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OPERATIONS OF BILLIE SOL ESTES

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R E P O R T

PREPARED BY THE  
INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE  
OF THE  
COMMITTEE ON GOVERNMENT  
OPERATIONS

FOR RELEASE

*Monday A. M.* OCT 12 1964



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## OPERATIONS OF BILLIE SOL ESTES

### INTRODUCTION

#### DESCRIPTION OF INVESTIGATION

The Committee on Government Operations, under the Rules of the House of Representatives, is assigned responsibility for examining the operation of Government activities. Jurisdiction over the operations of the Department of Agriculture and certain other departments and agencies has been delegated by the committee to its Intergovernmental Relations Subcommittee.

The subcommittee began a preliminary examination of Billie Sol Estes' activities on March 30, 1962, the day following Estes' arrest. In April 1962, this preliminary inquiry developed into a full-scale investigation.

When it began its investigation of the Estes situation, the subcommittee did not anticipate that it would still be engaged in its arduous task more than 2 years later. However, despite sustained and diligent effort on the subcommittee's part, the nature of the matters being investigated made an extended inquiry unavoidable. The volume and complexity of Billie Sol Estes' operations will become clearly apparent in later sections of this report. The point can be illustrated here by noting that Estes controlled at least 80 different bank accounts (a single one of which averaged 2,000 transactions per month), and that he owned, controlled, or had a significant interest in more than 65 business enterprises during his career.

The examination of Estes' multiple business operations would have been a formidable and time-consuming task because of their size alone; it was even more difficult because he habitually intermingled funds of his various enterprises and because the exact nature of some of his transactions and business relationships was confused or disputed. Some measure of the magnitude of the problems involved can be found in the fact that a national firm of certified public accountants (Ernst & Ernst) charged more than \$100,000 to prepare what was essentially a mere listing of Estes' assets and liabilities.

In the course of its investigation, the subcommittee held hearings on 21 days, with at least 2 and occasionally 3 separate sessions on most of those days; 3,464 pages of testimony were taken during the hearings from 29 different witnesses. The subcommittee's hearings, of course, represent only part of its work. During its investigation, the subcommittee had from three to seven staff members (not including clerical personnel) working full time on the Estes matter. Several accountants were borrowed from the General

Accounting Office to work as subcommittee staff members on temporary assignment. Examples of work done include the following:

Two staff members spent more than 6 months searching files of the Department of Agriculture for relevant correspondence and records.

More than 125 people were personally interviewed and voluminous records examined by the subcommittee staff in Washington, D.C., many parts of Texas, and several States other than Texas.

Information was obtained from more than 300 firms and individuals by correspondence and through field offices of the General Accounting Office.

The investigation of the Estes' matter conducted by the subcommittee was one of many. The list of other Federal Government bodies which investigated or examined various aspects of Estes' activities (and in some cases are still doing so) includes at least the following:

Senate Committee on Government Operations.

Department of Agriculture.

Comptroller of the Currency

Department of Defense.

Federal Bureau of Investigation.

Federal Housing Administration.

General Accounting Office.

Internal Revenue Service.

Interstate Commerce Commission.

Department of Justice.

Department of Labor.

Post Office Department.

Small Business Administration.

Department of State.

Treasury Department.

Estes' operations were also scrutinized by the attorney general of Texas, a number of local government officials, private investigators hired by his creditors, and numerous members of the press. In addition, a large number of private lawsuits were filed because of the Estes' matter, and a very substantial amount of testimony was taken in connection with some of them.

The number of investigators who worked on matters related to Billie Sol Estes is not known, but it is unquestionably large. The Senate Committee on Government Operations, for example, used the services of approximately 60 persons, including a permanent staff of 12. The Department of Agriculture made use of an estimated 84 investigators and auditors on work related to the Estes situation. The Federal Bureau of Investigation used at least 452 agents from 46 field offices on various assignments related to the Estes case.

It would be difficult, if not impossible, to measure or even closely estimate the total number of man-hours and amount of money expended by all those concerned with the Estes matter. However, the subcommittee chairman's prediction in May 1962, that Billie Sol Estes was "likely to find a place in history as one of the most—if not the most—thoroughly investigated individuals of all time" seems in retrospect to be almost an understatement.

The many investigations of the Estes matter produced an almost incredible amount of testimony and investigative data. This is

illustrated by the following examples of material reviewed by the subcommittee staff:

Investigative reports of the Department of Agriculture totaling over 2,000 pages.

Approximately 150 reports of interviews and investigations conducted by the Federal Bureau of Investigation.

More than 10,000 pages of testimony and depositions taken in connection with other investigative hearings, criminal trials, and civil litigation.

During the early stages of its investigation, the subcommittee concentrated virtually all of its attention on matters involving the storage of Government grain. There were two reasons for this action. The subcommittee had considerable knowledge concerning Government grain storage operations because of the extensive investigation of this activity which it conducted in 1959 and 1960. (This investigation is described in detail in H.Rept. 2220, 86th Cong., 2d sess.) In addition, it appeared that the Permanent Subcommittee on Investigations of the Senate Government Operations Committee, which also was examining the Estes matter, would concentrate its major investigative effort on activities of Billie Sol Estes involving the transfer of cotton allotments from land acquired by the Government for public use.

The subcommittee originally intended to complete its investigation of Estes' grain storage activities before exploring other aspects of his operations. It became apparent, however, that while some phases of Estes' storage operations could be examined independently, other aspects were so intermingled with fertilizer sales or tank transactions that it was not feasible to investigate them separately. Consequently, the subcommittee investigation was expanded to include all known activities of Billie Sol Estes in recent years which appeared to have any significant relationship to Federal Government operations, programs, or personnel except the cotton allotment transfers being investigated by the Senate committee. Since it was often difficult or impossible to tell in advance whether a particular transaction was relevant to its investigation, the subcommittee found it necessary to review to some extent all of Estes' major business activities.

While other investigative bodies undoubtedly examined particular aspects of Estes' operations in greater detail, the subcommittee believes that its inquiry is probably the broadest in scope. The Senate subcommittee concentrated its investigation primarily on transfer of cotton allotments from land acquired for Government use. Other Government agencies which conducted inquiries have more limited jurisdictional interests, such as the investigation or prosecution of particular types of law violations or the examination of activities involving a single Government department or agency. In addition, the authority of some of the agencies concerned is limited to a single State or locality.

The subcommittee tried to make its investigation both thorough and objective. The size of its staff was increased for this purpose, and the number of staff members who worked on the Estes matter was more than double the number assigned to any previous investigation. Most of the additional staff members were experienced investigative personnel of the General Accounting Office who were selected by GAO for temporary assignment to the subcommittee.

Another staff member came to the subcommittee after 12 years as a special agent with the Federal Bureau of Investigation. The subcommittee's minority counsel participated in all phases of the investigation.

The total amount of effort devoted by the subcommittee to its investigation of the Estes matter far exceeded the amount expended by it on any previous single investigation. All allegations submitted to the subcommittee were investigated, no matter how vague or improbable. All relevant circumstances which appeared to have any significance were carefully examined. Special attention was given to any allegations or information relating to possible corruption in Government or improper conduct by Government officers and employees.

Although the subcommittee did not hesitate to make necessary expenditures, it tried to conduct its investigation efficiently and economically. Where feasible, the expense and inconvenience of bringing witnesses to Washington was avoided by means of field interviews conducted by the subcommittee staff or field personnel of the General Accounting Office. A very substantial amount of information was obtained by correspondence, with the expenditure of only a fraction of the time and money that would have been necessary to get it by other means.

In planning and conducting its inquiry, the subcommittee made a special effort to take advantage of information developed through other Government investigations without unnecessarily duplicating the detailed investigative work which produced such information. For example, reports by Agriculture Department investigators were frequently used as a basis for further work by the subcommittee. Information developed in criminal investigations by the Justice Department was obtained from trial testimony or examination of FBI reports, where feasible, instead of through another investigation. The subcommittee did not attempt to trace Estes' expenditures on an item-by-item basis, as this work was being done by the Internal Revenue Service. Matters known to relate solely to the transfer of cotton allotments from land acquired for Government use were not examined by the subcommittee because these matters were the subject of an extensive investigation by the Senate subcommittee.

Although there were some temporary exceptions, the cooperation of agencies of the Federal Government in allowing access to or providing information was generally at least equal to that received by the subcommittee in any previous investigation. In some respects, such as the availability of FBI reports for examination by the subcommittee, it was better than in any previous investigation.

The availability on a previously unprecedented scale of investigative work done by others made it possible for the subcommittee, with a relatively small staff (which never exceeded seven persons assigned to the Estes matter), to explore many facets of Estes' operations to a degree that otherwise would have been impossible or prohibitively expensive. The avoidance of unnecessary duplication also made it possible for the subcommittee to concentrate a larger share of its effort in areas which otherwise might not have been explored adequately by any investigative agency.

The concurrent existence of numerous other Government investigations and an enormous amount of press and public interest often helped the subcommittee by making information more readily



available. However, the situation also created problems at times. For example, although it continued investigative work of a nonpublic nature, the subcommittee thought it advisable to discontinue public activity for several months in order to avoid possible interference—or allegations of interference—with Estes' trial on Federal criminal charges. The subcommittee also devoted a great deal of time and effort to following up allegations made in press reports and public statements which turned out to be without foundation.

A number of references are made in this report to testimony taken in courts of inquiry in Texas during 1962. These hearings were conducted as part of an antitrust investigation by then attorney general of Texas, Will Wilson. In the report, for convenience, these hearings are identified by the place at which they were held. A list of the date and location of each of these hearings follows:

April 10, 1962: County Court, Amarillo, Potter County, Tex.  
April 11, 1962: County Court, Plainview, Hale County, Tex.  
April 12, 1962: Precinct 1, Place 1, Dallas, Dallas County, Tex.  
April 14, 1962: County Court, Pecos, Reeves County, Tex.  
April 19, 1962: Precinct 1, Place 2, Lubbock, Lubbock County, Tex.  
April 20, 1962: Precinct 1, Place 1, Dallas, Dallas County, Tex.  
July 26, 27, and 28, 1962: County Court, Amarillo, Potter County, Tex.

The subcommittee's report contains many direct quotations from testimony at the Texas courts of inquiry and other criminal, civil, or bankruptcy proceedings. It also includes numerous excerpts from statements obtained by the subcommittee and other governmental units which examined operations of Billie Sol Estes. The inclusion of such quotations or excerpts in the subcommittee's report does not necessarily mean that the subcommittee believes they are entirely or even substantially accurate.

A large number of statements reportedly made by Billie Sol Estes have been included in the report; in most instances, the individuals to whom the statements were reportedly made were obviously not in a position to know whether or not they were true. It should be noted that the subcommittee's investigation clearly established that Billie Sol Estes habitually made false, misleading, and exaggerated statements. It should also be noted that the subcommittee's investigation disclosed a number of instances where witnesses apparently gave misleading or inaccurate testimony concerning matters about which they allegedly had personal knowledge.

#### ACKNOWLEDGMENTS

Many persons in Government service helped the subcommittee in its investigation of the operations of Billie Sol Estes. The subcommittee appreciates their assistance.

The subcommittee particularly appreciates the invaluable help provided by the General Accounting Office. The excellent work of Mr. Edward Hanna, of the General Accounting Office, who worked with the subcommittee during almost the entire period of its investigation, is deserving of special recognition. Particularly valuable assistance was also provided by Charles E. Eckert, Comer Harvill, John Carroll, and Stanley Haddock of the Washington office of the

General Accounting Office, and by personnel of the Dallas, New York, Los Angeles, and Atlanta field offices.

The subcommittee also wishes to acknowledge the very substantial assistance provided in its investigation by personnel of a special field unit of the Internal Revenue Service. This unit worked under the very capable direction of Carl R. Gromatzky.

During its investigation, the subcommittee requested information relating to operations of Billie Sol Estes from a large number of private firms and individuals. While there were some notable exceptions, most of those contacted gave the subcommittee very generous and helpful cooperation, for which the subcommittee wishes to publicly express its appreciation.

#### WITNESSES AT SUBCOMMITTEE HEARINGS

The following witnesses testified at subcommittee hearings relating to operations of Billie Sol Estes:

##### Department of Agriculture:

Hon. Orville L. Freeman, Secretary of Agriculture.

Donald A. Campbell, Office of the General Counsel.

Gerald E. Tichenor, Deputy Administrator, Foreign Agricultural Service.

Frank W. Hussey, Deputy Administrator, Agricultural Stabilization and Conservation Service.

Roland F. Ballou, Assistant Deputy Administrator, Agricultural Stabilization and Conservation Service.

Lionel C. Holm, Executive Assistant to Administrator, Agricultural Stabilization and Conservation Service.

