

*Louisiana*, 382 U.S. 288, and on December 30, 1966, the Secretary issued a notice of his intention to assume exclusive regulatory authority over the federal area, 32 Fed. Reg. 95. This does not mean, of course, that in doing so he will disregard the regulatory patterns of adjacent States or fail to give due consideration to the desirability of maintaining compatibility with them.

Without making any reference to statutory provisions such as those cited above, section 3 of S. 1826 would make a State's conservation laws and regulations applicable "without discrimination" to all federal lands and mineral interests within the State and in the adjacent outer continental shelf, and would empower state officials to administer and enforce them there. This proposal to delegate to the States complete authority for conservation regulation and enforcement over federal property and in areas of exclusive federal jurisdiction both within and outside the States raises serious constitutional and policy questions.

When President Eisenhower signed the Submerged Lands Act on May 22, 1953, he issued a statement emphasizing that the submerged lands outside state boundaries "should be administered by the Federal Government and income therefrom should go into the federal treasury." S. Rept. No. 411; 83d Cong., 1st sess., page 52. At the same time, when the Outer Continental Shelf Lands Act was under consideration, the Department of the Interior and this Department both objected to proposals to delegate to the States any authority over the outer continental shelf, both on policy grounds and because of the serious constitutional question involved. See your Committee's hearings on S. 1901, 83d Cong., 1st sess., pages 644-655, 688, and 700, and its report thereon, S. Rept. 411, 83d Cong., 1st sess., pages 26, 27, 31 and 33.

I find no reason now to take a different view of either the constitutional or policy questions. It is true that since enactment of the Outer Continental Shelf Lands Act the Supreme Court has sustained the 1948 revision of the Assimilative Crimes Act, 18 U.S.C. 13, which adopted existing and future state criminal laws as federal laws for areas of exclusive federal jurisdiction within the several States, *United States v. Sharpnack*, 355 U.S. 286 (1958). However, the Assimilative Crimes Act merely incorporated by reference the terms of state laws, which is a very different thing from the outright delegation of legislative and administrative jurisdiction that is proposed here. Moreover, that Act was sustained, as to its incorporation of subsequent state enactments, on the ground that it was an appropriate means of effectuating a long-standing congressional policy, the dominating purpose of which was to maintain, in federal enclaves within States, the same rules of criminal law as prevailed in the surrounding areas, regardless of the substantive content of those rules. It is by no means clear that the considerations favoring a policy of local uniformity in criminal laws governing the conduct of individuals have any relevancy to the problem of regulating the production of natural resources from federal lands by federal lessees. This is particularly true as to the outer continental shelf, which is wholly outside state boundaries and where operating conditions are so different from those closer to shore or on shore that uniformity might itself prove to be a serious discrimination. Not only can there be no assurance that the States would establish adequate differentiations, but if they did try to do so, the saving criterion of objective uniformity would disappear in a series of subjective evaluations.

The proposed transfer to the States of jurisdiction over federal enclaves within their boundaries might be sustained as not a delegation of federal power but rather a partial relinquishment of the exclusive federal jurisdiction. In that light, however, it would be of questionable propriety insofar as it would transfer the federal responsibility for trust properties; and as to all properties it would present a serious question of federal power to reassert the relinquished jurisdiction at any future time. A State cannot unilaterally reassert its jurisdiction over any area that it has relinquished to the United States, *In re Ladd*, 74 Fed. 31, 38 (D. Neb. 1896), and it seems that the same must be true as to the United States. See 2 *Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States* (1957) 83. As to the outer continental shelf, which is wholly outside state boundaries and has always been beyond state jurisdiction, the proposal can only be viewed as a delegation of federal governmental power.

This part of S. 1826 is seriously deficient in its failure to indicate its relationship to the existing authority of the Secretaries of the Interior and of the Navy, which might be either repealed by implication, or remain, but subject to state laws and regulations, or remain, superior to state laws and regulations. To