

SUBMERGED LANDS ACT

MARCH 27, 1953.—Ordered to be printed,

Mr. CORDON, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. J. Res. 13]

The Senate Committee on Interior and Insular Affairs, to whom was referred the resolution, Senate Joint Resolution 13, to confirm and establish the titles of the States to lands beneath navigable waters within State boundaries and to the natural resources within such lands and waters, and to provide for the use and control of said lands and resources, having considered the same, report favorably thereon with an amendment in the nature of a substitute, and recommend that the bill, as amended, do pass. Senate Joint Resolution 13 was introduced by Senator Spessard L. Holland, of Florida, and sponsored by the following 39 other Senators: Mr. Butler of Nebraska, Mr. Smathers, Mr. Byrd, Mr. Robertson, Mr. Bennett, Mr. Watkins, Mr. Bricker, Mr. Taft, Mr. Butler of Maryland, Mr. Beall, Mr. Cordon, Mr. Carlson, Mr. Schoeppel, Mr. Daniel, Mr. Johnson of Texas, Mr. Duff, Mr. Martin, Mr. Ellender, Mr. Long, Mr. Eastland, Mr. Stennis, Mr. Frear, Mr. Flanders, Mr. Goldwater, Mr. Hendrickson, Mr. Smith of New Jersey, Mr. Hickenlooper, Mr. Jenner, Mr. Knowland, Mr. Kuchel, Mr. McClellan, Mr. Maybank, Mr. Mundt, Mr. Potter, Mr. Saltonstall, Mr. Smith of North Carolina, Mr. Thyne, Mr. Welker, and Mr. McCarran.

Public hearings were held on Senate Joint Resolution 13 and related measures on February 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, and March 2, 3, and 4, 1953. Some 66 witnesses appeared before the committee, including the Attorney General of the United States, the Secretary of the Interior, and the Secretary of the Navy. Testimony and exhibits submitted to the committee during this hearing comprise 1,282 printed pages.

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II. THE AMENDMENT

For the convenience of the Members of the Senate, the committee is reporting a clean bill. Therefore, the amendment is to strike out all after the enacting clause and in lieu thereof insert the language set forth below. In part VI of this report, *post*, the changes from the original Holland bill as introduced are shown in detail and explained.

The committee wishes to emphasize that, as will be seen from comparison with the measure as introduced, the changes are primarily those of form and language, and the committee amendment is consistent throughout with the philosophy and intent of Senate Joint Resolution 13 as introduced. The only change of substance is found in section 9, in which the jurisdiction and control of the Federal Government over the natural resources of the seabed of the Continental Shelf seaward of historic State boundaries is confirmed. This assertion gives the weight of statutory law to the jurisdiction asserted by the proclamation of the President of the United States in 1945. The text of this proclamation is set forth in appendix A of this report:

The committee's form of the bill is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this Joint Resolution may be cited as the "Submerged Lands Act".

TITLE I

DEFINITION

SEC. 2. When used in this Joint Resolution—

(a) The term "lands beneath navigable waters" means—

(1) all lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a member of the Union, or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction;

(2) all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore or hereafter approved by Congress, extends seaward (or into the Gulf of Mexico) beyond three geographical miles, and

(3) all filled in, made, or reclaimed lands which formerly were lands beneath navigable waters, as hereinabove defined;

(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 or hereafter approved by the Congress, or as extended or confirmed pursuant to section 4 hereof;

(c) The term "coast line" means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters;

(d) The terms "grantees" and "lessees" include (without limiting the generality thereof) all political subdivisions, municipalities, public and private corporations, and other persons holding grants or leases from a State, or from its predecessor sovereign if legally validated, to lands beneath navigable waters if such grants or leases were issued in accordance with the constitution, statutes, and decisions of the courts of the State in which such lands are situated, or of its predecessor sovereign: *Provided, however*, That nothing herein shall be construed as conferring upon said grantees or lessees any greater rights or interests other than are described herein and in their respective grants from the State, or its predecessor sovereign;

(e) The term "natural resources" includes, without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, crabs,

lobsters, sponges, kelp, and other marine animal and plant life but does not include water power, or the use of water for the production of power;