C. Hilary Moseley, Director, Dallas Commodity Office, Agricultural Stabilization and Conservation Service.

Donald Smith, Director, Kansas City Commodity Office, Agricultural Stabilization and Conservation Service.

S. R. Smith, Administrator, Agricultural Marketing Service.

Carl J. Miller, Chief, U.S. Warehouse Act Branch, Agricultural Marketing Service.

Dabney W. Townsend, Assistant Chief, U.S. Warehouse Act Branch, Agricultural Marketing Service.

Donald I. McCoy, U.S. warehouse examiner.

Donald A. Russell, Director, Internal Audit Division, Agricultural Marketing Service.

Charles G. Cleveland, chief investigator, Internal Audit Division, Agricultural Marketing Service.

Richard E. Turner, special agent, Internal Audit Division, Agricultural Marketing Service.

##### General Accounting Office:

Charles E. Eckert, Office of Legislative Liaison.

Orvel L. Tate, Transportation Division.

##### Commercial Solvents Corp.:

Maynard C. Wheeler, president.

William S. Leonhardt, financial vice president.

W. Ward Jackson, vice president in charge of sales.

Edward Taylor, counsel.

## Other:

Frank Cain, attorney, Irion, Cain, Cocke & Magee, Dallas, Tex.  
Wayne L. Cooper, former manager, United Elevators.  
Winn P. Jackson, certified public accountant, Lubbock, Tex.  
Robert Manuel, former minority counsel, Intergovernmental Relations Subcommittee.  
James A. McConnell, former Assistant Secretary of Agriculture.  
William E. Morris, former employee, Department of Agriculture.  
Michael D. Provan, sales manager, Waters Travel Services.  
James T. Ralph, former Assistant Secretary of Agriculture.

## IDENTIFICATION OF FIRMS AND INDIVIDUALS

The following business enterprises and individuals are mentioned at several places in the report. Since the identification of these firms and individuals is not always repeated every time their names are used, they are listed and identified here in alphabetical order for the convenience of the reader.

## Business enterprises:

Agriculture, Inc., Girvin, Tex.: A dairy and farming operation about 70 miles from Pecos owned by Billie Sol Estes, consisting of about 13,000 acres of farm and cropland and over 1,000 head of cattle.  
Allied Elevators, Hereford, Tex.: A 9.7-million bushel grain storage facility ostensibly owned by L. G. Worsham and W. J. Worsham but actually owned and controlled by Billie Sol Estes.  
Equipment Service Co., Pecos, Tex.: Acquired by Billie Sol Estes in 1958 and engaged in sales, service, and repair of farm equipment, tractors, and industrial engines, as well as distributor of irrigation supplies, pumps, and cement trucks.  
Estes Bros., Pecos, Tex.: Supposedly a partnership owned seven-eighths by Billie Sol Estes and one-eighth by his brother, Bobby Frank Estes, but actually a business device used and wholly controlled by Billie Sol Estes.  
Estes Enterprises, Pecos, Tex.: A trade name used to describe 12 business operations owned by Billie Sol Estes and controlled from his Pecos headquarters.  
Farmers Co., Pecos, Tex.: A proprietorship organized in 1954 by Billie Sol Estes as a retail outlet for fertilizers and insecticides with offices in Pecos, Fabens, and Anthony, Tex. Also a supplier of anhydrous ammonia to Lester-Stone Co., an Estes-owned fertilizer distribution company.  
Fort Stockton Implement Co., Fort Stockton, Tex.: A distributor of John Deere farm equipment and parts acquired by Billie Sol Estes in 1958.  
Hale County Grain Co., Plainview, Tex.: A 4.5-million-bushel grain storage installation at Plainview purportedly owned by W. W. Hill but actually controlled by Billie Sol Estes.  
Lester-Stone Co., Plainview, Tex.: A fertilizer distribution company acquired by Billie Sol Estes from Glenn Lester and Lloyd Stone in 1959.  
Palo Duro Grain Co., Tulia, Tex.: An 18.8-million-bushel grain storage facility purportedly owned by Claude Davis but initially controlled by Billie Sol Estes.

United Elevators, Plainview, Tex.: The business name under which Billie Sol Estes operated grain storage facilities in and around Plainview with a total capacity of more than 50 million bushels.

Waterwell Service & Supply Co., Pecos, Tex.: A company engaged in sales, service, and repair of irrigation pumps, acquired by Billie Sol Estes in 1958. In 1959 this company merged with the Equipment Service Co., which was also owned by Estes.

Wheeler Fertilizer Co., Hereford, Tex.: Established by Billie Sol Estes in 1959 as an outlet for anhydrous ammonia with Gerron S. "Mutt" Wheeler, a former filling station operator, as the apparent owner. A more complete list of business enterprises owned or controlled by Billie Sol Estes appears in the appendix on page 436.

#### Individuals:

Walter C. Berger, Baltimore, Md.: Associate Administrator of the Commodity Stabilization Service, Department of Agriculture, from March 1954 to November 1956; Administrator from November 1956 to January 1961.

Robert E. Clements, Amarillo, Tex.: Owner of Superior Manufacturing Co. from 1941 to April 1960.

Wayne L. Cooper, Plainview, Tex.: General manager of United Elevators.

Loy A. Everett, New York: Sales manager, agriculture chemicals, Commercial Solvents Corp.

Ruel W. Alexander, Amarillo, Tex.: Secretary-treasurer of Superior Manufacturing Co. after April 1960. Bookkeeper of that company prior to that time.

A. B. Foster, Jr., Pecos, Tex.: General manager of Billie Sol Estes Enterprises.

W. Ward Jackson, New York: Vice president in charge of sales, Commercial Solvents Corp.

Winn P. Jackson, Lubbock, Tex.: Certified public accountant who performed services for Billie Sol Estes, Superior Manufacturing Co., Coleman McSpadden, and Wade Construction Co.

William S. Leonhardt, New York: Financial vice president, Commercial Solvents Corp., from April 1959. Previously treasurer of Commercial Solvents.

James McConnell, Mansfield, Pa.: Administrator of the Commodity Stabilization Service in 1954 and Assistant Secretary of Agriculture from January 1955 to January 1956. Member of board of directors of Commercial Solvents Corp. from June 1957 to April 1959 and consultant to Commercial Solvents thereafter.

Massey K. McConnell, Rayville, La.: Sales representative, Agriculture Chemicals Department, Commercial Solvents Corp.; employed in the southern sales district from 1954 to March 1960.

Donald I. McCoy, Wichita, Kans.: Warehouse examiner, Wichita office, U.S. Warehouse Act Branch, Agricultural Marketing Service.

Ray C. McPherson, Pecos, Tex.: Executive vice president, First National Bank of Pecos.



Coleman D. McSpadden, Lubbock, Tex.: Majority stockholder, Superior Manufacturing Co., Amarillo, from April 1960. Also engaged in anhydrous ammonia sales and grain storage operations.

Carl J. Miller, Washington, D.C.: Chief, U.S. Warehouse Act Branch, Agricultural Marketing Service, Department of Agriculture.

C. Hilary Moseley, Dallas, Tex.: Director, Dallas Commodity Office, Agricultural Stabilization and Conservation Service.

Harold E. Orr, Amarillo, Tex.: Vice president of Superior Manufacturing Co. after April 1960. Salesman for Superior prior to that time.

Coleman Wade, Altus, Okla.: A grain storage construction contractor operating as Wade Contracting Co.

Gerron S. "Mutt" Wheeler, Hereford, Tex.: A former filling station operator employed by Billie Sol Estes as a distributor for anhydrous ammonia under the trade name of Wheeler Fertilizer Co.

Maynard C. Wheeler, New York: President, Commercial Solvents Corp., from April 1959. Previously acting president and senior vice president of Commercial Solvents.

#### BACKGROUND

The major business activities of Billie Sol Estes were carried on in two different parts of west Texas. Estes' business headquarters and his home were at Pecos, in the trans-Pecos area, a region which extends from the Pecos River about 200 miles west to the Rio Grande. Pecos, a town of about 13,000, is county seat of Reeves County, where Estes' farming operations were centered. Estes also had extensive farming operations in Pecos County, which adjoins Reeves County to the southeast. While some of his farm supply sales activities were located in the Pecos area, Estes' grain storage operations and his major anhydrous ammonia sales operations were in or near Plainview, Tex. Plainview is about 250 miles northeast of Pecos in the heart of a region generally called the High Plains or plains area. Maps showing counties, principal cities, and towns in west Texas appear on pages 411 and 412 in the appendix.

Most counties in the trans-Pecos area have huge land areas (the largest is nearly six times the size of Rhode Island) but very few people. One county near Pecos with an area of more than 600 square miles had a 1960 population of 226 people. Counties in the plains area are generally smaller and more heavily populated than those near Pecos.

Agriculture in west Texas differs substantially from farming operations in most other parts of the United States. Only about 10 percent of farms in the United States are irrigated; in parts of west Texas, the percentage of irrigated farms is over 90 percent. Insecticides and fertilizer are used heavily on the irrigated land; annual production costs for growing an acre of irrigated cotton may exceed the value of an acre of land in most other areas. Because of heavy production costs and the large size of many west Texas farming operations, borrowing of large amounts of money to finance equipment purchases and crop production expenses is customary.

While farming operations in the Pecos and plains areas are similar in a number of respects, there are also significant differences between

the two regions. Dependable sources of irrigation water are available in large sections of the plains area. Around Pecos, if water can be found at all, deep and expensive wells are usually required to obtain it. Farms in irrigated sections of the plains area, while generally much smaller than those around Pecos, usually consist almost entirely of irrigated land. In the Pecos area, many farms have huge tracts of undeveloped land and comparatively small percentages of irrigated cropland. A map on page 413 of the appendix shows the location of irrigated areas.

Land in the Pecos area will produce phenomenal yields of cotton; however, production costs are extremely high. Both yields and costs are lower in the plains area; total production of cotton in the plains is far greater than in the trans-Pecos area because of the much greater acreage harvested. Production of grain sorghum in the Pecos area is comparatively small; the plains area, however, contains the heaviest concentration of sorghum production in the country. Hale County, of which Plainview is county seat, probably produces more grain sorghum than any other county and certainly produces more than all but a very few States.

A table comparing agricultural statistics for Reeves, Pecos, and Hale Counties with those for the United States, Texas, and other States appears on page 416 of the appendix. Maps showing sorghum and cotton acreage appear on pages 414 and 415.

#### ORGANIZATION OF REPORT

Billie Sol Estes engaged in several major types of business operations. As Estes conducted them, these activities were intermingled and often confusing. In order to permit discussion of related events in logical sequence, operations relating to grain storage, ammonia sales, and financing methods are discussed in detail in separate sections of this report. Significant details concerning activities of Estes which did not appear to fall within the above categories are included in other sections of the report.

## SUMMARY

Billie Sol Estes arrived in Pecos, Tex., in early 1951. Estes, then 26 years old, had spent most of his life in Clyde, Tex., a small town near Abilene, some 240 miles east of Pecos. Just before moving to Pecos, Estes farmed for 2 years in Castro County near Earth, Tex. He left there, according to a local banker, "owing about everyone in that area from \$9.50 to \$750." Shortly after his arrival in Pecos, Estes acquired land and began producing cotton. He also engaged in a variety of other business activities, including purchase and resale of surplus housing structures and construction of farm storage facilities. Some of Estes' early operations were financed with money borrowed from the Security State Bank of Pecos. He also obtained substantial financial backing from Dr. Harold Lindley of Pecos. Lindley, according to his own account, continuously had from \$300,000 to \$450,000 loaned to or invested with Estes after 1954. Much of Estes' farmland was mortgaged to the Great Southern Life Insurance Company of Houston. Crop production was financed by Anderson, Clayton & Co., which eventually loaned Estes as much as \$1 million annually.

By the end of 1953, Billie Sol Estes was displaying conspicuous signs of success. His net worth, according to a financial statement given his banker, was nearly \$750,000. Estes' net income, as reported to the Pecos Credit Bureau, was \$100,000 a year. His achievements had attracted the attention of the junior chamber of commerce, which named Estes one of the 10 outstanding young men in America for 1953. In choosing Estes for the award, the junior chamber publicly saluted his "tireless energy and brilliant insight," as well as his "outstanding contribution and leadership in churchwork." In the years that followed, Estes' selection as an outstanding young man received widespread and enduring publicity—much of it generated by Estes himself.

