained by Louisiana and Texas for operations in territory which Congress has left to the Federal Government, or why the Federal Government should be content with a royalty of but 12½ percent, when that rate reflects bonus payments it has not received. In all fairness, Louisiana and Texas should remit to the Federal Government such portions of bonus payments as may be allocated to the areas in which it does not now and never had any rights. It may be that the operators should pay such sums to the Federal Government, and recover them from the States.

I am, of course, aware of the fact that the Supreme Court declined to make the States account to the Federal Government for revenues from leases received by the States prior to the dates of the decisions in the California, Louisiana, and Texas cases, but this seems to me an additional reason why the Federal Government should not, without careful consideration of the losses to its taxpayers involved, confirm the illegal parts of State leases in derogation of its rights. In

his letter to you of May 25, 1953, Mr. Orn says that when I appeared before your committee as Solicitor General to urge the passage of Senate Joint Resolution 20 by the previous Congress, I approved substantially the same provisions for confirmation of State leases. Mr. Orn is entirely correct. But Senate Joint Resolution 20, which was intended to allow the Federal Government to proceed to develop the areas within State boundaries, did not pass. The Justice and Interior Departments were perfectly willing to bring the controversy, which had been won in the courts, but which was continued before Congress, to an end, even if it meant surrendering some of the revenues to which it was justly entitled. But Congress has given to the States all of the natural resources in the submerged lands of the sea within State boundaries, and thereby has already confirmed all State leases within such areas. If State leases, so far as they relate to the natural resources in the submerged lands of the sea beyond State boundaries, are now to be ratified, it means, in effect, that Congress will now deprive the Nation of the full value of oil and gas in the submerged lands of the sea beyond State boundaries.

I join most heartily in Mr. Rankin's statement of the administration's view that the outer Continental Shelf is a Federal area and should remain subject to purely Federal control in all respects. I assume therefore that your committee will reject the proposed alternatives giving the coastal States authority to extend State jurisdiction over the submerged lands of the outer Continental Shelf. I assume also that the committee will be guided by the administration's views as to the extraction of helium and also as to the desirability of special provisions for the development of deposits of sulfur and other natural resources.

Your courtesy in permitting me to file this letter is deeply appreciated.

Sincerely yours,

PHILIP B. PERLMAN.

FACTUAL DATA CONCERNING OIL AND GAS OPERATIONS ON AN ESTIMATED PROVED RESERVE IN THE SUBMERGED LANDS OF THE UNITED STATES

(Prepared by the United States Geological Survey)

The attached tables numbered from I to VIII, inclusive, have been compiled from information available in the Geological Survey, which in many instances has not been complete or was available only through indirect sources with the usual chances of error. Formal supervision of the operations of the submerged coastal lands, similar to that exercised on the public and other oil and gas lands of the United States, has not been put into effect because of the absence of determinations as to the location of the line of demarcation between the areas of jurisdiction of the States and the United States, particularly in California, and the absence of Federal legislation providing for the leasing and operation of the lands pursuant to the Supreme Court decision of June 23, 1947, in the California case and the decisions of June 5, 1950, in the Louisiana and Texas cases.

A brief statement concerning each table follows:

TABLE I

Table I shows the current daily production and cumulative production for all productive submerged-land fields in the Gulf of Mexico. All data are segregated to show production landward and seaward of the traditional State boundaries, which, for the purpose of this report, are assumed to be 3 nautical miles seaward of mean low tide and the seaward limits of inland waters for Louisiana and California and 3 leagues (9 nautical miles) seaward for Texas.

TABLE II

Table II shows revenues, segregated by rentals and royalties, received and impounded by the United States pursuant to (1) the stipulation of August 21, 1950, by the Attorney General of the United States and the attorney general of California and (2) the notice of the Secretary of the Interior dated December 11, 1950, for Louisiana and Texas. Where the traditional State boundaries bisected a lease, rental payments were proportioned on an acreage basis. Royalties were proportioned on the basis of actual well locations. The data for this table were supplied by the Accounts Section, Office of the Secretary of the Interior.

TABLE III

Table III shows the status, as of December 31, 1952, of all wells drilled on submerged coastal lands in the Gulf of Mexico off the coast of Louisiana and Texas. Again, the table has been segregated according to the traditional State boundaries.

TABLE IV

Table IV shows pertinent data for individual fields off the coast of Louisiana, Texas, and California. These data have been compiled from various sources, including biennial reports of the State Mineral Board of Louisiana, Geological Survey records, and other sources. Also shown, by figures enclosed in parentheses, are wells drilled in the Gulf of Mexico since December 11, 1950, pursuant to authorization granted by the Secretary of the Interior.

TABLE V

Table V shows the estimated proved reserves for the three producing States, as estimated by the Geological Survey.

TABLE VI

Table VI shows the applications for additional development in the submerged coastal lands of the Gulf of Mexico considered by the Department of the Interior since December 11, 1950.

TABLE VII

Table VII is a record of the exploratory wells resulting in dry holes drilled off the coasts of Louisiana and Texas.

TABLE VIII

Table VIII shows the average daily oil production and the estimate proved reserves of liquid hydrocarbons on the public and acquired lands of the United States. It is included with this set of tables for purposes of comparison.

Senator CORDON. At this time let there be included in the record the tables numbered I to VIII, inclusively.

(The tables referred to are as follows:)

Oil and Gas Statistics, Submerged Coastal Lands

Table I.—*Production*

WELLS WITHIN THE AREA CLAIMED BY UNITED STATES BUT LANDWARD OF TRADITIONAL STATE BOUNDARIES

Areas	Field or block	Producing wells	Oil production, barrels	
			October 1952	Accumulated
Louisiana:				
West Cameron	(1)	8	8,668	3,317,708
	(2)			5,054
	33	1	149	82,297
Bay Marchand	3	27	132,923	6,575,578
South Pass	24	7	60,304	1,242,993
Main Pass	69	17	148,516	5,318,220
Total, Louisiana		60	350,560	16,541,850
Texas	(3)	1	1,708	20,708

WELLS SEAWARD OF TRADITIONAL STATE BOUNDARIES

Louisiana:				
West Cameron	45	2	5,129	187,903
Eugene Island	32			135,849
	45	1	9,345	56,848
	126	4	56,629	971,099
	(4)	3	20,632	659,863
Ship shoal	32	6	16,220	519,197
	72	2	9,821	339,572
South Timbalier	34			180,838
	52	1	2,037	30,818
Grand Isle	16	1	1,045	49,066
	18	5	35,545	1,270,189
Total, Louisiana		25	156,403	4,401,242
Texas	(5)	(5)	(5)	(5)

Areas	Field or block	Producing wells	Gas production, M c. f.		Condensate production barrels	
			November 1952	Accumulated	November 1952	Accumulated
Louisiana:						
Eugene Island	32	5	2,194,930	18,283,369	22,910	191,997
Vermilion	39	4	1,108,567	19,076,336	5,621	96,234
Total, Louisiana		9	3,303,497	37,359,705	28,531	288,231
Texas	(6)	(6)	(6)	(6)	(6)	(6)

[1] Creole (Block 2).
[2] Holly Beach (Block 7).
[3] Caplen.
[4] Rabbit Island.
[5] There is no oil production seaward of traditional State boundary off the coast of Texas.
[6] There is no gas or condensate production seaward of traditional State boundary off the coast of Texas.

TABLE II.—*Revenue* [1]

State	Rentals		Royalties		Totals		Total revenue in State
	Landward of traditional State boundaries	Seaward of traditional State boundaries	Landward of traditional State boundaries	Seaward of traditional State boundaries	Landward of traditional State boundaries	Seaward of traditional State boundaries	
	Dollars	*Dollars*	*Dollars*	*Dollars*	*Dollars*	*Dollars*	*Dollars*
Louisiana	1,310,471.58	8,560,629.47	2,566,447.71	2,486,817.96	3,876,919.29	11,047,447.43	14,924,366.72
Texas	285,388.00	143,350.00	62,700.70		348,088.70	143,350.00	491,438.70
California [2]			19,868,398.94		19,868,398.94		19,868,398.94
Total	1,595,859.58	8,703,979.47	22,497,547.25	2,486,817.96	24,093,406.83	11,190,797.43	35,284,204.36

[1] This table shows (1) for Louisiana and Texas, all moneys received and impounded by the United States from December 11, 1950. to January 16, 1953; and (2) for California, all moneys received pursuant to the stipulation of August 21, 1950, from October 1, 1950, through September 30, 1952. Data supplied by Accounts Section, Office of the Secretary of the Interior.

[2] No breakdown between rentals and royalties available for California. However, the amount of rentals is only a very small percentage of total revenue.

TABLE III.—*Well status (as of Dec. 31, 1952)*

WELLS WITHIN THE AREA CLAIMED BY UNITED STATES BUT LANDWARD OF TRADITIONAL STATE BOUNDARIES

Areas	Field or block	Drilling wells	Producing		Shut-in		Dry holes abandoned	Total
			Oil	Gas	Oil	Gas		
Louisiana:								
West Cameron	Creole (Block 2 [1])		8			1	11	20
	7						2	2
	33 [1]		1			1		2
East Cameron	1					1		1
Eugene Island	37						1	1
Bay Marchand	3 [1]		27		2	1	9	39
Grand Isle [2]	16 [1]					1	1	2
West Delta	24						1	1
South Pass	24 [1]	1	7					8
Main Pass	69 [1]		17				4	21
	State							
	QQ195						1	1
Total, Louisiana		1	60		2	5	30	98
Texas:								
	Caplen [1]		1		2	1	4	8
	High							
	Island				3		2	5
	144						1	1
	245 [1]					1	2	3
	248						1	1
	278						2	2
	403						1	1
	483						1	1
Total, Texas			1		5	2	14	22

See footnotes at end of table.

TABLE III.—*Well status (as of Dec. 31, 1952)*—Continued

WELLS SEAWARD OF TRADITIONAL STATE BOUNDARIES

Areas	Field or block	Drilling wells	Producing		Shut-in		Dry holes abandoned	Total
			Oil	Gas	Oil	Gas		
Louisiana:								
West Cameron	45 [1]		2			1	1	4
	149 [1]					3		3
	180						1	1
Vermilion	39 [1]	1		4			2	7
	71 [1]					2		2
	76 [1]					1		1
Eugene Island	32 [1]	2		5			2	9
	45 [1]	1	1			2	3	7
	58 [1]					1	1	2
	62						5	5
	88						1	1
	110 [1]					2	4	6
	126 [1]	1	4		2	1	5	13
	Rabbit Island [1]		3			3	10	16
Atchafalaya Bay	5 [1]					1		1
Ship Shoal	28 [1]	2				1		3
	32 [1]		6				6	12
	72 [1]	1	2			2		5
	108						1	1
South Timbalier	34 [1]					1	1	2
	52 [1]		1				1	2
	Timbalier Island	1					1	2
South Pelto	16						1	1
	20 [1]					1		1
Grand Isle [3]	16 [1]		1		3		7	11
	18 [1]		5				3	8
West Delta	12						1	1
	27 [1]					1	1	2
	30 [1]					2	1	3
	34						3	3
Main Pass	46						1	1
Total, Louisiana		9	25	9	5	25	63	136
Texas	(4)	(3)	(3)	(3)	(3)	(3)	(3)	(3)

[1] Indicates proved field.
[2] Grand Isle block 16 field is only partially within traditional State boundaries. Only the wells actually within traditional State boundaries are s own here.
[3] Grand Isle block 16 field is partially seaward of traditional State boundaries. Only the wells actually seaward of traditional State boundaries are shown here.
[4] No wells have been drilled seaward of traditional State boundary off the coast of Texas.

TABLE IV.—*Field tables*

WITHIN TRADITIONAL STATE BOUNDARIES

Field name	Discovery date (month and year)	Drilled blocks in field, No.	Drilled State leases, No.	Operator	Field production: Current daily (October 1952) oil, barrels [1] (gas, thousand cubic feet)	Field production: Cumulative oil, barrels [1] (gas, thousand cubic feet)	Well data: Oil [2]	Well data: Gas and condensate [2]	Well data: Gas [2]	Well data: Drilling [2]	Well data: Dry or abandoned [2]	Well data: Total [2]	Remarks
LOUISIANA													
Creole (West Cameron)	April 1938	2	194	Superior	280	3,317,708	8		1		11	20	
Block 33	August 1949	33	1123	Phillips, et al	5	82,297	1		1			2	
West Cameron		[3] 1	1170	do					1			1	
Field total					5	82,297	1		2			3	
Block 3	March 1949	2	1366	California Co.	4,288	6,575,578	4				6	10	
Bay Marchand		3	1367	do			25		1		3	29	
Field total					4,288	6,575,578	29		1		9	39	
Block 24	April 1950	11	998	Shell	1,915	1,242,993	4 (2)					4 (2)	
South Pass		24	1008	do			3			1 (1)		4 (1)	
Field total					1,915	1,242,993	7 (2)			1 (1)		8 (3)	
Block 69	August 1948	68	1277	California Co.	4,791	5,318,220	11				1	12	
Main Pass		69	1278	do			3				1	4	
		80	1355	Shell			2				2	4	
		[4] 1	988	do			1					1	
Field total					4,791	5,318,220	17				4	21	
Block 16: Grand Isle [5]	November 1948	16	799	Humble				1			1	2	
Total, Louisiana					11,336	16,536,796	62 (2)	1	4	1 (1)	25	93 (3)	
TEXAS													
Caplen	March 1939	26	33137	Sun	55	20,708			1		2	3	
		27	19974	do			3 (1)					3 (1)	
		144	31509	do							1 (1)	1 (1)	
		145	31510	Phillips							1 (1)	1 (1)	
Field total					55	20,708	3 (1)		1		4 (2)	8 (3)	

See footnotes at end of table.

TABLE IV.—*Field tables*—Continued

WITHIN TRADITIONAL STATE BOUNDARIES—Continued

Field name	Discovery date (month and year)	Drilled blocks in field, No.	Drilled State leases, No.	Operator	Field production: Current daily (October 1952) oil, barrels [1] (gas, thousand cubic feet)	Field production: Cumulative oil, barrels [1] (gas, thousand cubic feet)	Well data: Oil [2]	Well data: Gas and condensate [2]	Well data: Gas [2]	Well data: Drilling [2]	Well data: Dry or abandoned [2]	Well data: Total [2]	Remarks
TEXAS—continued													
High Island	October 1922	1	M-29828	Stanolind	(6)	(6)	1				1	2	
		2	M-29827	do			2 (1)				1	3 (1)	
Field total							3 (1)				2	5 (1)	
Unnamed	September 1949	219	31685	Melben-Ohio							1	1	Shut-in. Well originally drilled by Stanolind.
		244	31699	Texas Eastern							1 (1)	1 (1)	
		245	31700	do				1				1	
Field total								1			2 (1)	3 (1)	
Total, Texas					55	20,708	6 (2)	1	1		7 (3)	16 (5)	
SEAWARD OF TRADITIONAL STATE BOUNDARIES [10]													
LOUISIANA													
Block 45 West Cameron	May 1949	44	1131	Stanolind	165	187,903					1	1	
		45	1133	do			1	1				2	
		56	1137	do			1					1	
Field total					165	187,903	2	1			1	4	
Block 149 West Cameron	September 1949	132	1158	Superior	(9)			1				1	
		149	1164	do					1			1	
		150	1165	do					1			1	
Field total								1	2			3	
Block 39 Vermilion	June 1949	38	879	Pure	187	96,234		2				2	
		7 39	880	do	(36,952)	(19,076,336)		2			2	4	

		[8] 39	1009	Phillips, et al						1 (1)		1 (1)	
Field total					187 (36,952)	96,234 (19,076,336)		4		1 (1)	2	7 (1)	
Block 71: Vermilion	July 1948	71	884	Superior	(9)			2				2	
Block 76: Vermilion	April 1949	76	1106	do	(9)				1			1	
Rabbit Island	June 1942		304	Texas	665	659,863	3		3		10	16	
Block 32	December 1949	[7] 32	832	Pure	764	327,846	1	1 (1)		1 (1)	1 (1)	4 (3)	
Eugene Island		[8] 32	833	do	(73,164)	(18,283,369)	2					2	
		33	1537	Sun				1		1 (1)		2 (1)	
		41	834	Pure							1	1	
Field total					764 (73,164)	327,846 (18,283,369)	3	2 (1)		2 (2)	2 (1)	9 (4)	
Block 45	November 1948	44	837	Magnolia	301	56,848		1			1 (1)	2 (1)	(3) wells drilled as side-tracks from previously drilled wells.
Eugene Island		45	838	do					1 (1)		1 (1)	2 (2)	
		51	843	do				1 (1)	1	1 (1)		3 (2)	
Field total					301	56,848		2 (1)	2 (1)	1 (1)	2 (2)	7 (5)	
Block 110	July 1949	94	684	Magnolia	(9)						2	2	
Eugene Island		95	685	do				1			1	2	
		110	686	do				1				1	
		111	687	do							1	1	
Field total								2			4	6	
Block 126	May 1950	119	691	Magnolia	1,827	971,099	3 (1)			1 (1)	1	5 (2)	
Eugene Island		120	692	do					1 (1)		3	4 (1)	
		125	693	do			1				1	2	
		126	694	do			2					2	
Field total					1,827	971,099	6 (1)		1 (1)	1 (1)	5	13 (3)	
Block 28	July 1949	27	749	Phillips, et al	(9)					1 (1)		1 (1)	
Ship Shoal		28	750	do				1		1 (1)		2 (1)	
Field total								1		2 (2)		3 (2)	
Block 32	November 1947	30	752	Phillips, et al	523	519,197	1				1	2	
Ship Shoal		31	753	do			2					2	
		32	754	do			2				2	4	
		33	755	do			1				3	4	
Field total					523	519,197	6				6	12	

See footnotes at end of table.

TABLE IV.—*Field tables*—Continued

SEAWARD OF TRADITIONAL STATE BOUNDARIES—Continued

Field name	Discovery date (month and year)	Drilled blocks in field, No.	Drilled State leases, No.	Operator	Field production: Current daily (October 1952) oil, barrels [1] (gas, thousand cubic feet)	Field production: Cumulative oil, barrels [1] (gas, thousand cubic feet)	Well data: Oil [2]	Well data: Gas and condensate [2]	Well data: Gas [2]	Well data: Drilling [2]	Well data: Dry or abandoned [2]	Well data: Total [2]	Remarks
LOUISIANA—continued													
Block 72	August 1948	72	766	Magnolia	317	339,572		2		1 (1)		3 (1)	
Ship Shoal		87	768	do				2 (1)				2 (1)	
Field total					317	339,572		4 (1)		1 (1)		5 (2)	
Block 34: South Timbalier	April 1949	34	1027	Humble	(9)	180,838	1				1	2	
Block 52: South Timbalier	July 1950	52	1428	do	66	30,818	1				1	2	
Block 16 [5]	November 1948	16	799	do	34	49,066	1				4	5	
Grand Isle		17	800	do					1			1	
		22	803	do					1		3	4	
		23	804	do			1					1	
Field total					34	49,066	2		2		7	11	
Block 18	August 1948	9	797	Humble	1,147	1,270,189	1					1	
Grand Isle		10	798	do			1				1	2	
		18	801	do			1				1	2	
		19	802	do			2				1	3	
Field total					1,147	1,270,189	5				3	8	
Block 27: West Delta	November 1949	27	818	Humble	(9)			1			1	2	
Block 30	April 1949	30	819	do	(9)				2 (1)			2 (1)	
West Delta		31	820	do							1	1	
Field total									2 (1)		1	3 (1)	
Total, Louisiana					5,996 (110,116)	4,689,473 (37,359,705)	29 (1)	20 (3)	13 (3)	8 (8)	46 (3)	116 (18)	

See footnotes at end of table.

CALIFORNIA—LANDWARD OF TRADITIONAL STATE BOUNDARIES

Field name	Discovery date (month and year)	Number of leases and easements (December 1952)				Field production		Well data				
		Nonproducing		Producing		Current daily oil (barrels)	Cumulative oil (barrels)	Completions since June 23, 1947—Producers			Currently producing	Drilling
		Number	Acreage	Number	Acreage			Oil	Gas	Dry		
California:												
Capitan	1929	0	0	1	5	8	58,000 (11,000)	(11)	(11)	(11)	1	0
Coal Oil Point	May 1947	2	3,840	0	0	0	(1,000)	(11)	(11)	(11)	0	1
Elwood	August 1929	1	90	7	2,562	4,700	65,348,000 (12,089,000)	(11)	(11)	(11)	58	0
Huntington Beach	1933	6	0	59	3,539	37,800	152,464,000 (33,927,000)	(11)	(1)	(11)	392	4
Rincon	December 1927	1	10	4	604	1,200	9,102,000 (3,064,000)	(11)	(11)	(11)	41	0
Seal Beach	1947			1	1,255	30	(50,000)	(11)	(11)	(11)	1	0
Montalvo		1	960					(11)	(11)	(11)		
Total		11	4,900	72	7,965	45,738	227,023,000	251	0	3	493	5

[1] Includes condensate.
[2] Wells approved and started after Dec. 11, 1950, pursuant to Secretary's notice of Dec. 11, 1950. Included in other figure.
[3] East Cameron.
[4] South Pass.
[5] Block 16, Grand Isle field, is only partially within traditional State boundaries. Only that portion actually within traditional State boundaries is shown here.
[6] Not available.
[7] North half.
[8] South half.
[9] Shut-in.
[10] There are no oil or gas fields seaward of the traditional State boundaries in Texas.
[11] Not available by fields; total shown

NOTE.—The current average price for all crude oil is $2.13 per barrel.
Value of gas and gas liquids is currently 13.6 percent of the value of the crude.
Production figures in parentheses designate cumulative production for the period June 23, 1947, through Sept. 30, 1952.
There are no fields seaward of traditional State boundaries in California.

TABLE V.—*Estimated proved reserves*

FIELDS WITHIN THE AREA CLAIMED BY UNITED STATES BUT LANDWARD OF TRADITIONAL STATE BOUNDARIES

State and product	Number of proved fields	Estimated proved reserves
Louisiana: Oil or oil and gas	5	84,000,000 barrels.
Texas:		
Oil	2	15,000,000 barrels.[1]
Gas	1	75,000,000 thousand cubic feet.[1]
California: Oil	5	160,000,000 barrels.

FIELDS SEAWARD OF TRADITIONAL STATE BOUNDARIES

Louisiana:		
Oil or oil and gas	17	335,000,000 barrels.
Gas [2]	[2] 14	2,100,000,000 thousand cubic feet.
Texas	None	None.
California	None	None.

[1] Estimates based on incomplete data.
[2] Includes 2 gas and 12 oil and gas fields.

TABLE VI.—*Summary of applications for additional development in proved fields considered by the Department of the Interior pursuant to the notice of Dec. 11, 1950*

Total applications received	50
Total wells requested	68
Total applications granted	41
Total wells approved	57
Total applications denied	4
Total wells denied	4

In addition to the above, 1 application involving 1 well was considered unnecessary as it was for the recompletion of an existing well.

One application was approved, but company was later notified that the legality of the approval was doubtful because Executive Order No. 10426 (dated January 16, 1952) preceded approval.

Three applications involving four wells were pending at the time Executive Order No. 10426 was issued, and action thereon was suspended.

TABLE VII.—*Summary of unsuccessful exploratory test wells*

LANDWARD OF TRADITIONAL STATE BOUNDARIES

Area	Block or tract	State lease No.	Operator	Number of wells drilled	Total depth reached (deepest test)	Date completed (deepest test)
Louisiana:	*Block*					
West Cameron	7	1119	Magnolia	[1] 1	11,264	October 1951.
Do	8	1120	do	[2] 1	10,940	March 1950.
Eugene Island	37	670	do	1	11,544	April 1950.
West Delta	24	816	California	1	12,611	July 1948.
Main Pass	32-19S-19E	QQ195	Gulf	1	10,624	July 1951.
Total, Louisiana				5		
Texas:	*Tract*					
Galveston	144		Stanolind	1	1,740	November 1948.
Brazoria-East Freeport	248		Ohio (Melben)	1	8,888	March 1949.
Do	278		Humble	2	10,244	January 1949.
Matagorda	403		Ohio	1	8,450	December 1949.
South Palacios	483		Tidelands and Superior.	1	8,229	November 1948.
Total, Texas				6		

SEAWARD OF TRADITIONAL STATE BOUNDARIES

Area	Block or tract	State lease No.	Operator	Number of wells drilled	Total depth reached (deepest test)	Date completed (deepest test)
Louisiana:	*Block*					
West Cameron	180	1565	Superior	1	8,623	August 1949.
Eugene Island	62	676	Magnolia	2	3,280	September 1948.
Do	77	679	do	3	10,214	April 1949
Do	88	680	do	1	14,525	October 1950.
Ship Shoal	108	775	do	1	14,050	June 1950.
South Pelto	16	929	Humble	1	13,211	April 1950.
West Delta	12	809	do	1	12,830	May 1949.
Do	34	822	California	3	13,968	December 1948.
Main Pass	46	1267	Kerr-McGee	1	10,168	June 1950.
Total, Louisiana				14		
Texas	(3)	(3)	(3)	(3)	(3)	(3).

[1] Well approved by Secretary of Interior as protection from upland drainage.
[2] Some gas: Not commercial.
[3] No wells drilled seaward of traditional State boundaries in Texas.

TABLE VIII.—*Average daily oil production and estimated proved reserves on public and acquired lands of the United States*

State	Average daily crude oil production	Estimated reserves		
		Crude oil	Natural gas liquids	Liquid hydrocarbons
California	69,600	349,980,000	40,000,000	389,980,000
Colorado	38,300	147,230,000	5,400,000	152,630,000
Louisiana	12,550	31,550,000	9,400,000	40,950,000
Montana	5,100	26,000,000	800,000	26,800,000
New Mexico	37,000	192,500,000	41,000,000	233,500,000
Utah	2,480	17,550,000		17,550,000
Wyoming	106,900	551,500,000	26,000,000	577,500,000
Others [1]	700	2,600,000		2,600,000
Total	272,630	1,318,910,000	122,600,000	1,441,510,000

[1] Includes Kansas, Mississippi, and Oklahoma.

NOTE.—This table does not include data for naval petroleum reserves, other military lands, nor the submerged coastal lands.

Senator CORDON. Are there any questions from any member of the committee with respect to the tables or their contents?

(No response.)

INTER-AMERICAN JURIDICAL COMMITTEE

Draft Convention on Territorial Waters and Related Questions

(Prepared in compliance with resolution VII, No. 2, approved by the Inter-American Council of Jurists at its first meeting held in Rio de Janeiro from May 22 to June 15, 1950)

Department of International Law, Pan American Union, Washington, D. C., November 1952

Art. 1 The signatory States recognize that present international law grants a littoral nation exclusive sovereignty over the soil, subsoil, and waters of its continental shelf, and the air space and stratosphere above it, and that this exclusive sovereignty is exercised with no requirement of real or virtual occupation.

Art. 2 The signatory States likewise recognize the right of each of them to establish an area of protection, control, and economic exploitation, to a distance of two hundred nautical miles from the low-water mark along its coasts and those of its island possessions, within which they may individually exercise military, administrative, and fiscal supervision over their respective territorial jurisdictions.

Art. 3 When two or more continental shelves, or areas of protection and control, overlap, the States to which they belong shall limit the scope of their sovereignty or jurisdiction by mutual agreement or by submitting the question to the procedures established by the Parties for the settlement of international controversies.

Art. 4 The principles of customary or treaty law heretofore recognized between the Parties with respect to territorial waters, and specifically those referring to the exploitation of natural resources and the rights of navigation, are applicable to the continental shelf.

Art. 5 Taking into account the fact that the laws and practices of the signatory States show divergences with respect to the demarcation of the continental shelf and the area of protection, and with respect to the definition and scope of their rights thereover as regards the utilization thereof by another State, the Parties agree to study these matters jointly in order to obtain, as far as possible, a uniform system.

(S) F. A. Ursúa.
(S) J. R. Bonastre.
(S) Osvaldo Vial.
(S) Mariano Ibérico.

Draft Convention on Territorial Waters

STATEMENT OF REASONS

The attached draft resolution does not require a long statement of reasons, since very few of the important considerations upon which it is founded are conclusive.

From the time of Grotius and Bynkershoek to the beginning of the present century, territorial waters were considered universally and without question to mean a belt of 3 nautical miles extending from the low-water mark along the coasts, with certain specific exceptions, well founded or not.

It was not, however, the number in the distance set (3 nautical miles) that inspired the rule in question, but the rational idea contained in the maxim terrae potestas finitur, ubi finitur armorum vis, and also the actual possibility at that time of successfully exploiting the natural resources of the sea by the means then available.

It is not to be wondered at, therefore, that as the distance of 3 miles became increasingly unrealistic and less adopted to the situation for which it had been established and to which it was applied this rule should appear capricious and archaic in the eyes of publicists and in lay public opinion. Yet, in spite of numerous scientific and political conferences at which the question was discussed, the facts of history did not for a long time bring about the replacement of this rule by one more in harmony with the progress of mankind.

That is why as early as 1930, at the Codification Conference held at the Hague, there was reason to say that Bynkershoek's rule was no longer universally accepted, since only 9 States favored a single limit of 3 miles, 8 a limit of 3 miles with an adjacent area, and 7 a limit of 6 miles with an adjacent area.

As has occurred many times in the development of international law, the individual action of States, struggling to break out of the narrow enclosure in which they were confined by a formal rule whose reason for being had already ceased to exist, has created a de facto situation before which the law cannot remain indifferent. Therefore, a declaration should be made to the effect that every exception to the 3-mile rule is an illegal infraction of the unanimous will of the States, or, on the contrary, that such exception means only that a new rule based on reason and justified by juridical theory and evolution, philosophical principles, and the true demands of modern life has entered into force.

From the available data, which can very well be incomplete, the following facts emerge:

On February 26, 1942, a treaty relating to the submarine areas of the Gulf of Paria was signed by Venezuela and Great Britain, which necessarily implies the extension of their sovereignty to this area.

On September 28, 1945, the President of the United States of America issued a proclamation declaring that the natural resources of the subsoil and of the seabed of the Continental Shelf, underlying the high seas and adjacent to the coasts of the United States, belong to that country and are subject to its jurisdiction and control.

On October 29, 1945, the President of Mexico published a declaration in which he claimed the whole Continental Shelf adjacent to the coasts of Mexico, and each and every one of the natural resources, known and unknown, to be found therein, and included the supervision, exploitation, and control of the fishing grounds within the areas of protection necessary for the conservation of such sources of well-being.

