

Commonwealth of Kentucky

Department of State



Office of Secretary of State

ELMER BEGLEY
SECRETARY
FRANKFORT, KENTUCKY

CERTIFICATE

I, ELMER BEGLEY, Secretary of State for the Commonwealth of Kentucky, do certify that the foregoing writing has been carefully compared by me with the original record thereof, now in my official custody as Secretary of State and remaining on file in my office, and found to be a true and correct copy of

ASHLAND OIL & REFINING COMPANY Certificate and Statement in respect of Resolution establishing and designating Cumulative Preferred Stock, \$5.00 convertible series of 1969, and fixing and determining certain rights thereof and the number of shares issuable. Filed October 17th, 1969.

IN WITNESS WHEREOF, I have hereunto
set my hand and affixed my official seal.

Done at Frankfort this 29TH day of

OCTOBER, 1969

Elmer Begley
Secretary of State, Commonwealth of Kentucky

By _____
Assistant Secretary of State

ASHLAND OIL & REFINING COMPANY

CERTIFICATE AND STATEMENT IN RESPECT OF RESOLUTION ESTABLISHING AND DESIGNATING CUMULATIVE PREFERRED STOCK, \$5.00 CONVERTIBLE SERIES OF 1969, AND FIXING AND DETERMINING CERTAIN RIGHTS THEREOF AND THE NUMBER OF SHARES ISSUABLE

KNOW ALL MEN BY THESE PRESENTS, that ORIN E. ATKINS, as the President, and JOHN P. WARD, as an Assistant Secretary, of ASHLAND OIL & REFINING COMPANY, a Kentucky corporation, do hereby certify that at a meeting of the Board of Directors of said Company duly called and held in accordance with law and the By-laws of said Company on July 22, 1969, the following resolution establishing and designating the \$5.00 Convertible Series of 1969 of Cumulative Preferred Stock of said Company and fixing and determining certain rights thereof and the number of shares issuable was duly adopted:

RESOLVED, that, pursuant to the authority expressly vested in the Board of Directors by the Company's Restated Articles of Incorporation, as amended, there be and there hereby is established a series of the Cumulative Preferred Stock, without par value, of the Company, the designation of such series, the number of shares to be issuable therein, and the terms and provisions thereof in addition to those contained in said Restated Articles of Incorporation to be as follows:

I. *Designation of Series and Number of Shares to be Issuable Therein.* This series of the Cumulative Preferred Stock shall be designated "Cumulative Preferred Stock, \$5.00 Convertible Series of 1969" (hereinafter called the Convertible Series of 1969), of which 550,000 shares shall be issuable.

II. *Annual Amount of Dividends.* The dividend rate per annum for shares of the Convertible Series of 1969 shall be \$1.00 per share prior to and including December 15, 1969, and \$5.00 per share thereafter, and no more.

III. *Redemption.* The shares of the Convertible Series of 1969 may not be redeemed before September 16, 1979; *provided, however*, that, notwithstanding the foregoing, the Company may, after March 15, 1975, redeem all or any part of the shares of the Convertible Series of 1969 if after such date (i) the affirmative vote or consent of the holders of the shares of the Convertible Series of 1969, whether voting or consenting (x) separately as a series or (y) as a part of a separate class without regard to series, shall have been sought (pursuant to the requirement of any applicable law, rule or regulation or the Company's Restated Articles of Incorporation) with respect to any matter (other than an alteration or change in Sections II through VI of this resolution or Paragraph (f) of Subdivision I of Article Fourth of the Company's Restated Articles of Incorporation so as adversely to affect the provisions of the Convertible Series of 1969) and the approval of such matter shall not have been obtained by reason of the failure of any shares of the Convertible Series of 1969 affirmatively to vote for or consent thereto, or (ii) the price of the Common Stock of the Company, on each of the 20 consecutive business days immediately preceding the date on which the notice of such redemption is mailed to the holders of the shares of the Convertible Series of 1969 to be redeemed, shall have been equal to or greater than \$62.50 per share (subject to appropriate adjustment in the event of any adjustment in the conversion ratio pursuant to Section VI(b) of this resolution), such price for each day to be the last sales price regular way or, in case no such sale takes place on such day, the average of the closing bid and asked prices regular way, in either case as officially quoted by the New York Stock Exchange. On and after September 16, 1979, the Company may redeem all or any part of the shares of the Convertible Series of 1969 without limitation. After March 15, 1975, shares of the Convertible Series of 1969 which may be redeemed pursuant to this Section III shall be redeemed at the following redemption prices:

\$105.00 per share to and including September 15, 1976; thereafter

\$104.00 per share to and including September 15, 1978; thereafter

\$103.00 per share to and including September 15, 1980; thereafter
 \$102.00 per share to and including September 15, 1982; thereafter
 \$101.00 per share to and including September 15, 1984; thereafter
 \$100.00 per share, plus in each case an amount equal to accrued and unpaid dividends thereon.

IV. *Liquidation Prices.* The amount payable on each share of the Convertible Series of 1969 in the event of dissolution, liquidation or winding up of the Company, whether voluntary or involuntary, shall be \$105.00 per share plus an amount equal to accrued and unpaid dividends thereon.

V. *Sinking Fund Provisions.* The following, subject to the provisions of Paragraph (f) of Subdivision I of Article Fourth of the Company's Restated Articles of Incorporation, shall constitute the sinking fund provisions of the Convertible Series of 1969:

(a) On or before September 15, 1979, and on or before each September 15, thereafter to and including September 15, 1998, the Company will deposit with the transfer agent for the Convertible Series of 1969, in trust as and for a sinking fund for the Convertible Series of 1969, a sum (herein called the "Sinking Fund Payment") sufficient in each instance to redeem, at the Sinking Fund Redemption Price, 5% of the number of shares of the Convertible Series of 1969 outstanding on June 1, 1979; *provided, however*, that the obligation of the Company to make such Sinking Fund Payment in cash may, at the option of the Company as specified by it in writing to such transfer agent on or before June 1 next preceding each such September 15 (herein called the "Sinking Fund Redemption Date"), be reduced and satisfied by crediting against said obligation an amount equal to the Sinking Fund Redemption Price of (i) each share of the Convertible Series of 1969 surrendered to such transfer agent by the Company prior to the June 1 next preceding such Sinking Fund Redemption Date and not theretofore made the basis for the reduction of a Sinking Fund Payment or (ii) each share of the Convertible Series of 1969 (x) redeemed prior to such June 1 otherwise than through the operation of the sinking fund or (y) called for redemption on a date fixed for redemption prior to such June 1 otherwise than through the operation of the sinking fund and the redemption price of which shall have been deposited with such transfer agent or (z) which shall have been converted into Common Stock prior to such June 1, and in each case not theretofore made the basis for the reduction of a Sinking Fund Payment.

(b) As used herein, the term "Sinking Fund Redemption Price" shall mean the optional redemption price as set forth in Section III above in effect at each Sinking Fund Redemption Date plus an amount equal to accrued and unpaid dividends thereon.

(c) On or before June 1 in each of the years 1979 to 1998, both inclusive, the Company shall notify such transfer agent of the amount of the Sinking Fund Payment to be made in cash to such transfer agent on or before the next ensuing Sinking Fund Redemption Date and such transfer agent shall thereupon select by lot, in such manner as the Board of Directors may determine, the shares of the Convertible Series of 1969 to be redeemed on such Sinking Fund Redemption Date and shall promptly notify the Company of the shares so selected. Notice of such redemption for the Sinking Fund, stating the Sinking Fund Redemption Date and specifying the place of payment of the Sinking Fund Redemption Price shall be mailed to each holder of record of the shares of the Convertible Series of 1969 to be redeemed at his address registered with the Company, not more than 90 nor less than 60 days prior to the Sinking Fund Redemption Date, and if less than all the shares owned by any shareholder are then to be redeemed, the notice shall specify the certificate numbers of the shares which are to be redeemed. Such notice shall also include a statement to the effect that the right of holders of the shares of the Convertible Series of 1969 to be redeemed to convert the same, according to their terms, will cease at the close of business on the third business day prior to the Sinking Fund Redemption Date specified in such notice, and shall state the conversion terms at the time applicable to the shares to be redeemed. Notice of redemption having been so given, dividends shall cease to