Estes' 1953 activities were also receiving less publicized attention of a different sort. In 1952 and 1953, Estes (doing business as the Pecos Steel Building Co.) built steel structures for a number of other farmers in the Pecos area. The buildings were financed under a Government program which authorized low-interest loans for construction of farm storage facilities. Estes' activities under this program resulted in an investigation by the Department of Agriculture—probably the first in what was to become a long series of Federal investigations of Estes' operations. Although the structures were supposedly for storage of grain or cottonseed, the investigation disclosed that most of them were actually being used for housing of Mexican farmworkers (braceros) in violation of program regulations. The 1953 investigation was followed by a second one in early 1954 to determine whether Estes had acted in collusion with Department of Agriculture employees in obtaining construction contracts. The 1954 investigation disclosed

that a number of Reeves County residents had rather uncomplimentary opinions concerning Estes' activities and character, but did not produce evidence that he had received assistance from USDA employees in obtaining contracts. Reports on the two investigations were later referred to the Department of Justice for possible action under the False Claims Act, but the case file was closed without action on July 30, 1957.

In 1954, cotton acreage allotments were reestablished for the first time in several years and Billie Sol Estes received allotments totaling 1,749 acres. Before the end of February 1954, Estes had begun to engage in the first of a number of schemes and devices he used for the purpose of obtaining additional allotment acreage.

By 1955, the story of Billie Sol Estes' success was becoming a legend. A laudatory article in a national magazine, entitled "Powerhouse in Pecos," enthusiastically proclaimed that Estes had cleared "a cool half-million" on his 1954 cotton crop alone. The article also declared that Estes, while becoming a millionaire in just 4 years, had done "astounding things for Pecos and several other Texas communities, their industry and agriculture."

However, a 1955 investigation by the Internal Revenue Service of Estes' tax liabilities for the years 1951-53 disclosed a considerably different picture. Instead of being a millionaire, Estes admitted, he actually was a million dollars or more in debt. Estes told IRS agents that his liabilities exceeded his assets in 1950; his returns for 1951-53 showed net losses. He also told them that his financial statements were grossly inflated as part of a plan to keep his creditors from learning of his "desperate financial straits"; another part of this plan involved intermingling and transferring funds of his various enterprises to conceal their true financial condition. Estes was assessed around \$8,000 in additional taxes for 1952 and 1953; however, the assessment was never paid because a 1956 examination of his 1954 tax return resulted in tax loss carryback which wiped it out.

The IRS agent who examined Estes' 1954 return recommended that his 1955 return be "sent to the field for a complete examination." However, despite the fact that Estes lived on a lavish scale and deliberately propagated a public image of enormous wealth, neither his 1955 tax return nor those for any later year were examined before he was arrested.

During 1955, Estes transferred his banking business from the Security State Bank to the First National Bank of Pecos. The transfer came after the president of the Security State Bank accused Estes of cheating him out of \$18,000 in a private transaction and demanded payment of all his unsecured loans.

From 1955 until he was arrested, Estes' banking business was centered at the First National Bank. During this period, the bank always gave favorable responses to inquiries about Estes' financial condition but never made unsecured loans to Estes.

Through the use of deeply cut prices and other aggressive sales tactics, Billie Sol Estes had become a large distributor of insecticides and other farm supplies by 1956. In 1957, Estes began selling anhydrous ammonia; he also began buying tanks and equipment needed to distribute it. Whenever possible, Estes acquired commodities



on credit and sold them for cash to meet whatever obligations were most pressing at the moment. When suppliers refused to make further sales on credit he looked for—and usually found—new sources of supply. By the end of 1957, however, Estes' poor credit record was beginning to catch up with him. His major supplier of insecticides, Agricultural Chemicals, Inc., had placed Estes on a cash basis for further orders. Estes owed several companies for ammonia, and was apparently having difficulty in finding one which would give him further supplies on credit.

While expanding his sales operations during the 1950's, Billie Sol Estes was also using various schemes and devices to increase his cotton allotment acreage. One method used by Estes, along with a number of others in the Trans-Pecos area, was to lease land which had a cotton allotment but was unsuitable for growing cotton, usually because of lack of water. The leased land then would be "combined" with a tract which had water but no allotment. Fred Chandler, Sr., a Pecos County resident who was involved in business transactions with Estes, encouraged ASCS county committees to approve such combinations while a member of the State committee in 1954 and 1955. Chandler himself engaged in numerous allotment transfers. Another device used by Estes was to misrepresent the amount of land which had been developed for crops through installation of irrigation wells and pumps. In 1957, Estes (using the name of his brother, Bobby Frank Estes) obtained a 402-acre "new grower" allotment in Pecos County by misrepresenting the amount of his cropland as 7,200 acres, when it was actually only 630 acres.

Numerous complaints were received, starting in 1955, concerning alleged irregularities in transfers of cotton allotments in west Texas. A number of the complaints referred specifically to alleged irregularities in Reeves and Pecos Counties; some mentioned Estes by name. In 1958, a survey by the Department of Agriculture of allotment transfers in Pecos County disclosed clear evidence that producers there had been purchasing cotton allotments. However, the investigation report was not referred to the Justice Department and a recommendation that corrective action be taken by the Department of Agriculture was not followed. Other investigations of allotment irregularities resulted in little or no corrective action; some complaints were never investigated. The misrepresentation involving the 1957 new grower allotment obtained in the name of Bobby Frank Estes was discovered by the Department of Agriculture in 1958, but no action was taken to consider possible prosecution or even to cancel the allotment.

Estes probably began using fraudulent warehouse receipts on commodity inventories and bogus water well pump mortgages at least as early as 1957. During 1958, Estes began using fraudulent tank mortgages to raise cash; tanks and equipment actually acquired that year were valued at \$275,000 but tank mortgages recorded in Estes' name had a face value of more than \$900,000. Fraudulent tank mortgages were negotiated by Estes from 1958 through early 1960 with the assistance of Robert Clements, then owner of the Superior Manufacturing Co., a relatively small ammonia tank manufacturing firm at Amarillo. Substantial purchasers of Estes' fraudu-

lent tank mortgages prior to 1960 included Associates Investment, CIT, Southwestern Investment Co., and the First National Bank of Amarillo.

In 1958, Estes expanded his operations involving water well pumps by acquiring three farm equipment distributing firms; there are indications that fraudulent mortgages were used for this purpose. After acquiring the distributing firms, Estes obtained several hundred thousand dollars worth of pumps and equipment from a number of pump manufacturing companies. Although he had not yet paid for the pumps, Estes used warehouse receipts on pumps supposedly in his warehouses as collateral for bank loans obtained from out-of-town banks through the First National Bank of Pecos. In addition, Estes sold the Associates Investment Co. time sales contracts (supposedly representing installment sales of pumps) with a total face value of almost \$1.8 million. The sales contracts were secured by chattel mortgages purportedly covering the pumps; however, only a comparatively small percentage of the pumps actually existed.

Estes managed to temporarily alleviate some of his credit problems in 1958 by finding new sources from which to obtain insecticides and ammonia. Large supplies of insecticides were obtained from Pennsalt Chemicals. Commercial Solvents Corp., which had lost most of its agricultural market for anhydrous ammonia, shipped Estes nearly 5,000 tons of ammonia on credit.

During the summer of 1958, Estes began trying unsuccessfully to enter the grain storage business by having storage facilities built on credit. By fall, his unpaid ammonia account with Commercial Solvents was more than \$500,000 and he was being pressed for payment. Estes solved both problems at the same time, through a December 1, 1958, agreement with Commercial Solvents under which that company advanced \$225,000 for Estes to use in acquiring the Smith-Bawden elevator at Plainview. In return, Estes agreed to sell additional quantities of ammonia for Commercial Solvents and to assign Government grain storage payments to apply on his indebtedness to the company.

In January 1959, Associates Investment Co. was informed that a large percentage of Billie Sol Estes' pump mortgages were fraudulent. Officials of the company immediately went to Pecos for a meeting with Estes. Although Associates denies it knew the pumps were nonexistent, the company demanded—unsuccessfully—that Estes pay off all its contracts immediately and refused to purchase further contracts from any of Estes' companies. Estes continued to make periodic payments on most of the contracts held by Associates.

Before January 1959, most—if not all—Estes tank mortgages had been in his own name. After that time, Estes began inducing other persons—whom Estes and his associates referred to as "horses"—to sign the mortgages for him, usually paying a 10-percent commission for their signatures. Although Associates bought no tank paper bearing Estes' name after January 1959, the company paid approximately half a million dollars for tank paper originated by Estes in the names of others during the next 3 years.

The discovery of pump mortgage irregularities was not the only problem facing Billie Sol Estes in January 1959. Although Estes had completed arrangements for purchase of the Smith-Bawden elevator at Plainview in December 1958, he still had neither a Federal warehouse license nor a contract authorizing him to store Government-

owned grain. Estes had filed an application for a warehouse license in November 1958, submitting with the application a financial statement in which he stated that his net worth as of October 31, 1958, was slightly more than \$5 million. Estes' storage facilities at Plainview had been inspected in December 1958 by warehouse examiners from the Wichita, Kans., office of the AMS Warehouse Act Branch. However, approval of a license for Estes was being delayed because the Standard Accident Insurance Co., which had bonded the Smith-Bawden elevator for its previous owners, was unwilling to provide Estes with a \$200,000 surety bond without a certified audit of his financial condition. However, after Estes secured a cosigner, Standard finally agreed to write the bond. A warehouse examiner went to Pecos on February 16, 1959, to obtain additional information concerning Estes' financial condition for use in evaluating his license application. During his visit, the examiner obtained a financial statement showing Estes' net worth on December 18, 1958, as almost \$6.5 million. On February 24, 1959, issuance of Estes' initial Federal warehouse license was approved by Carl Miller, Chief of the AMS Warehouse Act Branch in Washington. The increase in net worth of more than \$1.4 million in about 6 weeks shown by Estes' financial statements was not questioned by Miller. The Dallas ASCS commodity office approved Estes storage facilities for storage of Government grain on March 4, 1959; in accordance with customary procedures, Estes' Federal warehouse license was accepted without question as satisfactory evidence that his storage facilities were suitable for storage of Government grain.

During the next 3 years, there were 39 more instances in which new warehouses or additions at existing facilities owned or controlled by Estes were licensed and approved for storage of Government grain. Total capacity of Estes' facilities at the time of his arrest was approximately 87 million bushels. Some 54 million bushels of space was operated under the name of United Elevators; the remaining facilities were operated under the names of others without disclosure of Estes' interest. The warehouses contained 33.7 million bushels of Government grain when Estes was arrested, and had previously handled an additional 11.1 million bushels. Of this total, 63 percent had been obtained through private sources and the remainder through Government shipments.

After preliminary steps in late 1958, Billie Sol Estes established ammonia sales operations in the Plains area in early 1959. In January, Estes acquired an apparently controlling interest in the Lester-Stone Co., a fertilizer distributing firm located at Plainview. Later in the year, an ex-filling station operator named Gerron S. "Mutt" Wheeler established the Wheeler Fertilizer Co. at Hereford, 65 miles northwest of Plainview; although ostensibly owned by Wheeler, the firm was controlled by Estes. Through these firms and his own Farmers Co. at Pecos, Estes sold nearly 35,000 tons of anhydrous ammonia during 1959. Most of the sales were in the Plains area, where Estes' aggressive sales tactics had captured a large share of the market.

By the end of September 1959, Billie Sol Estes owed Commercial Solvents about \$3.5 million—more than \$2 million over the credit limit established under his agreement with Solvents. In October 1959, Commercial Solvents briefly cut off further shipments to Estes. Shortly thereafter, a revised agreement was signed raising Estes' credit limit to a maximum of \$2.5 million, not including \$900,000 in

notes previously signed by Estes. From then until early 1962 Commercial Solvents limited ammonia shipments to Estes to an amount roughly equal in value to the storage payments being received under the assignment from Estes.

Although the change in Commercial Solvents' credit policy toward Billie Sol Estes stopped the rapid growth of his unpaid account, it remained at a very high figure. In April 1960, J. H. Uhl, then controller of Commercial Solvents Corp., questioned the manner in which the Estes account was being handled. Uhl pointed out that Estes had failed to pay a \$235,000 note installment due on February 28, 1960, and that \$1.3 million of Estes' total indebtedness of \$3.5 million was in default. Uhl also noted that Estes had failed to honor an agreement to allow examination of his books and records. Later in the year, Commercial Solvents' board of directors was advised that Estes' account had been substantially reduced. However, the "reduction" apparently was accomplished by crediting to Estes' account large notes payable to him from third parties and endorsed by him to Commercial Solvents. The notes were actually forged or worthless. No attempt was made to collect them when they matured in 1961; instead, they were given back to Estes.

Financial problems did not prevent Estes from continuing to expand his storage operations. During the first few months of 1960, he acquired a number of warehouses on a long-term payment basis, with no money down. He also established two new storage firms—Palo Duro Grain Co. and Hale County Grain Co.—in the names of others, apparently on a partnership basis. Tank mortgages signed by Estes partners were used to obtain funds for warehouse construction. Estes also negotiated fraudulent mortgages in the names of persons from whom he had purchased warehouses; in some cases, the individuals concerned knew of the mortgages in their names long before Estes was arrested but took no action.

In April 1960, Robert Clements sold Superior Manufacturing Co. to a group including Coleman McSpadden, Harold Orr, and Ruel Alexander. McSpadden was a Lubbock promoter and fertilizer distributor who had been cooperating with Estes in sales of anhydrous ammonia. Funds obtained through fraudulent tank mortgages or borrowed from Estes were used to acquire Superior.

After April 1960, Estes greatly expanded the volume of fictitious tank mortgages sold to finance companies through Superior, using both coercion and persuasion to secure cooperation of the new owners. From May 1960 through February 1962, the face value of fraudulent mortgages handled by Superior for Estes was substantially more than \$20 million. Additional tank mortgages with a face value of almost \$3 million were negotiated by Superior for McSpadden, who was carrying on independent swindling operations of his own as well as assisting Estes. Later in 1960, Estes made arrangements for the Lubbock Machine & Supply Co. to handle tank transactions (supposedly involving used tanks) for him on a commission basis; mortgages with a face value of more than \$5 million were handled by this company for Estes.

From late 1960 through early 1961, CIT paid Superior \$3.6 million for Estes-originated tank notes with a face value of \$4.7 million. During this period, one employee of CIT's Dallas office (James Turriff) received a car from Estes; another (William King) was paid \$500 per month by Superior. Beginning in 1961, Estes' tank mort-



gages with a face value of \$7.1 million were sold to Walter Heller & Co. under leasing transactions offered by Robert Graham. Graham was paid more than \$150,000 by Superior.

By early 1960, United Elevators had a total capacity of almost 18 million bushels, about 6 times its original size. However, United's surety bond remained at \$200,000, the maximum ordinarily required at that time in the absence of special circumstances. In May 1960, C. H. Moseley, Director of the ASCS Dallas Commodity Office questioned whether the bond was sufficient, sending a memorandum and copies of Dun & Bradstreet reports concerning Estes' heavy indebtedness to Washington. The Moseley memorandum was called to the attention of Carl Miller. Miller did not examine the Dun & Bradstreet reports, which contained information conflicting with that on Estes' financial statements in Miller's possession, but did order that Estes' surety bond should be increased 10 cents per bushel for all future expansion.

By November 1, 1960 additions to United Elevators had brought Estes' bond to nearly \$600,000 and additional space under construction would have raised the amount required to nearly \$1.1 million under the 10-cents-per-bushel formula. Estes' surety company, at that time, Aetna Casualty, was unwilling to write a bond in excess of \$700,000. Carl Miller agreed to accept the additional space under construction without increasing the bond, but issued instructions that a million-dollar bond and a certified audit should be required when Estes' licenses were renewed in February 1961. Since Aetna was unwilling to write a million-dollar bond, the Wichita office of the Warehouse Act Branch proposed issuance of two bonds totaling slightly more than \$1 million, each covering only part of Estes' facilities. Before the Wichita proposal reached Carl Miller, Estes came to his office on January 25, 1961. On the basis of a financial statement submitted by Winn Jackson, a Lubbock certified public accountant, Miller agreed to continue Estes' bond at \$700,000. Jackson actually made no audit; he received \$6,000 for copying figures furnished by Estes on his letterhead. (Jackson was also involved in questionable transactions with a number of Estes' business associates.)

Some of Estes competitors were becoming suspicious of his tank transactions by the end of 1960. In January 1961, after a visit to Pecos, a field representative of Commercial Solvents reported to the company's New York office that he had received information "Estes has been borrowing money on nonexistent ammonia storage tanks." In February 1961, because of suspicion by bankers, dummy accounts in the name of fictitious companies were established by Estes and McSpadden for use in transferring the proceeds of fraudulent mortgages from Superior Manufacturing Co. to their own bank accounts.

Beginning in 1960, a number of finance companies cut off further purchases of tank mortgages from Superior after learning that the tanks involved were supposedly leased to Estes. In May 1961, CIT employment of Turriff & King terminated after the company received information indicating a link with Estes.

In March 1961, a 5-page memorandum prepared by Dr. John Dunn of Pecos concerning Estes' tank transactions was furnished to the Federal Bureau of Investigation, along with a 14 page listing of tank mortgages. The information was sent to the El Paso office of the FBI and presented by that office to Assistant U.S. Attorney Lawrence

Fuller April. Fuller decided in July 1961 that the information presented did not indicate violation of the Federal Reserve Act.

In late 1961, Estes began carrying out plans to build 100 grain receiving stations throughout the Plains area, a move which forebode considerable hardship for his competitors. In September, C. H. Moseley received from Estes' competitors allegations concerning the condition of grain in his warehouses, along with Dun & Bradstreet reports which listed mortgages not shown on his financial statement. A special examination of Estes' warehouses disclosed no indication of deterioration in grain stored in Estes facilities. The Dun & Bradstreet reports were forwarded to Carl Miller; and an inquiry into Estes financial condition was requested by the AMS internal audit division. Estes' office manager was requested on October 24, 1961, and February 8, 1962, to provide information, but no other significant action had been taken before Estes' arrest.

Estes continued to expand his storage facilities during 1961. Steel grain storage tanks were built for him by Superior Manufacturing Co. and Lubbock Machine & Supply; construction costs were deducted by these companies from the proceeds of tank mortgages handled for Estes. Nine million bushels of space was built for Allied Elevators under an arrangement whereby Estes promised a 10-percent interest for use of someone else's credit. Estes also paid 10-percent commissions for warehouses ostensibly "leased" from others but actually owned by Estes. Substantial kickbacks were paid to Estes and others in transactions where the amount of financing obtained exceeded construction costs.

By the end of 1961, monthly payments on Estes' tank mortgages were approaching half a million dollars. In late 1961 and early 1962, Estes made unsuccessful attempts to obtain from \$10 million to \$20 million in loans or credit from Commercial Solvents and other ammonia producing firms, offering to transfer all or part of his ammonia distribution business as part of the transactions.

Commercial Solvents Corp., which had been restricting shipments of ammonia to Estes in 1960 and 1961, shipped Estes 13,200 tons during February and March 1962—approximately double the amount forecast in January. Estes disposed of almost all the ammonia before his arrest through sales at low prices. On February 28, 1962, William Leonhardt, Commercial Solvents' financial vice president, sent Estes \$400,000 on the basis of a telephone request.

On February 12, 1962, the Pecos Independent began publication of a series of articles about Estes' tank transactions, based on information gathered by Dr. Dunn and others. After confirming that the tanks did not exist through a collateral check toward the end of February, Pacific called in a Dallas attorney (Frank Cain) who met with Estes to discuss possible methods by which Estes might eventually arrange to pay the fictitious tank mortgages. On March 18, 1962, Cain met with Maynard Wheeler, president of Commercial Solvents, who was visiting at Estes' home in Pecos. On March 27, a meeting of all finance companies holding Estes' tank mortgages was arranged in Dallas by Pacific Finance. Negotiations between Estes and the finance companies were terminated by the arrest of Estes on March 29; Estes' arrest culminated an FBI investigation which began earlier in March.



## GENERAL FINDINGS AND CONCLUSIONS

### INTRODUCTION

The arrest of Billie Sol Estes on March 29, 1962, and the resultant collapse of his west Texas agricultural and financial empire terminated a fantastic multimillion-dollar swindling operation.

Since March, 1962, literally hundreds of investigators from Federal, State, and, local government agencies have spent untold thousands of hours examining various phases of Estes' operations. Their efforts have been paralleled by a large number of lawyers and private investigators seeking information in scores of lawsuits filed by business firms and individuals.

The Intergovernmental Relations Subcommittee began its investigation of the Estes matter shortly after his arrest. In its early stages, the subcommittee's investigation was concentrated primarily on Estes' Government grain storage operations; the investigation was later expanded to include all known activities of Estes which appeared to have any significant relationship to Federal Government operations, programs, or personnel, with the single exception of matters related to transfer of pooled cotton allotments, which were being investigated by the Senate Committee on Government Operations.

Because of the confusing and intermingled nature of Estes' operations, the subcommittee found it necessary to review to some extent almost all of Estes' major business activities in recent years in order to ascertain whether or not particular transactions were relevant to its investigation. Consequently, since other Government agencies concerned with Estes' activities concentrated on particular phases of his operations, the subcommittee believes its inquiry has been the broadest in scope of the many investigations which have been conducted or are still in progress. In its investigation, the subcommittee had access to reports of agents of the Federal Bureau of Investigation and other Federal investigators and to information developed by the Internal Revenue Service. It also had access to investigative hearings conducted by the attorney general of Texas and to a substantial amount of information developed in the course of private investigations and litigation.

The subcommittee has tried to make a thorough, comprehensive, and objective investigation. Minority counsel participated in all phases of the inquiry. The amount of work done was far greater than in any previous inquiry the subcommittee has undertaken. Particular effort was devoted to the question of whether—and if so, to what extent—Billie Sol Estes' operations were made possible or facilitated by corruption in Government or improper conduct by Government officers or employees. Since neither the subcommittee members nor its staff are omniscient, the subcommittee cannot guarantee that nothing significant was overlooked in its investigation. However, it can say without reservation that an honest effort was made to obtain all relevant facts which might have a significant relationship to programs, activities, and personnel of the Federal Government.

The subcommittee's report, voluminous though it is, contains only a small fraction of the mass of information developed in its investigation. However, the subcommittee has tried to place on the public record all information which it believes is significant.

#### THE ESTES EMPIRE

Before his arrest, Billie Sol Estes was widely regarded as a man of amazing achievements. Printed pamphlets, published by Estes himself, suggested in a modest manner that Estes was a multimillionaire, a business genius, a civic and religious leader, a friend of those in high places, and a benefactor of the underprivileged. His luxurious home, massive warehouses, and numerous ammonia tanks were visual evidence of his prosperity. While there were elements of truth in it, the legendary success story of Billie Sol Estes—as the world now knows—was essentially fraudulent.

However, Billie Sol Estes' actual achievements—while far from admirable—are in some ways even more remarkable than those he falsely claimed. Billie Sol Estes was not, as his lawyers argued at his trial, a millionaire who made a mistake. Estes never was worth a million dollars or anything close to it. In all probability, he was insolvent from the day he arrived in Pecos in 1951 until the day he was arrested in 1962. The tank transactions through which Estes obtained millions of dollars from some of the country's most sophisticated moneylenders were only one of many unethical or fraudulent devices by which Estes obtained money or credit for more than 10 years.

Estes' success in deceiving people concerning the true nature of his fraudulent operations was impressive, but his ability to continue and expand these operations after they were discovered not once but several times was perhaps even more impressive.

#### HOW THE EMPIRE WAS BUILT

Billie Sol Estes obviously had sufficient natural talent and persuasive ability to become a successful swindler almost anywhere. However, he probably would have had great difficulty in finding a locale better suited to his operations than west Texas. The huge irrigated farms in that area require tremendous expenditures for equipment and operating expenses; much of the capital required is customarily borrowed. During the period of time in which Estes operated, use of anhydrous ammonia for fertilizer was rapidly increasing in west Texas, as was the need for more storage space for Government grain. Consequently, transactions of a size which would immediately attract attention almost anywhere else could go virtually unnoticed in west Texas.

Billie Sol Estes built his empire by successfully deceiving those who dealt with him. He managed to convince almost everyone that—whatever his faults—he had money. On the strength of his supposed wealth, Estes was able to use a variety of schemes and devices to obtain cash or credit. Many of these schemes involved false representations of one kind or another concerning the nature or existence of collateral. Through ownership of several equipment sales firms and close connection with a tank manufacturing firm, Estes was able

to document the purported existence of fictitious collateral or to hide encumbrances on existing chattels. Although often refused credit, Estes was usually successful in obtaining it elsewhere if he was unable to obtain a reversal of an adverse decision.

Although one man was responsible, it took more than one person to build the Estes empire. Billie Sol Estes received assistance from employees who did what they were told without asking questions. He was helped by local bankers who gave him consistently favorable recommendations. Estes benefited from poor procedures and poor judgment involving Government agencies and private firms with which he had dealings. He apparently had little difficulty in finding individuals who were willing and even anxious to sign his tank notes for a consideration.

#### HOW THE EMPIRE WAS MAINTAINED

Billie Sol Estes' fraudulent operations were disclosed not once but several times, beginning years before his arrest. Many people knew he was engaging in unethical business practices. A substantial number of firms or individuals knew—or had reason to believe—that Estes was engaging in fraudulent transactions long before he was arrested. A few of them even knew—or should have suspected—that he was insolvent. An almost unbelievable number of inquiries and investigations into various phases of Estes' activities were conducted before his arrest by agencies of the Federal Government, beginning at least as early as 1953. While these events were going on, Billie Sol Estes' empire continued to expand.

Some of the firms or individuals who knew—or had reason to believe—that Billie Sol Estes was engaging in fraudulent transactions were owed substantial sums of money by Estes. When they discovered evidence of possible or probable fraud, they had two choices. They could report the evidence of Estes' fraud to the proper authorities, running the risk of throwing him into both jail and bankruptcy. On the other hand, they could remain silent and continue to receive full or partial payments on Estes' indebtedness. The subcommittee is not aware of any instance in which a creditor of Estes who had reason to suspect his honesty reported such suspicions to appropriate authorities for the purpose of having him prosecuted. The subcommittee did find one instance in which a creditor (Pacific Finance Co.) did contact an attorney in private practice, who was also the local prosecuting attorney, about Estes. However, Pacific Finance was not seeking prosecution of Estes; its purpose was to engage the attorney to represent Pacific in the Estes matter.

Other individuals who knew or had reason to believe Estes was engaging in fraudulent transactions were benefiting from or assisting him in such transactions. Some employees of private firms who suspected Estes' activities were placed on his payroll. Their reasons for not informing the authorities are obvious.

In early 1961, detailed information concerning Estes' tank transactions, which had been prepared by Dr. John Dunn of Pecos, was furnished to the FBI. The information was presented by the FBI to an assistant U.S. attorney in El Paso, who decided that there was

no apparent violation of the Federal banking laws. Although FBI agents from the El Paso office discussed the case with the assistant U.S. attorney on three separate occasions, the subcommittee found no indication that they disagreed with his decision. The arrest of Estes in March 1962, after a further FBI investigation, was based on confirmation of essentially the same information that had been submitted in 1961. Further details concerning the 1961 circumstances are discussed on pages 355 to 360.

Had all—or even a few—of the many Federal investigations of Estes' operations been properly coordinated, it is almost inconceivable that his fraudulent activities could have been continued for such a long period. However, most of the many Federal investigations were conducted with an almost total absence of effective coordination or communication between or within the departments, agencies, and subunits involved. In some instances, Federal agencies unsuccessfully sought information from private sources which was already in the possession of other Government units; in others, Federal agencies which had information of probable significance to other Government units failed to alert them concerning it.

Since the arrest of Billie Sol Estes, the Department of Agriculture has placed all of its audit and investigative activities under the direction of an inspector general, who reports directly to the Secretary of Agriculture. While the subcommittee is not in a position to evaluate at this time how well the new system is working in practice, it obviously should result in a very substantial improvement in the coordination of USDA audit and investigative activities.

The subcommittee has no reason to believe that coordination of audit and investigative activities between and within other departments and agencies of the Federal Government is materially different than it was before Estes' arrest.

#### WHY ESTES' EMPIRE COLLAPSED

The really effective work in exposing Billie Sol Estes was done almost entirely by persons who were being injured financially by his ruthless competitive tactics. A number of complaints were made to appropriate authorities by competitors in various lines of business concerning alleged illegal or unethical activities of Estes. Some of the complaints were farfetched and without foundation; others were detailed and accurate. However, no effective action was taken until information concerning Estes' tank transactions was made public.

Publication of stories about Billie Sol Estes' tank transactions triggered a final series of events which ultimately led to the arrest of Billie Sol Estes. The stories resulted in investigations and inquiries by finance companies, note signers, and by creditors of Billie Sol Estes. Renewed attention to Estes was shown by Federal and State agencies. On March 29, 1962, Estes was arrested by the FBI, which had opened a new investigation of his tank transactions early that month.

#### GRAIN STORAGE OPERATIONS

Billie Sol Estes engaged in activities involving storage of Government grain from late 1958 through early 1962. The subcommittee examined these operations in great detail and held extensive hearings concerning them. The investigation did not disclose evidence to substantiate allegations that Billie Sol Estes received deliberate pref-

erential treatment because of bribery, political influence or pressure, or for any other reason involving corruption of Government officials or employees. The subcommittee found no credible evidence that Estes had made arrangements for or had reasonable cause to expect he would get such preferential treatment.

Estes obtained approval of his facilities and Government grain storage contracts, by submitting false statements concerning his financial condition. While Billie Sol Estes' record amply demonstrates his talent for deception, his misrepresentations concerning his financial condition succeeded primarily because of shortcomings in the performance of the Department of Agriculture; factors contributing significantly to his success were the inadequate nature of USDA administrative regulations, procedures and practices relating to financial responsibility of warehousemen, the assignment of responsibility for investigating and evaluating financial responsibility to individuals insufficiently qualified to carry them out, and a number of instances in which USDA personnel displayed a conspicuous lack of alertness or exercised poor judgment.

Detailed findings and conclusions concerning grain storage start on page 29.

#### AMMONIA SALES OPERATIONS

Commercial Solvents Corp. did not put Billie Sol Estes into the anhydrous ammonia business. However, by providing Estes with virtually unlimited supplies of ammonia on credit in 1959, Commercial Solvents made it possible for Estes to gain control of much of the ammonia market in the Plains area of Texas. Estes made almost no payments for ammonia during this period, and CCC storage revenues received by Commercial Solvents under an assignment from Estes were only a fraction of the amount due on his account. As a result, Estes' indebtedness to Commercial Solvents exceeded \$3.5 million by the end of 1959.

During 1959, funds derived from sale of ammonia were available for expansion of Estes' storage operations; it probably was no coincidence that a relatively small amount of fraudulent ammonia tank paper was originated that year. In 1960 and 1961, Commercial Solvents restricted the amount of credit available to Estes by limiting ammonia shipments to roughly the amount of storage payments received under the assignment. During those years, Estes continued to expand his storage operations, but the amount of tank paper negotiated increased substantially. In early 1962, Commercial Solvents shipped Estes ammonia at a far faster rate than ever before; in addition, the company advanced Estes \$400,000.

The subcommittee investigation indicated that it was highly unlikely that total and permanent monopolization of the Plains ammonia market was a reasonable objective for Estes or Commercial Solvents. Phillips Petroleum and Grace Chemical Co.—both larger than Commercial Solvents—had ammonia plants operating or under construction in west Texas which were much more favorably located for this market than the Commercial Solvents plant at Sterlington, La.

However, the grain storage-fertilizer deal made by Commercial Solvents and Estes in late 1958 offered apparent advantages to both. It provided Commercial Solvents with a means of disposing of surplus ammonia at an attractive price and, through the assignment of Estes'



storage revenues, in effect enlisted the aid of the U.S. Government as a device for collection from its slow-paying customer.

For Estes, the arrangement provided capital with which to acquire his initial storage facility in the Plains area. Moreover, it supplied a means of raising additional funds since he obtained ammonia on credit and sold it for cash. Expansion of his operations to the Plains area also furnished a plausible explanation for Estes' tank deals. In addition, although Estes could not hope to drive Phillips or Grace out of business, he may have thought that one or the other might eventually pay a high price for his ammonia business to get rid of costly competition.

In obtaining an assignment of grain storage revenues, Commercial Solvents described itself as a "financial institution," an action the subcommittee considers questionable. Under procedures established prior to 1959, the subcommittee regularly receives reports on all payments in excess of \$50,000 made by the Commodity Credit Corporation. Consequently, payments made to Commercial Solvents under the assignment from Estes should have been reported to the subcommittee. However, except for the first one, payments to Commercial Solvents were improperly identified as going to United Elevators. Responsible officials of the Department of Agriculture ascribed the failure to identify Commercial Solvents as payee as a clerical error, and the subcommittee's investigation did not disclose evidence to the contrary.

Officials of Commercial Solvents stated that they had no knowledge or suspicion of Estes' fraudulent activities or precarious financial condition prior to his arrest. However, the subcommittee's investigation disclosed that a field representative of Commercial Solvents sent information to his superior in the New York office concerning Estes' nonexistent ammonia tanks more than a year before Estes was arrested. The subcommittee's investigation also indicated that officials of Commercial Solvents suspected Estes was misrepresenting his financial condition as early as 1959.

The subcommittee's investigation disclosed that Commercial Solvents' financial vice president, William S. Leonhardt, sent Billie Sol Estes a check for \$400,000 on February 28, 1962, without advance approval of either the company's board of directors or its executive committee. The subcommittee found no documentation whatever concerning the purpose of the check except a one-sentence letter of transmittal from Leonhardt to Estes referring to a previous telephone call. Although Leonhardt testified that the check was to be used by Estes to meet March 1 payments due on storage facilities on which Commercial Solvents held junior liens, the subcommittee's investigation indicated that mortgage installments of this nature due on March 1 totaled only about \$200,000 and that Estes did not pay them. Furthermore, Estes had failed to pay a \$180,000 installment due on February 28, 1962, on a note payable to Commercial Solvents. The subcommittee finds the explanation of the \$400,000 payment offered by Commercial Solvents very unsatisfactory.

The subcommittee's investigation disclosed that Billie Sol Estes submitted forged notes to Commercial Solvents as collateral for his indebtedness and that such notes were returned to Estes under unusual circumstances.

Maynard Wheeler, president of Commercial Solvents, and Frank Cain, an attorney for Pacific Finance Co., gave directly contradictory



testimony with respect to statements allegedly made by Wheeler. The statements allegedly were made in the presence of Cain and Billie Sol Estes during a meeting in Estes' home 2 weeks before his arrest. Cain's account of what Wheeler said tends to portray Commercial Solvents as an equal and knowing partner in Estes' schemes. Wheeler, on the other hand, denied he had any knowledge or suspicion of possible irregularities in Estes' operations at the time of the meeting. The subcommittee finds it difficult to believe that Wheeler would have made some of the admissions attributed to him by Cain. The subcommittee finds it equally difficult to accept Wheeler's contention that he had no suspicion whatsoever of irregularities.

#### ESTES' RELATIONSHIPS WITH GOVERNMENT OFFICIALS AND EMPLOYEES

As has been previously indicated, the subcommittee's investigation did not cover matters relating to transfer of pooled cotton allotments which were the subject of a Senate investigation. The subcommittee's investigation disclosed the existence of business dealings and financial transactions involving Billie Sol Estes and Government employees residing in Reeves and Pecos Counties. The investigation indicated that the activities of most of these employees were primarily concerned with cotton allotment matters and related programs; it disclosed no evidence that any of them had anything to do with Estes' grain storage operations. However, the relationships between Estes and these employees were not examined in sufficient detail to justify expression of further conclusions concerning their nature at this time. Consequently, the findings and conclusions expressed in the following paragraphs do not cover the above matters.

The subcommittee found substantial evidence that Billie Sol Estes paid bribes to employees of some private firms in connection with his fraudulent operations. However, the subcommittee's investigation disclosed no credible evidence that bribes had been offered or paid to any elected or appointed Federal officials or employees. While the subcommittee did not examine Billie Sol Estes' financial transactions on an item-by-item basis, such an examination was carried out by the Internal Revenue Service. The supervisor of the unit which conducted this examination informed the subcommittee that the IRS audit had developed no evidence disclosing or suggesting bribery of Government officers or employees by Billie Sol Estes.

Billie Sol Estes customarily sent unsolicited gifts of nominal value—such as Pecos cantaloups, fruit, pecans, and candy—to business acquaintances and prominent political figures. He also entertained Government officials or employees on occasion and gave substantial campaign contributions. This information became a matter of general public knowledge after Estes' arrest in 1962. The subcommittee's investigation indicated that Estes frequently told exaggerated stories concerning the extent of his gifts. No significant information not previously made public was found. The Internal Revenue Service informed the subcommittee that (except for matters previously publicly disclosed and those involving residents of Reeves and Pecos Counties) its detailed investigation of Estes' financial transactions had found no evidence disclosing or suggesting that Government officers or employees or their families had any direct or indirect business relationships with or received gifts from Billie Sol Estes.

During the subcommittee's investigation, allegations were made concerning a purported list of "names of high officials who received \$100

money orders" from Estes, supposedly discussed at an executive meeting of the subcommittee. The subcommittee has found no evidence that such a list ever existed. The subcommittee investigation confirmed that James Ralph and William Morris had received two \$100 money orders each from Estes around Christmas, 1961, which were used to make political contributions instead of being returned to Estes. The Justice Department informed the subcommittee that its investigation of the Estes matter, which included a review of approximately 38,000 postal money orders issued by the Pecos post office from January 5, 1961, to March 31, 1962, developed no evidence that any other Federal officials or employees received money orders from Estes. The subcommittee made an independent review of all \$100 money orders purchased at the Pecos post office from December 15, 1961, through January 20, 1962, with the same result.

The subcommittee investigated published allegations and rumors that prominent political figures or members of their families secretly owned interests in Billie Sol Estes' grain storage facilities and found no credible evidence whatever to support such allegations.

The subcommittee's investigation, which included a thorough search of USDA files, disclosed no evidence that any elected Federal official exerted or attempted to exert influence to assist Billie Sol Estes in his operations involving the Federal Government. The subcommittee did find that a Member of Congress called the Dallas commodity office regarding Estes' storage operations in December 1961; however, the purpose of the call was not to assist Estes but to relay complaints received from constituents concerning Estes' storage operations. The subcommittee also found a number of other instances in which Members of Congress had forwarded to the Department of Agriculture complaints received from constituents concerning allotment transactions or the offering of inducements to secure Government grain. While these complaints did not mention Estes by name, they were directed at practices in which he—and others—were engaged.

Billie Sol Estes unquestionably suggested, claimed, or even boasted that he was able to obtain favorable treatment from Government officials. The subcommittee's investigation indicated that Estes habitually claimed close friendship with prominent people but disclosed little or no evidence to support his assertions. The motive for some of Estes' claims of influence appears obvious, since they were made at a time just prior to his arrest when he was trying to convince his creditors that he would be able to stay out of jail and gradually pay off his obligations if they would go along with him.

The subcommittee's investigation disclosed that three former officials of the Department of Agriculture—two of whom had been in charge of its grain storage program—were employed by Commercial Solvents after leaving the Department. During their service with Commercial Solvents, they worked on matters involving either Billie Sol Estes' grain storage operations or price support and storage policies generally. The subcommittee also examined personal relationships between Billie Sol Estes and two persons who were then USDA officials. While the subcommittee found that some activities of all the above individuals were clearly inappropriate at best, it did not find evidence establishing improper conduct which directly affected Estes' operations. Detailed comments concerning actions of these individuals are on pages 361 to 364 of this report.

## RECOMMENDATIONS

1. The subcommittee's investigation disclosed a serious lack of effective coordination and communication among Federal units engaged in auditing and investigative activities.

The subcommittee recommends that the President authorize and direct a comprehensive review of Federal audit and investigative activities with a view to securing improved coordination and communication both among and within Federal departments and agencies. The subcommittee believes that such a review should include—but not be limited to—consideration of appropriate actions designed to promote the following objectives:

(a) To insure that information coming to the attention of Federal agencies or personnel from outside sources is promptly referred to all agencies of the Federal Government that might have a potential interest in it or responsibility for taking action concerning it. Efforts should be made to better inform Federal employees, particularly those engaged in auditing and investigative activities, concerning the types of information that may be significant to other agencies. Federal employees should be encouraged and instructed to regard themselves as having a responsibility for the public interest generally, in addition to the specific duties assigned by their particular agency.

(b) To insure that Federal employees are aware of and make appropriate use of sources of information available within the Federal Government.

(c) Where evidence of irregularities may be of potential interest to more than one Federal agency, appropriate measures should be taken to insure proper coordination of Federal investigative activity with a view to avoiding both unnecessary duplication of effort and inadvertent failure to cover significant matters. This would include such measures as joint investigations, where desirable, temporary assignment of personnel with special experience or qualifications to assist other agencies, joint determinations concerning priorities where one agency's work might conflict with another, etc.

(d) In planning, conducting, and assigning priorities to investigative work, greater emphasis should be placed on giving advance consideration to the relative importance of criminal prosecutions which may result and on obtaining greater coordination between personnel responsible for investigative work and personnel responsible for the conduct of prosecutions or litigation.

The subcommittee requests that it be informed of the action taken with respect to this recommendation.

2. Billie Sol Estes secured approval of contracts for storage of Government grain by misrepresenting his financial condition. Since the Government was induced by fraud to grant these contracts, the

subcommittee recommends that appropriate legal action be taken with a view to recovering, insofar as feasible, profits derived from them.

3. Because of a possible loophole in Federal law, the sale of fraudulent commercial paper to a national bank probably is not a violation of Federal law in the absence of use of the mail, interstate transportation, or knowledge or participation by an officer or employee of the bank. The subcommittee recommends that the appropriate committees of the Congress give consideration to making it a specific violation of Federal law to knowingly sell fraudulent commercial paper to national banks, without regard to whether or not use of the mails, interstate transportation, or knowledge or participation by an officer or employee of the bank is involved.

4. The subcommittee's investigation indicated that it has been the practice of the Department of Agriculture to allow assignment of the proceeds of contracts with the Department to third parties without considering whether or not such assignments operate to the benefit or detriment of the Government. The subcommittee recommends that the Department of Agriculture reexamine its policies and procedures with respect to the assignment of proceeds of Government contracts with a view to eliminating assignments which are not in the best interests of the Government.

5. The committee recommends that the Department of Agriculture give consideration to possible consolidation, insofar as feasible, of the similar warehouse examination and approval functions now performed individually by the Agricultural Marketing Service and the Agricultural Stabilization and Conservation Service.

6. The subcommittee's investigation disclosed serious inadequacies in the procedures and practices of the Department of Agriculture relating to grain storage. A number of changes in these procedures and practices, which are described on page 387, were made during the subcommittee's investigation. The subcommittee recommends that the Department of Agriculture give continued attention to the problem of assuring adequate protection for the Government and others who store grain in commercial warehouses. The subcommittee specifically recommends that consideration be given to the possibility of utilizing a blanket bond system for warehouses licensed under the U.S. Warehouse Act, as is now being done in the case of State-licensed warehouses storing grain for the Commodity Credit Corporation.

7. During the course of its investigation, the subcommittee made available to the Department of Justice transcripts of its hearings and any other information it believed might be of particular significance in connection with the responsibilities of that Department. The subcommittee recommends that the Department of Justice make a careful examination of this report, as well as the information previously supplied, with a view to taking appropriate action. The subcommittee requests that the Department of Justice inform it of action taken with respect to this recommendation.

## GRAIN STORAGE OPERATIONS

### FINDINGS AND CONCLUSIONS

#### *Growth of Estes' Storage Operations*

Within a little more than 3 years from the time he entered the grain storage business, Billie Sol Estes acquired or was responsible for the construction of storage facilities with a total capacity of approximately 87 million bushels. The subcommittee made a detailed examination of the manner in which this occurred; this phase of its inquiry was directed particularly toward determining whether or not the rapid growth of Estes' storage empire was made possible or facilitated by deliberate misconduct of Government officials or employees, administrative inefficiency, or bad procedures.

While Estes' accomplishments were unquestionably remarkable, it should be noted that neither the total size of his storage operations nor the rate at which they grew was unparalleled. Billie Sol Estes' warehouse operations were the largest in Texas, but they were far from the largest in the country; there were also instances in which warehousemen added storage capacity at comparable speed. Rapid and substantial expansion of warehouse facilities, on a smaller scale, was commonplace. During the period from late 1958 through early 1962, of course, Estes expanded more rapidly than any other Texas warehouseman.

The unprecedented expansion of commercial grain storage facilities generally—and Billie Sol Estes' operations in particular—during the 1950's and very early 1960's was made possible by two closely related factors. First, record stocks of surplus grain were acquired by the Department of Agriculture. Second, a policy that privately owned warehouses—rather than Government-owned facilities—be used for storage of practically all surplus wheat and grain sorghum resulted in payment of tremendous sums by the Department of Agriculture to operators of private grain storage facilities. Within a few years what amounted, in effect, to a huge new industry was created, supported by Government payments of as much as \$500 million per year.

Under policies in effect before and throughout Billie Sol Estes' storage operations, the Department of Agriculture made no significant effort to restrict or discourage expansion of individual warehousemen. Warehouse operators who apparently met basic requirements were licensed or approved for storage of Government grain without regard to whether or not the additional storage capacity involved was either necessary or desirable. Moreover, since CCC paid a fixed and uniform storage rate to all warehousemen, price competition as such did not constitute a deterrent to overexpansion. On two occasions, one in 1959 and the other in 1961, C. H. Moseley, director of the Dallas ASCS commodity office, specifically recommended that the Department of Agriculture take action to discourage further expansion of commercial grain storage facilities. While the potential drawbacks of such action might well have outweighed the possible benefits, the



subcommittee's investigation did not indicate that Moseley's superiors gave really careful consideration to the questions involved before turning down his recommendations.

Local conditions were particularly favorable for rapid expansion of Estes' facilities. Production of grain sorghum—the primary commodity stored by Estes—expanded more rapidly than that of any other major grain crop, and the northwest Texas plains area, where Estes concentrated his elevators, produces more grain sorghum than any other part of the country.

The subcommittee examined the price support policies under which huge stocks of surplus grain were accumulated and the storage policies under which they were stored in considerable detail in 1959 and 1960. Its findings and conclusions on these subjects are contained in House Reports 2219 and 2220, which were adopted by the Committee on Government Operations in August 1960.

#### *Construction and Acquisition of Storage Facilities*

A fundamental reason many warehousemen, including Billie Sol Estes, were willing and able to expand their grain storage operations rapidly was that the relatively low cost of grain storage facilities in comparison to the rates paid by the Department of Agriculture for storage of Government grain made expansion attractive. Flat warehouses suitably equipped for storage of grain sorghum could be constructed for less than 20 cents per bushel of capacity; by contrast, warehousemen were paid approximately 16½ cents per bushel per year for storing CCC grain until mid-1960 and 13½ cents per bushel after that time. Storage revenues received from such facilities, when reasonably well occupied, often exceeded amounts required to meet operating costs and mortgage payments by substantial margins.

As in his other business operations, Billie Sol Estes relied heavily on the use of credit to finance expansion of his facilities. Estes acquired several existing warehouses on a no-money-down basis, with payment to be made over a period of 5 years or longer; a substantial part of the cost of constructed facilities was also financed on a 5-year payment schedule.

In addition to the extensive use of low-cost facilities built on credit, a practice also engaged in by many other storage entrepreneurs, Billie Sol Estes used less ethical methods of his own to facilitate his rapid expansion. Estes habitually submitted padded invoices to commercial financing firms in order to obtain 100-percent financing of construction costs and avoid making the cash downpayments normally required. In other cases, Estes demanded refund of his cash downpayment from the storage contractor, giving notes in exchange. In a few instances, finance companies were induced by misrepresentations to provide financing which actually exceeded the total cost of storage construction; Estes then obtained a kickback from the contractor in cash which was available for operating expenses or other purposes. When financing for storage construction was difficult or impossible to secure in his own name, Estes obtained it by inducing others to "lend" him their credit.

Estes' original entry into the grain storage business and his huge expansion thereafter would, of course, have been impossible if he had not been successful in misrepresenting his financial condition to the Department of Agriculture. Perhaps the most important factor in



Estes' ability to expand far more rapidly than other warehousemen was his ability to obtain large amounts of money for this purpose from outside sources. Estes' entry into the grain storage business and his early expansion were largely financed—either directly or indirectly—by Commercial Solvents Corp. Commercial Solvents provided Estes with \$225,000 for the downpayment on his original warehouse at Plainview, and subsequently made more than \$600,000 in payments on storage facilities for Estes. In addition, Commercial Solvents shipped Estes anhydrous ammonia priced at more than \$2.5 million on credit during 1959; revenues from the sale of this ammonia probably provided a substantial amount of the capital used by Estes for storage expansion during this period. After Commercial Solvents tightened its credit policies toward the end of 1959, Estes began to use fraudulent tank mortgages on a larger scale; through this device, he raised millions of dollars for storage construction and other uses.

#### *Licensing and Approval of Estes' Warehouses*

From March 1959 through March 1962, numerous warehouses owned wholly or partially by Billie Sol Estes were approved for storage of Government grain; total capacity of the approved facilities was approximately 87 million bushels. Most of these facilities were approved for storage of CCC grain on a routine basis after first being issued Federal warehouse licenses; the remainder were operated under State licenses. The subcommittee examined the circumstances involved in the licensing and approval of Estes' facilities in considerable detail.

Requirements prescribed for obtaining a Federal license for operation of a grain storage warehouse are basically the same as those established for approval of a warehouse for storage of Government grain under a uniform grain storage agreement (UGSA). However, under a "dual system" used by the Department of Agriculture, the Warehouse Act Branch of the Agricultural Marketing Service is responsible for the Federal warehouse licensing program and personnel of the Agricultural Stabilization and Conservation Service determine whether or not to approve warehouses for storage of Government grain. In carrying out their closely related responsibilities, the two units utilize separate groups of warehouse examiners working out of field offices at different locations.

The three basic requirements established for issuance of a Federal warehouse license or approval of a UGSA are suitable physical facilities for storage and handling of grain, experienced and trustworthy management, and adequate financial responsibility. Proper facilities and management are regarded by the Department of Agriculture as essential in order to prevent loss through shortages or deterioration of grain; regular warehouse examinations are made to insure that such losses have not occurred. Financial responsibility requirements, relating to the warehouseman's net worth and the amount of surety bond to be furnished, are designed to insure reimbursement in the event losses are suffered. Their purpose is to serve as supplemental protection, since there is no need to call on them unless losses occur.

Before a Federal warehouse license is issued, an original examination is made by Warehouse Act Branch personnel to ascertain whether the warehouse operation involved meets the necessary requirements for a Federal license; Warehouse Act Branch personnel also make subsequent examinations of federally licensed elevators to check the

condition and quantity of grain in storage. ASCS personnel make original and subsequent examinations of warehouses which do not have Federal licenses in order to determine whether such warehouses are qualified for storage of Government grain and to check grain in storage. When CCC grain is stored in federally licensed warehouses, ASCS normally does not make independent examinations but relies instead on the Warehouse Act Branch program to insure that warehouses meet requirements and that Government grain is receiving proper care.

The subcommittee found that Billie Sol Estes' warehouses were generally satisfactory insofar as two of the three basic requirements for licensing or approval were concerned. Estes' physical facilities—although not outstanding—were adequate. Wayne Cooper, general manager of Estes' storage operations, was experienced and well regarded. However, Estes' storage operations were obviously not backed by adequate financial responsibility, since Estes was insolvent throughout his storage operations and his surety bond coverage represented only a very small fraction of the value of grain stored in his warehouses.

The subcommittee found that Billie Sol Estes' willingness to fraudulently misrepresent his financial condition—and his demonstrated talent for accomplishing this deception—were essential elements of his success in securing and retaining Federal warehouse licenses and grain storage agreements despite his insolvent status. In order to obtain licenses and grain storage agreements, Estes consistently filed false financial statements misrepresenting himself as a multimillionaire when he was actually insolvent. Estes was aided in this misrepresentation by a certified public accountant who, for a \$6,000 fee, vouched for one of the spurious financial statements Estes submitted to the Department of Agriculture. Estes was also aided by favorable recommendations from his local banker to the Department of Agriculture.

However, Estes was successful in deceiving the Department of Agriculture concerning his financial condition for more than 3 years only because USDA personnel responsible for licensing and approval of his facilities never took effective steps to ascertain his true financial status. This was particularly true of the Warehouse Act Branch, whose complacent attitude can perhaps at least partially be attributed to—although not excused by—the fact that claims against federally licensed warehousemen or their sureties have been almost nonexistent in recent years. Factors which contributed significantly to this result are discussed in detail in the body of this report and are summarized—not necessarily in order of importance—in the following paragraphs.

The "dual system" under which responsibility for closely related activities involving storage of Government grain was assigned to two different units of the Department of Agriculture diffused responsibility, proliferated redtape, and restricted the flow of information. However, despite the weaknesses of the system, Billie Sol Estes' misrepresentations concerning his financial condition could and should have been detected under it. Had they been, the foundation of grain storage revenues on which Estes built his financial empire would not have been available.

In evaluating the financial condition of warehousemen, Department of Agriculture personnel relied primarily on unsupported financial statements supplied by the warehouseman concerned; independently audited statements were not required and usually were not obtained. ASCS instructions actually directed that financial statements filed by warehousemen should not be questioned, in the absence of information indicating some specific reason to do so.

Although Warehouse Act Branch procedures called for warehouse examiners to obtain a limited amount of financial data at the time they examined physical facilities for suitability, the personnel assigned this responsibility were not selected with any noticeable regard for their ability to perform it properly. For example, Warehouse Examiner Donald McCoy, the man sent to Pecos to check on Billie Sol Estes' financial condition, was—through no fault of his own—completely unqualified to carry out this assignment.

Carl Miller, Chief of the Warehouse Act Branch, personally assumed responsibility for determining whether the financial condition of federally licensed warehousemen was adequate. While it does not question the manner in which he carried out his other duties, the subcommittee found Mr. Miller's qualifications for analyzing financial statements unimpressive and his performance in this respect even worse. If Miller had taken the trouble to make even a cursory examination of conflicting financial information about Estes presented to him when his initial warehouse license was approved in 1959, or if he had insisted on detailed audit information in 1961, serious questions concerning Estes' financial condition should have been readily apparent.

C. H. Moseley, Director of the Dallas Commodity Office, acted promptly to refer questions concerning Billie Sol Estes' financial condition to the Warehouse Act Branch; however, Moseley did not take worthwhile independent action to investigate the validity of allegations about Estes' financial status even though the conflicting financial information presented to Carl Miller was also provided to the Dallas Commodity Office. Mr. Moseley's lack of action can perhaps be justified insofar as federally licensed facilities are concerned, since the Warehouse Act Branch had responsibility for ascertaining the financial condition of these houses under the dual system; however, this justification did not exist for Estes' State-licensed facilities, where responsibility was clearly that of the Dallas office.

Mandatory regulations of the Warehouse Act Branch concerning the amount of bond to be provided were followed and even exceeded for Billie Sol Estes' warehouses. However, these regulations, which permitted a warehouseman whose financial statement showed sufficient net worth to store unlimited amounts of grain under a \$200,000 surety bond, were inadequate. Although Warehouse Act Branch regulations provided that additional bond might be required, there were no written procedures specifying the factors which should be taken into consideration in deciding whether and how much additional bond should be required; in effect, the decision was left entirely to the judgment of responsible officials. It is the opinion of the subcommittee that Carl Miller exercised poor judgment in not requiring a higher bond for Billie Sol Estes.

It should be noted that Billie Sol Estes' success in deceiving Government personnel concerning his financial condition was paralleled to a

considerable extent in his relationships with surety companies. Although these surety companies placed limits on the amount of bond they would write for Estes—and at times expressed considerable reluctance in bonding him at all—he managed to obtain surety bonds in amounts as high as \$700,000. However, it should be emphasized that the procedural and personnel inadequacies of commercial businesses do not justify the existence of similar conditions in the Department of Agriculture.

The subcommittee's investigation disclosed no evidence that the licensing or approval of Billie Sol Estes' grain storage facilities was either accomplished or facilitated through bribery, political influence, or deliberate misconduct involving any Government official or employee. The subcommittee found that decisions relating to licensing and approval of Estes' warehouses were made by the Warehouse Act Branch of the Agricultural Marketing Service and the Dallas ASCS commodity office; it found no evidence that any other Government official or employee—elected or appointed—attempted to influence such decisions.

#### *Acquisition of Grain for Storage*

When Billie Sol Estes was arrested in March 1962, his warehouses contained not quite 34 million bushels of Government-owned grain—enough to fill less than 40 percent of their 87-million-bushel capacity. An additional 11 million bushels of CCC grain had been stored for a time in Estes' facilities, but had been shipped out before his arrest. After Estes' arrest, a number of widely circulated allegations were made relating to the manner in which he had obtained Government grain for storage.

The subcommittee made a thorough examination of the circumstances under which Billie Sol Estes acquired grain for storage, with a particular view to determining whether or not Estes obtained Government grain through favoritism, political influence, or by any other means involving deliberate misconduct on the part of Government officials or employees. In analyzing shipments of Government grain to Estes' facilities, the subcommittee made considerable use of information developed by General Accounting Office personnel while on temporary assignment to the Senate Committee on Government Operations; the subcommittee was given access to data obtained in the investigation by GAO personnel through the courtesy of Chairman McClellan of the Senate committee.

The subcommittee found that more than 28 million—63 percent—of the 45 million bushels of CCC grain stored by Estes before his arrest was acquired through the actions of private firms or individuals; only 16.5 million bushels of grain was actually shipped to Estes' facilities by the Department of Agriculture.

Of the more than 28 million bushels of CCC grain not shipped to Estes by the Department of Agriculture, nearly 6 million bushels was already in storage when Estes acquired warehouses. An additional 7 million bushels was acquired through "exchange" transactions with other warehousemen; GAO personnel reported that their review of these transactions disclosed no irregularities.

The remaining 15.4 million bushels of CCC grain acquired through private firms or individuals was the property of producers when it

was brought to Estes' facilities and pledged as collateral for price-support loans; the grain later was acquired by the Government and remained in storage as CCC property. (An additional 12 million bushels of grain in Estes' warehouses at the time of his arrest belonged to producers who had pledged it as collateral for price-support loans and was acquired by CCC after Estes was arrested.) Under CCC procedures, the producer himself chooses the elevator in which he wishes to store grain to be pledged under price-support loan. The subcommittee found no evidence that any Government officer or employee influenced or attempted to influence producers to store grain in Estes' warehouses.

The subcommittee found ample evidence that Billie Sol Estes and many other Texas warehousemen offered producers free storage and other inducements—even including trading stamps—in order to obtain loan grain for storage. (Since loan grain taken over by CCC normally remained in storage for some time at the original storage point, the warehouseman would receive storage payments from the Department of Agriculture starting on the takeover date.) However, the subcommittee investigation established that the practice of offering inducements such as free storage to producers was not prohibited by CCC regulations or policies.

The subcommittee found evidence that Billie Sol Estes considered making sales of anhydrous ammonia to producers at reduced prices in return for their promises that they would store grain in his warehouses; however, the subcommittee found no evidence such transactions ever actually took place. In 1960, the Department of Agriculture specifically stated that such transactions were not prohibited by the Department's regulations. (The subcommittee's investigation indicated that, although Estes did not obtain grain for storage as a direct result of ammonia sales, he benefited indirectly because the availability of low-cost ammonia contributed substantially to increased production of grain sorghum in the plains area where his warehouses were located.)

Although only 16.5 million—37 percent—of the 45 million bushels of Government grain stored by Estes before his arrest was shipped to his facilities by the Department of Agriculture, there were many allegations that Estes had received deliberate preferential treatment from the Department in the acquisition of grain. Charges made in these allegations are discussed in the following paragraphs.

It was alleged that unnecessary shipments of grain were made from the Kansas area to Estes' warehouses, bypassing available storage space in the Kansas area on the way to west Texas. The subcommittee found that shipments to Estes' warehouses from the Kansas area totaled 8.5 million bushels; the shipments were made in the years 1959 through 1961. Department of Agriculture records indicated the 8.5 million bushels shipped to Estes was part of more than 300 million bushels of grain shipped out of the Kansas area for further storage elsewhere during this period. A substantial part of the grain moved from the Kansas area was shipped to Texas warehouses located on rail routes to export points on the gulf coast.

The heaviest movement from the Kansas area to Estes' facilities took place in the late spring and early summer of 1961. The subcommittee found, on the basis of its own investigation and the com-



prehensive review made by GAO personnel, that the 1961 shipments from the Kansas area were necessary because of a shortage of grain storage space in that area; it found no evidence that any available terminal storage space in the Kansas area was bypassed in order to ship grain to Estes' warehouses. The review by GAO personnel did not cover shipments prior to 1961; however, the subcommittee found no evidence suggesting irregularities in shipments to Estes' warehouses from the Kansas area in 1959 and 1960.

Another allegation frequently heard after Estes' arrest was that he was given preference over his competitors in the allocation of Government grain for storage. Under USDA procedures, the Dallas commodity office was responsible for determining which warehouses in its area would receive shipments of CCC grain, regardless of whether the shipments originated inside or outside the Dallas commodity office area. The subcommittee found no evidence that Washington officials of the Department of Agriculture ordered, influenced, or even had specific knowledge about shipments of grain to Estes' warehouses.

The subcommittee found that Wayne Cooper, general manager of Estes' grain storage operations, contacted the Dallas commodity office from time to time to offer storage space and make inquiries concerning shipments of CCC grain. However, the subcommittee's investigation indicated that this was the customary manner in which warehousemen offered space for CCC grain and disclosed no evidence that Cooper's activities in this respect were either unusual or improper. The subcommittee found no evidence that Billie Sol Estes himself ever personally solicited shipments of CCC grain for his warehouses from or through any Government official or employee.

At times when the amount of storage space offered by terminal warehousemen exceeded the quantity of grain to be shipped, Dallas commodity office procedures provided for a four-man allocation committee—rather than a single individual—to decide which elevators should receive grain based on a number of inventory management factors. However, according to testimony of USDA witnesses, during the 1961 period in which the heaviest shipments to Estes' facilities were made, a severe shortage of storage space existed in the Dallas commodity office area; consequently, the principal factor involved in the allocation of grain to Estes' warehouses at that time was the fact that no other suitable space was available. A comprehensive review by GAO personnel, which included analysis of the availability of space at 50 competitive terminal warehouses, substantiated the testimony of USDA witnesses and disclosed no preferential treatment in the allocation of CCC grain to Estes' facilities. While the review by GAO personnel did not cover allocation of grain prior to 1961, the subcommittee investigation disclosed no evidence of irregularities in 1959 and 1960 shipments to Estes' warehouses.

The subcommittee found evidence that a number of competing warehousemen had complained about the manner in which Estes was obtaining grain for storage. However, these complaints related to the methods used by Estes to secure grain from producers and did not allege or imply any improper conduct on the part of USDA personnel. Estes' competitors were undoubtedly—and understandably—concerned about his partially executed plan to build 100 country receiving points



for grain throughout the Plains area; this plan also illustrated Estes' dependence on producers—rather than CCC—as the primary source of grain for storage.

An allegation that substantial unnecessary freight costs were incurred to make shipments of grain to Estes' facilities was investigated by the General Accounting Office, which made a comprehensive review of substantially all shipments of CCC grains to his warehouses. On freight charges totaling around \$4 million, the General Accounting Office found possible excess costs of approximately \$650; this amount was attributed by GAO personnel to clerical errors in making railroad tariff changes.

It was alleged that shipments of grain were dispatched to Estes' warehouses before construction was completed, causing a serious accumulation of unloaded railroad cars. The subcommittee found that there was considerable amount of congestion when rail cars arrived at Estes' Plainview facility faster than they could be unloaded; however, a review by GAO personnel and the subcommittee's own investigation established that no shipments had been allocated to Estes' warehouses before completion and approval of sufficient space to receive them.

The subcommittee's investigation, which included an exhaustive search of Agriculture Department files and interrogation of many employees, disclosed no evidence that Estes obtained or attempted to obtain Government grain for storage through favoritism, political influence, or by any other means involving deliberate misconduct on the part of Government officials or employees.

The subcommittee found that Estes did contact USDA employees in Dallas and Washington in an attempt to have his Plainview facility reclassified from a terminal to a country elevator. Estes apparently believed such a reclassification would slow down or stop the heavy shipments of CCC grain being made from his Plainview facility. However, the requested reclassification was refused.

#### BACKGROUND

##### *Increased Production of Grain Sorghum*

A tremendous increase in production of grain sorghum was one of the factors which made Billie Sol Estes' grain storage operations possible. During the 1950's, total production of feed grains in the United States increased sharply. Production of grain sorghum, the major commodity stored by Estes, increased by a far higher percentage than any other important feed grain. The 1960 production of 620 million bushels of grain sorghum—an alltime record—was more than five times as large as the 1951–53 average of 123 million bushels.

Perhaps the most important reason for the tremendous expansion in grain sorghum production was improved agricultural technology. Through the introduction of hybrid seed and the increased use of irrigation and fertilizer the average yield per acre of grain sorghum harvested more than doubled in less than 10 years. Per acre production of grain sorghum was around 20 bushels during the early 1950's; by 1961 the average yield was more than 40 bushels per acre.

A second major factor in increased total production of grain sorghum was the imposition of acreage restrictions on wheat and cotton in 1954. A substantial amount of acreage formerly used for these crops

was diverted to production of grain sorghum on which price supports were available without acreage restrictions. In 1953, slightly more than 6 million acres of grain sorghum were harvested in the United States; during the last few years harvested acreage has averaged more than double that amount.

Grain sorghum production is concentrated in a comparatively few States. Three States—Texas, Kansas, and Nebraska—normally account for as much as 80 percent of the total production, with much of the remainder being produced in Oklahoma, Missouri, and California. The heaviest concentration of sorghum production is in the Plains Area of northwest Texas; this is clearly demonstrated by the map on page 414 of the appendix which shows the geographical distribution of sorghum acreage in 1959. Hale County, location of Billie Sol Estes' largest storage facility, produces more grain sorghum within the county than all but a few States.

#### *Growth of Storage Industry*

Utilization of wheat and feed grains did not keep pace with increased production during the middle and late 1950's. Under the price support programs in effect, the Department of Agriculture was obligated to take ownership of eligible grain which was not sold for commercial purposes. Much of the corn acquired by the Department of Agriculture under the price support program was stored in Government-owned bins; however, privately owned storage facilities were used for practically all of the wheat and grain sorghum. Consequently, as the subcommittee pointed out in an August 1960 report (H. Rept. 2220, 86th Cong., 2d sess.), storage of grain for the Government, which was almost nonexistent before 1949, had become a \$500 million a year industry by 1960. In its report, the subcommittee gave the following description of the growth of the new industry:

Before 1949 only comparatively small amounts of Government grain were stored in commercial warehouses, and these stocks were usually not stored for extended periods of time. Storage of grain for the Government became a substantial business in 1949, when commodities from the bumper 1948 crop were taken over by the Commodity Credit Corporation. It declined sharply during the Korean conflict when Government inventories were reduced substantially, but has expanded steadily since 1953 as Government stocks have grown to alltime record levels.

Even before the accumulation of huge Government grain inventories, it was unusual for really large amounts of grain to be carried over from year to year by commercial elevators, and during the last few years the grain inventories owned by mills and processors have dwindled almost to the vanishing point just before harvesting of a new crop. By contrast, Government grain often remains in storage in commercial warehouses for several years without being moved.

Commercial warehouse space approved for storage of CCC grain in July 1960 totaled about 4.2 billion bushels—nearly four times the amount under contract in 1952. Much of the new space represents capacity added to existing facilities by firms already operating grain elevators; in other cases, however, individuals with no background in grain merchandising have gone into business for the sole purpose of storing Government grain.

In its 1960 report, the subcommittee pointed out that over half the commercial warehouse space approved for storage of Government grain was concentrated in four Midwestern States and Texas. These five States—Kansas, Texas, Nebraska, Iowa, and Illinois—had nearly 2.4 billion bushels of space approved for Government storage at the end of 1959; this was three times the estimated total storage space of about 800 million bushels for these States in 1951.

Before 1950, most commercial grain storage facilities were built primarily for merchandising purposes, rather than for long-term storage. However, much of the new space constructed in the late 1950's was intended primarily—if not exclusively—for storage of Government grain. This circumstance, together with the development of new storage techniques, resulted in significant changes in the type of storage facilities being constructed. The subcommittee described the situation in its 1960 report as follows:

The tremendous expansion of storage space has been accompanied by extremely significant changes in storage technology. Effective techniques have been developed for "aerating" grain by pulling outside air through stored grain with fans, a process which appears to be cheaper and more efficient than the previous method of keeping grain in condition by turning it from bin to bin. The aeration process makes it feasible to use so-called flat storage facilities, instead of the more conventional type of upright elevator, without serious danger of grain spoilage. Flat storage can be built much more rapidly and cheaply than upright elevator space, and aeration will keep grain in condition without the risk of damage that is sometimes caused by turning. On the other hand, flat storage facilities are usually not as well adapted as upright elevators for blending or merchandising grain. Although exact statistics are not available, there is little doubt that a large percentage of new storage space is flat storage. Some of these structures were built as independent units, while others are additions to previously existing upright facilities.

Although there were exceptions because of seasonal and local factors, most newly constructed storage space was soon used for storage of Government grain. Moreover, despite the tremendous expansion of available space, shortages caused by even more rapid expansion of Government surplus stocks resulted in use of structures such as oil tanks, surplus military buildings and shipyards for storage of Government grain. The 1960 report pointed out that storage and handling costs for Government grain stored in commercial warehouses soared from \$56 million in fiscal year 1952 to more than \$500 million in fiscal year 1960; costs for grain sorghum alone increased from less than \$150,000 a year to \$94 million during the same period.

#### ACQUISITION OF GRAIN STORAGE FACILITIES

##### *Smith-Bawden Elevator*

Billie Sol Estes entered the grain storage business in late 1958 through the purchase of the Smith-Bawden facilities at Plainview, Tex., about 50 miles north of Lubbock. The purchase occurred

after unsuccessful negotiations by Estes earlier in the year, according to Dr. Harold Lindley, of Pecos. Dr. Lindley, who provided financial backing for a number of Estes' business ventures, told subcommittee staff members that Estes asked him to provide financing for purchase of the Smith-Bawden property in the spring of 1958. However, Lindley said, after a trip to Plainview with Estes to inspect the facilities, he declined to provide financial backing.

Wayne Cooper, who owned an interest in the Smith-Bawden properties and became general manager of Billie Sol Estes' grain storage operations after they were sold, testified at subcommittee hearings concerning Estes' acquisition of the Smith-Bawden facilities. Cooper gave the following description of the sale to Estes after earlier negotiations had fallen through:

\* \* \* He came back later, probably in August of 1958, and seemed more interested in the properties and wanted to buy them. \* \* \*

We had in our organization a Mr. Ben F. Smith, who had suffered a severe heart attack in earlier years and could not spend much time with the operation. He started in the grain business in 1918 and grew up with the grain industry out there. Because of his health, we accepted an offer made by Estes for \$850,000, requiring a minimum of \$250,000 paid in cash and agreed among the stockholders that the balance would be carried individually in their proportionate interests in the company with a first mortgage held against the property.

According to Cooper, Estes deposited \$25,000 in cash in escrow, together with a \$25,000 note, to be forfeited in the event he did not go through with the proposed purchase. When the sale was closed, Cooper said, the Smith-Bawden interests received a \$225,000 check from Commercial Solvents and retained the \$25,000 which had been deposited in escrow. The \$25,000 note was returned to Estes. The remaining balance of the purchase price—\$600,000—was to be paid off at the rate of \$100,000 per year plus 5 percent interest. (Further details concerning the \$225,000 advance by Commercial Solvents to Estes appear on pages 174 to 181.)

#### *Acquisition of Additional Warehouses*

On September 1, 1959, Billie Sol Estes acquired additional storage facilities with a capacity of 1,985,000 at Olton, Tex., 25 miles west of Plainview. The property was purchased from the estate of Ben F. Smith, who had been one of the owners of the Smith-Bawden elevator. The purchase price was \$400,000, with no downpayment. According to Wayne Cooper, periodic installments on a purchase money mortgage on the Olton facilities were paid by Commercial Solvents Corp. from CCC grain storage payments received under an assignment from Estes.

Estes also acquired an additional 262 acres of land and a large building south of Plainview on September 1, 1959. The property, which was referred to as the South Plainview Terminal Annex, was purchased from the Consolidated Gas & Equipment Co. Total price for the land and improvements, according to Wayne Cooper, was \$375,000. As usual, there was no downpayment; the price was to be

paid in five installments with interest at 8 percent. Storage capacity of the Consolidated Gas building was 1,370,000 bushels.

On January 1, 1960, Estes acquired storage facilities with a total capacity of 2,744,000 bushels from the Kress Grain Co., Kress, Tex. Warehouses with a capacity of 1,223,000 bushels were located at Kress, Tex. An additional 1,023,000 bushels of space was at Claytonville, 10 miles east of Kress, and the remaining 498,000 was at Center Plains, 10 miles west of Kress. Owners of Kress Grain Co. were H. E. Wilson, Wichita Falls, Tex.; Troy Burson, Silverton, Tex.; and Curtis Bingham, of Kress. Purchase price for the Kress properties was approximately \$1 million, with no downpayment. Periodic payments apparently were around \$160,000 annually, plus 6 percent interest.

On February 1, 1960, Estes acquired a 915,000-bushel warehouse at South Plains, Tex., about 25 miles east of Plainview. The South Plains installation was purchased from H. E. Wilson and Troy Burson for \$335,000, on the usual no-downpayment basis. On March 1, 1960, Estes purchased a 2,190,000-bushel property at Silverton, about 40 miles northeast of Plainview, from H. E. Wilson. The purchase price was \$800,000; the subcommittee found no indication that any of it was paid in cash at the time of purchase.

In July 1960, Commercial Solvents Corp. made two payments totaling approximately \$250,000 to the Wilson-Burson interests on Estes' behalf; the payments presumably were made out to CCC storage revenues received by Commercial Solvents under assignment from Estes.

In August 1960, Estes, acquired additional facilities at Kress with a capacity of 300,000 bushels. The buildings were purchased from F. F. Bozeman, Springlake, Tex., for \$60,000, payable on a long-term basis.

In the late summer of 1960, Estes leased a 483,000-bushel installation at Dempsey (about 10 miles southwest of Silverton) from H. E. Wilson and a 1,977,000-bushel facility at South Kress (1 mile south of Kress) from Wilson and Troy Burson. The two properties were purchased by Estes in April 1961 for \$144,500 and \$510,000, respectively, on a no-downpayment basis.

#### *Use of Tank Mortgages for Storage Financing*

The subcommittee's investigation indicated that Billie Sol Estes began using the proceeds of fraudulent ammonia tank mortgages to finance acquisition or construction of storage facilities during 1960. Estes' first use of tank mortgages for this purpose apparently was in May 1960, shortly after Superior Manufacturing Co. was purchased by Harold Orr and other associates of Estes. (The circumstances under which Superior was acquired and the methods used by Estes to obtain funds through fraudulent tank mortgages are discussed in detail later in this report.)

As has been previously noted, Billie Sol Estes acquired a number of grain elevators from H. E. