STATEMENT OF COMMISSIONER JOHN CARSON, FEDERAL TRADE COMMISSION, BEFORE THE SPECIAL COMMITTEE ON PETROLEUM OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE ON FRIDAY, MAY 19, 1950.

My name is John Carson. I am a member of the Federal Trade Commission. The Commission has instructed me to appear in answer to your request that we discuss problems connected with the general investigation being made by this Committee of the petroleum industry. We wish to thank the Committee for this privilege. In thus appearing the Commission is fulfilling one of the major purposes for which it was originally established by the Congress, namely, that of submitting information and reports in connection with the consideration by the Congress of national problems in its determination of national policies.

Before I begin, I want to present to the Committee Mr. Edwards and Mr. Peel from our Bureau of Industrial Economics and Mr. MacIntyre and Mr. Creel from our Bureau of Litigation. They, I assure you, will be more competent than I to answer the very detailed and technical questions relative to Commission authority, responsibility and procedure. I want to be able to call upon them, if the Committee will permit, as the inquiry proceeds.

I wish to express my gratitude to you, Mr. Chairman, for your kindness in not compelling us to testify a few weeks ago. We were not then prepared to do more than guess as to the information in which the Committee would be interested. You helped us prepare for this hearing when you gave us the program of inquiry of your Committee and stated that you were interested in any information relating to the so-called Cannon Resolution, H. J. Res. 423, to our cartel investigation, and to any other part of the program of this Committee on which the Commission was prepared to furnish information.

Is There an International Oil Cartel?

With regard to the investigation presently being conducted by the Commission on international operations of American petroleum companies, I wish to inform the Committee that we have only recently received data from the oil companies. Thus far we have not had time to analyze these records. Other material has not yet been furnished to us by the companies from which we requested it. Therefore, I am sure that the Committee will understand why we are not in a position at this time to submit a statement on our petroleum cartel investigation.

However, there is available a report by the Swedish government about the operations of oil companies in Sweden, referred to as the "Swedish Oil Report." This report, though a public document in Sweden, has never been published in this country. Chapter 12, entitled "Cartels and Other Competition-Limiting Measures," has to do with international cartels in the petroleum industry and their effect on the Swedish market. It contains the following summary statement:

> "In our capacity as an investigating authority we have paid attention to the question of co-operation through cartels and by means of other measures restricting competition. In conferences with representatives of the companies and in going through an extensive collection of written material it has been established that the oil companies in Sweden have co-operated in different respects, e.g. as regards sharing of the market, prices, handing in of offers, establishing of discounts, relations to consumers' associations, customer protection, customer transfer, etc. In this connection it is remarked that this co-operation is, to an essential degree, based upon international agreements of which one - called Draft Memorandum of Principles, with Explanatory notes - in force between the parent organizations of Standard, Shell and BP [Swedish Gasoline and Petroleum Company] is reproduced in the report. In a comprehensive comment it is observed that the companies representatives have given erroneous and misleading information on what has taken place in this connection."

With the permission of the Committee I should like to insert in the record this copy of Chapter 12 of the "Swedish Oil Report," in an English translation prepared by the Department of State.

Petroleum Investigations by the Commission

With regard to the Cannon Resolution, permit me to state that the Commission is at all times glad to undertake such inquiries as the Congress may direct. When the Federal Trade Commission Act was being considered in the House of Representatives and in the Senate in 1914 it was considered by both Houses that one of the important functions of the Commission would be to serve as an arm of the Congress in carrying on important legal and economic investigations and in reporting thereon for the information of Congress and in aid of legislation. The Committee on Interstate and Foreign Commerce of the House of Representatives in its report on the bill which later created the Federal Trade Commission reported as follows:

> "It must be remembered that this Commission enters a new field of governmental activity. The history of the Interstate Commerce Commission is conclusive evidence that the best legislation regarding many of the problems to come before the Interstate-Trade Commission will be produced from time to time as the result of the reports of the Commission after exhaustive inquiries and investigations. No one can foretell the extent to which the complex interstate business of a great country like the United States may require, alike for the benefit of the businessman and for the protection of the public, new legislation in the form of Federal regulations, but such legislation should come by sound process of evolution. Even the control of the railways in this country by the Interstate Commerce Commission affords no complete parallel to administrative control of the industrial corporations of the country by a Federal Commission. It is largely the experience of the independent Commission itself that will afford Congress the accurate information necessary to give the country from time to time the additional legislation which may be needed."