accrue on the shares therein designated for redemption from and after the Sinking Fund Redemption Date specified in such notice, unless default be made in the deposit of the Sinking Fund Redemption Price. On the date, on or before the Sinking Fund Redemption Date, on which the deposit herein provided for shall have been made all rights of the respective holders of the shares to be redeemed as shareholders of the Company by reason of the ownership of such shares shall cease, except the right to receive the Sinking Fund Redemption Price of such shares upon presentation and surrender of their respective certificates representing such shares and except the right to exercise the right of conversion until it shall terminate; and such shares shall not be deemed to be outstanding after such date of deposit. If prior to any such September 15 any of the shares of the Convertible Series of 1969 to be redeemed pursuant to the sinking fund as aforesaid shall be converted into Common Stock, then the Company's obligation to redeem shares for the sinking fund shall thereupon be reduced and satisfied by the number of shares so converted and any sum theretofore deposited by the Company with such transfer agent with respect to such shares shall be repaid to the Company.

VI. *Conversion Provisions.* (a) Subject to the provisions for adjustment hereinafter set forth, shares of the Convertible Series of 1969 shall be convertible at the option of the holder thereof, at any time upon surrender to any transfer agent for the Convertible Series of 1969 of the certificate or certificates evidencing the shares so to be converted, into fully paid and nonassessable shares of Common Stock, par value \$1.00 per share, of the Company (herein called the "Common Stock") at the rate of two shares of Common Stock for each share of the Convertible Series of 1969 so surrendered for conversion. The right to convert shares of the Convertible Series of 1969 called for redemption (whether for the Sinking Fund or otherwise) shall terminate on the third business day prior to the date fixed for redemption. Upon conversion, no payment or adjustment shall be made for dividends on the shares of the Convertible Series of 1969 so converted.

(b) The number of shares of Common Stock and the number of shares of other classes of the Company, if any, into which each share of the Convertible Series of 1969 is convertible shall be subject to adjustment from time to time only as follows:

(1) In case the Company shall (i) take a record of the holders of the Common Stock for the purpose of entitling them to receive a dividend declared payable in shares of Common Stock, (ii) subdivide its outstanding shares of Common Stock, (iii) combine its outstanding shares of Common Stock into a smaller number of shares, or (iv) issue by reclassification of its Common Stock any shares of the Company, the holder of each share of the Convertible Series of 1969 shall thereafter be entitled to receive upon the conversion of such share, the number of shares of the Company which he would have owned or have been entitled to receive after the happening of any of the events described above had such share of the Convertible Series of 1969 been converted immediately prior to the happening of such event, such adjustment to become effective immediately after the opening of business on the day following such record date or the day upon which such subdivision, combination or reclassification becomes effective.

(2) In case of any consolidation or merger of the Company with or into another corporation, or in case of any sale or conveyance to another corporation of all or substantially all the assets of the Company, the holder of each share of the Convertible Series of 1969 then outstanding shall have the right thereafter, so long as his conversion right hereunder shall exist, to convert such share into the kind and amount of shares of stock and other securities and property receiveable upon such consolidation, merger, sale or conveyance by a holder of the number of shares of Common Stock into which such share might have been converted immediately prior to such consolidation, merger, sale or conveyance, and shall have no other conversion rights under these provisions; *provided, however*, that effective provision shall be made, in the Articles or Certificate of Incorporation of the resulting or surviving corporation or otherwise,

so that the provisions set forth herein for the protection of the conversion rights of the shares of the Convertible Series of 1969 shall thereafter be applicable, as nearly as reasonably may be, to any such other shares of stock and other securities and property deliverable upon conversion of the shares of the Convertible Series of 1969 remaining outstanding or other convertible preferred stock received by the holders in place thereof; *and provided, further, that any such resulting or surviving corporation shall expressly assume the obligation to deliver, upon the exercise of the conversion privilege, such shares, securities or property as the holders of the shares of the Convertible Series of 1969 remaining outstanding, or other convertible preferred stock received by the holders in place thereof, shall be entitled to receive pursuant to the provisions hereof, and to make provisions for the protection of the conversion rights as above provided.* In case securities or property other than Common Stock shall be issuable or deliverable upon conversion as aforesaid, then all reference in this Section VI shall be deemed to apply, so far as appropriate and as nearly as may be, to such other securities or property.