(f) The term "lands beneath navigable waters" does not include the beds of streams in lands now or heretofore constituting a part of the public lands of the United States if such streams were not meandered in connection with the public survey of such lands under the laws of the United States and if the title to the beds of such streams was lawfully patented or conveyed by the United States or any State to any person;

(g) The term "State" means any State of the Union;

(h) 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;

TITLE II

LANDS BENEATH NAVIGABLE WATERS WITHIN STATE BOUNDARIES

SEC. 3. RIGHTS OF THE STATES.—

(a) It is hereby determined and declared to be in the public interest that (1) title to and ownership of the lands beneath navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters, and (2) the right and power to manage, administer, lease develop, and use the said lands and natural resources all in accordance with applicable State law be, and they are hereby, subject to the provisions hereof, recognized, confirmed, established, and vested in and assigned to the respective States or the persons who were on June 5, 1950, entitled thereto under the law of the respective States in which the land is located, and the respective grantees, lessees, or successors in interest thereof;

(b) (1) The United States hereby releases and relinquishes unto said States and persons aforesaid, except as otherwise reserved herein, all right, title, and interest of the United States, if any it has, in and to all said lands, improvements, and natural resources; (2) the United States hereby releases and relinquishes all claims of the United States, if any it has, for money or damages arising out of any operations of said States or persons pursuant to State authority upon or within said lands and navigable waters; and (3) the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States shall pay to the respective States or their grantees issuing leases covering such lands or natural resources all moneys paid thereunder to the Secretary of the Interior or to the Secretary of the Navy or to the Treasurer of the United States and subject to the control of any of them or to the control of the United States on the effective date of this Joint Resolution, except that portion of such moneys which (1) is required to be returned to a lessee; or (2) is deductible as provided by stipulation or agreement between the United States and any of said States;

(c) The rights, powers, and titles hereby recognized, confirmed, established and vested in and assigned to the respective States and their grantees are subject to each lease executed by a State, or its grantee, which was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing, or whose grantee issued, such lease, and such rights, powers, and titles are further subject to the rights herein now granted to any person holding any such lease to continue to maintain the lease, and to conduct operations thereunder, in accordance with its provisions for the full term thereof, and any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued such lease: *Provided, however*, That, if oil or gas was not being produced from such lease on and 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 the State issuing, or whose grantee issued, such lease: *Provided, however*, That within ninety days from the effective date hereof (i) the lessee shall pay to the State or its grantee issuing such lease all rents, royalties, and other sums payable between June 5, 1950, and the effective date hereof, under such lease and the laws of the State issuing or whose grantee issued such lease, except such rents, royalties, and other sums as have been paid to the State, its grantee, the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States and not refunded to the lessee; and (ii) the lessee shall file with the Secretary of the Interior or the Secretary of the Navy and with the State issuing or whose grantee issued such lease, instruments consenting to the payment by the Secretary of the

Interior or the Secretary of the Navy or the Treasurer of the United States to the State or its grantee issuing the lease, of all rents, royalties, and other payments under the control of the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States or the United States which have been paid, under the lease, except such rentals, royalties, and other payments as have also been paid by the lessee to the State or its grantee;

(d) Nothing in this Joint Resolution shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of said lands and waters for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power;

(e) Nothing in this Joint Resolution shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian, relating to the ownership and control of ground and surface waters; and the control, appropriation, use, and distribution of such waters shall continue to be in accordance with the laws of such States.

SEC. 4. SEAWARD BOUNDARIES.—The seaward boundary of each original coastal State is hereby approved and confirmed as a line three geographical miles distant from its coast line. Any State admitted subsequent to the formation of the Union which has not already done so may extend its seaward boundaries to a line three geographical miles distant from its coast line, or to the international boundaries of the United States in the Great Lakes or any other body of water traversed by such boundaries. 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 three 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 or is hereafter approved by Congress.