The Senate Committee on Interstate Commerce in reporting to the Senate a substitute for the House bill described one of the functions of the new proposed Commission as one which would "build up a comprehensive body of information for the use and advantage of the Government and the business world. It's subsequent recommendations to Congress will be fortified with actual knowledge of practical conditions, both from the point of view of business desirability and economic tendency, and will furnish to Congress an analysis of conditions that will give other and further legislation the certainty and security of foundation commensurate with the vast interests of the public and of the business world which are at stake. If conditions demonstrate and warrant there will be a natural growth in the power of this body."

Among the petroleum investigations previously conducted by the Commission are the following:

1. "Report on Pipe-Line Transportation of Petroleum," 1916, submitted in response to a resolution of the Senate.

2. "Report on the Price of Gasoline in 1915," 1917, submitted in response to resolutions of the Senate.

3. "Report on Advance in the Price of Petroleum Products," 1920, submitted in response to a resolution of the House of Representatives.

4. "Report on Pacific Coast Petroleum Industry," 1921, submitted in response to a resolution of the Senate.

5. "Report on Petroleum Industry of Wyoming," 1921.

6. "Report on Petroleum Trade in Wyoming and Montana," 1922.

7. "Report on Foreign Ownership in the Petroleum Industry," 1923, submitted in response to a resolution of the Senate.

8. "Report on Gasoline Prices in 1924," 1924.

9. "Report on Petroleum Industry - Prices, Profits, and Competition," 1927, submitted in response to a resolution of the Senate.

10. "Report on Panhandle Crude Petroleum," 1928.

11. "Report on Detroit Gasoline Price Situation," 1933, submitted in response to a resolution of the Senate.

12. "Gasoline Prices," 1934, submitted in response to a resolution of the Senate.

13. "Report on Distribution Methods and Costs - Part IV. Petroleum Products, etc," 1944.

Competitive and Monopolistic Practices

In view of its responsibilities under the law the principal interest of the Commission is its desire to assure the development and maintenance of a free, competitive economy in the United States. Complaints are constantly reaching the Commission that there are in the American petroleum industry today several characteristics which threaten the position of the independent segments of that industry. Therefore, I should like to direct my remarks primarily to a consideration of economic problems of the American Petroleum industry, (Item 7 of the Committee's outline) and to devote particular attention to Item 7 (c), which is concerned with competitive and monopolistic characteristics of the petroleum industry, a discussion of which will necessitate a consideration of certain other items in the Committee's outline, such as transportation.

In testifying on the above subjects I shall be dealing with matters covered by the Cannon Resolution, inasmuch as this resolution centers around the problem of maintaining in the United States a free, competitive petroleum industry.

Almost since its organization, the Federal Trade Commission has from time to time had before it complaints, charges and questions with respect to the petroleum industry. These complaints have been from every level of the industry except the major oil companies.

Members of the Commission's staff have advised me that during the past 35 years, many thousands of letters of complaint against industry members have been received in the Commission from Members of Congress, State, county and city officials, retailers and associations of retailers, wholesalers and associations of wholesalers, and independent refining and marketing companies, as well as consumers. On the basis of these complaints, the Commission has issued fifty-seven formal complaints, not including advertising cases, charging restraint of trade. These can be generally divided into the following categories:

1. Price fixing of gasoline and fuel oil by marketers at the wholesale and retail levels.

2. Full line forcing agreements which require retailers of petroleum products to buy tires, batteries and accessories specified by the petroleum marketing companies.

3. Price discriminations.

4. Exclusive dealing contracts.

Judicial Proceedings

As background for its consideration of complaints, the Commission must bear in mind cases in which members of the industry have been indicted and found guilty of oppressive practices and restraint of trade or are now awaiting trial on similar charges. In a case 1/ decided in 1940 the United States Supreme Court declared illegal a practice which resulted in controlling or stabilizing tank car gasoline prices in interstate commerce. Most of the gasoline shipped in the Mid-Western area moved under long-term contracts, which contained the stipulation that prices applicable to deliveries thereunder should be determined by spot market quotations. Hence, the interest in maintaining spot prices. This result was achieved by a concerted program of the major companies in buying up distress gasoline, the various major companies purchasing from designated independent refiners in accordance with committee recommendations.