(3) Unless the holders of shares of the Convertible Series of 1969 shall be permitted to subscribe for or purchase shares of Common Stock on the same basis, in case the Company shall take a record of the holders of its shares of Common Stock for the purpose of entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the average market price (as hereinafter defined) on the date on which such record is taken, in each such case, the number of shares of Common Stock into which each share of the Convertible Series of 1969 shall thereafter be convertible shall be determined by multiplying the number of shares of Common Stock into which each share of the Convertible Series of 1969 was theretofore convertible by a fraction of which the numerator shall be the sum of the number of shares of Common Stock outstanding at the time of the taking of such record and the number of additional shares of Common Stock so offered for subscription or purchase, and of which the denominator shall be the sum of the number of shares of Common Stock outstanding at the time of the taking of such record and the number of shares of Common Stock which the aggregate offering price of the total number of shares so offered would purchase at such average market price.

For the purposes of any computation under this subparagraph (3), the average market price per share of Common Stock for any time shall be the average of the daily closing prices for the 30 consecutive business days commencing 45 business days before the time in question. The closing price for each day shall be the last sales price regular way or, in case no such sale takes place on such day, the average of the closing bid and asked prices regular way, in either case as officially quoted by the New York Stock Exchange.

(4) No fractional share of Common Stock shall be issued upon any conversion but, in lieu thereof, there shall be paid to the holder of the shares of the Convertible Series of 1969 surrendered for conversion as soon as practicable after the date such shares are surrendered for conversion, an amount in cash equal to the same fraction of the market value of a full share of Common Stock, unless the Board of Directors shall determine to adjust fractional shares by the issue of fractional scrip certificates or in some other manner. For such purpose, the market value of a share of Common Stock shall be the last sales price regular way on the day immediately preceding the date upon which such shares are surrendered for conversion, or, in case no such sale takes place on such day, the average of the closing bid and asked prices regular way on such day, in either case as officially quoted by the New York Stock Exchange.

(5) No adjustment in the number of shares of Common Stock into which each share of the Convertible Series of 1969 is convertible shall be required unless such adjustment would require an increase or decrease of at least 1/100th of a share in the number of shares of Common Stock into which such share is then convertible; *provided, however, that any adjustments which by reason of this subparagraph (b) are not required to be made shall be carried forward and taken into account in any subsequent adjustment.*

(6) Whenever any adjustment is required in the shares into which each share of the Convertible Series of 1969 is convertible, the Company shall forthwith (i) file with the transfer agent or transfer agents for the shares of the Convertible Series of 1969 a statement describing in reasonable detail the adjustment and the method of calculation used and (ii) cause a copy of such notice to be mailed to the holders of record of the shares of the Convertible Series of 1969.

(c) The Company shall at all times reserve and keep available out of its authorized but unissued shares the full number of shares into which all shares of the Convertible Series of 1969 from time to time outstanding are convertible.

(d) The Company will pay any and all issue taxes that may be payable in respect of any issue or delivery of shares of Common Stock on conversion of shares of the Convertible Series of 1969 pursuant hereto. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of Common Stock in a name other than that in which the shares of the Convertible Series of 1969 so converted were registered, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such tax, or has established, to the satisfaction of the Company, that such tax has been paid.

VII. *Amendments.* The Board of Directors reserves the right by subsequent amendment of this resolution from time to time to amend this resolution; *provided, however*, that this resolution shall not be amended so as adversely to affect the preferences, special rights or powers of the holders of this series without the prior affirmative vote or consent of the holders of at least 66⅔% of the shares of this series.

IN TESTIMONY WHEREOF, witness our signatures this day of August 1969.

.....
Orin E. Atkins, *President*

.....
John P. Ward, *Assistant Secretary*

STATE OF KENTUCKY, }
COUNTY OF BOYD, } ss.:

I, VERNA M. BISHOP, a Notary Public, in and for said State at Large, do hereby certify that the foregoing Certificate and Statement In Respect of Resolution of Ashland Oil & Refining Company, a Kentucky corporation, was this day produced before me in said County and acknowledged and delivered by Orin E. Atkins and John P. Ward, the President and an Assistant Secretary, respectively, of Ashland Oil & Refining Company, to be their act and deed and the act and deed of said corporation.

WITNESS my signature and seal of office this day of August 1969.

My commission expires February 7, 1972.

.....
Notary Public,
Boyd County, Kentucky
State of Kentucky at Large