The 1946 Constitution of Panama provides that the national territory of Panama includes the submarine Continental Shelf.

In the same year the President of the Republic of Argentina, in a general ministerial accord, declared that the sovereignty of the nation extends over the epicontinental waters and the Continental Shelf of Argentina.

On June 23, 1947, the President of Chile proclaimed national sovereignty over the adjacent Continental Shelf and its natural resources, outlining the area of protection at 200 nautical miles out from shore along the whole coastline and around the islands.

On August 1, 1947, the President of Peru issued a decree in which he declared that the national sovereignty and jurisdiction of Peru was extended over the continental or island submarine shelf, and the area of protection and control of the state extended 200 miles from the coast and around the islands.

Costa Rica, in 1948, affirmed substantially the same rights as Chile.

The decree of the President of Guatemala of August 1, 1949, states the ownership by that nation of all the petroleum reserves or deposits found within the territorial or maritime limits of the Republic, including the Continental Shelf.

Article 5 of the 1950 Constitution of Nicaragua provides that the national territory of Nicaragua includes the Continental Shelf and the marine and island shelves.

Article 7 of the 1950 Constitution of El Salvador declares that the national territory of El Salvador includes the adjacent seas within a distance of 200 nautical miles of its coasts, the subsoil, and the Continental Shelf.

More recently, on November 8, 1950, the Government of Brazil issued a decree establishing certain rights over the Continental Shelf.

Several decrees issued by the Government of Honduras in 1951 declare that the sovereignty of the Republic is extended over the Continental and island shelves, and that the nation extends its protection and control over the area included within a distance of 200 nautical miles from the coast.

It is very important to observe also that, aside from Trinidad, some of the countries near to the American Republics, such as the Bahamas and Jamaica (1948), have declared the Continental Shelf as part of their territory, and the same thing has been done by other more remote countries (Pakistan, Saudi Arabia, etc.).

From the above data the following conclusions may be drawn without question:

1. That the majority of the American States have tactily or expressly repudiated the absolue rule that the sovereignty of a state extends 3 miles out to sea.

2. That this tacit or express repudiation is not in the nature of a deliberate violation of the law or of unconcern over its provisions but, on the contrary, appears to be a sincere desire to make these provisions consistent with the theoretical or rational evolution of international law relative to the de facto situation in which we find ourselves.

3. That the action adopted by this majority of States, while consisting of individual acts, reveals as a whole the existence of a generally professed idea, to judge by preceding historical events and the essential similarity of concepts in which it was crystallized within a very definite period of time.

4. That, in spite of this essential uniformity, certain differences are observed, consisting principally of the following: (a) According to the declarations of the United States, the expression "control and jurisdiction" is apparently not equivalent to the word "sovereignty," while the majority of the other States use the latter term in connection with the Continental Shelf. (*b*) The right of free navigation is expressly set forth in some declarations and not in others, although it is to be assumed that they have no desire to obstruct it. (*c*) Some declarations limit themselves to proclaiming sovereignty over the Continental Shelf, while others establish in addition an area of protection and control.

We find, then, that we are in the presence of a new rule of international law, too respectable and well founded to be repudiated but at the same time imperfect. The dilemma faced by the Juridical Committee with respect to the aim of its report is whether to ignore this rule or, on the contrary, to promote suitable procedures for perfecting it. We declare ourselves, unhesitatingly, in favor of this latter alternative.

Although it is true that international law is not established by the will, declarations, or attitudes of a few States but by universal consensus, it is also true that a specific rule can be adopted by a few States to be in force between them, and many times this procedure has been the origin of a universal rule. It seems obvious, then, that the first step in improving the expressed will of the majority of American States would be the signing of a convention among them that would give formal sanction by all the others to the claims of each and provide a uniform rule that would greatly facilitate the adherence of others and the possible generalization or continentalization, and perhaps even universalization, of the rule.

By means of this procedure they might, on the one hand, do away with the differences of opinion existing at present among the different declarations in spite of their essential unity, and, on the other hand, open the way for other states to express their later adherence.

The Juridical Committee has already begun the detailed study of the scope of the legislative acts of the American States on this subject, for the purpose of formulating a codification principle that could contribute to the enunciation of the uniform system contemplated in article 5 of the draft convention.

Rio de Janeiro, July 30, 1952.

(Signed) J. R. BONASTRE.
(Signed) F. A. URSÚA.
(Signed) OSVALDO VIAL.
(Signed) MARIANO IBÉRICO.

DISSENTING OPINION OF THE DELEGATES OF BRAZIL, COLOMBIA, AND THE UNITED STATES OF AMERICA

We regret that we cannot sign the preceding draft for the following reasons:

1. The Committee, instead of following the mandate it had received—namely, to proceed with the work of codification of all matters pertaining to territorial waters and related questions—has limited its activities to the preparaion of a draft on the submarine Continental Shelf. This procedure restricts the work of the Committee to the study of one question, doubtless very important, but new in international law, and consequently part of what has been called the development of international law. That being the case, it was obligatory upon the Committee, in the preparation of work of such a nature, to follow the norms issued by the Inter-American Council of Jurists in its resolution No. VII on the development and codification of public international law and private international law and the attainment of uniformity of legislation among the American states, the fourth article of which reads as follows: "In the case of studies relating to the development of international law, the Permanent Committee shall limit itself to writing decision or reports on the questions studied."

From this it is concluded that, when the Committee reduced its study to the problem of the Continental Shelf, it should have prepared a report and not a draft convention. The provision of the Council of Jurists, whether good or bad, places an obligation on the Committee which it cannot ignore. It should not be forgotten that the Committee makes only preparatory studies, and in the performance of this function should follow closely the systems and procedures

prescribed both by the Inter-American Council of Jurists and by the International Conference of American States.

2. The requiring of a report on a subject pertaining to the development of international law is very reasonable. Thereby the Committee was expected to make a general and, if you will, a detailed study of this problem, presenting and analyzing all the antecedents, presenting the different viewpoints expressed in legislation and jurisprudence, and by writers; outlining several possible solutions, with their advantages and disadvantages; pointing out the juridical consequences that might result from the adoption of a new principle and also the conflicts that might arise from such adoption, and the manner of settling them. Thus the American Governments would have the indispensable information and also both an overall and a detailed picture of the question from the juridical viewpoint, and could accordingly select the most appropriate answers to that question and find the means of harmonizing their interests with the principles of law.

That is the mission of the Committee as an organ of consultation on juridical subjects. By adopting the method of preparing a draft convention, which certainly is deficient and incomplete, the American states are not being given the technical collaboration they have sought from the Committee.

3. With respect to the draft itself, we are in agreement on the need of formulating rules on the matter of the rights of a littoral state over the Continental Shelf. We are of the opinion that the vital interests of the American states demand it, especially with respect to the exploration of this shelf and the exploitation of its natural resources.

Our disagreement has to do with the text of the articles and with the fact that the draft only states two general rules, postponing indefinitely the study of the greater part of the juridical questions connected with the topic, and the decision thereon.

4. We do not see the reason why article 1 states that "present international law grants a littoral nation exclusive sovereignty" etc. This statement was not necessary for claiming the Continental Shelf. The affirmation of the principle itself was enough for the purpose. This is one point. Another is that the statement is inexact, because it cannot be seriously maintained that international law, in its universal aspect, recognizes the above-mentioned principle, much less to the extent mentioned in the article. On the contrary, the doctrine in force in international law is that the territorial waters extend to various distances, from the 3 miles accepted traditionally by the majority of the States, to the 6 miles preferred by several Latin American countries and also by some European countries, such as Spain, Portugal, and Yugoslavia, and the 12 miles claimed by the Soviet Union. But it would have occurred to no one to say that the rule in force for the present is that territorial waters extend to where the Continental Shelf ends.

That it is desirable to determine the rights of the littoral State over the Continental Shelf, no one will deny; but to affirm, in this connection, that these rights have already been determined is a different matter. That it would be advisable to recognize the principle of sovereignty over the Continental Shelf and also over the epicontinental waters is one thing; it is another very different thing to state, as an accomplished fact, that international law already recognizes this sovereignty.

5. According to the statement of reasons, article 1 is based on the constitutional decrees, proclamations, declarations, and precepts of the American countries. These documents are of primary importance. They deserve all of our respect and we applaud them for having initiated the claims to the Continental Shelf and demanded a special juridical system for the shelf.

However, the rule as set forth in article 1 is not derived from those documents. Among these decrees there are imporant differences and gradations. Several of them, such as those of the United States of America and Brazil, do not claim territorial sovereignty; others, such as that of Peru, claim sovereignty solely for the exploitation of natural resources; that of Argentina speaks not of exclusive sovereignty but, in terms juridically more appropriate, of the sovereign power of the nation; some refer only to the shelf itself, and not to the waters covering it and the air space; others expressly recognize that in the epicontinental waters they will continue to apply the rules on free navigation on the high seas; the majority of them do not revoke the provisions in force on territorial waters, etc.

In view of the foregoing we come to the following conclusions: 1. There is yet no uniform rule of American international law on the nature of the rights

of a littoral State. 2. The statement in article 1 falls in this category also. 3. The difference in the orientation of the decrees being so obvious, the committee should have devoted itself to examining them for the purpose of presenting a comparative study to the American governments, suggesting, as far as possible, formulas for reaching an understanding. Being in agreement on the essential point of recognizing the rights of the littoral States in the Continental Shelf, the governments might jointly solve the various problems relating to this shelf. At least an effort in this respect should be made:

6. The first article speaks of "exclusive" sovereignty, it having been made clear in the discussion that this expression is used as an equivalent of absolute sovereignty. We disagree also with this provision of the article, because it is a generally accepted doctrine nowadays that sovereignty has a relative significance. This doctrine is applied to territorial waters in particular. In the treaties and proposed treaties on the subject, and in the doctrines of their authors, there is unanimous agreement in considering that the sovereignty exercised over the area of the sea called territorial waters does not differ from the power exercised by the State over its land territory. But there is also unanimous agreement in admitting that this soverignty is limited, both by contractual stipulations between States, by international practice and in general by the rules of international law in force.

The expression used in the article is absolute.

7. The committee refrains from defining or limiting the Continental Shelf. Therefore, alter claiming the fullest rights of territorial sovereignty for the littoral State, it ignores the problem of how far such rights shall extend. This seems wrong to us.

The immediate consequence of the first article should be the demarcation of the shelf itself.

8. Heretofore four theories for determining the Continental Shelf have appeared:

First. That which takes into account the geological concept referred to in the statement of reasons of the Brazilian decree, when it says, "The geographical concept of the submarine shelf results from modern geological investigations showing the continents to be standing on a submerged base, which may extend beyond territorial waters and continue under the high seas, gradually descending to a certain distance, to a line * * * beyond which it falls rapidly to greater depths."

Second. That which, following the preceding concept, considers that the shelf extends to where the depth of the waters reaches 200 meters, and accepts this depth factor only.

Third. That which fixes the limit at 200 miles from the coast.

Fourth. That which the International Law Commission of the United Nations proclaims in the report on its third session, namely, considering, as the main factor, the exploration and exploitation of the resources of the sea, so that no specific depth of water is fixed, nor a specific distance from the coast. According to this theory, the shelf extends to where the depth of the waters covering the seabed and the subsoil permits the exploitation of the resources in those waters.

We agree with this last doctrine because one that takes into account exclusively the geological concept is not acceptable, since it is possible that there may be different opinions and theories on this matter among scientists; the fixing of a distance of 200 miles is arbitrary; and the system of 200 meters of depth offers the disadvantage of instability. It has been observed rightly that "technical developments, possibly in the near future, might permit the exploitation of resources of the seabed at a depth of over 200 meters."

9. Article 2, authorizing the establishment of an area of protection of 200 miles, is contradictory to article 1, because if the littoral State exercises sovereignty over the Continental Shelf and the epicontinental waters, it is not necessary to grant it administrative or control powers which are in any case much less than those derived from the exercise of the sovereignty recognized.

If it is alleged that the provision refers to the countries that do not have an extensive Continental Shelf, it is pertinent to observe that then a notable juridical inequality is established between the States as regards territorial waters and the rights related thereto. There will be some States with extensive territorial waters over which a right of sovereignty is guaranteed to them, and other States with limited territorial waters beyond which they exercise powers of control only.

In addition we observe that in international practice an area of protection as extensive as that of article 2 has never been fixed. As a general rule the said adjacent area includes 6 to 12 miles.

Moreover, neither article 2 nor the other articles of the proposed convention satisfactorily settle the question of fishing rights when dealing with countries that do not have an extensive Continental Shelf. It is a gap resulting from the fact that the proposed text rejects the classical concepts heretofore held with respect to territorial waters.

10. Although article 3 is acceptable, it employs, however, the term overlap, which is not suitable. It would have been clearer to speak of two or more States that have contiguous shelves.

11. We have two main observations to make on article 4. In the first place we take up the matter of submitting navigation in epicontinental waters to the principles that are now in force in the 3-mile territorial waters. In our opinion it would be preferable to apply the rules in force on navigation on the high seas. Thus that advance of humanity and of progress, namely, the freedom of the seas, would be respected, without prejudice to the rights of the littoral State over the submarine shelf. Thus also the position taken in various of the decrees and resolutions of the American States on the Continental Shelf would be respected.

In the second place the article provides that the principles of customary or treaty law relating to territorial waters, heretofore recognized between the parties, will continue to be applied. This provision is odd because the committee had been charged with codifying the whole topic of territorial waters and related questions, that is with presenting those principles in the form of treaty articles.

What the American States wanted to do was to create a situation different from—nay, absolutely the opposite of—that provided for in article 4. Accordingly the Committee should have performed this task, not refused it, for this it has no power to do. The extent of territorial waters and the system for measuring them; the idea of territorial waters, comprising islands, bays, straits, ports, roadsteads, etc.; matters relative to the adjacent area, to fishing, to the coasting trade, to the innocent passage of foreign ships, to the act of boarding a ship, to penal and civil jurisdiction with respect to ships and airships that cross territorial waters or the corresponding airspace; the measures that the littoral State could adopt with respect to sanitation, fiscal and customs supervision, visit and pursuit of ships, military security; the rules applicable in the status of neutrality and those applicable in case of war, etc.—all this was the work of codification that the Committee should have carried out.

12. An analogous observation can be made on article 5. The Committee should have considered the problems resulting from the adoption of article 1, such as the change from 3-mile territorial waters to a much greater area and suggested the respective solutions, and not have left, as it did, the study of these problems and solutions for the future.

FRANCISCO CAMPOS.
JOSÉ JOAQUÍN CAICEDO CASTILLA.
GEORGE H. OWEN.

DEPARTMENT OF STATE,
THE LEGAL ADVISER,
June 4, 1953.

Mr. STEWART FRENCH,
Counsel, Committee on Interior and Insular Affairs,
Senate Office Building.

Attached are the comments of the Department of State on the Draft Convention on Territorial Waters and Related Questions of the Inter-American Juridicial Committee, which were requested by Senator Cordon during the testimony of Mr. Tate on May 28, 1953.

J. M. SWEENEY.

COMMENTS OF THE DEPARTMENT OF STATE ON THE DRAFT CONVENTION ON TERRITORIAL WATERS AND RELATED QUESTIONS OF THE INTER-AMERICAN JURIDICAL COMMITTEE

The Draft Convention on Territorial Waters and Related Questions, was prepared by four members of the Inter-American Juridicial Committee. Three members of that committee, including the United States member, joined in a

strong dissenting opinion. The draft articles, as they stand, are not consistent with the position of tihs Government, since they purport to sanction claims not only in the Continental Shelf, but also in the waters above it.

The Inter-American Council of Jurists, the parent body of the Inter-American Juridical Committee, when presented at its recent meeting in Buenos Aires (April 20 to May 9, 1953), with the Draft Convention on Territorial Waters and Related Questions, agreed that the subject needed far greater study than that which it had thus far received in the Inter-American Juridical Committee. The Inter-American Council of Jurists accordingly resolved to return the subject System of Territorial Waters and Related Questions to the Inter-American Juridical Committee for the continuation of its study and to ask the Secretary General of the Organization of American States to invite member States to transmit texts of their laws on the matter, together with corresponding geographical charts, to the Inter-American Juridical Committee, in order that it may make an analytic study thereof, in connection with the preparation of the report which it is to render to the Council of Jurists under article 4 of resolution VII of 1950, treating to the development of international law.

DECREES AND LAWS OF OTHER NATIONS REGARDING CONTINENTAL SHELF

4. Guatemala

(*a*) *Petroleum Law, enacted by Legislative Decree No. 649, 30 August 1949. "Diario de Centro America", vol. 56, No. 46 (27 September 1949), p. 505. Translation by the Secretariat of the United Nations*

Article 1. All deposits or natural reserves of petroleum within the land or sea boundaries of the Republic, up to the extremity of the continental shelf or platform of the Republic, shall, whether they lie on or under the earth, lakes, rivers or seas, be the property of the nation. The direct *dominium* over them is inalienable and imprescriptible.

* * * * * * *

Article 29. The Executive Power may grant prospecting concessions in any area included within the boundaries of the national territory, territorial waters and continental shelf or platform of Guatemala. Such concessions may comprise land areas, provided that these are not included in existing prospecting or operating concessions or in areas declared to be National Reserve Zones.

* * * * * * *

Article 36. The Executive Power may grant operating concessions in any area included within the boundaries of the national territory, territorial waters and continental shelf or platform of Guatemala. Such concessions may comprise land areas and areas submerged beneath the sea, lakes, lagoons and rivers, provided that they are not included in existing prospecting or operating concessions or in areas declared to be National Reserve Zones.

8. Nicaragua

(*a*) *Political Constitution, 1 November 1950. "La Gaceta", vol. 54, No. 235 (6 November 1950), p. 2209. Translation by the Secretariat of the United Nations*

Article 5. The national territory extends between the Atlantic and the Pacific Oceans and the Republics of Honduras and Costa Rica. It also comprises: the adjacent islands, the subsoil, the territorial waters, the continental shelf, the submerged foundations (*zócalos submarinos*), the air space and the stratosphere.

Such frontiers as may not yet be determined shall be fixed by treaties and by law.

9. Panama

(*a*) *Constitution, 1 March 1946. "Gaceta Oficial", vol. 43, No. 9,938 (4 March 1946), p. 18. Translation by the Secretariat of the United Nations*

Article 209. The following belong to the State and are of public use and, in consequence, cannot be the object of private appropriation:

(1) The territorial sea and the waters of lakes and streams; the beaches and banks thereof and of navigable rivers, as well as ports and inlets. All this

property is subject to free and common appropriation, in accordance with regulations established by law;

(2) The lands and waters designated for public services of all categories of communications;

(3) The lands and waters designated or to be designated by the State for public services of irrigation, hydroelectric production, drainage and aqueducts;

(4) The aerial space and the submarine continental shelf which appertain to the national territoy; and

(5) All the other property which the law designates for public use.

In all cases in which private property is converted into property for public use, the owner thereof shall be compensated.

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11. Philippines

(a) *Petroleum Act of 1949, enacted by Republic Act No. 387, 18 June 1949. "Official Gazette", vol. 45 (1949), p. 3192*

Article 3. State Ownership. All natural deposits or occurrences of petroleum or natural gas in public and/or private lands in the Philippines, whether found in, on or under the surface of dry lands, creeks, rivers, lakes, or other submerged lands within the territorial waters or on the continental shelf, or its analogue in an archipelago, seaward from the shores of the Philippines which are not within the territories of other countries, belong to the State, inalienably and imprescriptibly.

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13. Saudi Arabia

(a) *Royal Pronouncement concerning the policy of the Kingdom of Saudi Arabia with respect to the subsoil and sea bed of areas in the Persian Gulf contiguous to the coasts of the Kingdom of Saudi Arabia, 28 May 1949. Translation from Arabic text published in "Umm Al Qura" (Mecca), Supplement No. 1263, 29 May 1949; "American Journal of International Law", vol. 43 (1949), Supplement, p. 156*

We, 'Abdul 'Aziz ibn 'Abdul Rahman Al Faisal Al Sa'ud, King of the Kingdom of Saudi Arabia,

After reliance on God Almighty, being aware of the need for the greater utilization of the world's natural resources which are the bounty of God, and of the desirability of giving encouragement to efforts to discover and make available such resources,

Recognizing that by God's providence valuable resources may underlie parts of the Persian Gulf off the coasts of Saudi Arabia, and that modern technology by the grace of God makes it increasingly practicable to utilize these resources,

Appreciating that recognized jurisdiction over such resources is required in the interest of their conservation and prudent utilization when and as development is undertaken;

Deeming that the exercise of jurisdiction over such resources by the contiguous nation is reasonable and just, since the effectiveness of measures to utilize or conserve these resources would be contingent upon co-operation and protection from the shore and since self-protection compels the coastal nation to keep close watch over activities off its shores which are of a nature necessary for the utilization of these resources; and

Considering that various other nations now exercise jurisdiction over the subsoil and sea bed of areas contiguous to their coasts;

Declare the following policy of the Kingdom of Saudi Arabia with respect to the subsoil and sea bed of areas of the Persian Gulf contiguous to the coasts of Our Kingdom:

The subsoil and sea bed of those areas of the Persian Gulf seaward from the coastal sea of Saudi Arabia but contiguous to its coasts, are declared to appertain to the Kingdom of Saudi Arabia and to be subject to its jurisdiction and control. The boundaries of such areas will be determined in accordance with equitable principles by Our Government in agreements with other States having jurisdiction and control over the subsoil or sea bed of adjoining areas. The character as high seas of the waters of such areas, the right to the free and unimpeded navi-

gation of such waters and the air space above those waters, fishing rights in such waters, and the traditional freedom of pearling by the peoples of the Gulf, are in no way affected.

* * * * * * *

(iii) Bahrain

Proclamation with respect to the sea bed and the subsoil of the high seas of the Persian Gulf, 5 June 1949.

Whereas it is desirable to encourage all efforts which will bring about the greater utilisation of the world's natural resources;

Whereas valuable resources are found under parts of the Persian Gulf off the coasts of Bahrain and it is becoming increasingly practicable to utilise such submerged resources;

Whereas it is desirable in the intersts of protection, conservation and orderly development that the exploitation of such resources should be properly controlled;

Whereas it is just that the seabed and subsoil extending to a reasonable distance from the coast should belong to and be controlled by the littoral state to which it is adjacent;

Whereas the right of a littoral state to exercise its authority over the natural resources of the seabed and subsoil adjacent ot its coasts has been established in international practice by the action of other states;

Now, therefore, we Salman bin Hamed al Khalifa, Ruler of Bahrain, in pursuance of the powers vested in us in that behalf, are pleased to proclaim and hereby proclaim as follows:

We, Salman bin Hamed al Khalifa, Ruler of Bahrain, hereby declare that the seabed and subsoil lying beneath the high seas of the Persian Gulf contiguous to the territorial waters of Bahrain and extending seaward to boundaries to be determined more precisely as the opportunity calls, and that on just principles, by us after consulting with the neighbouring states, belong to the country of Bahrain and are subject to the sphere of its absolute jurisdiction and its absolute authority.

Nothing in this Proclamation shall be considered to affect the sovereignty over the islands or the status of the seabed and subsoil beneath any territorial waters.

Nothing in this Proclamation shall be considered to affect the character as high seas of the waters of the Persian Gulf above the seabed and outside the limits of the territorial waters or the status of the air space above the waters of the Persian Gulf outside the territorial waters or the fishing and traditional pearling rights in such waters.

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(ii) Bahamas (Alteration of Boundaries) Order in Council (No. 2574), 26 November 1948. "United Kingdom, Statutory Instruments, 1948", vol. I, part I, p. 250

Whereas it is desirable to extend the boundaries of the Colony of the Bahamas so as to include the continental shelf contiguous to the coasts of the Colony:

Now, therefore, His Majesty, in pursuance of the powers conferred upon Him by the Colonial Boundaries Act, 1895, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Bahamas (Alteration of Boundaries) Order in Council, 1948.

2. The boundaries of the Colony of the Bahamas are hereby extended to include the area of the continental shelf which lies beneath the sea contiguous to the coasts of the Bahamas.

3. Nothing in this Order shall be deemed to affect the character as high seas of any waters above the continental shelf and outside the limits of territorial waters.

Note. On 17 December 1948 the Secretary of State for Colonial Affairs of the United Kingdom explained in the House of Commons that the object of this order, and of a similar order issued with respect to Jamaica, was "to extend the jurisdiction of the Governments of these Colonies so as to give them control over the sea-bed and sub-soil contiguous to their coasts with a view to securing such natural resources as may exist there". *British Parliamentary Debates* (Hansard), 5th series, vol. 459, p. 230.

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(d) JAMAICA

(i) *Jamaica (Alteration of Boundaries) Order in Council (No. 2575), 26 November 1948. "United Kingdom, Statutory Instruments, 1948", vol. I, part II, p. 1664*

Whereas it is desirable to extend the boundaries of the Colony of Jamaica so as to include the continental shelf contiguous to the coasts of the Colony:

Now, therefore, His Majesty, in pursuance of the powers conferred upon Him by the Colonial Boundaries Act, 1895, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Jamaica (Alteration of Boundaries) Order in Council, 1948.

2. The boundaries of the Colony of Jamaica are hereby extended to include the area of the continental shelf which lies beneath the sea contiguous to the coasts of Jamaica, including its dependencies.

3. Nothing in this Order shall be deemed to affect the character as high seas of any waters above the continental shelf and outside the limits of territorial waters.

Note. On 17 December 1948 the Secretary of State for Colonial Affairs of the United Kingdom explained in the House of Commons that the object of this order, and of a similar order issued with respect to the Bahamas, was "to extend the jurisdiction of the Governments of these Colonies so as to give them control over the sea-bed and sub-soil contiguous to their coasts with a view to securing such natural resources as may exist there". *British Parliamentary Debates* (Hansard), 5th series, vol. 459, p. 230.

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1. BRAZIL

(a) *Decree No. 28,840 integrating into national territory the adjoining part of the continental shelf, 8 November 1950. Diario Oficial, Vol. 89, No. 264 (18 November 1950), p. 16,617. Translation by the Secretaria of the United Nations.*

Whereas the continental shelf contiguous to continents and islands and extending beneath the high seas is in reality submerged territory and constitutes one geographical unit with the adjacent land;

Whereas the need for States to proclaim their sovereignty or dominion and jurisdiction over the area thus added to the national territory has grown with the ever-increasing probability that natural resources will be found there;

Whereas various American States have therefore, by presidential declarations or decrees, affirmed their rights of dominion and jurisdiction or of sovereignty over a part of the continental shelf contiguous to and adjoining (*correspondente*) the national territory (proclamation by the President of the United States of America dated 28 September 1945, proclamation by the President of Mexico dated 29 October 1945, and by the President of Chile dated 25 June 1947; decree by the President of Argentina dated 11 October 1946 and by the President of Peru dated 1 August 1947);

Whereas in such circumstances it is the duty of the Brazilian Government to make a similar declaration in order to protect the rights of Brazil over that part of the continental shelf which adjoins its continental territory and islands;

Whereas the proclamation of Brazilian rights has become urgent and cannot be deferred;

Whereas fishing in territorial waters and on the high seas is governed by national laws and international conventions, and it may be in the interests of Brazil to accede to new conventions or to promulgate new laws on the subject;

Whereas under the terms of the Federal Constitution the President of the Republic is required to protect the integrity of the nation and the internal security of the country, without prejudice to the competence of the Legislative Power;

Now therefore,

the President of the Republic hereby decrees:

Article 1. It is formally proclaimed that part of the continental shelf which adjoins (*correspondente*) the continental and insular territory of Brazil is in-

tegrated into that territory, under the exclusive jurisdiction and dominion of the Federal Union.

Article 2. The utilization and exploration of products or natural resources of that part of the national territory shall be subject in all cases to federal authorization or concession.

Article 3. The rules governing navigation in the waters covering the aforesaid continental shelf shall continue in force without prejudice to any further rules which may be made, especially as regards fishing in that area.

* * * * * * *

5. Pakistan

(*a*) *Declaration by the Governor-General, 9 March 1950. The Gazette of Pakistan, Extraordinary, 14 March 1950, p. 123.*

I, Khwaja Nazimuddin, Governor-General of Pakistan, hereby *declare* in pursuance of clause (bb) of sub-section (1), of section 5 of the Government of India Act, 1935, that the sea bed along the coasts of Pakistan extending to the one hundred fathom contour into the open sea shall, with effect from the date of this declaration, be included in the territories of Pakistan.

DEVELOPMENT OF LOUISIANA'S OFFSHORE OIL AND GAS RESERVES

Prepared by the Engineering Division, Louisiana Department of Conservation; John B. Hussey, Commissioner

The completion and production data contained herein was taken from the official records of the Louisiana Department of Conservation.

The amounts of the bonus and the rental paid for each State lease were furnished by the Louisiana State Mineral Board.

LIST OF ABBREVIATIONS

G. L.—Gas lift
S. L.—State lease
IP—Initial production
Ck.—Choke
TP—Tubing pressure
GOR—Gas-oil ratio
GR.—Gravity (degrees API)
BS & W—Basic sediment and water (%)
BPD—Barrels per day
PD—Producing depth
TD—Total depth
DBA—Depth bracket allowable
TR.—Trace
P & A—Plugged and abandoned
TVD—True vertical depth
CP—Casing pressure

This report desires to present the pertinent data concerning the specific fields included and is for no other purpose.

The report does not and should not be construed to be an attempt to establish a means of classifying or defining the "offshore areas."

Study of Louisiana Offshore Production

For many years geologists and engineers have known the location of many salt domes and related structures in the Gulf of Mexico off the coast of Louisiana, and have predicted that a great amount of both liquid and gaseous hydrocarbon production could be expected from this area when, and if, these structures were developed.

In September, 1947, the Kerr-McGee Oil Company began drilling their State Lease 754 No. A-1 Well in what was known as the Ship Shoal Area off the coast of Terrebonne Parish. This well was completed on November 11, 1947, with a potential production of 600 barrels per day, and marked the discovery of commercial oil production in the Gulf of Mexico. This report attempts to give all available data on the development of these offshore areas for the past five years, or from November, 1947 to January, 1953. Occasionally, more recent data became available; therefore, it was inserted in this report.

Since the completion of the Kerr-McGee discovery well, 233 wells have been drilled in the offshore areas of Louisiana, resulting in the discovery of 27 oil and/or gas fields, which, at the present time, are producing approximately 22,028 barrels per day of liquid hydrocarbons.

The gas wells from all the fields except Eugene Island Area and Vermilion Area have been shut-in at the present time, due to the difficulty and expense involved in laying pipe lines from the wells to a gas market. However, the Eugene Island

Area and Vermilion Area fields have produced gas in sufficient quantity to make it feasible for the United Gas Pipe Line Company and Marine Gathering Company of Houston to construct pipelines to these areas so that the gas can be marketed. Pure Oil Company, Sun Oil Company and Magnolia Petroleum Company, et al, have gas wells feeding gas from the Eugene Island Area to the United Gas Pipe Line Company while Pure Oil Company is the only company feeding gas from the Vermilion Area to the Marine Gathering Company of Houston.

For purposes of identification and ease of handling reports, the offshore area of Louisiana has been divided into fourteen (14) areas, as follows:

1. Bay Marchand Area
2. Breton Sound Area
3. Chandeleur Sound Area
4. East Cameron Area
5. Eugene Island Area
6. Grand Isle Area
7. Main Pass Area
8. Ship Shoal Area
9. South Pass Area
10. South Pelto Area
11. South Timbalier Area
12. West Cameron Area
13. West Delta Area
14. Vermilion Area

Production has been obtained in all but two (2) of these areas, namely, the Chandeleur Sound Area and the East Cameron Area.

The development of a producing field in these areas must, of necessity, be very different from the development of inland producing areas, and it was an easily recognized fact that as a general rule fewer wells would be drilled in the offshore areas than in inland areas to develop the same reservoir area, due to the high cost per well and the manner in which the wells must be drilled. Therefore, in order to allow the operator of these offshore wells the same opportunity to recover the reservoir content and receive as reasonable a return on his investment as the operators of inland areas, the Department of Conservation, on September 24, 1948, issued Order No. 151, setting up certain rules and regulations for offshore areas, including a depth bracket allowable schedule which was substantially higher than that for inland areas. In this order, Finding No. 10 states: "That the producing characteristics of offshore wells should be reviewed to determine whether or not the proposed schedule of allowables is greater than the amount which can be produced efficiently and economically without waste."

This report gives all available basic data on all wells completed in the offshore producing areas, and also the producing history and characteristics of each area in which production has occurred.

BAY MARCHAND FIELD

The Bay Marchand Field was discovered by The California Company—State Lease 1366 No. B-1 Well, which was completed on March 3, 1949, and has proven to be one of the best producing fields yet found in offshore territory. This filed now includes portions of three (3) State Leases No. 1366, 1367 and 1369, for which the operators paid bonuses of $905,000.00 and an annual rental of $452,500.00.

Since the completion of the discovery well, thirty-nine (39) additional wells have been drilled, or an average of .81 wells per month. Included in these 39 additional wells, were 29 capable of producing hydrocarbons and ten (10) which were dry and abandoned.

Production in the Bay Marchand Field has been obtained from depths ranging from approximately 2500 feet to 6300 feet, and present information seems to indicate that this production is from at least three (3) separate reservoirs.

Basic data available on the wells of this field are as follows: [1]

Producing Wells

1. #37299—S. L. 1366 No. B-1 (Discovery well); Spud. 2-2-49; Comp. 3-3-49; IP 250 BPD on 1/4 ck.; TP 250; GOR 571/1; Gr. 26.6; BS&W 1/10; PD 2873-2892; TD 3721′.
   Recomp: 8-19-49
   IP 251 BPD on 7/32 ck.; TP 200; GOR 600/1; Gr. 27; BS&W 1/10; PD 2873-2887. Well shut in March, 1953.
2. #37620—S. L. 1366 No. B-2; Spud. 5-22-49; Comp. 6-16-49; IP 200 BPD on 3/8/ck.; TP 100; GOR 180/1; Gr. 26.7; BS&W 2/10%; PD 2990-3006; TD 5449′. Well shut in March 1953.

[1] All wells operated by The California Company.

3. #38252—S. L. 1366 No. B-4; Spud. 6-17-49; Comp. 7-9-49; IP 210 BPD on 3/8 ck.; TP 130; GOR 1525/1; Gr. 22.2; BS&W 0%; PD 2472-2500; TD 3579′.
   Test taken: 2-5-53
      88 BPD on 128/64 ck.; TP 0; CP 365; GOR 91/1; Gr. 16; BS&W 70%; G. L.
   Present allowable: 88 BPD (DBA—285 BPD)
4. #40420—S. L. 1366 No. F-3; Spud. 3-24-50; Comp. 4-28-50; IP 396 BPD on 14/64 ck.; TP 1200; GOR 89/1; Gr. 26.4; BS&W 0%; PD 6270-6300; TD 6799′.
   Recomp: 10-15-50
      IP 437 BPD on 13/64 ck.; TP 800; GOR 524; Gr. 27.4; BS&W 5%; PD 6270-6300.
   Test taken: 2-4-53
      230 BPD on 128/64 ck.; TP 0; CP 400; G. L.
   Present allowable: 230 BPD (DBA—385 BPD)
5. #37423—S. L. 1367 No. C-1; Spud. 2-10-49; Comp. 3-13-49; IP 360 BPD on 5/32 ck.; TP 1040; GOR 400/1; Gr. 40.9; BS&W 1/10%; PD 5020-5066; TD 5701′.
   Test taken: 2-2-53
      227 BPD on 15/64 ck.; TP 350; GOR 427/1; Gr. 39.9; BS&W 0%.
   Present allowable: 227 BPD (DBA-355 BPD)
6. #37678—S. L. 1367 No. 2-C; Spud. 3-23-49; Comp. 4-30-49; IP 432 BPD on 11/64 ck.; TP 1075; GOR 400/1; Gr. 40.0; BS&W 1/10%; PD 5048-5092; TD 5526′.
   Test taken: 2-15-53
      192 BPD on 15/64 ck.; TP 915; GOR 4040/1; Gr. 40.7; BS&W 0%.
   Present allowable: 192 BPD (DBA—355 BPD)
7. #37918—S. L. 1367 No. C-3; Spud. 5-1-49; Comp. 6-14-49; IP 308 BPD on 5/16 ck.; TP 300; GOR 300/1; Gr. 20.0; BS&W 5/10%; PD 3894-3960; TD 5034′.
   Test taken: 2-2-53
      353 BPD on 15/64 ck.; TP 390; GOR 238/1; Gr. 20.4; BS&W 0%.
   Present allowable: 305 BPD (DBA—305 BPD)
8. #38107—S. L. 1367 No. C-4; Spud. 6-16-49; Comp. 7-13-49; IP 280 BPD on 3/8 ck.; TP 150; GOR 140/1; Gr. 20.0; BS&W 6%; PD 3748-3773; TD 4750′. Well shut in as of March, 1953.
9. #38484—S. L. 1367 No. C-5; Spud, 7-14-49; Comp. 8-19-49; IP 350 BPD on 11/64 ck.; TP 980; GOR 1420/1; Gr. 40.7; BS&W 0%; PD 5123-5138; TD 6581′.
   Test taken: 2-2-53
      274 BPD on 16/64 ck.; TP 340; GOR 403/1; Gr. 41.4; BS&W 0%.
   Present allowable: 274 BPD (DBA—355 BPD)
10. #39075—S. L. 1367 No. D-1; Spud. 9-26-49; Comp. 10-29-49; IP 156 BPD on 9/64 ck.; TP 1500; GOR 1204/1; Gr. 40.1; BS&W 0%; PD 4503-4530; TD 4671′.
   Recomp: 1-30-50
      282 BPD on 16/64 ck.; TP 325; GOR Low; Gr. 24.7; BS&W 5%; PD 4249-4266′.
   Test taken: 2-2-53
      73 BPD on 16/64 ck.; TP 100; GOR 645/1; Gr. 25; BS&W 2/10%.
   Present allowable: 73 BPD (DBA—325 BPD)
11. #39087—S. L. 1367 No. D-2; Spud. 10-10-49; Comp. 11-11-49; IP 288 BPD on 7/32 ck.; TP 660; GOR 525/1; Gr. 38.4; BS&W 0%; PD 4705-4734; TD 5030′.
   Test taken: 2-3-53
      101 BPD on 11/64 ck.; TP 200; GOR 373/1; Gr. 40.2; BS&W 1/10%.
      Present allowable: 101 BPD (DBA—325 BPD)
12. #39406—S. L. 1367 No. D-4; Spud. 11-11-49; Comp. 12-15-49; IP 264 BPD on 3/16 ck.; TP 600; GOR 597/1; Gr. 31.1, BS&W 0%; PD 4674-4686; TD 5750′.
   Recomp: 1-25-50
      250 BPD on 10/64 ck.; TP 500; GOR Low; Gr. 31.1; BS&W 2/10%; PD 4674-4686′.
   Test taken: 2-28-53
      25 BPD on 28/64 ck.; CP 390, GOR 4760/1; Gr. 28.8; BS&W 1/10%.
   Present allowable: 25 BPD (DBA—325 BPD)

13. #39814—S. L. 1367 No. D-6; Spud. 12-15-49; Comp. 1-22-50; IP 381 BPD on 10/64 ck.; TP 780; GOR 351/1; Gr. 40.4; BS&W 2/10%; PD 4982-5011; TD 5053'.
    Test taken: 2-8-53
        407 BPD on 32/64 ck.; CP 375; GOR 656/1; Gr. 37.3; BS&W 35%; GL
    Present allowable: 355 BPD (DBA—355 BPD)
14. #39850—S. L. 1367 No. D-7; Spud. 1-10-50; Comp. 1-26-50; IP 359 BPD on 7/32 ck.; TP 600; GOR 495/1; Gr. 39.7; BS&W 0%; PD 4518-4570; TD 4605'. Shut in April, 1953.
15. #40064—S. L. 1367 No. D-8; Spud. 1-26-50; Comp. 2-22-50; IP 80 BPD on 1/2 ck.; TP 120; GOR 150/1; Gr. 35.7; BS&W 0%; PD 4385-4404; TD 4682'.
    Recomp: 3-22-50
        365 BPD on 1/4 ck.; TP 470; GOR 381/1; Gr. 29.0; BS&W 2%; PD 4354-4403.
    Test taken: 2-1-53
        274 BPD on 15/64 ck.; TP 400; GOR 341/1; Gr. 24.5; BS&W 18%.
    Present allowable: 274 BPD (DBA—325 BPD)
16. #40080—S. L. 1367 No. D-9; Spud. 1-31-50; Comp. 3-16-50; IP 304 BPD on 13/64 ck.; TP 600; GOR 400/1; Gr. 39.0; BS&W 2/10%; PD 5028-5076; TD 5762'.
    Test taken: 2-2-53
        110 BPD on 12/64 ck.; TP 210; GOR 325/1; Gr. 40.4; BS&W 1/10%.
    Present allowable: 110 BPD (DBA—355 BPD)
17. #40181—S. L. 1367 No. D-10; Spud. 2-17-50; Comp. 3-13-50; IP 288 BPD on 13/64 ck.; TP 650; GOR 210/1; Gr. 39.8; BS&W 1/10%; PD 5994-5052; TD 5340'.
    Test taken: 2-2-53
        202 BPD on 16/64 ck.; TP 400; GOR 1353/1; Gr. 40; BS&W 0%.
    Present allowable: 202 BPD (DBA—355 BPD)
18. #40229—S. L. 1367 No. D-11; Spud. 3-17-50; Comp. 4-13-50; IP 374 BPD on 14/64 ck.; TP 725; GOR 400/1; Gr. 35.4; BS&W 3/10%; PD 5190-5258; TD 6073'.
    Recomp: 6-3-50
        357 BPD on 1/4 ck.; TP 425; GOR 333/1; Gr. 32.9; BS&W 4%; PD 5190-5260.
    Test taken: 2-7-53
        367 BPD on 15/64 ck.; TP 595; GOR 402/1; Gr. 36.3; BS&W 0%.
    Present allowable: 355 BPD (DBA—355 BPD)
19. #40421—S. L. 1367 No. D-12; Spud. 4-3-50; Comp. 5-4-50; IP 420 BPD on 16/64 ck.; TP 390; GOR__; Gr. 22.8; BS&W 0%; PD 4398-4420; TD 5480'.
    Test taken: 2-1-53
        206 BPD on 17/64 ck.; TP 270; GOR 331/1; Gr. 16.4; BS&W 20%.
    Present allowable: 206 BPD (DBA—325 BPD)
20. #40539—S. L. 1367 No. D-13; Spud. 4-14-50; Comp. 5-25-50; IP 357 BPD on 16/64 ck.; TP 500; GOR 1170/1; Gr. 30.4; BS&W 0%; PD 4864-4898; TD 5819'.
    Test taken: 2-1-53
        321 BPD on 17/64 ck.; TP 270; GOR 258/1; Gr. 30.4; BS&W 0%.
    Present allowable: 321 BPD (DBA—325 BPD)
21. #40992—S. L. 1367 No. E-1; Spud. 6-28-50; Comp. 7-30-50; IP 576 BPD on 20/64 ck.; TP 310; GOR 172/1; Gr. 19.5; BS&W 3%; PD 3760-3775; TD 4000'; Well shut in March, 1953.
22. #40993—S. L. 1367 No. E-2; Spud. 6-29-50; Comp. 7-30-50; IP 492 BPD on 28/64 ck.; TP 160; GOR 201/1; Gr. 23.3; BS&W 2/10%; PD 4172-4178; TD 4377'.
    Test taken: 2-12-53
        161 BPD on 128/64 ck.; TP__; GOR 702/1; Gr. 21; BS&W 30%; GL.
    Present allowable: 461 BPD (DBA—325 BPD)
23. #41317—S. L. 1367 No. E-3; Spud. 8-2-50; Comp. 8-25-50; IP Dry gas; 666 MCF per day on 16/64 ck.; TP 750; PD 2100-2115; TD 3847'; Well shut in March, 1953.

24. #41318—S. L. 1367 No. E-4; Spud. 7-31-50; Comp. 9-8-50; IP 361 BPD on 20/64 ck.; TP 300; GOR 573/1; Gr. 37.6; BS&W 6%; PD 5316-5326; TD 6280'.
    Test taken: 2-7-53
        190 BPD on 23/64 ck.; TP__; GOR 837/1; Gr. 38; BS&W 0%; G. L.
    Present allowable: 190 BPD (DBA—355 BPD)
25. #41586—S. L. 1367 No. E-5; Spud. 9-12-50; Comp. 10-7-50; IP 408 BPD on 20/64 ck.; TP 180, GOR Low; Gr. 18.1; BS&W 2%; PD 3406-3424; TD 3967'.
    Test taken: 2-5-53
        131 BPD on 32/64 ck.; CP 420; GOR 6/64; Gr. 18.1; BS&W 87%; G. L.
    Present allowable: 131 BPD (DBA—305 BPD)
26. #41698—S. L. 1367 No. E-6; Spud. 9-13-50; Comp. 10-5-50; IP 265 BPD on 48/64 ck.; TP 0; GOR Low; Gr. 18.0; BS&W 1/10%; PD 3598-3616; TD 4212'.
    Test taken: 2-21-53
        114 BPD on 128/64 ck; CP 330; GOR 720/1; Gr. 19.5; BS&W 0%; G. L.
    Present allowable: 114 BPD (DBA—305 BPD)
27. #41864—S. L. 1367 No. E-7; Spud. 18-8-50; Comp. 11-3-50; IP 213 BPD on 3/4 ck.; Operating on Gas Lift; GOR 200/1; Gr. 18.2; PD 34-05-3420; TD 4479' (DBA—305 BPD) Well shut in March, 1953.
28. #41865—S. L. 1367 No. E-8; Spud. 10-6-50; Comp. 10-28-50; IP 684 BPD on 5/16 ck.; TP 355; GOR 146/1; Gr. 20.5; PD 4082-4098; TD 4150'.
    Test taken: 2-5-53
        343 BPD on 17/64 ck.; TP 300; GOR 172/1; Gr. 20.5; BS&W 0%;
    Present allowable: 325 BPD (DBA—325 BPD)
29. #42035—S. L. 1367 No. E-10; Spud 10-28-50; Comp. 11-21-50; IP 456 BPD on 1/4 ck.; TP 390; GOR 212/1; Gr. 21.5; PD 4160-4167; TD 4322'.
    Test taken: 2-2-52
        340 BPD on 12/64 ck.; TP 370, GOR 137/1; Gr. 20.6; BS&W 0%;
    Present allowable: 325 BPD (DBA—325 BPD)
30. #42085—S. L. 1367 No. E-9; Comp. 12-22-50; PD 6213-6228.
    Test taken: 2-3-53
        353 BPD on 16/64 ck.; TP 480; GOR 382/1; Gr. 32; BS&W 0%.
    Present allowable: 353 BPD (DBA—385 BPD)

Plug and Abandon

1. #37057—S. L. 1367 No. 1; Spud. 1-1-48; Comp. 2-1-48; P&A @ TD 2121'. No show.
2. #37969—S. L. 1366 No. B-3; Spud. 5-22-49; Comp. 6-7-49; P&A @ TD 3430'. No show.
3. #38485—S. L. 1366 No. B-5; Spud. 7-11-49; Comp. 8-11-49; P&A @ TD 5299'. No show. Bottom in salt.
4. #39672—S. L. 1367 No. D-5; Spud. 12-1-49; Comp. 12-14-49; P&A @ TD 4616'. No show.
5. #40096—S. L. 1366 No. F-1; Spud. 2-3-50; Comp. 3-1-50; P&A @ TD 5679'. No show.
6. #40314—S. L. 1366 No. F-2; Spud. —; Comp. 3-22-50; P&A @ TD 5005'. No show.
7. #39405—S. L. 1367 No. D-3; Spud. 10-31-49; Comp. 11-30-49; P&A @ TD 5175'. No show.
8. #41699—S. L. 1366 No. F-5; Comp. 9-12-50; P&A @ 7182'. No show.
9. #40846—S. L. 1366 No. F-4; Spud. 6-2-50; Comp. 8-22-50; P&A @ TD 13,046'. No show.

Permit Issued—No Additional Information Available.

1. #37978—Phillips Petroleum Co.—S. L. 1369 No. A-1. (No information, evidently well was never drilled)

Production history

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1949—March	1	10,115	326	4,121	13	4,121
April	3	2,275	75	1,879	63	6,000
May	3	30,845	995	30,536	985	36,536
June	5	36,670	1,222	37,387	1,246	73,923
July	7	46,756	1,508	45,576	1,470	119,499
August	8	50,869	1,640	43,386	1,399	162,885
September	8	56,430	1,881	47,128	1,570	210,013
October	9	62,341	2,011	54,702	1,764	264,715
November	10	73,480	2,449	64,276	2,142	328,991
December	10	73,371	2,366	68,144	2,198	397,135
1950—January	13	77,170	2,489	78,117	2,519	475,252
February	14	103,540	3,697	98,052	3,501	573,304
March	16	112,836	3,639	112,664	3,634	685,968
April	18	127,546	4,251	131,743	4,391	817,711
May	19	145,603	4,696	144,437	4,659	962,148
June	19	179,890	5,996	177,606	5,920	1,139,754
July	21	192,559	6,211	195,931	6,255	1,335,685
August	21	212,970	6,870	169,259	5,459	1,504,944
September	22	211,655	7,055	195,605	6,520	1,700,549
October	25	220,715	7,120	236,365	7,625	1,936,914
November	27	234,074	7,802	229,202	7,640	2,166,116
December	28	226,432	7,304	219,054	7,066	2,385,170
1951—January	28	226,592	7,309	225,912	7,287	2,611,082
February	27	198,072	7,074	198,047	7,073	2,809,129
March	28	224,814	7,252	224,965	7,257	3,034,094
April	28	216,248	7,208	217,340	7,245	3,251,434
May	28	210,432	6,788	212,102	6,842	3,463,536
June	25	192,210	6,407	194,775	6,493	3,658,311
July	25	192,284	6,203	194,447	6,272	3,852,758
August	25	197,693	6,377	195,962	6,321	4,048,720
September	25	188,844	6,295	185,246	6,175	4,233,966
October	26	194,133	6,262	187,459	6,047	4,421,425
November	26	202,475	6,747	199,650	6,655	4,621,075
December	26	196,261	6,331	198,806	6,413	4,819,881
1952—January	27	206,299	6,654	200,297	6,461	5,020,178
February	27	177,784	6,130	175,142	6,039	5,195,320
March	27	179,025	5,775	181,223	5,846	5,376,543
April	27	180,299	6,010	176,503	5,886	5,553,046
May	27	182,435	5,885	182,146	5,876	5,735,192
June	27	175,510	5,850	175,030	5,834	5,910,222
July	27	186,510	6,016	179,462	5,789	6,089,684
August	27	185,250	5,976	169,434	5,466	6,259,118
September	27	159,628	5,321	142,708	4,757	6,401,826
October	27	163,749	5,282	146,742	4,734	6,548,568
November	27	140,065	4,669	140,065	4,669	6,688,633
December	27	146,546	4,727	138,277	4,461	6,826,910
1953—January	26	142,376	4,593	131,579	4,244	6,958,489

From the above data, it can be noted that in 48 months of production this field has produced in excess of 6,900,000 barrels of liquid hydrocarbon with only a very small increase in the overall producing gas-oil ratio (which is still in most cases below 1000/1), and the tubing pressure in most wells has remained at a good level and in some cases has increased slightly.

Until recently, the development of this area was proceeding at a rate considerably above normal for offshore areas, and, as yet, the productive limits of the field are not definitely defined in any horizontal direction.

BRETON SOUND BLOCK 32 FIELD

The Breton Sound Block 32 Field was discovered by the Sunray Oil Corporation—State Lease 1227 No. 5 Well, which was completed on August 16, 1949. At the present time, the producing area of this field is contained entirely within State Lease 1227, for which Sunray Oil Corporation paid $30,650.00 with a yearly rental stipulation of $15,325.00.

Since the completion of the discovery well, four (4) development wells have been drilled, and only one (1) of these additional wells produced oil from the discovery reservoir. One (1) produced gas, while the remaining two (2) were dry and abandoned.

Basic data available on the wells completed in this field are as follows:*

1. #38456—S. L. 1227 No. 5 (Discovery well); Spud. 7-17-49; Comp. 8-26-49; IP 187 BPD on 14/64 ck.; TP 175; GOR 278/1; Gr. 25.1 PD 5809-5812; TD 9022′.
   Test taken: 2-2-53
   110 BPD on 11/64 ck.; TP 1500; GOR 1000/1; Gr. 25.5; BS&W 33%.
   Present allowable: 110 BPD (DBA—355 BPD)
2. #38867—S. L. 1227 No. 61 Spud. 9-2-49; Comp. 9-24-49; IP 309 BPD on 12/64 ck.; TP 700; GOR 314/1; Gr. 26.2; PD 5808-5812; TD 8680′.
   Test taken: 2-4-53
   70 BPD on 11/64 ck.; TP 900; GOR 945/1; Gr. 24.8; BS&W 65%.
   Present allowable: 70 BPD (DBA—355 BPD)
3. #39056—S. L. 1227 No. 7—Spud. 10-7-49; Comp. 11-27-49; IP Dry gas; gas volume 945 MCF per day on 10/64 ck.; TP 2200; BS&W 0%; PD 5811-5814; TD 8354′. P&A—5-21-50 @ TD 8354′.

Plug and Abandon

1. #39396—S. L. 1227 No. 8; Spud. 12-3-49; Comp. 12-17-49; P&A @ 8363′ with no show.
2. #40575—S. L. 1227 No. 11; Spud. 4-29-50; Comp. 5-15-50; P&A @ TD 8506′ with no show.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1949—August	1	654	21	715	23	715
September	1	4,957	165	3,471	119	4,286
October	1	15,285	493	6,371	206	10,657
November	2	15,870	529	4,638	155	15,295
December	2	8,773	283	3,799	123	19,094
1950—January	2	8,525	275	3,534	114	22,628
February	2	7,700	275	4,021	144	26,649
March	2	8,990	290	2,487	80	29,136
April	2	13,080	436	2,954	98	32,090
May	2	11,904	384	6,542	211	38,632
June	2	11,400	380	6,494	216	45,126
July	1	13,516	436	5,886	190	51,012
August	2	14,787	477	4,767	154	55,779
September	2	13,830	461	2,691	88	58,470
October	2	10,168	328	3,702	119	62,172
November	2	9,000	300	3,109	104	65,281
December	2	10,168	328	640	21	65,921
1951—January	2	8,866	286	3,444	111	69,365
February	2	7,448	266	4,683	167	74,048
March	2	6,510	210	5,001	161	79,049
April	2	6,300	210	5,373	179	84,422
May	2	6,934	224	5,765	186	90,187
June	2	7,920	264	6,714	224	96,901
July	2	7,843	253	6,748	218	103,649
August	2	7,843	253	5,862	189	109,511
September	2	7,500	250	5,258	175	114,769
October	2	7,533	243	5,772	186	120,541
November	2	7,050	235	5,419	181	125,960
December	2	7,161	231	6,358	205	132,318
1952—January	2	5,315	171	5,315	171	137,633
February	2	6,757	233	5,690	196	143,323
March	2	6,820	220	5,615	181	148,938
April	2	6,630	221	5,584	186	154,522
May	2	6,851	221	5,676	183	160,198
June	2	7,050	235	5,846	195	166,044
July	2	6,975	225	4,863	157	170,907
August	2	6,944	231	5,878	190	176,785
September	2	4,950	165	5,849	195	182,634
October	2	5,115	165	5,323	172	187,957
November	2	7,200	240	5,212	174	193,169
December	2	5,890	190	5,034	162	198,203
1953—January	2	5,735	185	4,864	157	203,067

*All wells operated by Sunray Oil Corporation.

The development of this field has not been sufficient at the present time to definitely define the producing limits of the field; however, the above data indicate that it probably will not be a large producing area.

In forty-three (43) months of production, this field has produced only 203,067 barrels of liquid hydrocarbon with a considerable increase in the average producing gas-oil ratio. Production is from a depth of approximately 5,800 feet.

BRETON SOUND BLOCK 36 FIELD

Discovered on February 14, 1948, by the completion of the Sunray Oil Corporation—State Lease 1230 No. 1 Well, the Breton Sound Block 36 Field was proven to be a gas-condensate producing area, and has never been produced because of no market outlet for the gas production. Only nine (9) other wells were drilled in this field, and seven (7) were dry and abandoned and two were shut in gas wells.

The discovery well is located on State Lease 1230, for which the operator paid $81,753.75 with a yearly rental stipulation of $41,000.00.

Basic data available on the wells of this field are as follows*:

1. #34298—S. L. 1230 No. 1 (Discovery well); Spud. 11–30–47; Comp. 2–14–48; IP Gas; Gas volume 2360 MCF per day; TP 1620; PD 4130–4142; TD 10,602′.
   This well has remained shut in as there is no market for the gas production. Therefore, it has no assigned allowable.
2. #46345—Kerr McGee—S. L. 2001 No. C–1; Spud. 7–22–53; Comp. 9–5–52; IP 38 BPD on 1/4 ck.; TP 26; GOR 1000M/1; Gr. 15; Gas Volume 3820 MCF per day; PD 6729–6732; TD 6886′.
   Well shut in March, 1953.
3. #46705—Kerr McGee—S. L. 1237 No. D–1; Spud. 9–6–52; Comp. 10–19–52; IP Gas; Gas volume 4120 MCF per day; TP 1727; BS&W 0%; PD 4867 4880; TD 8817′.
   Well shut in March, 1953.

Plug and Abandon

1. #39825—S. L. 1230 No. 9; Spud. 12–26–49; Comp. 1–10–50; P&A @ TD 8354′ with no show.
2. #37293—Barnsdall, S. L. 1224 No. 2; Spud. 2–11–49; Comp. 5–7–49; P&A @ 10,906′ with no show.
3. #40872—Barnsdall, S. L. 1343 No. 4 (This well was originally granted Serial No. 38161 in May, 1949 which expired) Spud. 5–30–50; Comp. 6–17–50; P&A @ 9010′ with no show.
4. #44908—Shell, S. L. 1498 No. 1; Spud. 12–27–51; Comp. 2–9–52; P&A @ 10,004′ with no show.
5. #31358—Texas, S. L. 335 No. 1; Chandeleur Sound; Spud 1–21–46; Comp. 3–24–46; P&A @ TD 9865′ with no show.
6. #45720—Kerr–McGee Oil Industries, Inc., S. L. 1230 No. B–1; P&A @ TD 5000′.
7. #45251—Shell Oil Company, S. L. 1498 No. 2; Spud. 2–15–52; Comp. 3–4–52; P&A @ 8001′ with no show.

Permits Issued. No Additional Information Available

1. #37973—Barnsdall, S. L. 1224 No. 3; Apparently not drilled; no information.
2. #38161—Barnsdall, S. L. 1343 No. 4; The permit to drill this well was allowed to expire and the well was never drilled.

EUGENE ISLAND BLOCK 32 FIELD

The Eugene Island Block 32 Field was discovered by The Pure Oil Company—State Lease 832 No. A-1 Well, which was completed on December 16, 1949. Six (6) additional wells have been drilled in this field; four (4) of which were producers and two (2) were dry and abandoned.

Basic data available on the two wells in this field are as follows:*

1. #38514—S. L. 832 No. A-1 (Discovery well); Spud. 8-4-49; Comp. 12-16-49; IP 198 BPD on 13/64 ck.; TP 425#; GOR 737/1; Gr. 37.0; BS&W 2/10%; PD 9620-9628; TD 12,424′.
   Recomp.: 6-3-50
   167 BPD on 8/64 ck.; TP 1250; GOR 1132/1; Gr. 37.8; BS&W 2/10%; PD 8510-8518′ & 8534-8541.
   Recomp: 10-23-51
   IP 143BPD; TP 440; CP 700; GOR 76000/1; Estimated Gas volume 10,850 MCF; Gr. 48.5; PD 12030=12125′; BS&W 0%; TD 12424′, Gas allowable 15000 MCF.
   Test taken: 10-9-50
   123 BPD 7/64 ck.; TP 1050; GOR 642/1; Gr. 38.2; BS&W 1/10%.
   Present allowables 123 BPD (DBA—465 BPD)
2. #40094—S. L. 833 No. A-2; Spud. 1-23-50; Comp. 4-15-50; IP 252 BPD on 9/64 ck.; TP 1525; GOR 1428/1; Gr. 37.1; BS&W 1/10%; PD 9678-9698′; TD 9698′.
   Recomp: 11-2-51
   IP 226 BPD on 25/64 ck.; TP 3800; CP 1050; BS&W 0%; Gas volume 10,250 MCF per day; GOR 45400/1; Gr 49.2; PD 10799-10857′; TD 11514′; Gas allowable 15000 MCF.
   Test taken: 10-7-50
   169 BPD on 8/64 ck.; TP 2050; GOR 1822/1; Gr. 36.7; BS&W 1/10%.
   Present allowable: 169 BPD (DBA—505 BPD)
3. #40923—Sun Oil Company; S. L. 1537, No. A-1; Spud. 6/25/50; Comp. 10-26-50; IP 50 BPD on 10/64 ck.; TP 4225; GOR 50,000/1; Gr. 50.7; BS&W 1/10%; PD 11307-11337′; TD 12873′.
4. #41867—Pure Oil Company, S. L. 833, No. A-3; Spud. 10-5-50; Comp. 3-7-51; IP 159 BPD on 8/64 ck.; TP 1500; GOR 799/1; Gr. 36.8; BS&W 1/10%; PD 9871-9876; TD 11513′; (DBA—505 BPD).
   Recomp: 12-16-51
   IP 184 BPD on 23/64 ck.; TP 4200; CP 1400; GOR 67052/1; Gas volume 12388 MCF; Gr. 49.5; PD 11385-11472; TD 11513′; Gas allowable 15000 MCF per day; (DBA—585)
5. #46511—Pure Oil Company, S. L. 832, No. A-5; Spud. 7-31-52; Comp. 9-22-52; IP 124 BPD on 20/64 ck.; TP 4300; CP 1100; BS&W 0%; Gas volume 8100 MCF per day; GOR 65323/1; Gr. 47.1; PD 11304-11400; TD 11703′.

#40923 is the only well operated by Sun Oil Company.

Plug and Abandon

1. #40852—Pure Oil Company; S. L. 834 No. B-1; Spud. 6-17-50; Comp. 9-9-50; P&A @ 12717′ with no show.
2. #46445—Pure Oil Company; S. L. 832, No. A-4; Spud. 2-24-52; Comp. 6-23-52; P&A @ 13741′.

Permit Issued, No Additional Information Available

1. #47236—Pure Oil Company; S. L. 8322, No. A-6; This well apparently not drilled. No information.

*All wells operated by The Pure Oil Company.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1949—December	1	4,305	139	2,011	66	2,011
1950—January	1	7,750	250	2,673	87	4,684
February	1	5,600	200	1,807	65	6,491
March	1	600	20	49	2	6,540
April	1	785	26	0	0	6,540
May	2	7,190	232	4,724	152	11,264
June	2	14,800	493	8,172	272	19,436
July	2	13,950	450	8,794	284	28,230
August	2	12,400	400	8,017	258	36,247
September	2	12,000	400	8,118	270	44,365
October	3	12,500	403	8,406	271	52,771
November	3	9,631	321	7,451	248	60,222
December	2	9,920	320	7,765	250	67,987
1951—January	2	9,920	320	7,493	242	75,480
February	2	8,986	321	6,412	229	81,892
March	3	13,396	432	8,583	277	90,475
April	3	10,220	341	6,991	233	97,466
May	3	9,765	315	6,639	214	104,105
June	3	8,700	290	7,213	240	111,318
July	3	9,725	314	8,970	289	120,288
August	3	10,850	350	8,173	264	128,461
September	3			4,746	158	133,207
October	3			1,149	37	134,356
November	0					134,356
December	3	(1)		14,698	474	149,054
1952—January	3	(1)		7,951	257	157,005
February	3	(1)		12,788	441	169,793
March	3	(1)		15,957	515	185,750
April	3	(1)		15,364	512	201,114
May	3	(1)		16,208	523	217,322
June	3	(1)		15,565	518	232,887
July	3	(1)		14,756	476	247,643
August	3	(1)		16,039	530	263,682
September	4	(1)		20,031	668	283,713
October	4	(1)		25,693	829	309,406
November	5	(1)		26,782	893	336,188
December	5	(1)		27,658	892	363,846
1953—January	5	(1)		21,488	693	385,334

[1] Conditional.

From the above data, it can be noted that the five wells presently producing in this field are located on three different State Leases. For these three State Leases, the operator paid a bonus of $145,832.00 with a yearly rental of $72,917.50.

EUGENE ISLAND BLOCK 45 FIELD

The Eugene Island Block 45 Field was discovered by the completion of the Magnolia Petroleum Company—State Lease 838 No. A–1 Well on November 10, 1948 as a gas-condensate producer. Four (4) additional wells have been drilled. Two were brought in as oil wells, one as a gas well and the other was dry and abandoned.

Basic data available on the well in the field are as follows:*

1. #33656—S. L. 838 No. A–1 (Discovery well); Spud. 10–12–47; Comp. 11–10–48; IP 33 BPD on 3/8 ck.; TP 1550; GOR 150,111/1; Gr. 44.0; BS&W 0%; PD 11351–11358; TD 13636′.

   No market for gas production. No allowable assigned.

2. #44466—S. L. 843 No. C–1; Spud. 11–22–51; Comp. 3–3–52; IP 443 BPD on 12/64 ck.; TP 1950; BS&W 1%; Gas volume 381 MCF per day; GOR860/1; Gr. 37; PD 10530–10536 and 10546–1–558; TD 13482′.

   Recomp: 6–26–52

   IP 475 BPD on 1/64 ck.; TP 1875; BS&W 1%; Gas volume 381 MCF per day; GOR 802; Gr. 37.5; PD 10100–10106 and 10530–10536; TD 13482′.

   Test taken: 2–23–53

   537 BPD on 12/64 ck.; TP 1675; GOR 808; Gr. 36.9; BS&W 1/10%.

   Present allowable:—537 BPD (DBA—545 BPD)

*Operated by Magnolia Petroleum Company.

3. #46434—S. L. 838 No. A-3; Spud. 5-27-52; Comp. 8-4-52; IP Gas; Gas volume 1258 MCF per day on 12/64 ck.; TD 11505'.
   Shut in as gas well March, 1953.
4. #47014—S. L. 843 No. C-3; PD 10290-10296; TD 11008'.
   Test taken: 2-20-53
   595 BPD on 13/64 ck.; TP 1850; GOR 750/1; Gr. 37.3; BS&W 0%.
   Present allowable: 545 BPD (DBA—545 BPD)

Plug and Abandon

1. #46433—S. L. 838 No. A-2; Spud. 3-3-52; Comp. 5-27-52; P&A @ TD 12218'.

Permit Issued. No Additional Information Available.

1. #46435—S. L. 837 No. C-2: No information.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1952—March	1	285	9	284	9	284
April	1	6,975	233	6,923	231	7,207
May	1	14,291	461	14,113	455	21,320
June	1	1,308	44	4,042	135	25,362
July	1	16,895	545	10,043	324	35,405
August	1	16,895	545	12,122	391	47,527
September	1	15,000	500	388	13	47,915
October	1	15,500	500	11,056	357	58,971
November	1	15,000	500	10,688	356	69,659
December	1	15,500	500	8,686	280	78,345
1953—January	1	15,500	500	12,145	392	90,490

EUGENE ISLAND BLOCK 58 FIELD

The Eugene Island Block 58 Field is located on State Leases 670, 673, 676, 679 and 684, for which the operator paid $128,000.00 and an annual rental of $64,000.00. In the early part of 1947, the Magnolia Petroleum Company drilled their State Lease 673 No. A-1 Well in this area, but this well was plugged and abandoned at a total depth of 12,875 feet with no shows recorded.

The field was discovered by the Magnolia Petroleum Company—State Lease 673 No. B-1 Well, which was completed on January 8, 1950. Subsequent to the completion of the discovery well, seven (7) additional wells were drilled with no shows recorded.

Basic data available on the wells in this field are as follows:*

1. #37962—S. L. 673 No. B-1 Well (Discovery well); Spud. 5-8-49; Comp. 1-8-50; IP 34 BPD on 8/64 ck.; TP 3670; GOR 32500/1; Gr. 46.8; BS&W 0%; PD 11206-11208; TD 13880'.
   4-18-50—P & A @ 13880'.

Plug and Abandon

1. #31500—S. L. 673 No. A-1; Spud. 2-47; Comp. 4-5-47; P&A @ TD 12875' with no show.
2. #40073—S. L. 670 No. B-2; Spud. 1-23-50; Comp. 4-4-50; P&A @ TD 11544' with no show.
3. #36683—S. L. 676 No. 2 Spud. 9-24-48; Comp. 11-19-48; P&A @ TD 2829' with no show.
4. #35391—S. L. 679 No. 1; Spud. 5-18-48; Comp. 6-17-48; P& A @ TD 3516' with no show.
5. #37193—S. L. 679 No. 2; Spud. 12-10-48; Comp. 3-18-49; P&A @ TD 10200' with no show.
6. #37759—S. L. 679 No. 2-A; Spud. 4-5-49; Comp. 5-24-49; P&A @ TD 4271' with no show.
7. #33336—S. L. 684 No. 1; Spud. 5-10-47; Comp. 6-18-47; P&A @ TD 2613' with no show.
8. #38663—S. L. 684 No. B-1; Spud. 9-3-49; Comp. 11-18-49; P&A @ TD 9207' with no show.

*All wells operated by the Magnolia Petroleum Company.

EUGENE ISLAND BLOCK 110 FIELD

The Eugene Island Block 110 Field was discovered by the Magnolia Petroleum Company—State Lease 686 No. A-1 Well, which well was completed on July 29, 1949 as a gas-condensate producer. Three (3) other wells have been drilled in this field, one (1) gas-condensate producer and two (2) dry holes.

The wells of this field are located on State Leases for which the operator paid a bonus of $102,400.00 with a yearly rental stipulation of $50,200.00.

Basic data available on the wells of this field are as follows:*

1. #35342—S. L. 686 No. A-1 (Discovery well); Spud. 9-7-48; Comp. 7-29-49; IP 30 BPD on 14/64 ck.; TP 4190; GOR 75144/1; Gr. 54.6; BS&W 0%; PD 9894-10076; TD 11909'.
   Recomp: In sand; 11034-11064'.
   Test taken: 2-26-53.
   374 BPD; TP 5400; GOR 16010/1.
   Gas well allowable: 8000 MCF per day.
2. #40816—S. L. 685 No. C-2; Comp. 10-19-50 as a gas well. PD 12136-12158 and 12168-12171; TD 13641.
   Test taken: 2-27-53.
   289 BPD; TP 4550; GOR 11395/1; BS&W 0%.
   Gas well allowable: 5000 MCF per day.

Plug and Abandon

1. #40313—S. L. 687 No. D-1; Spud. 3-24-50; Comp. 7-5-50; P&A @ TD 10808' with no show.
2. #40335—S. L. 680 No. E-1; Spud. 5-29-51; Comp. 10-27-50; P&A @ 14525' with no show.

EUGENE ISLAND BLOCK 126 FIELD

The Eugene Island Block 126 Field is located in four State Leases for which the operator, Magnolia Petroleum Company, paid a bonus of $102,400.00 with a yearly rental stipulation of $51,200.00. The field was discovered by the completion of the Magnolia Petroleum Company—State Lease 693 No. A-1 Well as a gas well on July 27, 1949. Oil production was discovered on April 15, 1950 by the completion of the Magnolia Petroleum Company—State Lease 694 No. A-2 Well. Nine (9) additional wells have been drilled; four (4) were plugged and abandoned and five (5) were producers.

Basic data available on the wells of this field are as follows:*

1. #37365—S. L. 693 No. A-1 (Discovery well); Spud. 3-1-49; Comp. 7-27-49; IP Gas well. Shut in @ TD 11,233'.
   No allowable given. No market for gas production.
2. #39561—S. L. 694 No. A-2; Spud. 12-2-49; Comp. 4-15-50; IP 614 BPD on 12/64 ck.; TP 2565; GOR 905/1; Gr. 34.9; PD 11648-11658; TD 11672'.
   Test taken: 2-15-53
   429 BPD on 18/64 ck.; TP 650; GOR 818/1; Gr. 34.3; BS&W 2/10%.
   Present allowable: 429 BPD (DBA—585 BPD)
3. #42120—S. L. 691 No. C-2; Spud. 12-17-50; Comp. 5-9-51; IP 602 BPD on 12/64 ck.; TP 2200; GOR 716/1; Gr. 34.2; PD 10479-10494; TD 11791'.
   Test taken: 2-19-53
   517 BPD on 11/64 ck.; TP 1910; GOR 816; Gr. 34.9; BS&W 2/10%.
   Present allowable: 500 BPD (DBA—545 BPD)
4. #42008—S. L. 694 No. A-4; Spud. 11-11-50; Comp. 3-11-51; IP 699 BPD on 14/64 ck.; TP 1750; GOR 709/1; Gr. 34.9; PD 11468-11498; TD 12417'.
   Well shut in March, 1953.
5. #40595—S. L. 693 No. A-3; Spud, 4-20-50; Comp. 10-27-50; IP 655 BPD on 13/64 ck.; TP 2120; GOR 948/1; Gr. 37.5; PD 11372-11392; TD 11485'.
   Test taken: 2-16-53
   394 BPD on 13/64 ck.; TP 1050; GOR 754; Gr. 35.8; BS&W 2/10%.
   Present allowable: 394 BPD (DBA—585 BPD).
6. #42742—S. L. 692 No. D-3; IP 14,000 MCF per day; open flow potential; GOR 28,334/1; Gr. 51.5; PD 11416-11436; TD 12601'.
   Shut in as gas well March, 1953.

*All wells operated by the Magnolia Petroleum Company.

7. #46432—S. L. 691 No. C-3; Spud. 3-21-52; Comp. 6-14-52; IP 569 BPD on 12/64 ck.; TP 2175; BS&W 1%; Gas volume 502 MCF per day; Gr. 34.4; PD 10530-10545; TD 10656′.
   Test taken: 2-19-53
      506 BPD on 11/64 ck.; TP 2025; GOR 816; Gr. 34.7; BS&W 2/10%.
   Present allowable: 506 BPD (DBA—545 BPD)
8. #46447—S. L. 691 No. C-4; PD 10262-10272; TD 10730′.
   Test taken: 2-19-53
      479 BPD on 12/64 ck.; TP 1750; GOR 816; Gr. 35; BS&W 2/10%.
   Present allowable: 479 BPD (DBA—545 BPD)

Plug and Abandon

1. #40596—S. L. 692 No. B-1; Spud. 4-28-50; Comp. 6-15-50; P&A @ TD 8105′ with no show.
2. #42117—S. L. 692 No. D-2; Spud. 12-12-50; Comp. 2-16-51; P&A @ TD 12340′ with no show.
3. #41467—S. L. 691 No. C-1; Spud. 8-25-50; Comp. 12-16-50; P&A @ TD 10906′ with no show.
4. #41468—S. L. 692 No. D-1; Spud. 8-22-50; Comp. 12-9-50; P&A @ TD 13206′ with no show.

Permit Issued. No Additional Information Available.

1. #47597—S. L. 691 No. C-5; No information.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1950—April	1	2,504	83	1,719	57	1,719
May	1	4,239	137	4,185	135	5,904
June	1	6,750	225	6,673	215	12,577
July	1	5,642	182	5,728	185	18,305
August	1	18,135	585	8,152	263	26,457
September	1	9,000	300	6,464	215	32,921
October	2	12,225	394	5,379	174	38,300
November	2	35,050	1,168	31,281	1,043	69,581
December	2	36,270	1,170	29,174	9,411	98,755
1951—January	2	36,270	1,170	25,182	812	123,937
February	2	32,760	1,170	27,028	965	150,965
March	2	46,770	1,509	36,345	1,172	187,310
April	2	45,000	1,500	37,145	1,238	224,455
May	3	47,864	1,544	36,125	1,165	260,580
June	3	60,000	2,000	49,116	1,637	309,696
July	4	56,482	1,822	49,882	1,609	359,578
August	4	50,096	1,616	47,785	1,541	407,363
September	4	46,890	1,563	40,366	1,346	447,729
October	4	46,655	1,505	40,393	1,303	488,122
November	4	42,660	1,422	41,392	1,380	529,514
December	4	43,431	1,401	35,951	1,160	565,465
1952—January	3	42,935	1,385	35,750	1,153	601,215
February	3	39,353	1,357	32,852	1,133	634,067
March	3	39,990	1,290	28,887	932	662,954
April	3	36,450	1,215	35,442	1,181	698,396
May	3	38,595	1,245	38,247	1,234	736,643
June	4	37,800	1,260	44,884	1,496	781,527
July	4	43,095	1,390	42,978	1,386	824,505
August	3	58,900	1,900	45,959	1,483	870,464
September	3	56,400	1,880	46,357	1,545	916,821
October	3	62,957	2,031	57,873	1,867	974,694
November	3	67,350	2,245	51,040	1,701	1,025,734
December	3	69,905	2,255	67,049	2,163	1,092,783
1953—January	3	69,750	2,250	42,967	1,386	1,135,750

Thirty-three (33) months of production history shows that this field has produced approximately 1,140,000 barrels of liquid hydrocarbon, with a slight decrease in the producing gas-oil ratio.

GRAND ISLE BLOCK 16 FIELD

The Grand Isle Block 16 Field at the present time covers portions of three (3) State Leases, for which the operator, Humble Oil and Refining Company, paid a bonus of $300,000.00 and a yearly rental of $150,000.00. The field was discovered by the completion of the Humble Oil and Refining Company-State Lease 799 No. A-1 Well on November 24, 1948.

After the completion of this discovery well, it was not until April of the following year that the second well was spudded. There have been a total of twelve (12) additional wells drilled, most of which proved to be productive of gas with only a nominal liquid content.

Basic data available on the wells of this field are as follows:*

1. #34987—S. L. 799 No. A-1 (Discovery well); Spud. 7-21-48; Comp. 11-24-48; IP 219 BPD on 5/32 ck.; GOR 297/1; TP 800; BS&W 1/10%; Gr. 38.0; PD 4584-4596; TD 8259'.
   Recomp: 5-9-49
   456 BPD on ¼ ck.; GOR 495/1; TP 500; BS&W 1½%; Gr. 36.6; PD 4584-4589.
   Recomp: 8-9-49
   190 BPD on 3/16 ck.; GOR 374/1; TP 310; BS&W 15%; Gr. 36.4; PD 4565-4575.
   Recomp: 4-22-50
   160 BPD on ¼ ck.; GOR 320/1; TP 85; BS&W 50%; Gr. 36.8; PD 4584-4589'.
   This well dead as of February, 1953.
2. #37211—S. L. 803 No. B-1; Spud. 4-27-49; Comp. 9-12-49; IP Gas; Gas volume 393.6 MCF per day; on ¾ ck.; TP 720; PD 1976-1998; TD 6203'. Well shut in as of February, 1953.
3. #39750—S. L. 800 No. E-1; Spud. 12-31-49; Comp. 2-5-50; IP GAS with 2 BPD liquid on 5/16 ck.; gas volume 1444 MCF per day; TP 550; Gr. 34; BS&W 90%; PD 1848-1852; TD 2066'.
   Well shut in as of February, 1953.
4. #37077—S. L. 804 No. A-2; Spud. 12-4-48; Comp. 4-9-49; IP 11 BPD on 1/16 ck.; TP 40; BS&W 0%; PD 6128-6128; TD 6280'.
   Test taken: 1-26-53.
   41 BPD on 21/64 ck.; TP 80; GOR——; Gr. 29.5; BS&W 0%; pumping.
   Present allowable: 41 BPD (DBA—385 BPD)
5. #42549—S. L. 799 No. F-2; Spud. 11-22-50; Comp. 5-2-51; IP 95 BPD on ¼ ck.; TP 4350; GOR 30,000/1; Gr. 52; PD 13010-13014; TD 13152'.
   Shut in as gas well February, 1953.
6. #40344—S. L. 803 No. C-3; Spud. 1-4-50; Comp. 5-21-50 as a gas well; PD 8485-8488 and 8499-8503;
   Shut in as gas well February, 1953.

Plug and Abandon

1. #39884—S. L. 799 No. D-1; Spud. 2-23-50; Comp. 4-7-50; P & A @ TD 7969 with no show.
2. #39979—S. L. 803 No. C-2; P & A @ TD 8319' with no show.
3. #40574—S. L. 799 No. D-2; Spud 4-8-50; Comp. 7-14-50; P & A @ TD 13,100' with no show.
4. #41748—S. L. 799 No. F-1; Spud. 11-22-50; Comp. 1-13-51; P & A @ TD 10806' with no show.
5. #41533—S. L. 799 No. D-4; Spud. 8-19-50; Comp. 11-8-50; P & A @ TD 13822' with no show.
6. #41220—S. L. 799 No. D-3; Spud. 7-15-50; Comp. 8-18-50; P & A @ TD 9106' with no show.

Permit Issued. No additional Information Available

1. #35440—S. L. 803 No. 2.
   Permit expired.

*All wells operated by the Humble Oil and Refining Company.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1948—December	1	3,968	128	1,279	42	1,279
1949—January	1	2,560	83	1,484	48	2,763
February	1	2,560	91	880	31	3,643
March	0	0	0	0	0	3,643
April	0	0	0	0	0	3,643
May	2	6,835	220	5,348	173	8,991
June	0	0	0	0	0	8,991
July	1	550	18	550	18	9,541
August	3	5,963	192	2,496	81	12,037
September	2	5,700	190	807	27	12,844
October	2	4,557	147	2,843	92	15,687
November	2	4,530	151	2,733	91	18,420
December	2	4,402	142	979	32	19,399
1950—January	2	5,115	166	1,489	48	20,888
February	2	2,110	75	380	14	21,268
March	2	4,930	159	1,517	49	22,785
April	2	1,550	52	993	33	23,778
May	2	1,433	46	1,260	41	25,038
June	1	1,200	40	611	23	25,649
July	1	930	30	362	12	26,011
August	1	930	30	377	12	26,388
September	1	900	30	249	9	26,637
October	2	1,339	43	907	29	27,544
November	2	727	24	559	19	28,103
December	1	620	20	589	19	28,692
1951—January	1	620	20	496	16	29,188
February	1	560	20	359	13	29,547
March	1	620	20	388	13	29,935
April	1	600	20	304	10	30,239
May	1	620	20	445	14	30,684
June	1	600	20	266	9	30,950
July	1	796	26	654	21	31,604
August	1	1,302	42	1,421	46	33,025
September	1	1,502	50	1,501	50	34,526
October	1	1,736	56	1,696	55	36,222
November	1	1,680	56	1,380	46	37,602
December	1	1,736	56	1,309	42	38,911
1952—February	1	1,736	56	1,337	43	40,248
February	1	1,624	56	1,238	43	41,486
March	1	1,457	47	1,316	42	42,802
April	1	1,320	44	1,397	47	44,199
May	1	1,364	44	1,377	44	45,576
June	1	1,320	44	1,227	41	46,803
July	1	1,364	44	1,117	36	47,920
August	1	1,395	45	1,177	36	49,097
September	1	1,350	45	1,230	41	50,327
October	1	1,395	45	1,243	40	51,570
November	1	1,230	41	1,160	39	52,730
December	1	1,271	41	1,168	38	53,898
1953—January	1	1,271	41	1,040	33	54,938

As can be noted from the above data, the production from this field has been erratic, and in a total of fifty (50) months has produced only 54,938 barrels of liquid hydrocarbon.

GRAND ISLE BLOCK 18 FIELD

Completion of the Humble Oil and Refining Company—State Lease 801 No. A–1 Well on August 11, 1948 as a producing oil well, marked the discovery date of the Grand Isle Block 18 Field. Subsequent to the completion of this discovery well seven (7) additional wells were drilled with four (4) encountering production and three (3) being dry and abandoned. Two (2) additional permits were issued by the Department of Conservation for wells to be drilled in this field; however, these were allowed to expire by the operator and the wells were never drilled.

This field is located on portions of four (4) State Leases, for which the operator, Humble Oil and Refining Company, paid a bonus of $300,000.00 with a yearly rental of $150,000.00.

Basic data available on the wells of this field are as follows:*

1. #34512—S. L. 801 No. A-1 (Discovery well); Spud. 4-19-48; Comp. 8-11-48; IP 840 BPD on 1/4 ck.; 1300; GOR 375/1; Gr. 30.9; BS&W Tr.; PD 8640-8665; TD 8951'.
   Recomp: 11-12-49
   312 BPD on 3/16 ck.; TP 800; GOR 418/1; Gr. 29.1; BS&W Tr.
   Test taken: 1-20-53
   476 BPD on X-45 ck.; TP 750; GOR 603/1; Gr. 34.1; BS&W 2/10%.
   Present allowable: 465 BPD (DBA—465 BPD)
2. #37292—S. L. 797 No. B-1; Spud. 5-30-49; Comp. 9-26-49; IP 100 BPD on 1/4 ck; TP 75; GOR 88/1; Gr. 20.5; BS&W 33%; PD 1738-1750; TD 5152'.
   Test taken: 1-28-53
   22 BPD on 18/64 ck.; TP 68; GOR; Gr. 18.6; BS&W 40%.
   Present allowable: 22 BPD (DBA—265 BPD)
3. #38228—S. L. 798 No. A-5; Spud. 12-19-48; Comp. 7-27-49; IP 463 BPD on 3/16 ck.; TP 1320; GOR 437/1; Gr. 34.7; BS&W 2/10%; PD 8510-8545; TD 8713'.
   Recomp: 12-1-49
   240 BPD on 1/4 ck.; TP 380; GOR 435/1; Gr. 34.7; BS&W 4%.
   Test taken: 1-20-53
   471 BPD on X-50 ck.; TP 500; CP 260; GOR 325/1; BS&W 0%.
   Present allowable: 465 BPD (DBA—465 BPD)
4. #36330—S. L. 802 No. A-2; Spud. 8-20-48; Comp. 12-13-48; IP 518 BPD on 7/32 ck.; TP 1475; GOR 851/1; Gr. 35.7; BS&W 2/10%; PD 9221-9236; TD 9424'.
   Well dead as of February, 1953.
5. #42497—S. L. 802 No. C-2; Spud. 10-31-50; Comp. 2-8-51; IP 426 BPD on 3/16 ck.; TP 1250; GOR 527/1; Gr. 31; PD 8534-8566; TD 9775'.
   Test taken: 1-31-53
   127 BPD on X-52 ck.; TP 80; GOR 465/1; Gr. 29.9; BS&W 6%.
   Present allowable: 127 BPD (DBA 465 BPD)

Plug and Abandon

1. #37210—S. L. 798 No. A-3; Spud. 12-19-48; Comp. 5-24-49; P&A @ TD 12,512' with no show.
2. #37624—S. L. 797 No. A-4; Spud. 8-2-49; Comp. 1-8-50; P&A @ TD 6470' with no show.
3. #41854—S. L. 802 No. C-1; Spud. 10-31-50; Comp. 1-3-51; P&A @ TD 10760' with no show.

Permits Issued. No Additional Information Available

1. #35376—S. L. 797 No. 2—Permit Expired—Well not drilled.
2. #37359—S. L. 802 No. C-1—Permit Expired—Well not drilled.

*All wells operated by the Humble Oil and Refining Company.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1948—August	1	7,068	228	4,790	155	4,790
September	1	6,840	228	907	30	5,697
October	1	7,068	228	7,071	228	12,768
November	1	6,840	228	2,916	97	15,684
December	2	11,766	380	3,380	109	19,064
1949—January	2	15,159	489	9,607	310	28,617
February	2	13,692	489	12,030	430	40,701
March	2	15,159	388	11,045	356	51,746
April	2	14,670	489	14,593	486	66,339
May	2	13,107	423	11,398	368	77,737
June	2	13,935	465	12,507	417	90,244
July	3	16,299	526	13,157	424	103,401
August	3	15,159	489	10,914	352	114,315
September	2	8,385	280	5,367	179	119,682
October	2	11,532	372	6,850	221	126,532
November	4	15,649	522	10,542	351	137,074
December	4	25,668	828	10,244	330	147,318
1950—January	4	25,668	828	15,697	506	163,015
February	4	23,184	828	19,984	714	182,999
March	4	25,668	828	19,079	615	202,078
April	4	24,840	828	23,316	777	225,394
May	4	25,668	828	25,263	815	250,657
June	4	24,950	832	25,528	851	276,185
July	4	25,947	837	23,878	770	300,063
August	4	35,405	1,142	24,699	796	324,762
September	4	35,250	1,137	28,742	958	353,504
October	4	36,425	1,175	28,725	927	382,229
November	4	35,250	1,175	30,789	1,026	413,018
December	4	40,145	1,295	33,598	1,084	446,616
1951—January	4	40,145	1,295	36,369	1,173	482,985
February	5	46,025	1,644	38,636	1,380	521,621
March	5	48,980	1,580	30,343	979	551,964
April	4	37,500	1,250	36,463	1,215	588,427
May	4	38,750	1,250	37,860	1,221	626,287
June	4	37,500	1,250	36,386	1,213	662,673
July	4	40,270	1,299	38,817	1,252	701,490
August	4	45,198	1,458	43,062	1,389	744,552
September	5	43,740	1,458	39,295	1,310	783,847
October	5	47,047	1,518	42,258	1,363	826,105
November	5	44,520	1,484	43,180	1,439	869,285
December	5	45,880	1,480	34,493	1,113	903,778
1952—January	5	45,320	1,462	40,684	1,312	944,462
February	5	41,760	1,440	37,399	1,290	981,861
March	5	45,725	1,475	42,754	1,379	1,024,615
April	5	44,040	1,468	42,542	1,418	1,067,157
May	4	45,508	1,468	41,177	1,328	1,108,334
June	5	43,890	1,463	42,509	1,417	1,150,843
July	5	43,624	1,407	41,101	1,326	1,191,948
August	4	41,969	1,354	40,224	1,298	1,232,164
September	5	37,800	1,260	36,452	1,215	1,268,620
October	5	39,060	1,260	36,944	1,192	1,305,564
November	5	33,832	1,128	33,558	1,119	1,339,122
December	4	34,193	1,103	33,007	1,065	1,372,129
1953—January	4	33,945	1,095	32,951	1,063	1,405,080

In summation of the above data, this field, in a total of 54 months, has produced 1,405,080 barrels of liquid hydrocarbon from four (4) separate reservoirs. At the present time, all indications seem to favor this field as one of the better producing areas in offshore development, and additional development should prove favorable.

MAIN PASS BLOCK 35 FIELD

Completion of the Shell Oil Company—State Lease 1961 No. 1 Well on August 11, 1951 as a gas-condensate marked the discovery date of Main Pass Block 35 Field. Subsequent to the discovery well, an additional forty-three (43) wells have been drilled. Thirty-six (36) were brought in as oil producers and seven (7) were dry and plugged and abandoned. Since the discovery by Shell Oil Company, three other companies (Texas, California and Kerr-McGee) have drilled wells in this field.

This field takes in a total of eleven (11) State Leases for which the operators have paid a bonus of $2,260,461.78 with a yearly rental of $1,130,230.89.

1. #43455—Shell Oil Company (Discovery well); S. L. 1961 No. 1; Spud. 6-23-51; Comp. 8-11-51; IP 9 BPD on 9/64 ck.; TP 2300; Gas volume 1079 MCF per day; GOR 118,311, BS&W 10%; Gr. 45.5; PD 7204-7209; TD 10,000'.
   Shut in as of March 1953.
2. #44833—California Company; S. L. 1958 No. 1; Spud. 12-14-51; Comp. 2-12-52; IP 244 BPD on 9/64 ck.; Gas volume 106 MCF per day; GOR 434; TP 1050; BS&W 2/10%; Gr. 30.4; PD 7528-7532; TD 10,006'.
   Test taken: 2-1-53
      73 BPD on 7/64 ck.; TP 2210; GOR 7320/1; Gr. 30; BS&W 0%.
   Present allowable: 58 BPD (DBA—425 BPD)
3. #45216—Texas Company; S. L. 1959 No. 1; Spud. 2-11-52; Comp. 3-28-52; IP 138 BPD on 8/64 ck.; TP 840; Gas volume 58 MCF per day; GOR 429/1; BS&W 1/10%; Gr. 27.6; PD 7849-7858; TD 9294'.
   Test taken: 2-3-53
      225 BPD on X-33.5 ck.; TP 800; GOR 424; Gr. 28.8; BS&W 1/10%.
   Present allowable: 214 BPD (DBA—425 BPD)
4. #45594—Texas Company; S. L. 1959 No. 2; Spud. 3-30-52; Comp. 4-21-52; IP 227 BPD on 8/64 ck.; TP 750; Gas volume 62 MCF per day; GOR 273; BS&W 1/10%; Gr. 28.7; PD 7842-7848; TD 9325'.
   Test taken: 2-7-53
      217 BPD on X-35 ck.; TP 1000; GOR 434; Gr. 29 BS&W 1/10%.
   Present allowable: 214 BPD (DBA—425 BPD)
5. #45364—California Company; S. L. 1958 No. 2; Spud. 3-8-52; Comp. 4-2-52; IP 113 BPD on 7/64 ck.; TP 875; Gas volume 60.5 MCF per day; GOR 535/1; BS&W 2/10%; Gr. 30.8; PD 7526-7528; TD 10,000'.
   Test taken: 1-29-53
      73 BPD on 7/64 ck.; TP 2200; GOR 4450; Gr 31.4; BS&W 0%.
   Present allowable: 73 BPD (DBA—425 BPD)
6. #45621—California Company; S. L. 1958 No. 4; Spud. 4-14-52; Comp. 6-14-52; IP 175 BPD on 8/64 ck.; TP 900; Gas volume 103 MCF per day; GOR 590; BS&W 1%; Gr. 31; PD 7526-7528 TD 9605'.
   Test taken: 2-3-53
      60 BPD on 7/64 ck.; TP 2350; GOR 5160; Gr. 30.4; BS&W 0%.
   Present allowable: 60 BPD (DBA—425 BPD)
7. #45993—California Company; S. L. 1958 No. 5; Spud. 6-16-52; Comp. 7-7-52; IP 162 BPD on 8/64 ck.; TP 1100; Gas volume 75 MCF per day; GOR 463/1; BS&W 1/10%; Gr. 28.5; PD 7790-7818; TD 9029'.
   Test taken: 1-2-53
      223 BPD on 9/64 ck.; TP 1000; GOR 430/1; Gr. 29; BS&W 2%.
   Present allowable: 214 BPD (DBA—425 BPD)
8. #46237—California Company; S. L. 1958 No. 6; Spud. 7-4-52; Comp. 7-20;52; IP 162 BPD on 8/64 ck.; TP 875; Gas volume 78 MCF per day; GOR 482/1; BS&W 1/10%; Gr. 30.5; PD 7192-7202; TD 8650'.
   Test taken: 1-20-53
      216 BPD on 9/64 ck.; TP 1062; GOR 440/1; Gr. 29.8 BS&W 5%.
   Present allowable: 214 BPD (DBA—425 BPD)
9. #46246—California Company; S. L. 1958, No. 7; Spud. 7-9-52; Comp. 8-1-52; IP 190 BPD on 8/64 ck.; TP 1100; Gas volume 72 MCF per day; GOR 380; BS&W 3/10%; Gr. 28.5; PD 8692-8704; TD 8950'.
   Test taken: 1-30-53
      250 BPD on 9/64 ck.; TP 1375; GOR 580/1; Gr. 26.2; BS&W 2/10%.
   Present allowable: 239 BPD (DBA—425 BPD)
10. #46356—California Company; S. L. 1958, No. 9; Spud. 7-19-52; Comp. 8-3-52; IP 178 BPD on 8/64 ck.; TP 990; Gas volume 45.3 MCF per day; GOR 254/1; BS&W 1/10%; Gr. 28.5; PD 7818-7822; TD 8128'.
   Test taken: 1-15-53
      277 BPD on 10/64 ck.; TP 960; GOR 480/1; Gr. 29; BS&W 2/10%.
   Present allowable: 214 BPD (DBA—425 BPD)
11. #46875—California Company; S. L. 1958 No. 11; Spud. 10-22-52; Comp. 11-8-52; IP 103 BPD on 8/64 ck.; TP 710; Gas volume 42.2 MCF per day; GOR 409; BS&W 0%; Gr. 27.8; PD 7525-7529; TD 7602'.
   Shut in as of March, 1953.
12. #46876—California Company; S. L. 1958 No. 10; Spud 10-16-52; Comp. 11-16-52; IP 151 BPD on 8/64 ck.; TP 1000; Gas volume 63 MCF per day; GOR 414/1; BS&W 0%; Gr. 28.5; PD 7508-7523; TD 9261'.
   Test taken: 1-28-53
      53 BPD on 7/64 ck.; TP 2275; GOR 8330/1; Gr. 27.9; BS&W 0%.
   Present allowable: 51 BPD (DBA—425 BPD)

13. #47181—California Company; S. L. 1958 No. 12; Spud. 11-9-52; Comp. 11-28-52; IP 203 BPD on 9/64 ck.; TP 1075; Gas volume 90.4 MCF per day; GOR 445/1; BS&W 2/10%; Gr. 25.9; PD 8272-8288; TD 9672′.
    Test taken: 1-29-53
        241 BPD on 9/64 ck.; TP 1000; GOR 438/1; Gr. 28; BS&W 2/10%.
    Present allowable: 239 BPD (DBA—465 BPD)
14. #47351—California Company; S. L. 1958 No. 13; Spud. 11-16-52; Comp. 12-6-52; IP 243 BPD on 9/64 ck.; TP 975; Gas volume 285 MCF per day; GOR 1132; BS&W 1/10%; Gr. 30; PD 6678-6689; TD 7617′.
    Test taken: 1-29-53
        195 BPD on 9/64 ck.; TP 925; GOR 382/1; Gr. 30; BS&W 2/10%.
    Present allowable: 186 BPD (DBA—385 BPD)
15. #47361—California Company; S. L. 1958 No. 14; Spud 11-25-52; Comp. 12-10-52; IP 227 BPD on 9/64 ck.; TP 1020; Gas volume 77 MCF per day; GOR 339/1; BS&W 2/10%; Gr. 21.6; PD 8268-8286; TD 8956′.
    Test taken: 2-7-53
        192 BPD on 9/64 ck.; TP 680; GOR 320/1; Gr. 21.4; BS&W 55%.
    Present allowable: 162 BPD (DBA—465 BPD)
16. #47522—California Company; S. L. 1958 No. 15; Spud. 1-8-53; Comp. 1-26-53; IP 187 BPD on 9/64 ck.; TP 1050; Gas volume 80 MCF per day; GOR 434/1; BS&W 2/10%; Gr. 28.6; PD 7778-7808; TD 9000′.
    Test taken: 2-2-53
        267 BPD on 9/64 ck.; TP 1100; GOR 400/1; Gr. 29.4; BS&W 2/10%.
    Present allowable: 214-BPD (DBA—425 BPD)
17. #47523—California Company; S. L. 1958 No. 16; Spud. 12-6-52; Comp. 12-17-52; IP 195 BPD on 9/64 ck.; TP 950; Gas volume 84 MCF per day; GOR 431; BS&W 2/10%; Gr. 30; PD 6685-6700; TD 6885′.
    Test taken: 1-28-53
        195 BPD on 9/64 ck.; TP 900; GOR 410; Gr. 29.9; BS&W 2/10%.
    Present allowable: 186 BPD (DBA—385 BPD)
18. #47565—California Company; S. L. 1958 No. 17; Spud 12-18-52; Comp. 1-2-53; IP 202 BPD on 9/64 ck.; TP 1000; Gas volume 82 MCF per day; GOR 426/1; BS&W 1/10%; Gr. 26.1; PD 8276-8288; TD 9003′.
    Test taken: 1-29-53
        241 BPD on 10/64 ck.; TP 1000; GOR 361/1; Gr. 26.1; BS&W 2/10%.
    Present allowable: 239 BPD (DBA—465 BPD)
19. #47684—California Company; S. L. 1958 No. 18; Spud. 1-13-53; Comp. 2-10-53; IP 216 BPD on 9/64 ck.; TP 925; Gas volume 83 MCF per day; GOR 384/1; BS&W 0%; Gr. 29.5; PD 6688-6702; TD 9600′.
20. #47961—California Company; S. L. 1958 No. 19; Spud. 2-5-53; Comp. 2-25-53; IP 276 BPD on 10/64 ck.; TP 1050; Gas volume 106 MCF per day; GOR 386/1; BS&W 2/10%; Gr. 24.8; PD 8260-8284; TD 9000′.
21. #46463—Texas Company; S. L. 1959 No. 4; Spud 8-14-52; Comp. 9-2-52; IP 200 BPD on X-32 ck.; TP 1000; Gas volume 40.5 MCF per day; GOR 210/1; BS&W 1/10%; Gr. 27.7; PD 7839-7850; TD 9137′.
    Test taken: 2-7-53
        238 BPD on X-35.5; TP 1020; GOR 517/1; Gr. 28.9;
        BS&W 1/10%.
    Present allowable: 214 BPD (DBA—425 BPD)
22. #46823—Texas Company; S. L. 1959 No. 6; Spud 9-23-52; Comp. 10-9-52; IP 162 BPD on X-31 ck.; TP 800; Gas volume —— MCF per day; GOR ——; BS&W 2/10%; Gr. 28.2; PD 7858-7876; TD 9315′.
    Test taken: 2-3-53
        215 BPD on X-33 ck.; TP 980; GOR 442/1; Gr. 28.
        BS&W 1/10%.
    Present allowable: 214 BPD (DBA—425 BPD)
23. #47021—Texas Company; S. L. 1959 No. 7; Spud 10-10-52; Comp. 10-28-52; IP 175 BPD on XX-31.5 ck.; TP 850; Gas volume —— MCF per day; GOR ——; BS&W 1/10%; Gr. 27.5; PD 7845-7864; TD 9312′.
    Test taken: 2-7-53
        228 BPD on X-33.5 ck.; TP 1082; GOR 342/1; Gr. 28.8;
        BS&W 1/10%.
    Present allowable: 214 BPD (DBA—425 BPD)

24. #47205—Texas Company; S. L. 1959 No. 3; Spud 10–30–52; Comp. 11–14–52; IP 227 BPD on X–31 ck.; TP 950; Gas volume 147 MCF per day; GOR 648/1; BS&W 1/10%; Gr. 27; PD 7868–7876; TD 8010′.
    Test taken: 2–5–53
        228 BPD on X–34 ck.; TP 985; GOR 539/1; Gr. 28.8; BS&W 1/10%.
    Present allowable: 214 BPD (DBA—425 BPD)
25. #45610—California Company; S. L. 1960, No. 1; Spud. 4–19–52; Comp. 5–7–52; IP 145 BPD on 8/64 ck.; TP 900; Gas volume 70.5 MCF per day; GOR 485/1; BS&W 5/10%; Gr. 25; PD 7936–7844 and 7850–7859; TD 9400′.
    Test taken: 2–3–53
        225 BPD on 9/64 ck.; TP 1060; GOR 422/1; Gr. 29.2; BS&W 2/10%.
    Present allowable: 214 BPD (DBA—425 BPD)
26. #47685—California Company; S. L. 1960, No. 2; Spud. 1–23–53; Comp. 2–4–53; IP 186 BPD on 9/64 ck.; TP 900; Gas volume 66 MCF per day; GOR 351/1; BS&W 4/10%; Gr. 27.9; PD 7856–7874; TD 8000′.
    Test taken: 2–11–53
        187 BPD on 9/64 ck.; TP 900; GOR 351/1; Gr. ——; BS&W 4/10%.
    Present allowable: 187 BPD (DBA—425 BPD)
27. #45427—Shell Oil Company; S. L. 1961, No. 2; Spud. 3–8–52; Comp. 4–18–52; IP 250 BPD on 10/64 ck.; TP 1800; Gas volume 386 MCF per day; GOR 1490/1; BS&W 2/10%; Gr. 28.5; PD 8602–8610; TD 9603′.
    Test taken: 2–2–53
        180 BPD on 10/64 ck.; TP 950; GOR 661/1; Gr. 28.3; BS&W 30%.
    Present allowable: 180 BPD (DBA—465 BPD)
28. #45725—Shell Oil Company; S. L. 1961, No. 3; Spud. 4–22–52; Comp. 6–6–52; IP 198 BPD on 10/64 ck.; TP 575; Gas volume 87 MCF per day; GOR 440/1; BS&W 4.2%; Gr. 28.1; PD 6687–6692; TD 8834′.
    Test taken: 2–2–53
        218 BPD on 12/62 ck.; TP 550; GOR 445/1; Gr. 29.7; BS&W 0%.
    Present allowable: 186 BPD (DBA—385 BPD)
29. #46023—Shell Oil Company; S. L. 1961, No. 4; Spud 6–7–52; Comp. 7–27–52; IP 198 BPD on 8/64 ck.; TP 1000; Gas volume 87 MCF per day; GOR 440/1; BS&W 0%; Gr. 30; PD 6690–6694; TD 9617′.
    Test taken: 2–1–53
        187 BPD on 1/8 ck.; TP 775; GOR 452/1; Gr. 31.6; BS&W 0%.
    Present allowable: 186 BPD (DBA—685 BPD)
30. #46596—Shell Oil Company; S. L. 1961, No. 6; Spud 8–22–52; Comp. 9–12–52; IP 224 BPD on 8/64 ck.; TP 1115; Gas volume 109 MCF per day; GOR 442/1; BS&W 2/10%; Gr. 29.6; PD 7197–7202; TD 8705′.
    Well dead since February, 1953.
31. #46276—Shell Oil Company; S. L. 1961, No. 5; Spud 8–2–52; Comp. 9–13–52; IP 212 BPD on 8/64 ck.; TP 110; Gas volume 104 MCF per day; GOR 490/1; BS&W 0%; Gr. 31.1; PD 7538–7542; TD 8708′.
    Test taken: 2–4–53
        240 BPD on 9/64 ck.; TP 1050; GOR 470/1; Gr. 31.1; BS&W 0%.
    Present allowable: 214 BPD (DBA—425 BPD)
32. #46751—Shell Oil Company; S. L. 1961, No. 7; Spud 9–15–52; Comp. 10–9–52; IP 228 BPD on 9/64 ck.; TP 875; Gas volume 95 MCF per day; GOR 417/1; BS&W 4/10%; Gr. 30.5; PD 6676–6682; TD 9605′.
    Test taken: 2–1–53
        203 BPD on 9/64 ck.; TP 950; GOR 418/1; Gr. 30.4; BS&W 0%.
    Present allowable: 186 BPD (DBA—385 BPD)
33. #46951—Shell Oil Company; S. L. 1961, No. 8; Spud 9–29–52; Comp. 10–30–52; IP 180 BPD on 10/64 ck.; TP 750; Gas volume 74 MCF per day; GOR 412/1; BS&W 12%; Gr. 26.7; PD 8740–8744; TD 9584′.
    Test taken: 2–2–53
        110 BPD on 16/64 ck.; TP 300; GOR 590/1; Gr. 26; BS&W 0%.
    Present allowable: 110 BPD (DBA—465 BPD)
34. #46952—Shell Oil Company; S. L. 1961, No. 9; Spud. 10–10–52; Comp. 11–14–52; IP 174 BPD on 8/64 ck.; TP 1250; Gas volume 122 MCF per day; GOR 988/1; BS&W 6/10%; Gr. 30.2; PD 6422–6446; TD 9605′.
    Test taken: 2–2–53
        90 BPD on 9/64 ck.; TP 770; GOR 1133/1; Gr. 29.3; BS&W 0%.
    Present allowable: 90 BPD (DBA—385 BPD)

35. #47304—Shell Oil Company; S. L. 1961, No. 11; Spud. 12-1-52; Comp. 12-24-52; IP 239 BPD on 8/64 ck.; TP 1390; Gas volume 145 MCF per day; GOR 607/1; BS&W 0%; Gr. 27.3; PD 8699-8703 and 87-118716; TD 9600.
    Test taken: 2-2-53.
        265 BPD on 8/64 ck.; TP 1250; GOR 547/1; Gr. 27.3; BS&W 0%.
    Present allowable: 239 BPD (DBA—465 BPD)
36. #47566—Shell Oil Company; S. L. 1961, No. 12; Spud. 12-30-52; Comp. 1-27-53; IP 183 BPD on 8/64 ck.; TP 900; Gas volume 67 MCF per day; GOR 360/1; BS&W 4/10%; Gr. 29; PD 6701-6704; TD 9600′.
    Test taken: 2-2-53
        193 BPD on 1/8 ck.; TP 1050; GOR 362/1; Gr. 29; BS&W 0%.
    Present allowable: 186 BPD (DBA—385 BPD)
37. #46349—California Company; S. L. 1958, No. 8; Spud. ——; Comp. ——; PD 7784-7818; TD 7930′.
    Test taken: 1-16-53
        268 BPD on 10/64 ck.; TP 1100; GOR 458/1; Gr. 28.1; BS&W 2/10%.
    Present allowable: 214 BPD (DBA—425 BPD)

Plug and Abandon

1. #44912—Texas Company; S. L. 1951, No. 1; Spud. 1-26-52; Comp. 2-21-52; P&A @ TD 9824′ with no show.
2. #45359—Texas Company; S. L. 1950, No. 1; Spud. 2-28-52; Comp. 4-9-52; P&A @ TD 9765′ with no show.
3. #45763—Texas Company; S. I. 1953, No. 2; Spud. 4-22-52; Comp. 5-16-52; P&A @ TD 9502′ with no show.
4. #46686—Texas Company; S. L. 1959, No. 5; Spud. 9-4-52; Comp. 9-21-52; P&A @ TD 9300′ with no show.
5. #47059—Shell Oil Company; S. L. 1961, No. 10; Spud. 10-30-52; Comp. 11-14-52; P&A @ TD 9600′ with no show.
6. #40388—Kerr-McGee; S. L. 1267, No. A-1; Spud. 5-4-50; Comp. 6-9-50; P&A @ TD 10,168′ with no show.
7. #44835—California Company; S. L. 1784, No. 3; Spud. 12-17-51; Comp. 1-22-52; P&A @ TD 10,505′ with no show.
1. #48014—California Company; S. L. 1958, No. 20.
    No information.
2. #45620—California Company; S. L. 1958 No. 3.
    No additional information.
3. #48015—Shell Oil Company; S. L. 1961 No. 14.
    No information.
4. #47912—California Company; S. L. 1962 No. 1.
    No information.
5. #48086—California Company; S. L. 1958 No. 21.
    No information.
6. #45935—California Company; S. L. 1785 No. 2-A.
    No information.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1952—January						
February	1	3,638	125	2,937	101	2,937
March	2	6,887	222	4,661	150	7,598
April	3	14,710	490	9.721	324	17,319
May	6	30,748	992	17,333	559	34,652
June	8	38,978	1,299	29,673	989	64,325
July	10	52,267	1,686	44,181	1,425	108,506
August	13	73,178	2,361	63,676	2,054	172,182
September	16	90,278	3,009	77,090	2,570	249,272
October	20	104,600	3,374	87,979	2,838	337,251
November	26	123,535	4,118	110,288	3,676	447,539
December	29	158,391	5,108	143,709	4,636	591,248
1953—January	32	169,513	5,468	163,344	5,269	754,592
February	36	170,992	6,107	161,349	5,762	915,941

In summation of the available above data, this field, in a total of one year, has produces 915,941 barrels of liquid hydrocarbon. As can be observed from the above, this field has grown very rapidly and for a corresponding period of time has out-produced the totals of both Bay Marchand and Main Pass Block 69.

MAIN PASS BLOCK 69 FIELD

Discovery of the Main Pass Block 69 Field was marked by the completion of the California Company—State Lease 1278 No. A-1 Well on August 9, 1948. Since the completion of the discovery well, an additional nineteen (19) wells have been drilled, and at the present time, this field is second only to the Bay Marchand Field in both development and production in the offshore areas.

This field now includes portions of four (4) State Leases for which the operators paid a bonus of $239,127.50 with a yearly rental of $119,563.75. This field, like Main Pass Block 35 and Breton Sound Block 36, is presently producing in the offshore areas with wells and leases being operated by more than one company with both The California Company and the Shell Oil Company having operations therein.

Basic data available on the wells in this field are as follows:

1. #35242—The California Company; S. L. 1278, No. 1-A (Discovery Well); Spud. 4-14-48; Comp. 8-9-48; IP 216 BPD on 5/32 ck.; TP 670; GOR 272/1; Gr. 26.2; PD 5848-5857; TD 9254′.
   Test taken: 1-4-53
   19 BPD on 14/64 ck.; TP 150; GOR 685/1; Gr. 24.3; BS&W 90%.
   Present allowable: 19 BPD (DBA—355BPD)
2. #36816—The California Company; S. L. 1277, No. A-2; Spud. 10-31-48; Comp. 12-9-48; IP 240 BPD on 11/64 ck.; TP 700; GOR 313/1; Gr. 26.4; PD 6272-6295; TD 6326′.
   Test taken: 1-4-53
   268 BPD on 12/64 ck.; TP 580; GOR 277/1; Gr. 23.2; BS&W 10%.
   Present allowable: 268 BPD (DBA—355 BPD)
3. #37409—The California Company; S. L. 1277, No. A-4; Spud. 2-9-49; Comp. 5-21-49; IP 198 BPD on 9/64 ck.; TP 800; GOR 316/1; Gr. 27.0; PD 6235-6243 & 6248-6257; TD 6280′.
   Test taken: 1-19-53 (PD—TVD 5825-45)
   276 BPD on 12/64 ck.; TP 900; GOR 642/1; Gr. 18.2; BS&W 20%.
   Present allowable: 276 BPD (DBA—355 BPD)
4. #37538—Shell Oil Company; S. L. 1355, No. 2; Spud. 3-4-49; Comp. 3-11-49. Well blew out and was destroyed by fire. TD 2462′.
5. #37830—Shell Oil Company; S. L. 1355, No. 3; Spud. 4-15-49; Comp. 7-25-49; IP 195 BPD on 10/64 ck.; TP 2500; GOR 4580/1; Gr. 35.0; PD 8154-8162; TD 8474′.
   Recomp.: 10-14-49
   231 BPD on 8/64 ck.; TP 2200; GOR 1488/1; Gr. 33.6; PD 8166-8171.
   Recomp.: 2-9-50
   490 BPD on 12/64 ck.; TP 1470; GOR 529/1; Gr. 28.7; PD 8030-8035′.
   Test taken: 2-1-53
   315 BPD on 12/64 ck.; TP 2420; GOR 3638/1; Gr. 28.8; BS&W 0%.
   Present allowable: 256 BPD (DBA—465 BPD)
6. #37856—The California Company; S. L. 1277, No. A-5; Spud. 5-25-49; Comp. 8-24-49; IP 252 BPD on 5/32ck.; TP 1010; GOR 387/1; Gr. 33.9; PD 6930-6940; TD 8280′.
   Test taken: 1-19-53 (PD 6394-6404)
   330 BPD on 13/64 ck.; TP 865; GOR 490/1; Gr. 27.8; BS&W 22%.
   Present allowable: 330 BPD (DBA—385 BPD)
7. #38637—Shell Oil Company; S. L. 1355 No. 4; Spud. 8-8-49; Comp. 9-28-49; IP 488 BPD on 11/64 ck.; TP 1410; GOR 560/1; Gr. 28.4; PD 8044-8051; TD 8295′.
   Test taken: 2-1-53
   340 BPD on 14/64 ck.; TP 910; GOR 420/1; Gr. 28.4; BS&W 40%.
   Present allowable: 340 BPD (DBA—465 BPD)

8. #39101—Shell Oil Company; S. L. 988 No. A-1; Spud. 10-15-49; Comp. 11-24-49; IP 420 BPD on 11/64 ck.; TP 1360; GOR 514/1; Gr. 29.1; PD 8054-8060; TD 8506′.
   Test taken: 2-2-53
      180 BPD on 13/64 ck.; TP 1950; GOR 4910/1; Gr. 29.2; BS&W 50 %.
   Present allowable: 180 BPD (DBA—465 BPD)
9. #39071—California Company—S. L. 1277 No. B-1; Spud. 12-30-49; Comp. 1-4-50; IP 390 BPD on 1/4 ck.; TP 325; GOR 425/1; Gr. 36.0; PD 6443-6453; TD 9478′.
   Test taken: 1-3-53
      422 BPD on 19/64 ck.; TP 1100; GOR 2180/1; Gr. 30.8; BS&W 6%.
   Present allowable: 353 BPD (DBA—385BPD)
10. #39698—California Company—S. L. 1277 No. B-2; Spud. 12-3-49; Comp. 12-30-49; IP 200 BPD on 11/64 ck.; TP 475; GOR 210/1; Gr. 24.6; PD 5602-5630; TD 5909′.
   Test taken: 1-3-53 (PD 5580-5608)
      275 BPD on 18/64 ck.; TP 290; GOR 288/1; Gr. 24.4; BS&W 10%.
   Present allowable: 275 BPD (DBA—355 BPD)
11. #39962—California Company—S. L. 1277 No. B-3; Spud. 1-7-50; Comp. 5-27-50; IP 384 BPD on 10/64 ck.; TP 1590; GOR 635/1; Gr. 31.0; PD 8620-8650; TD 8826′.
   Test taken: 1-9-53 (PD 8122-50)
      490 BPD on 12/64 ck.; TP 1500; GOR 622/1; Gr. 30.7; BS&W 0%.
   Present allowable: 465 BPD (DBA—465 BPD)
12. #40362—California Company—S. L. 1277 No. C-2; Spud. 3-10-50; Comp. 4-17-50; IP 242 BPD on 12/64 ck.; TP 460; GOR 240/1; Gr. 24.7; PD 5858-5882; TD 6905′.
   Test taken: 1-4-53 (PD—5580-5603)
      190 BPD on 15/64 ck.; TP 200; GOR 247/1; Gr. 18; BS&W 30%.
   Present allowable: 190 BPD (DBA—355 BPD)
13. #40877—California Company—S. L. 1277 No. B-4; Spud. 5-29-50; Comp. 7-4-50; IP 455 BPD on 3/16 ck.; TP 1540; GOR 597/1; Gr. 32.5; PD 8560-8585; TD 8740′.
   Test taken: 1-9-53 (PD—8130-54)
      470 BPD on 12/64 ck.; TP 1460; GOR 638/1; Gr. 30.4; BS&W 0%.
   Present allowable: 465 BPD DBA—465 BPD)
14. #41121—California Company—S. L. 1277 No. B-5; Spud. 7-4-50; Comp. 8-10-50; IP 420 BPD on 12/64 ck.; TP 1550; GOR 650/1; Gr. 31.8; PD 8824-8860; TD 8886′.
   Test taken: 1-3-53 (PD—8108-41)
      480 BPD on 12/64 ck.; TP 1530; GOR 654/1; Gr. 30.6; BS&W 0%.
   Present allowable: 465 BPD (DBA—465 BPD)
15. #41407—California Company—S. L. 1277 No. C-3; Spud 8-13-50; Comp. 9-18-50; IP 375 BPD on 1/4 ck.; TP 300; GOR 333/1; Gr. 24.2; PD 5870-5880; TD 6140′.
   Test taken: 2-2-53 (PD—5409-28)
      316 BPD on 16/64 ck.; TP 700; GOR 945/1; Gr. 24.3; BS&W 6%.
   Present allowable: 316 BPD (DBA—355 BPD)
16. #41720—California Company—S. L. 1277 No. C-4; Spud. 9-19-50; Comp. 10-24-50; IP 324 BPD on 15/64 ck.; TP 400; GOR 595/1; Gr. 22.5; PD 5542-5571; TD 6980′.
   Test taken: 1-31-53 (PD—5549-76)
      312 BPD on 20/64 ck.; TP 220; GOR 245/1; Gr. 25.4; BS&W 0%.
   Present allowable: 312 BPD (DBA—355 BPD)
17. #41973—California Company—S. L. 1278 No. C-5; Spud. 10-13-50; Comp. 11-7-50; IP 495 on 16/64 ck.; TP 350; GOR 239/1; Gr. 25.2; PD 5888-5904; TD 6842′.
   Test taken: 1-20-53 (PD 5587-5602)
      95 BPD on 14/64 ck.; TP 220; GOR 292/1; Gr. 24; BS&W 68%.
   Present allowable: 95 BPD (DBA—355 BPD)
18. #42088—California Company—S. L. 1278 No. C-6; Spud. 11-8-50; Comp. 12-21-50; IP 415 BPD on 32/64 ck.; TP 400; GOR 253/1; Gr. 23.2; PD 6363-6398; TD 6494′.
   Test taken: 1-8-53 (PD—5563-93)
      343 BPD on 20/64 ck.; TP 200; GOR 252/1; Gr. 25.4; BS&W 0%.
   Present allowable: 343 BPD (DBA—385 BPD).

Plug and Abandon

1. #37694—Shell Oil Company—S. L. 1355 No. A-2; P&A 3-30-49 @ TD 3600′ with no show.
2. #39997—California Company—S. L. 1277 No. C-1; Spud. 1-20-50; Comp. 3-10-50; P&A @ TD 8900′. Gas show @ 5122-5210′.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1948—August	1	3,473	112	3,609	116	3,609
September	1	5,034	168	3,765	126	7,374
October	1	6,913	223	4,780	154	12,154
November	1	7,500	250	1,959	65	14,113
December	2	11,116	359	4,470	144	18,583
1949—January	2	13,888	448	9,351	302	27,934
February	2	13,860	495	11,770	420	39,704
March	2	15,655	505	12,539	404	52,243
April	2	15,450	515	11,144	371	63,387
May	3	16,890	545	13,383	432	76,770
June	3	20,076	670	19,226	641	95,996
July	4	23,444	756	22,197	716	118,193
August	5	27,133	875	23,287	751	141,480
September	6	35,122	1,171	32,117	1,071	173,597
October	6	49,063	1,583	45,543	1,470	219,140
November	7	53,164	1,772	50,001	1,667	269,141
December	9	68,125	2,198	59,225	1,910	328,366
1950—January	9	73,347	2,366	60,705	1,958	389,071
February	9	76,038	2,716	69,607	2,486	458,678
March	9	82,770	2,670	78,180	2,522	536,858
April	10	83,106	2,770	80,953	2,698	617,811
May	11	92,690	2,990	88,005	2,839	705,816
June	11	114,537	3,817	102,937	3,431	808,753
July	12	131,657	4,247	121,436	3,917	930,189
August	13	142,352	4,952	122,084	3,938	1,052,283
September	14	147,390	4,754	137,078	4,569	1,189,351
October	15	163,162	5,263	147,130	4,746	1,336,481
November	16	171,600	5,720	166,983	5,566	1,503,464
December	17	182,203	5,878	166,880	5,383	1,670,344
1951—January	17	189,162	6,102	177,153	5,715	1,847,497
February	17	171,024	6,108	148,421	5,301	1,995,918
March	17	183,684	5,925	162,758	5,250	2,158,676
April	17	167,760	5,592	169,742	5,658	2,328,418
May	17	175,770	5,670	174,843	5,640	2,503,261
June	17	169,140	5,638	166,168	5,539	2,669,429
July	17	186,795	6,026	180,536	5,824	2,849,965
August	17	187,488	6,048	176,790	5,703	3,026,755
September	17	177,720	5,924	170,463	5,682	3,197,218
October	17	180,327	5,817	171,196	5,522	3,368,414
November	17	175,140	5,838	168,659	5,622	3,537,073
December	17	180,265	5,815	171,966	5,547	3,709,039
1952—January	17	178,374	5,754	171,427	5,530	3,880,466
February	17	165,880	5,720	155,780	5,372	4,036,246
March	17	173,259	5,589	164,652	5,311	4,200,898
April	17	167,940	5,598	161,700	5,390	4,362,598
May	17	168,051	5,421	160,530	5,178	4,523,128
June	17	161,820	5,394	150,921	5,031	4,674,049
July	17	163,370	5,270	158,701	5,119	4,832,750
August	17	166,222	5,362	149,370	4,818	4,982,120
September	17	154,290	5,143	155,077	5,169	5,137,197
October	17	163,649	5,279	154,925	4,998	5,292,122
November	17	150,330	5,011	144,379	4,813	5,436,501
December	17	156,674	5,054	148,152	4,779	5,584,653
1953—January	17	155,927	5,030	150,199	4,845	5,734,852

The production figures above show that in fifty-four (54) months of production this field has produced a total of 5,734,852 barrels of liquid hydrocarbon, and this field and the Bay Marchand Field are the only two fields in offshore areas which have produced in excess of five million barrels of liquid hydrocarbon. The well data indicate only minor increases in water production with practically no overall change in tubing pressure. On recent tests, this tubing pressure has actually shown a substantial increase in some wells while producing on the same size choke.

Ship Shoal Block 32 Field

As stated in the opening paragraph of this report, the Ship Shoal Block 32 Field was the first field in which commercial oil production was established in an offshore area, and was discovered by the Kerr-McGee—State Lease 754 No. A-1 Well, which was completed on November 14, 1947. However, the development of the area has not been too successful, with nine (9) additional wells having been drilled with one (1) gas well completion, four (4) wells non-productive, and four (4) wells capable of only minor production.

The wells of this field have been completed under four (4) separate State Leases for which a bonus of $162,500.00 was paid with a yearly rental of $81,250.00.

Basic data available on the wells of this field are as follows:*

1. #33866—S. L. 754 No. A-1 (Discovery well); Spud. 9-9-47; Comp. 11-14-47; IP 600 BPD on 32/64 ck.; T P25; GOR 40/1; Gr. 25.0; BS & W 4%; PD1734-1750; TD 2563'.
   Test taken: 3-2-53
   210 BPD on 20/64 ck.; TP 65; GOR 110/1; Gr. 24.4; BS&W 55%.
   Present allowable: 210 BPD (DBA—265 BPD)
2. #33865—S. L. 750 No. A-1; Spud. 1-13-49; Comp. 7-7-49; IP 69 BPD on 16/64 ck.; TP 3300; GOR 50145/1; Gr. 55.0; BS&W 0%; PD 8482-8488; TD 14451'.
   Well shut in April, 1953. No market for gas production.
3. #36049—S. L. 754 No. A-3; Spud. 7-13-48; Comp. 8-20-48; IP 750 BPD on 1/2 ck.; TP 150; GOR 75/1; Gr. 25.6; BS&W 3%; PD 1758-1774; TD 3398'.
   Well dead as of March, 1953.
4. #37590—S. L. 753 No. B-2; Spud. 2-28-49; Comp. 4-2-49; IP 312 BPD on 16/64 ck.; TP 175; GOR 100/1; Gr. 29.0; BS&W 2%; PD 2662-2677; TD 3344'.
   Test taken: 3-153
   18 BPD on 2"; TP 50; CP 350; GOR 30/1; Gr. 21.1; BS&W 90%; G. L.
   Present allowable: 18 BPD (DBA—285 BPD)
5. #38028—S. L. 752 No. B-4; Spud. 5-8-49; Comp. 7-5-49; IP 120 BPD on open choke; Gas lift; Gr. 30.1; BS&W 3/10%; PD 3168-3183; TD 3495'.
   Test taken: 3-4-53
   5 BPD on open choke; TP 50; Gas lift; Gr. 28.6; CP 350; BS&W 25%.
   Present allowable: 5 BPD (DBA—305 BPD).
6. #41697—Kerr-McGee Oil Ind., Inc.; S. L. No. 755 No. D-1; Spud. 11-24-50; Comp. 1-29-51; IP 468 BPD on 14/64 ck.; TP 1500; GOR 805/1; Gr. 35.3; PD 9983-10003; TD 11859' (DBA—505 BPD).
   W. O.—2-5-51
   IP 330 BPD on 12/64 ck.; TP 1300; GOR 620/1; Gr. 35.3; PD 9980-9990.
   W. O.—2-23-51
   IP 456 BPD on 12/64 ck.; TP 1400; GOR 500/1; Gr. 35.3; PD 9963-9977.
   W. O.—3-7-51
   IP 164 BPD on 12/64 ck.; TP 850; GOR 3000/1; Gr. 35. 3; PD 10400-10450.
   Test taken: 3-7-53
   50 BPD on 10/64 ck.; TP 50; GOR 3000/1; Gr. 35.4; BS&W 2/10%.
   Present allowable: 50 BPD (DBA—545 BPD)

Plug and Abandon

1. #36321—S. L. 754 No. A-4; Spud. 12-10-48; Comp. 1-2-49; P&A @ TD 3051' with no show.
2. #37318—S. L. 754 No. A-5; Spud. 1-4-49; Comp. 2-5-49; P&A @ TD 2319' with no show.
3. #37510—S. L. 755 No. B-6; Spud. 2-11-49; Comp. 2-24-49; P&A @ TD 3674' with no show.
4. #41074—Kerr-McGee Oil Ind., Inc.; S. L. 755 No. C-1; Spud 7-10-50; Comp. 9-7-50; P&A @ TD 6540' with no show.

*All wells operated by Kerr-McGee Oil Company.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1947—December	1			3,217	103	3,217
1948—January	0	0	0	0	0	3,217
February	0	0	0	0	0	3,217
March	0	0	0	0	0	3,217
April	0	0	0	0	0	3,217
May	1	12,400	400	8,334	269	11,551
June	1	12,000	400	12,629	421	24,180
July	2	14,560	470	14,276	461	38,456
August	3	14,848	479	10,901	352	49,357
September	3	18,303	610	9,950	332	59,307
October	3	20,615	666	13,617	439	72,924
November	2	19,950	665	10,418	447	83,342
December	2	15,035	485	13,061	421	96,403
1949—January	2	13,175	425	11,363	367	107,766
February	2	11,900	425	7,788	278	115,554
March	2	12,090	390	9,286	300	124,840
April	3	20,295	677	15,398	513	140,238
May	3	20,925	675	13,496	435	153,734
June	3	17835	595	10025	334	16375
July	4	18523	598	8101	261	171860
August	4	10509	340	8111	262	179971
September	4	18570	620	10103	337	190074
October	5	17887	577	8245	266	198319
November	5	15450	515	9589	320	207908
December	5	12679	410	8083	261	215991
1950—January	5	12819	446	9403	303	225394
February	5	12124	433	11367	406	236761
March	5	12245	395	13143	424	249904
April	5	11670	389	8707	290	258611
May	5	12183	393	10377	335	268988
June	5	12930	431	10799	360	279787
July	5	12865	415	9944	321	289731
August	2	1984	64	686	22	290517
September	2	1350	45	588	16	291105
October	5	12834	414	8464	273	299569
November	5	11850	395	7597	253	307164
December	5	12059	389	7107	229	314271
1951—January	6	14336	462	8980	290	323251
February	6	13586	485	11389	407	334640
March	6	23211	749	8178	264	342818
April	6	15150	505	8084	269	350902
May	6	13485	435	8038	259	358940
June	6	9930	331	6552	218	365492
July	6	8556	276	5636	182	371128
August	6	8556	276	9500	306	380628
September	6	12450	415	8606	287	389234
October	6	12276	396	8831	285	398065
November	6	12030	401	8246	275	406311
December	6	12121	391	6321	204	412632
1952—January	6	12,214	394	7,290	235	419,922
February	6	9,976	344	6,924	239	426,846
March	6	9,486	306	6,803	219	433,649
April	6	9,120	304	7,276	243	440,925
May	6	9,486	306	7,739	250	448,664
June	6	8,970	299	6,641	221	455,305
July	6	8,928	288	6,906	223	462,211
August	6	8,928	288	5,672	183	467,883
September	6	8,520	284	6,113	204	473,996
October	6	6,634	214	5,924	191	479,920
November	6	7,170	239	5,643	188	485,563
December	6	7,160	231	5,351	173	490,914
1953—January	6	6,758	218	6,631	214	497,545

With a production history of sixty-two (62) months, or over five (5) years, this field has produced only 497,545 barrels of liquid hydrocarbon, and, at the present time, is producing only an average of 214 barrels per day from the six (6) wells still on production. The well data indicate that most of these wells were completed with high productivity tests, but after a short producing life declined rapidly in ability to produce. Also, as can be noted from the above figures, the production has been very erratic.

SHIP SHOAL BLOCK 28 FIELD

The Ship Shoal Block 28 Field was discovered by the completion of the Kerr-McGee State Lease 750 No. A-1 Well on July 12, 1949, as a gas-condensate well. Since there is no market for the gas production from this well, it has remained shut in and has no production history. Two (2) additional wells were drilled, one (1) was a gas well and was shut in; the other was dry and plugged and abandoned.

Basic data available on the well are as follows:*

1. #33865—S. L. 750 No. A-1 (Discovery well); Spud. 1-13-49; Comp. 7-12-49; IP Gas well; 1185 MCF per day on 16/64 ck.; TP 1050; PD 8482-8490; TD 14451′.
   No market for gas production. No allowable assigned.
2. #42693—Shell Oil Company—S. L. 1799 No. 1; Spud 2-24-51; Comp. 9-2-51; IP ——— BPD on 16/64 ck.; TP 1000; Gas volume 1432 MCF per day; GOR ———; BS&W ———; Gr. ———; PD 2657-2662; TD 14000′.
   Shut in as gas well March, 1953.

Plug and Abandon

1. #47080—Kerr-McGee—S. L. 749 No. B-1; P&A @ TD 17697′.

SHIP SHOAL BLOCK 72 FIELD

The completion of the Magnolia Petroleum Company—State Lease 766 No. A-1 Well on August 20, 1948, marked the discovery of the Ship Shoal Block 72 Field, and was tested as a gas well. Five (5) additional wells have been completed with one (1) a shut in gas well, three (3) oil producers and one (1) dry and plugged and abandoned.

The field consists of State Leases 766, 768 and 775 for which the operator paid a bonus of $60,000.00 with a yearly rental of $30,000.00.

Basic data on the wells of this field are as follows:**

1. #34934—S. L. 766 No. A-1 (Discovery well); Spud 2-18-48, Comp. 8-20-48; IP Gas well; gas volume 4800 MCF per day on 14/64 ck.; TP 2886; PD 7266-7276; TD 9355′.
   Well shut in as of March, 1953. No market for gas production. No allowable assigned.
2. #38251—S. L. 766 No. A-2; Spud 6-10-49; Com. 11-10-49; IP 3 BPD on 6/64 ck.; TP 2551; GOR 364108/1; Gr. 48.5; PD 6935-6975; TD 7692′. Gas volume 1077 MCF per day.
   Well shut in as of March, 1953. No market for gas production. No allowable assigned.
3. #40859—S. L. 768 No. B-1; Spud. 7-19-50; Comp. 12-26-50; IP 510 BPD on 12/64 ck.; TP 1900; GOR 934/1; Gr. 37.8; PD 11036-11054; TD 12066′.
   Well dead as of March, 1953. (Waiting on Work-Over)
4. #43124—S. L. 768 No. B-2; Spud. 4-18-51; Comp. 7-23-51; IP 529 BPD on 12/64 ck.; Gr. 35.2; TP 1700; GOR 686/1; PD 9932-9956; TD 11150′.
   Test taken: 2-14-53
   357 BPD on 13/64 ck.; TP 960; GOR 704/1; Gr. 35.7; BS&W 62%.
   Present allowable: 357 BPD (DBA—505 BPD)
5. #46458—S. L. 766 No. B-3; PD 10820-10830; TD 12690′.
   Test taken: 3-12-53
   114 BPD on 9/64 ck.; TP 1600; GOR 4447/1; Gr. 37.3 BS&W 3/10%.
   Present allowable: 114 BPD (DBA—554 BPD)

Plug and Abandon

1. #47516—S. L. 775 No. A-1; Spud. 4-26-49; Comp. 6-9-49; P&A @ TD 11050′.

*Operated by Kerr-McGee Oil Company.
**All wells operated by the Magnolia Petroleum Company.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1950—December	1	594	19	591	19	591
1951—January		0	0	0	0	591
February	1	6,435	230	3,738	134	4,329
March	1	18,135	585	11,265	363	15,594
April	1	15,060	502	12,115	404	27,709
May	1	15,562	502	12,779	412	40,488
June	1	12,090	403	10,483	349	50,971
July	1	12,741	411	15,371	496	66,342
August	1	27,218	878	25,937	837	92,279
September	2	26,850	895	23,183	773	115,462
October	1	27,652	892	22,619	730	138,081
November	1	24,780	826	19,774	659	157,855
December	1	22,816	736	19,975	644	177,830
1952—January	1	22,816	736	21,134	682	198,964
February	1	20,822	718	19,427	670	218,391
March	1	22,909	739	16,840	543	235,231
April	2	21,990	733	20,562	685	255,793
May	2	25,792	832	19,733	637	275,526
June	2	22,710	757	11,373	379	286,899
July	2	24,552	792	15,353	495	302,252
August	2	18,259	589	17,618	568	319,870
September	2	17,880	596	10,804	360	330,674
October	2	11,470	370	10,792	348	341,466
November	2	10,950	365	8,263	275	349,729
December	2	11,067	357	9,860	318	359,589
1953—January	2	12,307	397	9,877	319	369,466

SOUTH PASS BLOCK 24 FIELD

One of the more recent discoveries in the offshore area, the South Pass Block 24 Field was discovered by the Shell Oil Company—State Lease 1008 No. 1 Well which was completed on April 18, 1950, as a small oil producer. Nine (9) wells have been drilled and completed in this field since the completion of the discovery well, with indications that the completed wells are producing from three (3) different reservoirs.

Two State Leases are involved in this field for which the operator paid a bonus of $31,692.50 and a yearly rental of $15,846.25.

Basic data available on the wells of this field are as follows:*

1. #39365—S. L. 1008 No. 1 (Discovery well); Spud. 11-27-49; Comp. 4-18-50; IP 55 BPD on 12/64 ck.; Gas volume 19 MCF per day; TP 400; GOR 348/1; Gr. 22.7; PD 6530-6534; TD 12219′.
   Test taken: 2-5-53
   65 BPD on 40/64 ck.; TP 45; GOR 381/1; Gr. 22.7; BS&W 90%.
   Present allowable: 65 BPD (DBA—385 BPD)
2. #40591—S. L. 1008 No. 2; Spud. 4-22-50; Comp. 6-1-50; IP 223 BPD on 8/64 ck.; TP 2500; GOR 2240/1; Gr. 29.8; BS&W 1/10%; PD 8054-8060; TD 9688′.
   Test taken: 2-5-53
   450 BPD on 16/64 ck.; TP 1010; GOR 834/1; Gr. 29.6 BS&W 20%.
   Present allowable: 450 BPD (DBA—465 BPD)
3. #40878—S. L. 988 No. 1; Spud. 6-6-50; Comp. 7-12-50; IP 518 BPD on 12/64 ck.; TP 1600; GOR 703/1; Gr. 37.1; BS&W Tr.; PD 9278-9285; TD 9700′.
   Test taken: 2-1-53
   400 BPD on 14/64 ck.; TP 1250; GOR 1100/1; Gr. 37; BS&W 32%.
   Present allowable: 400 BPD (DBA—505 BPD)
4. #42646—S. L. 1388 No. 1; Spud. 2-24-51; Comp. 6-6-51; IP 208 BPD on 9/64 ck.; TP 700; GOR 322/1; Gr. 22.7; PD 7460-7466; TD 11860′.
   Recomp: 7-2-51
   IP 208 BPD on 9/64 ck.; TP 700; GOR 285/1; Gr. 22.5; PD 7258-7265 and 7278-7286.
   Test taken: 2-1-53
   30 BPD on 32/64 ck.; TP 70; CP 510; Gr. 42.5; BS&W 60%. G.L.
   Present allowable: BPD (DBA—425 BPD)

*All wells operated by the Shell Oil Company.

5. #42395—S. L. 998 No. 2; Spud. 12-17-50; Comp. 1-20-51; IP 433 BPD on 12/64 ck.; TP 900; GOR 388/1; Gr. 26.5; PD 7886-7889 and 7891-7895; TD 9300′.
   Test taken: 2-1-53
   469 BPD on 13/64 ck.; TP 920; GOR 400/1; Gr. 27; BS&W 0%.
   Present allowable: 425 BPD (DBA—425 BPD)
6. #41972—S. L. 1008 No. 3; Spud. 11-13-50; Comp. 12-15-50; IP 425 BPD on 12/64 ck.; TP 1050; GOR 362/1; Gr. 26.6; PD 7913-7918; TD 10,000′.
   Test taken: 2-4-53
   249 BPD on 16/64 ck.; TP 380, GOR 514/1; Gr. 26.3; BS&W 30%.
   Present allowable: 249 BPD (DBA—425 BPD)
7. #46417—S. L. 998 No. 3; Spud. 1-8-53; Comp. 2-2-53; IP 500 BPD on 12/64 ck.; TP 1500; GOR 632; Gr. 26; Gas volume 316 MCF per day; PD 9091-9098; TD 9503′.
8. #46464—S. L. 998 No. 4; Spud. 9-10-52; Comp. 10-9-52; IP 369 BPD on 12/64 ck.; TP 900, GOR 445/1; Gr. 27; Gas volume 167 MCF per day; PD 7831-7838; TD 9701′.
   Test taken: 2-1-53
   441 BPD on 13/64 ck.; TP 850; GOR 429/1; Gr. 27; BS&W 0%.
   Present allowable: 425 BPD (DBA—425 BPD)
9. #46415—S. L. 998 No. 5; Spud. 10-11-52; Comp. 11-9-52; IP 451 BPD on 12/64 ck.; TP 1625; GOR 885/1; Gr. 37; Gas volume 399 MCF per day; PD 9264-9276; TD 10,000′.
   Test taken: 2-3-53
   465 BPD on 12/64 ck.; TP 1550; GOR 1028/1; Gr. 37; BS&W 0%.
   Present allowable: 465 BPD (DBA—505 BPD)
10. #46416—S. L. 1008 No. 4; Spud. 11-12-52; Comp. 1-1-53; IP 454 BPD on 12/64 ck.; TP 830; GOR 339/1; Gr. 27; Gas volume 154 MCF per day; PD 7122-7142; TD 9941′.
   Present allowable: 425 BPD (DBA—425 BPD)

SOUTH PASS BLOCK 15

1. #34539—Texas Oil Company—S. L. 1001 No. B-1; P&A @ TD 4904′.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1950—April	1	969	32	1,376	46	1,376
May	1	1,853	60	1,818	59	3,194
June	2	5,697	190	5,163	172	8,357
July	3	19,144	617	17,346	560	25,703
August	3	30,151	972	25,989	838	51,692
September	3	32,075	1,069	31,037	1,033	82,729
October	3	34,720	1,120	30,882	966	113,611
November	3	33,810	1,127	32,691	1,090	146,302
December	4	41,776	1,348	39,826	1,285	186,128
1951—January	5	47,678	1,538	47,372	1,528	233,500
February	4	42,700	1,525	40,040	1,430	278,540
March	4	46,965	1,515	40,771	1,315	314,311
April	4	44,070	1,469	41,324	1,377	355,635
May	5	53,640	1,730	49,608	1,600	405,243
June	5	52,650	1,755	51,721	1,724	456,964
July	6	57,288	1,848	54,113	1,746	511,077
August	6	57,753	1,863	53,971	1,741	565,048
September	6	52,800	1,760	49,648	1,655	614,696
October	6	54,250	1,750	52,291	1,687	666,987
November	6	52,440	1,748	48,552	1,618	715,539
December	6	53,351	1,721	49,955	1,611	765,494
1952—January	6	52,111	1,681	50,458	1,628	815,952
February	6	47,270	1,630	45,971	1,585	861,923
March	6	51,265	1,654	48,897	1,577	910,820
April	6	51,390	1,713	48,223	1,607	959,043
May	6	53,165	1,715	50,152	1,618	1,009,195
June	6	50,160	1,672	49,913	1,664	1,059,108
July	6	52,979	1,709	46,944	1,514	1,106,052
August	5	55,538	1,792	43,056	1,389	1,149,108
September	6	52,713	1,757	48,021	1,601	1,197,129
October	7	65,418	2,110	58,802	1,897	1,255,931
November	8	74,343	2,478	73,387	2,446	1,329,318
December	8	81,197	2,619	77,740	2,508	1,407,058
1953—January	9	93,186	3,003	91,117	2,939	1,498,175
February	10	97,740	3,491	95,329	3,405	1,593,504

With a production history of thirty-four (34) months, this field has produced a total of 1,593,504 barrels of liquid hydrocarbon. The nine (9) wells drilled subsequent to the discovery well have proven to be very good wells, although more production history will be necessary along with additional development before the area can be fully evaluated.

SOUTH PELTO BLOCK 20 FIELD

The South Pelto Block 20 Field was discovered by Magnolia Petroleum Company—State Lease 794 No. 1 Well which was completed on 8–23–51 as a shut in gas well.

Basic data available on the wells of this field are as follows:

1. #42154—Magnolia Petroleum Company—S. L. 794 No. 1 (Discovery well) Spud. 12–10–50; Comp. 8–23–51; IP Gas well; TP 3177; Gr. 50.6; Gas volume 22,300 MCF per day; GOR 100,000/1; PD 8182–8192; TD 11296′. Shut in gas well as of March, 1953.

Plug and Abandon

1. #39711—Humble Oil and Refining Company—S. L. 929; Spud 1–4–50; Comp. 4–22–50; P&A @ TD 13216′.

SOUTH TIMBALIER BLOCK 34 FIELD

The South Timbalier Block 34 Field was discovered by the Humble Oil and Refining Company—State Lease 1027 No. A–1 Well which was completed on March 30, 1949 as an oil well with good producing characteristics. Only one (1) other well has been drilled in the field to date and was plugged and abandoned.

These two (2) wells were completed in two (2) State Leases, for which the operator paid a bonus of $218,359.61 and a yearly rental of $109,449.81.

Basic data available on the wells of this field are as follows:*

1. #36320—S. L. 1027 No. A–1 (Discovery well); Spud. 11–29–48; Comp. 3–30–49; IP 456 BPD on 3/16 ck.; TP 1550; GOR 593/1; Gr. 39.6; BS&W Tr.; PD 9550–9558; TD 9928′. Shut in as gas well March, 1953. (PD 3722–3730)

Plug and Abandon

1. #37788—S. L. 1034 No. A–2; Spud. 4–7–49; Comp. 9–16–49; P&A @ TD 13369′ with no show.

*All wells operated by Humble Oil and Refining Company.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1949—March	1	0	0	1,984	64	1,984
April	1	7,350	245	6,047	202	8,031
May	1	8,091	261	7,847	253	15,878
June	1	7,440	248	4,074	136	19,952
July	1	8,091	261	5,357	173	25,309
August	1	8,091	261	1,742	56	27,051
September	1	7,830	253	3,185	103	30,236
October	1	8,091	261	6,765	218	37,001
November	1	6,600	220	7,054	235	44,055
December	1	7,130	230	6,594	213	50,649
1950—January	1	7,130	230	6,921	223	57,570
February	1	6,440	230	3,453	123	61,023
March	1	7,130	230	3,238	104	64,261
April	1	6,900	230	4,146	138	68,407
May	1	7,130	230	4,272	138	72.679
June	1	6,900	230	8,261	275	80,940
July	1	5,859	189	5,575	180	86,515
August	1	7,130	230	6,717	216	93,232
September	1	6,900	230	5,622	187	98,854
October	1	7,130	230	4,169	134	103,023
November	1	6,900	230	6,118	204	109,141
December	1	7,130	230	7,180	232	116,321
1951—January	1	6,200	200	5,014	162	121,335
February	1	5,600	200	4,473	160	125,808
March	1	6,200	200	7,195	232	133,003
April	1	6,000	200	4,868	162	137,871
May	1	6,200	200	6,817	220	144,688
June	1	6,000	200	4,799	160	149,487
July	1	6,200	200	6,465	209	155,952
August	1	6,200	200	5,720	185	161,672
September	1	6,000	200	4,775	159	166,447
October	1	6,200	200	6,502	210	172,949
November	0	0	----------	0	----------	----------
December	0	0	----------	0	----------	----------
1952—January	0	0	----------	0	----------	----------
February	0	0	----------	0	----------	----------
March	0	0	----------	0	----------	----------
April	0	0	----------	0	----------	----------
May	0	0	----------	0	----------	----------
June	0	0	----------	0	----------	----------
July	0	0	----------	0	----------	----------
August	0	0	----------	0	----------	----------
September	0	0	----------	0	----------	----------
October	0	0	----------	0	----------	----------
November	0	0	----------	0	----------	----------
December	0	0	----------	0	----------	----------
1953—January	0	0	----------	0	----------	----------

SOUTH TIMBALIER BLOCK 52 FIELD

Following two (2) unsuccessful tests in the early part of 1950, the South Timbalier Block 52 Field was discovered by the Humble Oil and Refining Company—State Lease 1428 No. A-3 Well, which was completed September 15, 1950 as an oil producer. No additional wells have been drilled to date.

The wells drilled in this area have been completed under two (2) separate State Leases for which the operator paid a total bonus of $164,503.98 with a yearly rental of $82,261.99.

Basic data available on the discovery well and others in this field are as follows:*

1. #41233—S. L. 1428 No. A-3 (Discovery well); Spud. 4-28-50; Comp. 9-15-50; IP 245 BPD on 8/64 ck.; TP 2150; GOR 1300/1; Gr. 32.9; BS&W 0%; PD 11211-11214; TD 13015'.
   Recomp: 10-6-50
   366 BPD on 3/16 ck.; TP 1750; GOR 1332/1; Gr. 37.1; BS&W 1/10%.
   Recomp: 5-26-52
   178 BPD on 1/8 ck.; TP 1400; GOR 1308/1; Gr. 36.6; BS&W 5/10%; PD 12089-12093.
   Dead as of March, 1953.

*All wells operated by Humble Oil and Refining Company.

Plug and Abandon

1. #39711—S. L. 929 No. A-1; Spud. 1-4-50; Comp. 4-22-50; P&A @ TD 13216′ with no show.
2. #40633—S. L. 1428 No. A-2; P&A 7-14-50 @ TD 13519′ with no show.

Permit issued. No Additional Information Availavable

1 #38106—S. L. 929 No. A-1. Permit expired. Well drilled under #39711.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1950—September	1	4,172	135	3,138	101	3,138
October	1	5,486	177	2,606	84	5,744
November	0	6,330	211	0	0	5,744
December	0	6,541	211	0	0	5,744
1951—January	1	7,541	243	999	32	6,743
February	1	12,908	461	5,661	202	12,404
March	1	7,750	250	3,809	123	16,213
April	1	7,500	250	3,576	119	19,789
May	1	4,650	150	4,480	145	24,269
June	1	4,500	150	2,352	78	26,621
July	1	1,500	48	549	18	27,170
August	1	3,875	125	634	20	27,804
September	1	3,750	125	135	4	27,939
October	0	0	----------	0	----------	27,939
November	0	0	----------	0	----------	27,939
December	0	0	----------	0	----------	27,939
1952—January	0	0	----------	0	----------	27,939
February	0	0	----------	0	----------	27,939
March	0	0	----------	0	----------	27,939
April	0	0	----------	0	----------	27,939
May	0	0	----------	0	----------	27,939
June	0	0	----------	0	----------	27,939
July	1	1,550	50	1,470	47	29,409
August	1	1,550	50	339	11	29,748
September	1	1,500	50	1,453	48	31,201
October	1	1,550	50	1,618	52	32,819
November	1	1,836	61	1,036	35	33,855
December	1	2,358	76	0	0	33,855
1953—January	1	4,030	13	467	15	34,322

STATE VERMILION BAY AREA

1. #46949—Texas Company—S. L. 334 No. B-20; P&A @ TD 696′.

VERMILION BLOCK 39 FIELD

Following two (2) unsuccessful tests in 1948 and the early part of 1949, the Vermilion Block 39 Field was discovered by The Pure Oil Company—State Lease 880 No. A-3 Well which was completed as a gas producer on June 6, 1949. Two (2) additional wells have been drilled and brought in as gas producers. The gas gathered from this field is piped out by The Marine Gathering Company of Houston.

Basic data available on the wells of this field are as follows:*

1. #37547—S. L. 880 No. A-3 (Discovery well); Spud. 2-12-49; Comp. 6-3-49; IP Dry gas; gas volume 909 MCF per day on 8/64 ck.; TP 2800; PD 8195-8220; TD 10379.
   Test taken: 3-9-53
   61 BPD on 18/64 ck.; TP 2830; CP 2060; GOR 143948/1; Gr. 48; BS&W 0%. PD 8191-8248
   Present allowable: 9450 MCF per day
2. #42174—S. L. 878 No. A-6; Spud. 11-12-50; Comp. 12-19-50; TD 9480; PD 9275-9313.
   Test taken: 3-9-53
   70 BPD on 24/64 ck.; TP 3000; CP 1200; GOR 147672/1; Gr. 48.3; BS&W 0%.
   Present allowable: 11250 MCF per day

*All wells operated by The Pure Oil Company.

3. #41868—S. L. 880 No. A-5; Spud. 10-7-50; Comp. 2-2-51; TD 7596; PD 7527-7568.
   Test taken: 3-9-53
   39 BPD on 20/64 ck.; TP 2745; GOR 242775/1; Gr. 45.3; BS&W 0%.
   Present allowable: 9900 MCF per day

Plug and Abandon

1. #35473—S. L. 880 No. A-1; Spud. 8-2-48; Comp. 9-23-48; P&A @ TD 8888' with no show.
2. #37335—S. L. 880 No. A-2; Spud. 11-21-48; Comp. 1-3-49; P&A @ TD 9103' with no show.

All wells are located on State Lease 880 for which the operator paid a bonus of $5,100.00 and a yearly rental of $2,550.00.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1951—April	3	(1)		1,159	39	1,159
May	4	(1)		2,394	77	3,553
June	4	(1)		4,717	157	8,270
July	4	(1)		4,172	135	12,442
August	4	(1)		4,393	142	16,835
September	4	(1)		4,155	139	20,990
October	4	(1)		4,761	154	25,751
November	4	(1)		4,817	161	30,568
December	4	(1)		5,618	181	36,186
1952—January	4	(1)		5,330	172	41,516
February	4	(1)		5,569	192	47,085
March	4	(1)		5,826	188	52,911
April	4	(1)		5,620	187	58,531
May	4	(1)		5,634	182	64,165
June	4	(1)		4,885	163	69,050
July	4	(1)		5,439	175	74,489
August	4	(1)		5,464	176	79,953
September	4	(1)		5,311	177	85,264
October	4	(1)		5,630	182	90,894
November	4	(1)		5,626	186	96,820
December	4	(1)		5,973	193	102,793
1953—January	4	(1)		5,275	170	108,068

[1] Conditioned.

VERMILION BLOCK 71 FIELD

The Vermilion Block 71 Field was discovered by The Superior Oil Company—State Lease 884 No. A-2 Well after one (1) unsuccessful test in the early part of 1948. Later the unsuccessful test well was recompleted and brought in as a gas well. The discovery well was completed as a gas-condensate producer on November 12, 1948, and has not been produced as there is no available market for the gas which must be produced in order to obtain the liquid production.

Both wells are located on State Lease 884 for which the operator paid a bonus of $97,434.76 and a yearly rental of $48,717.38.

Basic data available on the wells in this field are as follows:*

1. #36045—S. L. 884 No. A-2 (Discovery well); Spud. 7-12-48; Comp. 11-12-48; IP 56 BPD on 18/64 ck.; TP 3630; GOR 103,944/1; Gr. 51.1; PD 9916-9926; TD 10,000'.
   Well shut in as of March, 1953.
2. #33572—S. L. 884 No. A-1; Spud. 8-23-47; Comp. 1-1-48; PD 9608-9618.
   Shut in as gas well March, 1953.

VERMILION BLOCK 76 FIELD

The Vermilion Block 76 Field was discovered by The Superior Oiil Company—State Lease 1106 No. C-1 Well, which was completed on April 26, 1949 as a gas-condensate well. No other development has occurred and there has been no production due to the lack of a gas market or outlet.

This discovery was under State Lease 1106 for which a bonus of $171,550.00 and a yearly rental of $85,775.00 was paid by the operator.

*All wells operated by The Superior Oil Company.

Basic data on the wells of this field are as follows:*

1. #36903—S. L. 1106 No. C-1 (Discovery well); Spud. 1-23-49; Comp. 4-26-49; IP 11.7 BPD on 22/64 ck.; TP 2810; GOR 644,378/1; Gr. 46.5; BS&W 25%; PD 7415-7430; TD 11603'.
   Well shut in. No market for gas production as of March, 1953.

WEST CAMERON BLOCK 33 FIELD

The West Cameron Block 33 Field was discovered by the Phillips Petroleum Company—State Lease 1123 No. A-1 Well, which was completed as an oil well on August 23, 1949. One (1) other well has been drilled; however, it failed to encounter the productive sand of the discovery well and was completed in a shallow gas sand and shut in.

These wells are completed under State Lease 1123 which was obtained by the operator for a cash bonus of $160,000.00 and a yearly rental of $80,000.00.

Basic data available on the wells of this field are as follows:**

1. #35881—S. L. 1123 No. A-1 (Discovery well); Spud. 7-7-48; Comp. 8-23-49; IP 414 BPD on 1/4 ck.; TP 1700; GOR 459/1; Gr. 42.3; BS&W 1%; PD 10390-10410; TD 13282'.
   Test taken: 3-3-53
   10 BPD on 20/64 ck.; TP 80; GOR 630/1; Gr. 42; BS&W 99%.
   Present allowable: 10 BPD (DBA—545 BPD)
2. #39083—S. L. 1123 No. A-2; Spud. 9-19-49; Comp. 1-22-50; IP Gas; gas volume 600 MCF per day on 1/4 ck.; TP 425; PD 1671-1674; TD 11890'.
   Well shut in as of March, 1953. (PD—1641-1671)

Production summary

Year and month	Number of wells	Total allowable	Daily average production	Total production	Daily average production	Cumulative production
1949—August	1	4,905	158	1,421	46	1,421
September	1	16,350	527	7,336	237	8,757
October	1	16,895	545	105	3	8,862
November	1	5,400	180	4,640	155	13,502
December	1	8,340	269	6,111	197	19,613
1950—January	1	9,300	300	3,509	113	23,122
February	1	7,000	250	1,210	43	24,332
March	1	6,200	200	4,035	130	28,367
April	1	5,250	175	3,038	101	31,405
May	1	5,425	175	3,925	127	35,330
June	1	5,250	175	2,055	69	37,385
July	1	5,270	170	800	26	38,185
August	1	4,402	142	1,776	57	39,961
September	1	2,850	95	2,157	71	42,118
October	1	3,038	98	950	31	43,068
November	1	2,910	97	1,777	59	44,845
December	1	2,604	84	1,754	57	46,599
1951—January	1	2,480	80	1,690	55	48,289
February	1	2,240	80	1,430	51	49,719
March	1	2,325	75	1,518	49	51,237
April	1	2,160	72	673	22	51,910
May	1	2,170	70	1,787	58	53,697
June	1	1,740	58	801	27	54,498
July	1	1,798	58	1,431	46	55,929
August	1	1,798	58	1,063	34	56,992
September	1	1,740	58	1,200	40	58,192
October	1	1,736	56	1,145	37	59,337
November	1	1,650	55	1,120	37	60,457
December	1	1,550	50	788	25	61,245
1952—January	1	1,333	43	990	32	62,235
February	1	1,218	42	1,015	35	63,250
March	1	1,271	41	1,085	35	64,335
April	1	1,230	41	873	29	65,208
May	1	1,240	40	1,005	32	66,213
June	1	1,140	38	980	33	67,193
July	1	1,147	37	1,075	35	68,268
August	1	1,147	37	855	28	69,123
September	1	1,110	37	665	22	69,788
October	1	1,147	37	149	5	69,937
November	1	1,020	34	750	25	70,687
December	1	1,023	33	475	15	71,162
1953—January	1	1,023	33	594	19	71,756

*All wells operated by The Superior Oil Company.
**All wells operated by Phillips Petroleum Company.

Although the initial producing characteristics of the one (1) oil well in the field were very good, it has declined rapidly in production and is only producing approximately 19 barrels per day at the present time. Since the total production has been from one (1) well, and that only 71,756 barrels of liquid hydrocarbon, further development will be necessary to give any factual evaluation of this field.

WEST CAMERON BLOCK 45 FIELD

The West Cameron Block 45 Field was discovered by the Stanolind Oil and Gas Company—State Lease 1133 No. A-1 Well, which was completed as a gas-condensate well on May 21, 1949. Subsequent to this discovery well, three (3) additional wells have been drilled; one (1) was an oil well; one (1) a gas-condensate well; and one (1) a dry hole.

The wells of this field are located under three (3) State Leases for which the operator paid a total bonus of $176,250.00 and a yearly rental of $88,125.00.

Basic data available on the wells of this field are as follows:*

1. #35581—S. L. 1133 No. A-1 (Discovery well); Spud. 8-12-48; Comp. 5-21-49; IP 49 BPD on 16/64 ck.; TP 2700; Gor 89,100/1; Gr. 51.5; BS&W 0%; PD 8761-8762; TD 9728'.**
   Test taken: 10-10-52
   62 BPD on 7/64 ck.; TP 2350; GOR 6305/1; Gr. 36.2; BS&W 0%. PD 8761-8762.
   Present allowable: 53 BPD (DBA—465 BPD)
2. #38162—S. L. 1137 No. A-2; Spud. 6-5-49; Comp. 8-20-49; IP 462 BPD on 3/16 ck.; TP 1450; GOR 570/1; Gr. 35.0; BS&W 0%. PD 8823-8828; TD 9044'.
   Recomp: 3-15-50
   265 BPD on 10/64 ck.; TP 1600; GOR 614/1; Gr. 35.2; BS&W 2/10%.
   Recomp: 11-26-51
   210 BPD on 9/64 ck.; TP 1400; GOR 713/1; Gr. 36.3; BS&W 2/10%. PD—8842-8848.
   Test taken: 10-10-52
   165 BPD on 8/64 ck.; TP 1400; GOR 582/1; Gr. 36.2; BS&W 1/10%.
   Present allowable: 150 BPD (DBA—465 BPD)
3. #39382—S. L. 1133 No. A-3: Spud. 11-3-49: Comp. 3-15-50; IP 12 BPD on 1/8 ck.; TP 600; GOR 51.600/1; Gr. 35.6; BS&W 2/10%; PD 8726-8731; TD 9872'.
   Shut in as gas well, March, 1953.

Plug and Abandon

1. #39673—S. L. 1131 No. B-1; Spud. 2-11-50; Comp. 4-21-50; P & A @ TD 10,010' with no show.

*All wells operated by the Stanolind Oil and Gas Company.

**Original hole drilled to 9728 feet and well blew out. Plugged back and sidetracked at 2792 feet and drilled to 8698 feet and stuck drill pipe. Plugged back and sidetracked again at 6479 feet and drilled final hole to 8814 feet.

Production summary

Year and month	Number of wells	Total allowable	Daily average allowable	Total production	Daily average production	Cumulative production
1950—March	3	6,324	204	4,696	151	4,696
April	3	11,160	372	10,817	361	15,513
May	1	11,532	372	11,478	370	26,991
June	3	14,868	495	12,273	409	39,264
July	3	19,809	639	13,294	429	52,538
August	3	19,809	639	8,251	266	60,789
September	2	16,980	566	13,361	445	74,150
October	2	14,012	452	13,252	427	87,402
November	2	13,560	452	12,881	429	100,283
December	2	14,012	452	13,893	448	114,176
1951—January	2	14,012	452	13,315	430	127,491
February	1	904	32	19		127,510
March						
April						
May						
June						
July						
August						
September						
October						
November	2	2,035	68	2,192	73	129,702
December	2	7,750	250	6,103	197	135,805
952—January	2	6,293	203	6,184	199	141,989
February	2	5,887	203	6,328	218	148,317
March	2	6,293	203	6,421	207	154,738
April	2	6,090	203	6,191	206	160,929
May	2	6,293	203	3,646	176	164,575
June	2	6,090	203	6,027	201	170,602
July	2	6,293	203	4,526	146	175,128
August	2	6,293	203	6,544	211	181,672
September	2	6,090	203	5,858	195	187,530
October	2	6,293	203	6,163	199	193,693
November	2	6,090	203	5,276	176	198,969
December	2	6,293	203	5,971	193	204,940
1953—January	2	6,293	203	6,222	201	211,162

WEST CAMERON BLOCK 149 FIELD

The completion of The Superior Oil Company—State Lease 1164 No. A-1 Well as a gas-condensate producer on September 16, 1949 marked the discovery of the West Cameron Block 149 Field. Two (2) additional wells have been drilled and both were completed as gas-condensate producers. Since, as in many other offshore areas, there is no market outlet for this gas production, there has been no producing history from the field with all wells being shut in.

These wells are located under three (3) State Leases for which the operator paid a bonus of $349,000.00 and a yearly rental stipulation of $174,500.00.

Basic data on the wells of this field are as follows:*

1. #37559—S. L. 1164 No. A-1 (Discovery well); Spud. 5-31-49; Comp. 9-16-49; IP 14.2 BPD on 24/64 ck.; TP 2090; GOR 546,500/1; Gr. 43.5; BS&W 5%; PD 5798-5834; TD 9380′.
   Well shut in as of March, 1953. No market for gas production.
2. #40342—S. L. 1158 No. A-2; Spud. 2-13-50; Comp. 4-27-50; IP 11.5 BPD on 22/64 ck.; TP 2300; GOR 460,451/1; Gr. 42.5; BS&W 0%; PD 7911-7923; TD 8250′.
   Well shut in as of March, 1953. No market for gas production.
3. #40676—S. L. 1165 No. A-3; Spud. 4-30-50; Comp. 6-23-50; IP 2.3 BPD on 14/64 ck.; TP 1990; GOR 863,404/1; Gr. 45.4; BS&W 0%; PD 5278-5306; TD 8275′.
   Well shut in as of March, 1953. No market for gas production.

WEST CAMERON BLOCK 180 FIELD

1. #38273—Superior Oil Company—S. L. 1565; Spud. 7-11-49; Comp. 8-7-49; P&A @ TD 8632′.

*All wells operated by The Superior Oil Company.

WEST DELTA BLOCK 12 FIELD

1. #36436—Humble Oil and Refining Company—S. L. 809; Spud 1–28–49; Comp. 6–2–49; P. & A. @ TD 13484′.

WEST DELTA BLOCK 27 FIELD

Following an unsuccessful test in May of 1949, the West Delta Block 27 Field was discovered by the completion of the Humble Oil and Refining Company—State Lease 818 No. A–3 Well as a gas-condensate producer on November 19, 1949. One other well was drilled as a dry hole and plugged and abandoned. There is no production history.

This well is completed under State Lease 818 for which a bonus of $165,000.00 was paid by the operator with a yearly rental stipulation of $82,500.00.

Basic data available on this field is as follows:*

1. #37212—S. L. 818 No. A–3 (Discovery well); Spud 5–22–49; Comp. 11–19–49; IP 11.4 BPD on 1/8 ck.; TP 2950; GOR 73500/1; Gr. 58.8; BS&W Tr.; PD 9475–9480; TD 11,123′.
   Well shut in as of March, 1953. No market for gas production.

Plug and Abandon

1. #35442—S. L. 818 No. A–1; P. & A. @ TD 11,405′ with no show.

Permit Issued, No Additional Information Available

1. #37766—S. L. 817 No. A–2. Permit expired. Well not drilled.
2. #47327—S. L. 818 No. B–1. No additional information.

WEST DELTA BLOCK 30 FIELD

The West Delta Block 30 Field was discovered by the completion of the Humble Oil and Refining Company-State Lease 819 No. A–1 Well as a gas well on April 7, 1949. One (1) well has been completed as a dry hole and another has been completed as a gas well. Three (3) permits have been issued but allowed to expire.

The State Leases involved in this field were acquired by the operator for a cash bonus of $260,000.00 and a yearly rental of $130,000.00.

Basic data available on the wells in this field are as follows: *

1. #35677—S. L. 819 No. A–1 (Discovery well); Spud. 10–13–48; Comp. 4–7–49; IP Gas; gas volume 28.2 MCF per day on 1/16 ck.; TP 710; PD 2170–2179; TD 3500′.
   Well shut in as of March, 1953. No market for gas production.
2. #46414—S. L. 819 No. D–1; Spud. 6–28–52; Comp. 8–25–52; IP gas well.
   Shut in gas well as of March, 1953.

Plug and Abandon

1. #39254—S. L. 820 No. C–1; Spud. 10–19–49; Comp. 11–30–49; P&A @ TD 3019′. (Bottom in salt)
2. #38842—California Company S. L. 822 No. A–2; Spud. 8–27–49; Comp. 10–12–49; P&A @ TD 9500′.
3. #39255—California Company S. L. 823 No. A–3; Spud. 10–13–49; Comp. 1–13–50; P&A @ TD 11369′.

Permit Issued, No Additional Information Available

1. #35703—S. L. 820 No. A–2. Permit expired. Well not drilled.
2. #37529—S. L. 820 No. B–2. Permit esxpired. Well not drilled.
3. #37623—S. L. 820 No. C–1. Permit expired. Well not drilled.
4. #40493—S. L. 820 No. D–1. No information.

*All wells operated by Humble Oil and Refining Company.

Offshore leases considered to be in productive areas

State lease No.	Bonus paid for lease	Annual rental	State lease No.	Bonus paid for lease	Annual rental
335	$50,000.00	$25,000.00	988	$18,621.50	$9,310.75
670	25,600.00	12,800.00	998	10,342.50	5,171.25
673	25,600.00	12,800.00	1007	21,500.00	21,350.00
676	25,600.00	12,800.00	1008	21,350.00	10,675.00
679	25,600.00	12,800.00	1027	116,937.58	58,468.79
680	25,600.00	12,800.00	1034	101,962.03	50,981.02
684	25,600.00	12,800.00	1089	32,051.00	16,025.50
685	25,600.00	12,800.00	1106	171,550.00	85,775.00
686	25,600.00	12,800.00	1119	4,500.00	2,250.00
687	25,600.00	12,800.00	1120	4,500.00	2,250.00
691	25,600.00	12,800.00	1123	160,000.00	80,000.00
692	25,600.00	12,800.00	1131	66,250.00	33,125.00
693	25,600.00	12,800.00	1133	66,250.00	33,125.00
694	25,600.00	12,800.00	1137	43,750.00	21,875.00
749	35,000.00	17,500.00	1158	83,500.00	41,750.00
750	62,500.00	31,250.00	1164	207,750.00	103,875.00
752	35,000.00	17,500.00	1165	57,750.00	28,875.00
754	25,000.00	12,500.00	1224	125,711.77	63,000.00
755	40,000.00	20,000.00	1227	30,650.00	15,325.00
766	37,500.00	18,750.00	1230	81,753.75	41,000.00
768	12,500.00	6,250.00	1237	6,228.40	3,972.93
775	10,000.00	5,000.00	1267	140,000.00	70,000.00
791	15,000.00	7,500.00	1277	12,786.00	6,393.00
794	15,000.00	7,500.00	1278	54,720.00	27,360.00
797	75,000.00	37,500.00	1343	34,450.00	17,225.00
798	95,000.00	47,500.00	1355	153,000.00	76,500.00
799	50,000.00	25,000.00	1366	377,000.00	188,500.00
800	83,000.00	41,500.00	1367	428,000.00	214,000.00
801	55,000.00	27,500.00	1369	100,000.00	50,000.00
802	75,000.00	37,500.00	1388	31,125.00	15,562.50
803	83,000.00	41,500.00	1428	158,431.98	79,215.99
804	84,000.00	42,000.00	1436	225,000.00	112,500.00
809	115,000.00	57,500.00	1498	16,700.00	8,350.00
817	145,000.00	72,500.00	1537	130,550.00	65,275.00
818	165,000.00	82,500.00	1784	110,550.00	55,275.00
819	130,000.00	65,000.00	1785	407,100.00	203,550.00
820	130,000.00	65,000.00	1799	136,000.00	68,000.00
822	31,[illegible].00	15,775.00	1950	69,324.50	34,662.25
823	50,[illegible]50.00	25,075.00	1951	103,986.74	51,993.37
832	5,085.00	2,542.00	1953	69,324.50	34,662.25
833	10,200.00	5,100.00	1958	456,000.00	228,000.00
834	50,000.00	25,000.00	1959	127,664.04	63,832.02
837	18,750.00	9,375.00	1960	126,000.00	63,000.00
838	95,000.00	47,500.00	1961	564,512.00	282,256.00
843	85,000.00	42,500.00	1962	86,000.00	43,000.00
878	5,125.00	2,562.00	2001	101,000.00	50,500.00
880	5,100.00	2,550.00			
884	97,434.76	48,717.38	Total	8,066,874.05	4,045,176.50
929	6,072.00	3,036.00			

From the above data, it can be noted that, considering the high cost, the development of these offshore areas was fairly rapid until the latter part of 1949 when the controversy between the Federal and State governments over the ownership of this territory caused the operators to practically cease all offshore operations except for development of known producing areas. This is well shown by the fact that thirteen (13) offshore fields were discovered in 1949 and only three (3) in 1950 due to the cessation of exploration activity in these offshore areas.

At the present time, there are thirteen (13) companies operating one or more fields capable of producing hydrocarbons in these offshore areas. These are as follows:

Operator and number of fields in which company has operations

1. The California Company	2
2. Sunray Oil Corporation	2
3. The Pure Oil Company	2
4. Magnolia Petroleum Company	6
5. Humble Oil & Refining Company	6
6. Shell Oil Company	1
7. Kerr-KcGee Oil Industries, Inc	2
8. The Superior Oil Company	3
9. Phillips Petroleum Company	1
10. Stanolind Oil and Gas Company	1
11. Sun Oil Company	1
12. Barnsdall Oil Company	1
13. Texas Oil Company	3

Although there has now been over six (6) years of work carried out in the offshore areas, much additional exploration and development will be necessary to determine the potential production of both oil and gas from this area. However, there is little doubt but that the reserves of both oil and gas underlying these submerged lands will either equal or exceed those underlying inshore land of the same area.

Field statistics as of January 1953

Fields	Oil wells	Gas wells	Present daily production	Total production
Bay Marchand	26	1	4,244	6,958,489
Breton Block 32	2	0	157	203,067
Breton Block 36	0	1		
Eugene Island Block 32	5	5	693	385,334
Eugene Island Block 45	1	2	392	90,470
Eugene Island Block 51	0	1		
Eugene Island Block 58	0	1		
Eugene Island Block 110	0	2		
Eugene Island Block 126	3	0	1,383	1,135,750
Grand Isle Block 16	1	0	33	54,938
Grand Isle Block 18	4	0	1,063	1,405,080
Main Pass Block 35	32	0	5,205	915,941
Main Pass Block 69	17	0	4,845	5,734,852
Ship Shoal Block 28	0	1		
Ship Shoal Block 32	6	0	214	497,545
Ship Shoal Block 72	2	0	319	360,466
South Pass Block 24	10	0	3,075	1,593,504
South Timbalier Block 34	1	0	0	172,949
South Timbalier Block 52	1	0	15	34,322
Vermilion Block 39	4	4	170	108,068
Vermilion Block 72	0	1		
Vermilion Block 76	0	1		
West Cameron Block 33	1	0	19	71,756
West Cameron Block 45	2	0	201	211,162
West Cameron Block 149	0	3		
West Delta Block 27	0	1		
West Delta Block 30	0	1		
Total	120	25	22,028	19,942,713

REVISED STATUTES OF LOUISIANA AS THEY RELATE TO OIL AND GAS LEASING AND DEVELOPMENT ON STATE OWNED LANDS AND WATER BOTTOMS AS WELL AS AGENCY LANDS

Compiled by Office of State Mineral Board, January 15, 1952

CHAPTER 2—TITLE 30

SUB-PART A. STATE MINERAL BOARD

Pages 1 through 6, inclusive, paragraphs 121 through 136, inclusive

Source of acts: 93 of 1936, 80 of 1938, 71 of 1940, 92 of 1940, 162 of 1940, 153 of 1942, 134 of 1944, 370 of 1946, 58 of 1948, 244 of 1948, 46 of 1950, 59 of 1950, 290 of 1950, 291 of 1950 and 388 of 1950.

SUB-PART B. LEASES BY STATE AGENCIES

Pages 6 through 7, inclusive, paragraphs 151 through 159, inclusive

Source of acts: 73 of 1940, 162 of 1940, 133 of 1944, 338 of 1946 and 290 of 1950.

SUB-PART C. LEASES BY STATE AGENCIES; GENERAL PROVISIONS

Page 8, paragraphs 172 through 173, inclusive

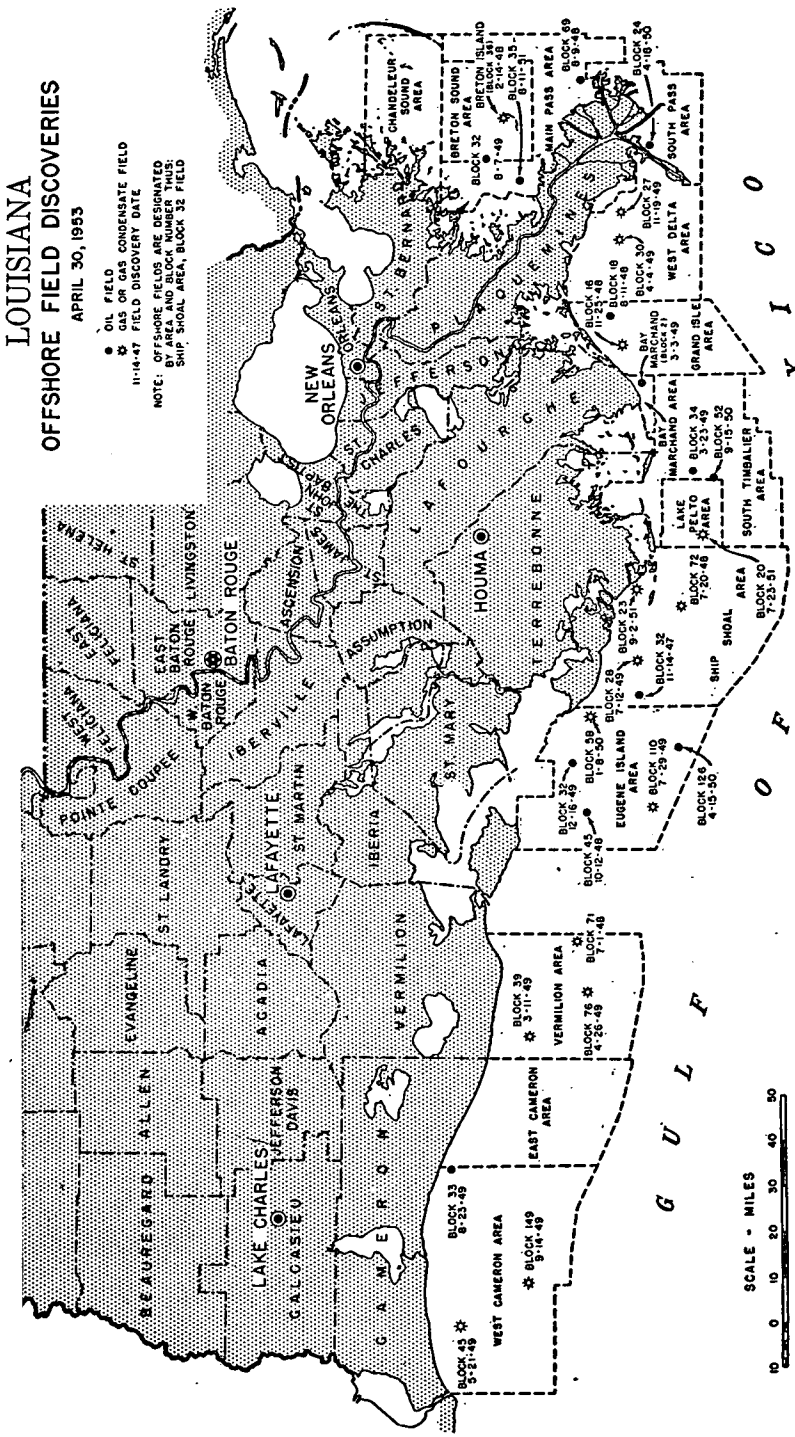
Source of acts: 218 of 1928, 77 of 1942 and 74 of 1950.

PART II. LEASES BY STATE OR POLITICAL SUBDIVISIONS

SUB-PART A. STATE MINERAL BOARD

121. State Mineral Board created; composition and powers

The State Mineral Board shall be composed of the Governor and twelve members to be appointed by him. The Governor shall be ex-officio chairman. The Board shall be a body corporate, with its domicile at the State Capitol,


LOUISIANA
OFFSHORE FIELD DISCOVERIES
APRIL 30, 1953
OIL FIELD
GAS OR GAS CONDENSATE FIELD
11-14-47 FIELD DISCOVERY DATE
NOTE: OFFSHORE FIELDS ARE DESIGNATED BY AREA AND BLOCK NUMBER THUS: SHIP SHOAL AREA, BLOCK 32 FIELD
GULF OF MEXICO
NEW ORLEANS
BATON ROUGE
HOUMA
LAFAYETTE
LAKE CHARLES
CALCASIEU
JEFFERSON DAVIS
ACADIA
VERMILION
IBERIA
ST. MARY
TERREBONNE
ASSUMPTION
ST. MARTIN
IBERVILLE
ST. CHARLES
ST. JOHN THE BAPTIST
ST. TAMMANY
ST. BERNARD
PLAQUEMINES
LAFOURCHE
ST. JAMES
ST. HENRY
ST. LANDRY
EVANGELINE
ALLEN
BEAUREGARD
GRANT
CONCORDIA
TENSAS
EAST CARROLL
LIVINGSTON
EAST BATON ROUGE
J.W. BATON ROUGE
CHANDELEUR SOUND AREA
BRETON SOUND AREA
BRETON ISLAND
MAIN PASS AREA
SOUTH PASS AREA
WEST DELTA AREA
GRAND ISLE AREA
BAY MARCHAND AREA
LAKE PELTO AREA
SOUTH TIMBALIER AREA
SHIP SHOAL AREA
EUGENE ISLAND AREA
VERMILION AREA
EAST CAMERON AREA
WEST CAMERON AREA
BLOCK 32
BLOCK 38
BLOCK 39
BLOCK 69
BLOCK 84
BLOCK 27
BLOCK 30
BLOCK 16
BLOCK 18
BLOCK 34
BLOCK 52
BLOCK 72
BLOCK 20
BLOCK 126
BLOCK 110
BLOCK 32
BLOCK 23
BLOCK 28
BLOCK 58
BLOCK 32
BLOCK 45
BLOCK 39
BLOCK 76
BLOCK 71
BLOCK 33
BLOCK 149
BLOCK 45
SCALE - MILES
10 0 10 20 30 40 50

may sue and be sued, and shall possess in addition to the powers herein granted, all the usual powers incident to corporations. Seven members shall consitite a quorum. In case of a tie on any vote, the vote of the Governor shall determine the issue. As amended Acts 1950, No. 59.

122. Compensation

The appointed members shall receive no salaries, or expenses, but shall receive fifty dollars for each day or part thereof of actual sessions. As amended Acts 1950, No. 59.

123. Meetings

The Board shall meet at the call of the governor and may meet at places other than its domicile.

124. Board may lease public lands

The State Mineral Board has authority to lease for the development and production of minerals, oil, and gas, any lands belonging to the state, or the title to which is in the public, including road beds, water bottoms, and lands adjudicated to the state at tax sale.

125. Application for lease; deposit

When a person desires to lease state lands, he shall make application to the board in writing, giving the description of the land and enclosing a certified check for fifty dollars as evidence of good faith. This sum shall be returned to the applicant if he should bid for and fail to secure the lease.

126. Inspection; quantity of land; advertisements for bids

Upon receipt of an application accompanied by deposit, the board may cause an inspection of the land to be made, including geophysical and geological surveys. After receiving the report of the inspection, the board may offer for lease all or part of the lands described in the application. However, no lease shall contain more than five thousand acres. The board shall require the register of the state land office to publish in the official journal of the state, and in the official journal of the parish where the lands are located, an advertisement for a period of not less than fifteen days. This advertisement shall contain a description of the land proposed to be leased, the time when bids will be received, any other information that the board may consider necessary, and the royalty to be demanded should the board deem it to the interest of the state to call for bids on the basis of a royalty fixed by it. If the lands are situated in two or more parishes advertisement shall appear in the official journals of all the parishes where the lands may be partly located. These advertisements need not appear oftener than once a week.

The board may also cause notices to be sent to those whom it thinks would be interested in submitting bids. The board may on its own motion and without application require the Register of the state Land Office to advertise for bids for a lease in the same manner as if an application had been made. As amended Acts 1950, No. 388.

127. Opening bids; minimum royalties; terms of lease

Bids may be for the whole or any particularly described portion of the land advertised. At the time mentioned in the advertisement for the consideration of bids, they shall be publicly opened. Bids received by the mineral board shall be opened at the state capitol. The mineral board has authority to accept the bids most advantageous to the state, and may lease upon whatever terms it considers proper. However, the minimum royalties to be stipulated in in any lease shall be:

(1) One-eighth of all oil and gas produced and saved.
(2) Seventy five cents per long ton of sulphur produced and saved.
(3) Ten cents per ton of potash produced and saved.
(4) One-eighth of all other minerals produced and saved.

The board may reject any and all bids, or may lease a lesser quantity of property than advertised and withdraw the rest. However, no lease of a lesser quantity than advertised shall be granted for any less proportionate bonus and delay rental than the lesser quantity bears to the total area advertised or embraced in the most favorable bid submitted.

If all written bids are rejected, the board may immediately offer for competitive bidding a lease upon all or any designated part of the land advertised, upon terms appearing most advantageous to the state. This offering shall be subject to the board's right to reject any and all bids. No lease shall be for more than five thousand acres and none shall be for less bonus or delay rental than was offered in

the most favorable written bid for the same property. Where a lease provides for delay rental, the annual rental shall not be for less than one-half the cash bonus. All lands shall be accurately described in a lease.

128. Transfers, approval by board

No transfer or assignment in relation to any lease shall be valid unless approved by the State Mineral Board.

129. Powers and duties of board; pooling agreements; operating units

The board shall have full supervision of all mineral leases granted by the state, in order that it may determine that the terms of these leases are fully complied with, and it has general authority to take any action for the protection of the interests of the state. It may institute actions to annul a lease upon any legal ground. The board has authority to enter into agreements or to amend a lease. However, the board shall not extend the primary term of any lease except as hereinafter provided. In the event the board should determine in its discretion that any lease granted prior to the effective date hereof covers and affects in whole or in part lands lying in offshore areas, then the board may in its further discretion extend the primary term of such lease for a period not to exceed two years, with rentals for the extended term to be paid at the rate specified in such lease. Further, the board shall not, except as to unitization and pooling agreements, amend a lease by reducing the amount of bonus, rental, royalty, or other consideration stipulated in the lease. It may join in pooling and unitization covering a lease, the mineral and royalty rights thereunder, and any other lease, mineral, or royalty rights in and under any other property, so as to create, by the combination of these leases, or royalty and mineral rights, one or more operating units, as hereinafter defined. The board may agree, in the event of production of minerals from any unit so created, that the lessor shall receive and accept on account of production, whether or not production is from any part of the property covered by the lease, a royalty proportionate to that part of the production or proceeds which the lessor is fairly entitled to receive. In determining this proportionate part the board may consider the surface acreage, the estimated original reserves in place, the estimated ultimate recovery, sand thickness, porosity, permeability, as determined by approved engineering practices, and any other relevant factors. This portion of the royalty shall be paid in the same manner, and subject to the same conditions, as other royalties agreed to be paid under the lease, but shall be in lieu of all other royalties which would accrue under the lease on account of production from any part of the property covered by the lease included in the unit. "Operating unit," as herein used, means that number of surface acres of land which, under regular or special rules of the commissioner of conservation or other authority having control in the premises, or by agreement of the lessors, lessees, and mineral and royalty owners, may be pooled and unitized for development and operation as a unit. An agreement creating an operating unit may provide for cycling, recycling, or pressure maintenance or repressuring in fields productive of oil, gas, and gas from which condensate, distillate, or other product may be separated or extracted. The commencement of operations for the drilling of a well, or production of minerals on any portion of a unit in which all or any part of the property covered by the lease is embraced shall have the same effect, under the terms of the lease, as if it had occurred on the lands embraced by the lease. As amended Acts 1950, No. 46.

130. Register of state land office, powers and duties

The Register of the state land office shall keep the records, including all bids, proposals, assignments or transfers, pertaining to leases and shall furnish the board such data, information, reports, descriptions, records, certified copies, and the like as the board may require.

The Register of the state land office is authorized to sign for the state, all division orders or other documents which are necessary or customary, with respect to the production and sale of oil by lessors and royalty owners after these documents have been inspected and approved by the state mineral board or by anyone invested with authority by the board. As amended Acts 1950, No. 290.

131. Surveys, reports and investigations

The Department of Public Works, parish surveyors, State highway Engineers, Louisiana State University and Agricultural and Mechanical College and any board, department or institution of the state and the governing authorities of political subdivisions shall make such surveys, reports, and investigations, and furnish such records and information as may be required by the State Mineral Board for the purpose of determining boundaries, character, title, location and other matters relating to lands.

132. Attorney for board

The Attorney General shall be the attorney for the board, but the board shall have the authority to employ additional counsel in special matters.

133. Excess over minimum royalties, dedication of

Any excess above the minimum royalties set forth in R. S. 30:127 is dedicated as follows:

(1) To Louisiana State University and Agricultural and Mechanical College and to the payment of old-age assistance, other social-security benefits, and the State Hospital Board, to be apportioned by the governor, not exceeding two million dollars per annum.

(2) Any sum after payment of the two million dollars herein provided, shall be used in the servicing and retirement of the state debt.

134. Roads, etc.; payment to parishes; compromise of claims

The provisions of this Sub-part shall extend to the public roads, canals, and similar properties, the title to which is in either the state or the parishes. Where road beds belonging to the parishes are leased by the board, the leases shall provide for the payment of a royalty to the parish in which production occurs of at least one-sixteenth of the minerals produced, to be used by the police jury for public purposes. The governor, the Attorney General, and the executive counsel or any two of them, may settle and compromise with the parishes or other claimants, all matters relating to lands or rights referred to in this Section, upon terms and conditions any two of them decide. In connection with agreements these officers, or any two of them, may stipulate for the reconveyance of lands to the state and for payment of royalties and rentals and the division thereof between the state and the parishes or other claimants.

135. Secretary and other employees

The board shall employ a secretary and necessary clerical and field forces. As amended Acts 1950, No. 291.

136. Funds, disposition of

All funds belonging to the state under the terms of valid existing mineral leases entered into under this Sub-part shall be collected by and paid to the Register of the state land office and shall be deposited by that officer in the state treasury to the credit of the general fund. However, ten per cent of the minimum royalties received from the proceeds of leases on state owned lands shall be placed by the State Treasurer in a special fund to the credit of the parish in which production occurred. This fund shall be referred to as the "ROAD FUND". The money in this road fund shall be subject to withdrawal by the state department of highways and shall be used exclusively by it for the construction of black top, concrete, or other hard-surface roads in the parish where production occurs, and for the operation and maintenance of automobile ferries in that parish. As amended Acts 1950, No. 290.

SUB-PART B. LEASES BY STATE AGENCIES

151. "Agency" defined

In this Sub-part the term "agency" means a levee district, drainage district, road district, school district, school board, or other board, commission, parish, municipality, state university, state college, state penal or charitable institution or agency, unit or institution of the state or subdivision thereof.

152. An agency may lease lands; school boards may lease sixteenth section lands

Every agency is authorized to lease its land for the development and production of minerals. School boards are authorized to lease sixteenth section and school indemnity lands for the development and production of minerals.

153. Agencies may lease through State mineral board

Any agency may by resolution direct the state mineral board to lease its land in the manner provided in Sub-part A of this Part. The bonus money, if any, received for the lease shall be transmitted by the state mineral board to the agency. After execution of the original lease, all rights and authority in connection therewith shall be vested in the agency to the same extent as if the agency had itself leased the land. As amended Acts 1950, No. 290.

154. Signing of papers and disposition of funds when agency leases its own lands

A. When an Agency chooses not to avail itself of the provisions of R. S. 30:153 but leases its own lands, the agency shall sign all necessary or customary division

orders or other documents incident to the production and sale of products under the lease.

B. When an agency leases its own lands it shall receive and receipt for all sums accruing to it and shall deposit these funds to its account.

C. In all cases where sixteenth section or school indemnity lands are leased, either by the State Mineral Board or the school board, all funds realized from these leases shall be paid to the school board of the parish where the lands are situated and credited to the current school fund of that parish.

D. In all cases where title to land exclusive of sixteenth section or school indemnity lands has been acquired by a school board for the benefit of a particular school or school district, funds realized from a lease of such lands either by the school board or the mineral board, shall be paid to the school board. The school board shall credit these funds to a special account and apply them to the uses of the particular school for whose benefit the grant was made.

If the particular school specified in the grant no longer exists, the funds shall be placed in the general fund of the school board.

155. Alternative procedures

If any agency determines not to avail itself of the provisions of R. S. 30:153, it shall lease no lands for mineral purposes unless a written application is made, and the lands are advertised and let in the manner provided by this Sub-part.

156. Procedure when agency leases its own land

A person desiring to lease from a state agency shall make application with deposit to the agency in the same manner as is set forth in R. S. 30:125 for application with deposit to the mineral board. The agency shall itself advertise, receive bids at its domicile, and lease in the same manner and subject to the same restrictions applicable to leases by the State Mineral Board under R. S. 30:126 and 30:127. The agency has the same powers over leases granted by it as are granted the State Mineral Board in R. S. 30:129.

157. Repealed. Acts 1950, No. 292.

158. Approval of lease by board

No lease executed under the authority of this Sub-part shall be valid unless the agency obtains its approval by the State Mineral Board. A lease made under the provisions of this Sub-part which is not approved by the State Mineral Board and countersigned by the duly authorized officer of that body is null and void.

159. State banks in liquidation, leases subject to approval, how

All mineral leases entered into by state banks in liquidation shall be subject to the approval of the State Mineral Board and of the district court having jurisdiction of the liquidations.

SUB-PART C. LEASES BY STATE AGENCIES; GENERAL PROVISIONS

171. State departments and agencies; permits to lessees for directional drilling; permits to erect structures, etc.

Any department or agency of the State may grant on lands of which it has title, custody, or possession:

(1) A permit, lease, or servitude to engage in directional drilling in search of minerals underlying adjacent water bodies. Directional drilling is drilling deviating from the vertical plane.

(2) A permit, lease, or servitude to erect structures and enjoy all privileges on the lands necessary or convenient in the development and transporting of minerals underlying adjacent water bodies.

The five year limitation of R. S. 41:1217 shall not apply to these grants.

No grantee shall exercise any rights without first obtaining a valid mineral lease of the adjacent water bottoms.

172. Lessees may construct breakwaters, etc.

Any person holding or acquiring a lease from the state for the development and production of minerals from lands including water bottoms belonging to the state, shall be authorized, in the conduct of the operations under the lease, to build, install and exclusively control, upon the shores, banks or water bottoms covered by the lease, breakwaters, platforms, fills, islands, (through excavation, pumping process or otherwise) and other constructions and facilities that he may find necessary or convenient for the exploitation, production, storing, treating, processing, refining, conveying, transporting and marketing of minerals produced under

such lease and under leases covering other lands in the vicinity. Should any island or fill be made within navigable waters, a permit shall first be secured from the Register of the state land office and approved by the commissioner of conservation. As amended Acts 1950, No. 74.

173. Private rights not to be affected; United States Government, permission of

Existing private rights shall not be affected in any way by the rights granted in R. S. 30:171. Permission must be obtained from the United States Government to construct works in navigable waters.

STATEMENT OF EUGENE GERMAN, VICE PRESIDENT AND TREASURER, DUVAL SULPHUR & POTASH CO., HOUSTON, TEX.

Mr. Chairman and members of the committee, my name is Eugene German. I am vice president and treasurer of Duval Sulphur & Potash Co. of Houston, Tex.

The bill now under consideration by your committee (S. 1901) providing for the exploration for and development of oil and gas deposits that may underlie the submerged lands of the outer Continental Shelf should also contain provisions for the separate development of sulfur and/or other minerals for the reason that the oil and gas companies are interested primarily in oil and gas, whereas sulfur production is a highly specialized industry and requires skills and procedures quite different from those used in oil and gas development. These skills and procedures have been developed by the sulfur companies over a period of years and, therefore, we feel that the sulfur companies should be permitted to bid for sulfur leases on these submerged lands without being required to bid on the oil and gas.

The Duval Sulphur & Potash Co. has been producing sulfur by the Frasch process from salt domes in the Gulf coast area for over 20 years. At the present time, we are producing sulfur from the Orchard Dome in Fort Bend County, Tex.

Should it be claimed otherwise, I would like to point out that it is practical to conduct oil and gas operations and sulfur operations on the same area. It is actually being done on areas of the land mass as at Orchard Dome just referred to.

Furthermore, there has been no question of interference between the oil and gas operations and the sulfur operations in the 17 years of joint operations. The oil and gas is being produced from the flanks of the dome and the sulfur is being produced from the limestone caprock of the dome.

The vital part that sulfur plays in the industrial and everyday life of this country is so well known that there is no need for me to review it here. I do wish to point up the fact that the most orderly and economic development of any sulfur deposits that may underlie the outer Continental Shelf can best be done by the sulfur companies. Sulfur operations and oil and gas operations can be carried on simultaneously from the same domes without interference with either operation. Special skills and procedures are required in each operation.

This summarizes our reasons for requesting that separate leasing provisions for sulfur be set out in the proposed bill.

(NOTE.—The insertion of this article was requested by Senator Daniel.)

APPLICATION OF STATE POLICE POWERS

Any act of Congress dealing with Continental Shelf lands should contain a provision under which the coastal States would be permitted to exercise police and taxing powers over that portion of the Continental Shelf off their shores. Such a provision would, of course, not confer any property rights upon the coastal States but would merely permit them to exercise local governmental authority over the lands in such a manner as such authority applies to lands upon the shore.

One of the more important aspects of police authority relates to conservation. This will be discussed briefly from the point of view, first, of the legal basis on which such regulation can be applied and, second, of the practical reasons why the States, rather than the Federal Government, should exercise this authority.

The States have the authority to extend their police jurisdiction to the areas involved, subject to the approval of Congress. Two recent cases by the United States Supreme Court sustain this conclusion: *Skiriotes* v. *Florida* (313 U. S. 69, 85 L. Ed. 1193 (1940)) and *Toomer* v. *Witsell* (334 U. S. 385, 92 L. Ed. 1131 (1947)). In the first case, a Florida law regulating sponge fishing and in the latter case, a South Carolina statute requiring license fees for shrimp fishing, each law applying within the territorial waters of the respective State, were held

to be proper exercises by the States of their police powers in the absence of Federal regulation. It is particularly significant that the Court in *California* v. *United States* (67 S. Ct. 1658 (1947)), did not hold and did not undertake to hold that the California police power is not applicable to operations conducted in the 3-mile area off that State. In fact, the Court distinguished between "the State's power to regulate and conserve within its territorial waters" and "the right to use and deplete resources which might be of national and international importance." From the foregoing it is clear that the States have the power to apply their police jurisdiction to the areas in question with the acquiescence or approval of Congress.

One of the more important police regulations to be applied to lands which may be productive of oil and gas is that concerning conservation. Oil and gas are fugacious substances existing under great pressure within the reservoir rocks within which they are held. When a well is drilled into an oil pool, the oil and gas flow to the area of lower pressure around the well bore without regard to surface boundary lines. It is important that the waste of oil and gas, both under and above ground, be prevented. For example, it is important to conserve the gas dissolved in the oil or associated with it in the reservoir and to conserve the force of the underlying water in the reservoir as an effective oil displacing agency. It is also important to avoid excessive storage of oil above ground, which may lead to waste through fire or evaporation.

State conservation statutes undertake to prevent the waste of oil and gas both under and above ground. They are administered by State conservation agencies through appropriate rules and regulations. These regulations cover a varity of subjects such as location, spacing, drilling and abandonment of wells, gas-oil and water-oil ratios, and, most important of all, the rates at which individual wells and pools may be produced.

The conservation laws of the oil-producing States have been in effect for about 25 years. They have been developed through a process of learning and cooperative effort, by trial and error, and the constant reevaluation of techniques. There have been many benefits to the public and the Nation from conservation. Through conservation there has been a much greater recovery of oil from underground reservoirs and less waste of oil above ground. More important, conservation provided the backlog of reserves needed to meet the unprecedented demand of allies in World War II.

It is highly important that this system of conservation, currently in force and administered by the oil-producing coastal States, be permitted to apply to oil fields discovered on the Continental Shelf off the coasts of those States. These States have had a broad experience in the enactment, enforcement, and administration of conservation laws. Both the laws and the agencies to administer and enforce them are in existence; they are currently functioning, and the application of the laws and the extension of the jurisdiction of the conservation agencies to the additional areas of the Continental Shelf are merely matters of applying the laws and regulations to new areas close at hand.

The situation is comparable to that obtaining when a new field is brought in within the upland area of an oil-producing State. The oil and gas conservation statutes of that State and the regulations, together with the administrative authority of the regulatory body, are applied automatically to the new field. State laws and State regulations would be applied automatically to operations conducted on offshore areas in a similar manner.

To apply Federal conservation to the areas under consideration would require the enactment of a new law and the creation of an administrative body with headquarters in Washington to administer the law. It would necessarily entail an extended period of uncertainty and confusion before judicial interpretation would have clarified and settled not only the operation and meaning of the terms of the law, but also the role of the administering agency. It would also involve the establishment of Federal supervisors or agencies close to the areas under consideration and within the States. The laws and regulations to be applied would stem from Washington, which would be a considerable distance from the actual producing areas. This would involve numerous delays and administrative difficulties and would be a barrier to decisive, on-the-ground action such as could be taken by State agencies.

Therefore, it is desirable that the conservation laws and regulations of each of the coastal States be permitted to apply to the whole continental area abutting that State. It is equally desirable that the coastal States be permitted to exercise their taxing powers over these areas.

Both H. R. 5991 and H. R. 5992 contain satisfactory provisions upon this point. Under each bill permission is granted to the coastal States to exercise their police

powers over that portion of the Continental Shelf which would be within the boundaries of the State if such boundaries were extended to the outer margin of the shelf; and by definition the police power is deemed to include the taxing power and power over conservation and geophysical explorations (H. R. 5991, sec. 3; H. R. 5992, sec. 3). Such provisions are sound and should be included in any leasing bill adopted affecting offshore lands.

REPUBLICAN NATIONAL COMMITTEE,
Houston 2, Tex., May 28, 1953.

Hon. HUGH D. BUTLER,
United States Senate, Washington, D. C.

DEAR SENATOR BUTLER: Attached is a copy of a letter setting out my views concerning the Continental Shelf area, which was written at the request of Senator Cordon.

Sincerely,

H. J. PORTER.

REPUBLICAN NATIONAL COMMITTEE,
Houston, Tex., May 21, 1953.

Hon. GUY CORDON,
United States Senate, Washington, D. C.

DEAR SENATOR: I certainly appreciate your invitation to express my views on the pending legislation concerning the Continental Shelf.

1. Based upon the experience that we have had here in the State of Texas in the leasing of public lands, I believe the surest guaranty against any scandal developing in the future is by selling leases on these submerged lands at public sale to the highest bidder. The bids can either be oral or sealed, but the bidders should not be required to file them until the day or hour of the sale.

2. The royalty should be fixed at one-eighth, and under no conditions should this point be negotiable by any agency of the Government with these purchasers. We had that in our leasing of public lands in Texas at one time, and it led to a scandal. In other words, the royalty should be fixed and the leases should go to the highest cash bidder.

3. I have noticed where an official of a sulfur company has advocated separate leases be made for sulfur. The only reason I can account for such a recommendation being made is that the sulfur producers would like to take advantage of the geophysical work that has already been done by the oil companies. Sulfur deposits occur in the cap rock overlying salt domes. All oil leases on shore carry a royalty provision of so much per ton for sulfur, and that is the way they should be written insofar as these submerged lands are concerned. You might have some testimony from the sulfur companies and others as to the amount of royalty on sulfur.

4. In order for any oil or sulfur that may underlie the waters of the Continental Shelf to be available in the event of war, they must be developed in time of peace. Therefore, no delay should occur in the leasing of these lands after the necessary legislation is passed, and no limit as to the amount of lands that one company can purchase should be invoked. This is a tremendously expensive operation, and no company or individual is going out into the Gulf of Mexico and take the necessary gamble unless they have plenty of acreage to justify it. I think in the sale of rank wildcat acreage, that it should be sold in reasonable sized blocks, somewhere between 3 and 6 sections. Experience will show that, in some instances, after a discovery has been made, oil production will be found off of the original block of leases taken by the original discoverer of the field. In other words, the finding of oil is not an exact science. Therefore, a separate provision should be made for the sale of leases in proven fields. I do not believe that it would be unreasonable to sell in 640-acre tracts under those conditions.

5. I think the Bureau of Land Management in the Interior Department should handle these sales. In fact, the Interior Department has too many agencies concerned with oil, and they probably should be consolidated. No new agency should be created to handle the leasing of these lands, nor should it be given to any temporary type agency such as the PAD.

6. Some provision should be made to coordinate the conservation rules for fields that will no doubt be found lying partly within the boundaries of the States and partly within the Continental Shelf area. In other words, a holder of leases on the Continental Shelf side should not be allowed to produce more oil than on

the State side, and vice versa. The simple solution probably would be to let the States regulate the production in such fields. However, on fields wholly within the federally owned continental area, whoever the regulatory body shall be should not be permitted to set producing allowables in excess of the allowables set by the State regulatory bodies in similar fields near State-owned submerged leases. In other words, operators of federally owned leases should not be permitted to produce oil in amounts which might be a threat to the stability of other production in the continental area of the United States, as well as submerged lands owned by the States. If this is not done, we will have a continuing argument between independent oil producers who are not interested in production under the Continental Shelf and the producers of such oil.

Sincerely,

JACK PORTER.

J. ASHTON GREENE & ASSOCIATES,
New Orleans, La., May 28, 1953.

Hon. HUGH BUTLER, *Chairman,*
Hon. GUY CORDON, *Presiding Member,*
Senate Interior and Insular Affairs Committee,
Washington, D. C.

GENTLEMEN: I have enclosed my report on the Continental Shelf areas and I respectfully request its inclusion in the record of hearings on submerged lands, the Continental Shelf areas, etc.

With all good wishes, I remain,

Cordially,

ASHTON GREENE.

REPORT ON OFFSHORE OIL LANDS

It occurs to me that the issue to be decided on the question of the Continental Shelf control is the role that the Federal Government is to play in the development and/or protection of hydrocarbon and other resources in that area.

It is therefore necessary to postulate the national interest in this vital matter, that is, what is the long-range national interest of the United States in the Continental Shelf area?

Some time ago I suggested before this committee that an Interstate Tidelands Board be set up by congressional authorization. I still think that the plan has merit for the Continental Shelf and would therefore like to present it again for consideration.

This Interstate Tidelands Board would be composed as follows:

Three members chosen by the Governor of Louisiana.
Three members chosen by the Governor of Texas.
Three members chosen by the Governor of California.
One member chosen by the American Petroleum Institute.
One member chosen by the Independent Petroleum Association of America.
One member chosen by the Secretary of the Interior from the National Petroleum Council.
One member chosen by the Secretary of Labor from ranks of labor.
One member chosen by the Secretary of the Navy.
One member chosen by the President of the United States as a personal representative.

This Board will be responsible to Congress for the leasing and development of the Continental Shelf areas.

This responsibility will include the demarcation of boundaries, the making of special marine surveys, the making of provision for policing the areas, and the handling of special problems involving jurisdiction between the States and the Federal Government.

This Board will provide that 15 percent of the revenues accruing from the development of the Continental Shelf areas be given to the affected States.

Further, the Navy will get one-eighth of the Continental Shelf as a petroleum reserve. This reserve will be developed under the auspices of the Board, with the Navy making arrangements, as it does in its petroleum-reserve areas, for contracting and production.

There are many problems involved in the long-range solution of this problem. I submit that any proposal to be seriously considered must take into account first the national interest, and secondly the long-range solution.

I submit that my proposal endeavors to stay within that framework. I would also like to suggest that while my proposal does not solve all the issues involved, it does attempt to take into account basic interests of all the parties concerned.

Respectfully submitted.

J. ASHTON GREENE & ASSOCIATES,
By J. ASHTON GREENE.

GULF OIL CORP.,
Houston 1, Tex., May 22, 1953.

The Honorable GUY CORDON,
Acting Chairman, Senate Interior and Insular Affairs Committee, Washington, D. C.

DEAR SIR: I told you yesterday morning that I would write you and give you my views about competitive sale of leases on the outer Continental Shelf by the Secretary of the Interior as might be provided for in S. 1901 now under consideration by the Committee on Interior and Insular Affairs.

I believe the system outlined by the Honorable Bascom Giles, land commissioner of Texas, in his testimony before the committee on the morning of May 20 is appropriate. Under this plan, the Secretary would determine in what areas the operators were interested in buying 5-year leases carrying a one-eighth royalty and a fixed rental. In his investigation, he would no doubt find that in the earlier sales the operators would exhibit interest in two or three dozen areas. Leases within such areas could be advertised, and the areas should embrace at least 100,000 acres.

Under the sale proposal, the Secretary would indicate that on a certain date he would receive sealed bids specifying the amount per acre that bidders would pay for certain specified tracts within any given areas of interest. The tracts bid on would be 640 acres where the area of interest was close to an oil field and 2,500 to 5,000 acres where the area of interest was remote from an oil field. The tracts would be delineated under a grid system which might or might not be adopted from that set up by the State of Texas or that set up by the State of Louisiana, as the Secretary might find it desirable to set up his own grid system and serially number the tracts so that a bidder, in offering his bid, could offer so many dollars per acre for the tract in which he might be interested.

As indicated above and as likewise indicated in Mr. Giles' testimony, I think it quite desirable that in each area of interest or at each sale, as the case may be, the Secretary indicate the specified royalty which the tracts would carry, the standard term of the lease, say, 5 years, and the annual delay rental which the lease would carry during the 5-year period. Unless the Secretary so indicates, then serious complications will undoubtedly result in determining just what constitutes the highest bid in any given instance.

While I am unaware of any testimony on the subject, I think it quite desirable and necessary that the Secretary fix a minimum price per acre on all lands offered for lease, and I am very much inclined to think that a satisfactory price would be a minimum of $50 an acre. The purpose of offering the land subject to a minimum price would be to assure the Secretary that the purchaser was not buying it for speculation, but was serious enough in his interest in the land on which he was making an offer to spend the necessary money to develop it.

If the Secretary fixed a minimum price below which he would not sell any of the land, he could, if it seemed desirable, offer for sale the land in large areas, such as several million acres, because the Government would be protected under the minimum price specification against selling the land too cheap. Only by allowing operators to purchase these lands promptly in large volume can the Secretary be assured that the outer Continental Shelf will be developed and the royalty made available to the Government and the petroleum products be made available to our peace and war economy in the reasonably near future.

Yours very truly,

BEN C. BELT.

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