In a companion case filed at Madison, Wisconsin, in 1936 most of the defendant companies pleaded nolo contendere to the charge of anti-trust violations in ten Mid-Western States in connection with the use of uniform jobber contracts, fixing gross margins, and adopting uniform policies in dealing with jobbers.

The so-called "Mother Hubbard" complaint, civil action No. 8524, filed by the Department of Justice in 1940, alleged collusion and conspiracy on

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1/ U. S. v. Socony-Vacuum Oil Co., Inc., et al., 310 U. S. 150, 1940.

the part of 22 major oil companies, their subsidiaries, affiliates, to dominate and control the various branches and activities of the industry.

While the "Mother Hubbard" complaint has not been brought to trial, a follow-up to it was announced by press reports of May 13, 1950, which carried an account of the filing of a suit in which the Justice Department charged seven major oil companies with violations of antitrust laws in the Pacific Coast area, alleging that these companies have engaged in a conspiracy to restrain and monopolize the petroleum industry in the States of California, Washington, Oregon, Nevada and Arizona.

In the Standard Oil Company of California case 1/ the Supreme Court enjoined the use in the West Coast area of exclusive dealing contracts, under which marketers agreed to purchase all of one or more of product requirements from a supplying company.

Of similar import to the complaints filed by the Justice Department is a proceeding instituted by the Attorney-General of Texas in February, 1949, charging ten major oil companies with collusion and conspiracy to dominate and control various activities in the petroleum industry in the State of Texas, including the control over the margin between the value of petroleum products and the value of crude oil, and including the maintenance of an arbitrary and uniform tank wagon price for gasoline throughout the State.

1/ Standard Oil Co. of California, et al., v. United States, 337 U. S. 293, 1948.

Concentration in the Petroleum Industry

A general consideration of competitive and monopolistic practices in the petroleum industry is aided by an examination of the following table on economic concentration in the industry, as developed in a TNEC study.

TABLE 3.--Percentage of ownership or control of branches of the American petroleum industry by major oil companies.1/

Branch	Number of companies	Percentage	Year
Total investment	20	60.0	1939
Producing oil wells	20	23.7	1937
Crude oil production	20	52.5	1937
Crude oil gathering pipe line mileage	20	57.4	1936
Crude oil trunk pipe line mileage	14	89.0	1938
Investment in pipe lines	15	77.4	1938
Pipe line operating income	15	86.4	1938
Deadweight tonnage of tankers	15	87.2	1938
Stocks of refinable crude oil	20	96.5	1937
Daily crude-oil capacity	20	75.6	1938
Daily cracking capacity	20	85.2	1938
Crude oil runs to stills	20	82.6	1937
Production of gasoline	20	83.8	1937
Stocks of finished gasoline	20	90.0	1937
Gasoline pipe line mileage	16	96.1	1939
Domestic sales of gasoline	18	80.0	1938

1/TNEC Monograph No. 39, "Control of the Petroleum Industry by Major Oil Companies," p. 5.

A review of the above table indicates that a relatively few major companies controlled from 60 to 95 percent of most of the branches or activities of the industry. The Commission is constantly faced with assertions that subsequent to the completion of the TNEC study there has been an increasing concentration in the petroleum industry. The statistical information that is publicly available is not sufficient to test this assertion. Last December the Department of Commerce reported from data from the 1947 Census of Manufactures, that the twenty largest companies in the petroleum refining industry shipped 82.7 percent of the value of that industry's total shipments. This figure suggests a degree of concentration about the same as in 1937; but the information is not directly comparable to that from the TNEC, and is not detailed enough to be conclusive as to the trend.

The Commission also receives constant complaints that there is a great and growing disparity of power between the major companies and the independent segments of the industry. That there is such disparity is evident, although there has been no investigation thorough enough to show whether or not it is growing. We think there is need for a definitive study of the nature and trend of concentrations in the industry and of the nature, extent, and economic consequences of the power of the large companies.

The problems to be considered in such an investigation are known in their general outline, if not in detail.