SEC. 5. EXCEPTIONS FROM OPERATION OF SECTION 3 OF THIS JOINT RESOLUTION.—There is excepted from the operation of section 3 of this Joint Resolution—

(a) all tracts or parcels of land together with all accretions thereto, resources therein, or improvements thereon, title to which has been lawfully and expressly acquired by the United States from any State or from any person in whom title had vested under the law of the State or of the United States, and all lands which the United States lawfully holds under the law of the State; all lands expressly retained by or ceded to the United States when the State entered the Union; all lands acquired by the United States by eminent domain proceedings, purchase, cession, gift, or otherwise in a proprietary capacity; all lands filled in, built up, or otherwise reclaimed by the United States for its own use; and any rights the United States has in lands presently and actually occupied by the United States under claim of right;

(b) such lands beneath navigable waters held, or any interest in which is held by the United States for the benefit of any tribe, band, or group of Indians or for individual Indians; and

(c) all structures and improvements constructed by the United States in the exercise of its navigational servitude.

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, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically recognized, confirmed, established, and vested in and assigned to the respective States and others by section 3 of this Joint Resolution.

(b) In time of war or when necessary for national defense, and the Congress or the President shall so prescribe, the United States shall have the right of first refusal to purchase at the prevailing market price, all or any portion of the said natural resources, or to acquire and use any portion of said lands by proceeding in accordance with due process of law and paying just compensation therefor.

SEC. 7. Nothing in this Joint Resolution shall be deemed to amend, modify, or repeal the Acts of July 26, 1866 (14 Stat. 251), July 9, 1870 (16 Stat. 217), March 3, 1877 (19 Stat. 377), June 17, 1902 (32 Stat. 388), and December 22, 1944 (58 Stat. 887), and Acts amendatory thereof or supplementary thereto.

SEC. 8. Nothing contained in this Joint Resolution shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this Joint Resolution and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however*, That nothing contained in this Joint Resolution is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact or in law applies to the lands subject to this Joint Resolution, or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything contained in this Joint Resolution.

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

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

SEC. 11. SEPARABILITY.—If any provision of this Joint Resolution, 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 Joint Resolution 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.

Amend the title so as to read:

Joint resolution to confirm and establish the titles of the States to lands beneath navigable waters within State boundaries and to the natural resources within such lands and waters, to provide for the use and control of said lands and resources, and to confirm the jurisdiction and control of the United States over the natural resources of the seabed of the Continental Shelf seaward of State boundaries.

III. PURPOSE OF BILL

Senate Joint Resolution 13, as amended, determines and declares that it is in the public interest that title and ownership of lands beneath navigable waters within the boundaries of the respective States, and of the resources therein, be established and vested in the respective States. Insofar as the Federal Government has any proprietary rights in such lands and waters, that interest is relinquished or "quitclaimed" to the individual States.

The measure also provides that in addition to title and ownership, but distinct from them, the States shall have the right and power to manage, administer, lease, develop, and use such lands and natural resources in accordance with the terms of Senate Joint Resolution 13 and applicable State law, and whatever rights the Federal Government may have in such management and administration are established in and assigned to the States.

The proposed legislation specifically sets forth that none of the interests or rights established in, or confirmed, assigned, or quitclaimed to the States shall in any wise affect the constitutional powers of the Federal Government to regulate commerce, provide for the common

defense, or to conduct international affairs in the navigable waters areas within State boundaries.

Offshore submerged lands

The offshore rights which are confirmed to the States and their grantees are rights growing out of the concept of ownership and proprietary use and development—rights which were first asserted by the Federal Government in recent years and which it has never exercised nor enjoyed. These rights, legally vested in the States and their grantees by Senate Joint Resolution 13, have in fact been enjoyed and exercised by them from the beginning of our history as a nation until the date of the California decision.

Under this concept of ownership and control by the several States and their grantees immense development has been achieved representing untold millions of dollars of new economic wealth. This wealth has been created through control of the taking, within the boundaries of the States, of various forms of marine life, such as fish, oysters, shrimp, sponges, kelp and others; through the use of sand, shell, gravel and important minerals; through the erection and use of piers, as well as bulkheads and groins for the filling and conservation of new lands; through the erection and control on said new-built lands of valuable recreational, commercial, and private improvements, and through construction and use of facilities for the disposal of sewage and industrial waste. The control by the States of the production of oil and gas from their coastal belts has also created substantial values, which will continue temporarily in a few places for a few years, but such production of oil and gas in the past, present, or future is insignificant in value when compared with the many permanent values which largely determine the development and prosperity of coastal communities and many important industries.

Considering the untold millions of dollars of economic wealth represented in the port and harbor developments of our great coastal cities, in the recreational, residential, and commercial areas of Boston Harbor, Long Island, Staten Island, New Jersey, Florida, California, and elsewhere, and the beginnings of the development of the undersea oil and gas deposits within State boundaries off the Gulf and Pacific coasts, the committee majority is firmly convinced that the State ownership under which all of these and many other developments have been achieved should be continued in the public interest and in the furtherance of our Federal-State system.

It is highly significant that in all 16 hearings on this subject, comprising over 8,000 printed pages of evidence, no single instance has been mentioned where any of the thousands of developments accomplished under the authority and direction of the States and their grantees has interfered in the slightest degree with the exercise by the United States of its paramount constitutional powers or its governmental functions. Senate Joint Resolution 13 makes certain that there shall be no such interference or impairment in the future.

Lands beneath inland waters and Great Lakes

The committee likewise calls attention to the fact that Senate Joint Resolution 13 will operate to confirm to all States in the Nation the ownership and control of the submerged lands under their navigable inland waters and will confirm to the States bordering on the Great

Lakes the ownership and control of the beds of the Great Lakes, extending in many cases to international boundaries. Particular attention is directed to those portions of the report of the Senate Judiciary Committee on S. 1988 of the 80th Congress, 2d session, appearing in the appendix to this report, which relate to inland navigable waters of all States in the Union, and to the beds of the Great Lakes. It is abundantly clear that as to the beds of these inland waters and the Great Lakes the States have, under present conditions, grave reason for the apprehensions which flow out of the wording of the decision of the California case, and also out of the printed observations of Federal counsel in the California case, and out of the testimony of a former Attorney General and a former Solicitor General. The fact that most of the attorneys general of the several noncoastal States have joined in drafting and supporting Senate Joint Resolution 13, coupled with the fact that the American Bar Association has officially expressed its concern relative to the beds of the inland waters and of the Great Lakes, shows clearly the necessity of confirming these values to all States as will be accomplished by Senate Joint Resolution 13.

Reference is made to the large areas of inland waters and Great Lakes waters contained within the various States and set forth in table E of the appendix.

All States treated alike

The joint resolution treats all of the States alike, both inland and coastal, with respect to lands beneath navigable waters within their respective boundaries. As shown by the list in appendix F, every State has submerged lands which are covered by this joint resolution. Comparative totals show far greater areas under inland waters and the Great Lakes, as follows:

	<i>Acres</i>
Lands under inland waters.....	28, 960, 640
Lands under Great Lakes.....	38, 595, 840
Lands under marginal seas.....	17, 029, 120

All of these areas of submerged lands have been treated alike in this legislation because they have been possessed, used, and claimed by the States under the same rule of law, to wit: That the States own all lands beneath navigable waters within their respective boundaries. Prior to the California decision, no distinction had been made between lands beneath inland waters and lands beneath seaward waters so long as they were within State boundaries.

The rule was stated by the Supreme Court in the early case of *Pollard v. Hagan* (3 How. 212, 229 (1845)) in the following words:

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. Second. The new States have the same rights, sovereignty, and jurisdiction over this subject as the original States.

The Pollard case and its general rule common to lands under both inland and seaward waters was cited with approval by 52 Supreme Court decisions and 244 State and Federal court decisions prior to the California case.¹ Excerpts from some of these opinions are included in appendix G.

¹ See Sheppard's Citations, *Pollard v. Hagan*, supra.

The majority opinion in the California case concedes that the Supreme Court in the past has indicated its belief that this Pollard rule of State ownership applies equally to all lands under navigable waters within State boundaries, whether inland or seaward. Mr. Justice Black said for the majority in the California case:

As previously stated this Court has followed and reasserted the basic doctrine of the Pollard case many times. And in doing so it has used language strong enough to indicate that the Court then believed that States not only owned tide-lands and soil under navigable inland waters, but also owned soils under all navigable waters within their territorial jurisdiction whether inland or not.

The purpose of this legislation is to write the law for the future as the Supreme Court believed it to be in the past—that the States shall own and have proprietary use of all lands under navigable waters within their territorial jurisdiction, whether inland or seaward, subject only to the governmental powers delegated to the United States by the Constitution.

"Oil grab" charge of opposition

For years the charge has been made, and it is still being made, that those who believe that the States themselves are best qualified to own and manage the lands and resources within their State boundaries are somehow participating in an "oil grab" as "stooges" of the oil industry. Nowhere in the long and voluminous record is there a scintilla of evidence even remotely substantiating such a charge.

The evidence is undisputed that the States receive more money for their mineral leases than is received by the Federal Government. The States receive larger bonus payments and higher rentals and royalties. For instance, Texas has averaged \$20 per acre for its submerged land leases on unproven acreage in its marginal belt. The State has received over \$7,000,000 for leases on approximately 350,000 acres. If the same leases had been sold under the present Federal Mineral Leasing Act the Federal Government would have received only 50 cents per acre or a total of \$175,000.

Under any of the scores of bills that have been submitted since the California, Texas, and Louisiana decisions, both by proponents of Federal control and by proponents of State control, the equities have been recognized of the oil operators who in good faith obtained leases from the States and who then went out and spent their own money in exploration and initial development work. These equities specifically have been recognized in all of the so-called administration bills submitted during the 80th, 81st, and 82d Congresses. They are similarly recognized in Senate Joint Resolution 13; the rights, powers, and titles vested in the States are made subject to the prior grants from the States, and the State-issued leases in navigable waters within State boundaries which were in force and effect on June 5, 1950—the date of the Supreme Court decisions in the Louisiana and Texas cases—are continued under their own terms and applicable State law. The committee majority emphasizes the fact that with respect to existing leases the same operators would produce the same oil and pay the same royalties under Federal administration as they will under State administration.

IV. LEGISLATION FOR CONTINENTAL SHELF

The committee majority is fully aware that in proposing legislation applying only to submerged lands inside State boundaries, there remains a large and important area requiring congressional action, namely, the Continental Shelf seaward of State boundaries. Senate Joint Resolution 13, as amended, deals with this vast area only to the extent that it gives statutory confirmation to the jurisdiction and control of the United States over the resources of the seabed and subsoil of the Continental Shelf which was asserted in 1945 by the Presidential proclamation. It does not attempt to provide for the administration and development of the area and the mechanics of control.

These highly important, complex matters, after full discussion in the hearings and in the committee, have been left for further early consideration in separate legislation.

The complexity of the problem presented by the assumption by the United States of jurisdiction and control over the subsoil and seabed of the outer Continental Shelf is immediately apparent from even a cursory examination of the Presidential proclamation. The declaration is limited to jurisdiction and control of the resources of the land mass; as stated in the proclamation—

the character as high seas of the waters above the Continental Shelf and the right to their free and unimpeded navigation are in no way thus affected.

Clearly, we have here neither absolute sovereignty nor absolute ownership.

It must follow that the interest of the United States is, from a national and an international standpoint, politically and legally, *sui generis*. What Federal laws are applicable, what should apply? In what court, where situated, does jurisdiction lie or where should it be placed? Should new Federal law be enacted where existing statutes are wholly inadequate, or should the laws of abutting States be made applicable? The necessity for answering these questions is clear when we take note of the fact that the full development of the estimated values in the shelf area will require the efforts and the physical presence of thousands of workers on fixed structures in the shelf area. Industrial accidents, accidental death, peace and order—these and many other problems and situations need and must have legislative attention.

Therefore, the committee feels that the dual legislative approach is most desirable. Thereby each problem may be judged and determined by the Senate on its merits and subject to the particular and different considerations involved in each. As stated previously, the committee already has done considerable work toward recommending a legislative solution of the problems of the outer shelf, and it is committed to introducing and reporting to the Senate a measure, or measures, to that end as soon as possible during this session of the 83d Congress.

V. SECTIONAL ANALYSIS OF THE JOINT RESOLUTION AS REPORTED

SECTION 1—TITLE

This joint resolution may be cited as the "Submerged Lands Act."

SECTION 2—DEFINITIONS

The following terms are defined: "lands beneath navigable waters," "boundaries," "coast line," "grantees," "lessees," "natural resources," "State," and "person."

SECTION 3—RIGHTS OF THE STATES

Section 3 (a) (1) provides that the rights of ownership of lands and natural resources beneath navigable waters within the historic boundaries of the respective States are vested in and assigned to the States or persons holding thereunder on June 5, 1950 (the date of the Supreme Court decision in the Louisiana and Texas cases) as explained in part III, "purpose of bill." Under the terms of the measure the lands confirmed in the States by Senate Joint Resolution 13 are (i) lands within State's boundaries which are above high-water mark and are covered by navigable, nontidal waters, (ii) lands between the high-water mark and a line 3 miles seaward from the coastline, except that in States whose boundary extended beyond that line when the State entered the Union, or whose boundary has been or may hereafter be so extended with the approval of Congress, the resolution covers lands between the high-water mark and that boundary and (iii) all filled in, made, or reclaimed lands formerly beneath navigable waters.

Section 3 (a) (2) authorizes the States to administer, develop, and use the lands and natural resources beneath navigable waters.

Section 3 (b) (1) releases the right, title, and interest of the United States in the lands, improvements, and natural resources, upon or beneath navigable waters.

Section 3 (b) (2) releases all claims of the United States for money or damages arising out of operations of States or persons holding thereunder on the lands beneath navigable waters.

Section 3 (b) (3) provides that the United States shall pay to the respective States all moneys under its control which have been tendered to it under leases issued by these States, except sums which are required to be returned to the lessee or are deductible pursuant to agreement between the United States and any State.

Section 3 (c) provides that the grants to the States are subject to the terms of State leases in force on June 5, 1950. This recognizes the equities of existing operators to continue to operate for the duration of their leases. The first proviso to this subsection states that if oil and gas was not being produced from a lease on December 11, 1950 (the date of the decree in the Texas and Louisiana cases), or if the primary term of a lease has expired since that date, the lease shall be for a term from the effective date of this act equal to the term remaining unexpired on December 11, 1950. The purpose of this proviso is to prevent lessees from being penalized for their failure to develop or renew their leases during the period when their exploration and development was enjoined by the Supreme Court. The second proviso to this subsection states that all lessees must tender to the

States within 90 days all unpaid rentals, royalties, and other sums due and owing, and that where the lessee may have paid such sums to the Federal Government under the lease, the lessee is required to authorize the Federal Government to return the money to the States, except where the lessee has also paid the State.

A question has been asked of the committee as to the effect of section 3 (c) of the bill on a Florida lease on which Florida abated the lease rentals until such time as the lands here involved are revested in the State by congressional action.

The committee understands that where rentals have been abated, or otherwise satisfied by agreement between a State and its lessee, section 3 (c) will in nowise vary or affect such agreement.

Section 3 (d) provides that nothing in the act shall be construed as affecting or releasing any of the constitutional authority of the United States over said lands and waters for the purposes of navigation, flood control, or the production of power.

Section 3 (e) provides that nothing in this act shall affect the laws of the States lying wholly or in part westward of the 98th meridian, relating to the ownership and control of ground and surface waters.

SECTION 4—SEAWARD BOUNDARIES

The seaward boundary of each original coastal State is confirmed and approved as a line 3 geographical miles distant from its coast line. "Coastline" is defined as the line of ordinary low water or the line marking the seaward limit of inland waters. This provision stems from the fact that the Supreme Court decision in *United States v. California* has been thought by some persons to cast doubt on whether the boundary of various eastern seaboard States extends 3 miles seaward from their coastlines.

Congressional authority is given for any State admitted subsequent to the formation of the Union to extend its seaward boundary to a line 3 geographical miles distant from its coastline, or to the international boundary of the United States. Any such extension of a State's boundary is expressly without prejudice to any claim a State may have that its boundary extends beyond that line. It is also provided that this section is without prejudice to the existence of a State's boundary beyond the 3-mile limit, if it was so provided prior to or at the time such State entered the Union, or if it has been heretofore or is hereafter approved by Congress.

SECTION 5—LAND EXCEPTED

Section 5 (a) provides that there is excepted from the operation of section 3 all tracts of land, together with all accretions thereto, resources therein, or improvements thereon, which the United States acquired from any State, or from any person in whom title had vested under the law of the State or of the United States; all lands which the United States lawfully holds under the law of a State; all lands expressly retained by or ceded to the United States when the State entered the Union; all lands acquired by the United States by eminent domain, purchase, cession, gift, or otherwise in a proprietary capacity; all lands filled in, built up, or otherwise reclaimed by the United States for its own use; and any rights which the United States has in lands presently and actually occupied under claim of right.

Section 5 (b) provides that lands or interest therein held by the United States for the benefit of Indians are also excepted.

Section 5 (c) excepts all improvements constructed by the United States in the exercise of its navigational servitude.

SECTION 6—POWERS RETAINED BY THE UNITED STATES

Section 6 (a) provides that the United States retain all of its navigational servitude and rights 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, the rights and powers granted to the States by section 3 of this joint resolution.

Section 6 (b) provides that in time of war, or when necessary for national defense, and the Congress or the President shall so prescribe, the United States shall have the right of first refusal to purchase the natural resources covered by this act at the prevailing market price, or to acquire any portion of the lands covered by this act by proceeding in accordance with due process of law and paying just compensation.

SECTION 7—CONSTRUCTION WITH OTHER ACTS

This section provides that the joint resolution shall not affect, modify, or repeal the certain prior acts of Congress with respect to water rights and uses as follows:

Act of July 26, 1866 (14 Stat. 251).—The main purpose of this act is to provide that the mineral lands of the public domain are open to exploration and occupation and to set forth the procedure for obtaining patents. The act also provides that rights to the use of water which have become vested by priority of possession shall be protected, and it establishes the right of the owners of such vested water rights to construct ditches and canals for the use of the water.

Act of July 9, 1870 (16 Stat. 217).—This act amends the act of July 26, 1866 (mentioned above) by providing that placer claims are subject to entry and patent, and by establishing the procedure for making such entries. The amendment specifically provides that the water rights conferred by the act of July 26, 1866, shall not be abrogated by the amendment.

Act of March 3, 1877 (19 Stat. 377).—This act provides that desert lands can be purchased for 25 cents an acre by persons who declare their intention to reclaim the land by conducting water onto the land within 3 years. The act provides, however, that the right to use the water shall depend on a bona fide prior appropriation and shall not exceed the water actually used for irrigation and reclamation. Under the act, all surplus water over such actual appropriation and use and all other nonnavigable water on the public domain are declared to remain free for appropriation.

Act of June 17, 1902 (32 Stat. 388).—This act provides that all proceeds from the sale of public lands in 16 Western States (excepting the 5 percent set aside for education) shall be set aside in a reclamation fund for irrigation and reclamation projects. Under the act, a

procedure is set up for the construction and location of irrigation projects and provision is made for entry on lands to be irrigated and for the purchase of irrigation water by private individuals. Section 8 of the statute provides that nothing in the act shall affect State laws relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired under such State law.

Act of December 22, 1944 (58 Stat. 887).—This act establishes rules for the improvement of rivers for navigation and flood control, and authorizes the construction of certain public works on rivers and harbors for that purpose. The act declares that it is the policy of Congress to recognize the interests and rights of the States * * * in water utilization and control and limits navigation works to those which can be operated consistently with "appropriate and economic use of the waters of such rivers by other users."

SECTION 8—SAVING CLAUSE

This section contains a saving clause providing that nothing in this resolution shall affect such rights, if any, as may have previously been acquired under any law of the United States on lands subject to the resolution.

SECTION 9—CONTINENTAL SHELF

This section provides that nothing in this act shall affect the rights of the United States to the resources of the Continental Shelf outside State boundaries, which are declared to appertain to the United States and confirmed to be under its jurisdiction and control.

SECTION 10—EXECUTIVE ORDER NO. 10426 REVOKED

This section provides that Executive Order No. 10426 entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve" is revoked insofar as it applies to lands beneath navigable waters as defined in the joint resolution.

SECTION 11—SEPARABILITY

This section contains, in addition to the standard form of separability clause, an additional clause indicating the specific intention of Congress that if any of the provisions of subsections 3 (a), (b), or (c) is held invalid, such provisions shall be held separable and the remainder of the joint resolution shall not be affected thereby.