The key characteristic of the petroleum industry is integration. The integrated oil companies' operations include oil production, refining, marketing and transportation, including crude pipe lines, product pipe lines, and tankers. Fully integrated operations afford obvious advantages in programming and planning. Fully integrated operations afford an assured supply of raw materials, a cheap means of transportation, and an assured marketing outlet. Such integrated operations are asserted to give enormous advantages to the integrated concern compared with the independent operator. We believe that the examination of the competitive advantages of integrated and non-integrated concerns in the industry's various activities will afford an indication of the reasons why various independent segments of the industry have recently been under considerable pressure.

Profits in the Petroleum Industry

The petroleum industry's profit position since the war has been unusually good, whether compared with its own previous profits, with the profits of other manufacturing industries, or with the profits of other extractive industries. A tabulation by the Commission covering 40 large and medium-sized companies showed a net income after Federal income taxes of $783,000,000 in 1946, $1,273,000,000 in 1947, and $1,966,000,000 in 1948.

Tabulations of the National City Bank, applicable also to large and medium-sized companies show petroleum manufacturers better off than other manufacturers. In 1948 petroleum manufacturers realized a return on net assets of 21.1 percent, compared to 18.2 percent for all manufacturers. In 1949 the comparable figures are 13.2 percent for petroleum manufacturing, and 13.8 percent for all manufacturing. The percentage margin on sales for petroleum manufacturing companies in 1948 was 12.9 percent, compared to 7.5 percent for all manufacturers. In 1949 the comparable figures are 9.9 percent for petroleum manufacturers, compared to 6.8 percent for all manufacturers.

The National City Bank tabulation also shows oil and gas producers better off than other extractive industries. In 1948 the return on net assets of oil and gas producers was 34.8 percent, compared to 20.5 percent for all mining and quarrying. In 1949 the comparable figures are 21.7 percent for oil and gas producers, and 13.5 percent for mining and quarrying.

As a percentage margin on sales, in 1948 the oil and gas producers realized 33.1 percent compared to 14.5 percent for all mining and quarrying. In 1949 the comparable figures are 26.9 percent for oil and gas producers and 12.3 percent for all mining and quarrying.

Both petroleum manufacturers and oil and gas producers recorded a drop in profits during 1949 compared to 1948, a 26 percent decline being shown by refiners and a 20 percent decline being shown by oil and gas producers. However, the 1949 profits of petroleum companies were higher than for any other period except the peak year of 1948. The 1949 profits of refiners were about 15 percent higher than in 1947 and about 80 percent higher than in

1946. For oil and gas producers, 1949 profits were about 40 percent higher than in 1947 and about 175 percent higher than in 1946.

The use of over-all industry profits figures, however, may hide a great many unprofitable and undesirable situations. Unfortunately we do not have a sample of the profits of the small, independent operator. Large companies publish income statements, but for the small companies we have access to less exact information, such as trade journal accounts, reports of associations of independents, and complaints filed with the Commission or reported by Congressional Committees. From all these sources, the reports indicate that the position of the independent operator is progressively deteriorating. It seems important, therefore, to examine the reasons for the unfavorable experience of the independent. This involves a comparison of advantages of the major company compared with the independent operator.

Is the Independent Penalized Because of Lack of Cheap Transportation?

Numerous sources, including Congressional Committees, have reported that independent segments of the industry are often placed at a decided disadvantage - indeed they may be placed at a prohibitive disadvantage - because of cheap transportation available to major integrated companies and not available to independent operators. The difference between transportation by pipe line and by rail freight may amount to one or more cents per gallon, which may be greater than the average margin realized by an independent refiner.

In the Champlin Refining Case,1/ the U. S. Supreme Court appears to have established the rule that an interstate pipe line is a common carrier. Nevertheless, a Senate Committee has reported that crude trunk lines, in most cases, are operated as plant facilities of the owning company, its

1/Champlin Refining Co. v. United States, et al., 329 U. S. 29, 1946.

subsidiaries and affiliates, and that gasoline pipe lines are generally operated in the same manner.1/

The U. S. Code, Title 49, Paragraph 1, section (3) (a) contains the following language:

> "The term 'common carrier' as used in this chapter shall include all pipe line companies; * * *"

The Interstate Commerce Commission submits reports on pipe line operations which show total shipments over such facilities, but do not give a breakdown by consignor. In the interest of determining national policy with respect to the use of pipe lines, we believe it would be useful to the Congress to know the extent to which pipe lines are in fact operated as common carriers. This would involve a determination as to whether such facilities are made readily available to independent operators, including jobbers, refiners, and crude producers. A study of this problem would involve an examination of the list of shippers over each pipe line, the question of facilities afforded in order to make the crude oil lines and product pipe lines available for use by independent operators and a study of compliance with requests by independent operators for the use of such lines.

A second means of low-cost transportation available to major companies is the tanker, which provides the cheapest of all transportation facilities, and which is the principal means of serving the U. S. East Coast. One effect of control over tanker transportation may be indicated by the fact that along the U. S. East Coast there are no independent refiners.

To the extent that lack of cheap transportation prevents access to raw materials and to markets, it is easy to understand why independent operators are going out of business. It is easy to understand why independent

1/Oil Supply and Distribution Problems, Special Committee to Study Problems of American Small Business, U. S. Senate, 81st Congress, 1st Session, Report No. 25, pp. 20-23.

operators are unable effectively to compete, when they are unable to get into the market on substantially equal terms.

Do Processing Agreements Represent Unfair Trade Practices?

An advantage accruing to the major company which has available both adequate supplies of raw materials and adequate marketing outlets is illustrated by recent experience with regard to so-called processing agreements, which were widely entered into by independent refiners during the post-war years. Independent refiners were generally lacking in adequate sources of crude oil, which was in tight supply. Major companies often owned or controlled more crude than they possessed the necessary plant facilities for refining. The immediate answer, favorable for the time being to both independent and the major company, was afforded by the processing agreement, under which the major company furnished the crude oil to the independent refiner under arrangements which generally provided that the products should be sold through the major company's marketing outlets. Such arrangements permitted the independent refiners to "live" for the time being, but it meant that they gave up their regular customers. Now that the planned expansion programs of the major companies have been completed, or are near completion, the processing agreements with independent refiners have frequently been cancelled. Today it is reported that many of these independent operators are finding that their former contacts in the trade have been taken over by the major companies and they likewise are finding that the major company is no longer available as an outlet for the products of their refining plants.

Exchanges of Crude Oil

Exchanges of crude oil are reported to be generally engaged in among large companies. This practice affords an opportunity to the major company to effect considerable savings in transportation costs. Again, the practice may permit an opportunity for the promotion of uniform, non-competitive prices for crude. Complaints to the Commission have charged that price competition is unlikely among companies which engage in such crude exchanges. Moreover, to the extent that major companies make exchange arrangements and to the extent that such accomodations are not available to independent refiners, a competitive disadvantage is suffered by the independent refiner, both because of higher transportation costs and because of inability on the part of the independent to obtain the particular kind of crude oil he needs. Complaints have been made to the Commission by independent refiners that the major companies have repeatedly refused to exchange crude oil with them.

Exchanges of Gasoline

In 1937 exchanges of gasoline amounted to about 9 percent of the total gasoline sales of major companies.1/ Among the advantages listed for such arrangements are the saving of transportation costs and the avoidance of duplication of facilities. Such exchanges, according to complaints from independents, assist the major companies in expanding their share of the markets, at the expense of independent refiners and marketers.

Advantages of Marketing Outlets to Major Companies

Among the advantages accruing to an integrated concern is that of an assured outlet for petroleum products. Although major companies operate relatively few petroleum outlets,2/ they lease or sublease numerous others to so-called independent operators. Complaints to the Commission have repeatedly charged that the short term cancellation clause in such leases affords a means of providing a major company with a strong control over a market for its products.

1/T.N.E.C. Hearings, Volume 6, pp. 7805, 7809.
2/Fuel Investigation, House Report No. 2342, Committee on Interstate and Foreign Commerce, 80th Congress, 2nd Session, passim.

In addition to sales of petroleum products manufactured by the major company, such companies generally have a program of marketing tires, batteries, and automobile accessories. The extent to which pressure is put upon filling station operators to handle such accessory products is a matter of dispute, and more definite information on the subject would be valuable in connection with an examination of competitive practices in the oil industry.

Independent Operators and the Welfare of Consumers

There is a close connection between the fortunes of independent refiners and distributors and the welfare of the ultimate consumer. The philosophy of competition is that so long as vigorous independent enterprises make their own marketing decisions separately their rivalry will protect the consumer and obviate the need for public price regulation.

Supply-Demand Relationships and Post-War Petroleum Prices

In the petroleum industry the trend of prices since the war and the relation of these to the consumer's interest has been a matter of concern to the general public and to Congress. An earlier report of your committee included the following statement:1/

> "Your committee's concern with respect to petroleum prices goes to the current level of prices as well as to the price trend that might be anticipated in the next five years. Petroleum company earnings during the first quarter of 1948 as compared with the same period during 1947 ... cause your committee to feel that the question, whether present levels of petroleum prices and profits are in the public interest, well merits further study and investigation.
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> "Beyond the recent earning figures, there are some statements before your committee by witnesses from the petroleum industry with respect to the future trend of petroleum prices and profits, which impress your committee as meriting further study."

1/Fuel Investigation, House Report No. 2342, House Committee on Interstate and Foreign Commerce, 80th Congress, 2nd Session, p. 16.

"... The chairman of your committee made the following comment:

> 'It may be that there will come a point beyond which you cannot go because of (consumer) resistance, but that point has not been reached nor, is it likely to be reached, in my opinion, for a long time to come, and it enables, it would seem, the oil companies to take advantage of that unusual demand by continuing to increase their prices ...'"

During the first part of the post-war period the high prices for petroleum and its products could readily be integrated as one manifestation of the scarcity which accompanied the revival of civilian demand and the difficulty experienced by the industry in keeping pace with the increase in total consumption. Early in 1949, however, the condition of shortages of oil had changed to a condition of abundance, and the statement that we were "swimming in oil" became typical. Cutbacks in production were ordered by the Texas Railroad Commission for eight successive months, January through August, 1949.

Following this change from a condition of shortage to a condition of abundance in oil supplies, there have been some decreases in prices of the low gravity crude oils, which produce relatively large proportions of heating and fuel oils. These heating and fuel oils have encountered increased competition from other fuels, including coal and natural gas. Presumably the reason for the reduction in the prices of these petroleum products was the danger that they might be "priced out of the market."

<u>To What Extent Are Gasoline Prices "Controlled"?</u>

Although there have been some recent decreases in the prices of the low gravity crudes, there have been relatively few recent decreases in prices of the high gravity crudes, which produce relatively greater proportions of gasoline. There is no substitute for gasoline, and the price of gasoline has been going up in spite of the crude oil surplus.

In an earlier hearing before this Committee Congressman Wolverton made the following statement concerning gasoline prices:

> "Now I cannot see in this competitive market how it works out, that every company has the same price. There is no difference ... I just do not understand how ... in that industry which is not controlled as a monopoly or a utility company in the nature of a monopoly ... there is a fixed price ...
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> "I am speaking back over the whole period of time that I have driven a car, over twenty years or more, and I am not just speaking of today. It has always been that way, except once and maybe twice there was competition ... but that did not last very long."1/

Complaints to the Commission indicate that the effective control over gasoline prices, which assures substantial uniformity in such prices, is exercised primarily at the tank wagon level. An oil periodical, the National Petroleum News, in its reports of tank wagon gasoline prices, gives quotations for only one company in selected cities in each geographic area. The company whose prices are reported is the company which is commonly regarded as the market leader in that area. It has previously been noted that the suit filed by the Attorney-General of Texas in February, 1949, charged major companies with maintaining an artificial and uniform tank wagon price for gasoline throughout the State.

1/Fuel Investigation, Hearings, House Committee on Interstate and Foreign Commerce, 80th Congress, 2nd Session, Part 2, p. 1080-81. The quotation runs together non-consecutive paragraphs.

Complaints to the Commission indicate the probability that most of the recent instances of "price wars" in gasoline resulted from a desire on the part of the major companies either to curtail an independent marketer who was expanding fairly rapidly, or else from a desire to discipline a "price cutter." No case has been brought to our attention during the post-war period in which lack of tank wagon gasoline price uniformity, prevailing for any considerable period of time, resulted from price competition initiated by a major oil company against another major oil company.

As a special instance of uniformity of gasoline prices, we may note the increases made effective along the East Coast in April 1949 and again in April 1950. In both cases the increases were about ½ cent a gallon. In both cases the price increases followed a similar pattern, first, increases were made in cargo prices for gasoline at the U. S. Gulf; second, the Socony-Vacuum Oil Company announced increases in tank wagon prices in New York and in New England, next, the Esso Standard Oil Company announced similar tank wagon price increases in its marketing territory throughout the East; and other major companies marketing in the above areas made corresponding tank wagon price increases at about the same time the foregoing price increases were announced. Simultaneous with or shortly after the tank wagon price increases were made effective, retail outlets operating in these areas generally raised gasoline prices by corresponding amounts at the retail level.

Particularly relevant to the question of the ability of major companies to raise gasoline prices is a consideration of the economic conditions in the industry at the time the price increases were made in April, 1949, and again in April, 1950. In both of these cases, price increases of about one-half cent per gallon were made at the tank wagon level. In both cases crude oil was in abundant supply. In both cases gasoline stocks appeared to be plentiful (in mid-April, 1950, gasoline stocks in the United States were about eight million barrels higher than in mid-April, 1949); and in both cases a high level of profits was being realized by major oil companies.

The ability of major oil companies to raise gasoline prices must be considered in light of the fact that there is no substitute for gasoline. The New York Times 1/ emphasized this lack of opportunity for substitution in an article which stated that increases in gasoline prices during April of this year have raised these prices to the highest levels since the period immediately following the First World War.

Conservation and Control

Voluntary cooperation among States in which oil and gas are produced has been sanctioned by the Congress through the approval of the Interstate Compact to Conserve Oil and Gas. Article Two of this compact reads as follows:

> "The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause."

Article Five of this compact reads as follows:

> "It is not the purpose of this compact to authorize the States joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopolies, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations."

We have received complaints that the use of the Interstate Compact has been directed to other problems than the prevention of physical waste. The Cannon Resolution calls for an investigation of this question. If the Congress should direct that such an investigation be made, it would then be a question of a factual report as to whether the Interstate Compact is being used for purposes other than intended by the Congress.

The Cannon Resolution also proposes that the Federal Trade Commission investigate the depletion allowance which is now granted the industry for

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1/ Issue of April 30, 1950, p. F-1.

tax purposes. The resolution provides that to avoid duplication and waste the Commission shall make use of data from other agencies. We suppose that as to this part of the resolution it is the intent for us to bring together and supplement information from the Bureau of Internal Revenue and from the Committees of Congress which have already examined such allowances. Claims have been made that depletion allowances are excessive, that they provide a subsidy, that the subsidy goes disproportionately to the large companies, and that these large concerns thus obtain increased advantage over small companies. It is desirable to determine whether or not the monopoly problem, which is the heart of the Cannon Resolution, becomes more serious or more complicated by virtue of the existing depletion allowances.

Summary and Conclusion

I should like to conclude this statement by summarizing complaints to the Commission relative to competitive advantages of the major integrated oil companies compared with independent operators, and particularly compared with independent refiners. Among these advantages of the major company are cheap means of transportation, by pipe line and by tanker; ready access to supplies of crude oil, assured by ownership of crude and by access through crude oil trunk lines; assured marketing outlets resulting from a highly integrated marketing program, which may involve exclusive dealing contracts and the use of short-term cancellation clauses in leasing and sub-leasing arrangements; tire, battery and accessory programs which provide a profitable source of income without requiring proportionate investment; and the opportunity to diversify risks, to realize income from various branches of the industry's activities, including crude production, transportation and marketing, and not to be handicapped by a condition in which one or more branches of the industry are temporarily unprofitable. This last mentioned condition, namely, an over-all profitable position while independent branches of the industry are unprofitable, has been a particularly important source of complaints during recent months.

Although there is reason to believe that these advantages exist for the major integrated companies, investigation will be necessary before it is possible to say with confidence how important any one of them is; how effectively they reinforce each other; what, if any, off-setting advantages are enjoyed by small concerns; and whether or not the aggregate result is such a disparity of power and opportunity as to doom the independent concerns unless remedial measures are taken. There have been impressive complaints that independents are being driven to the wall and that the major companies are following monopolistic policies. Some facts which are matters of common knowledge appear to support these complaints. It is the proper function of the government to reverse whatever monopolistic trend may exist in this industry, and the first step in that process is an investigation to make sure just what the facts are. Insofar as the complaints are not justified, the large petroleum companies have the right to public vindication; insofar as the complaints are justified, independent business and consumers of petroleum products have a right to better protection.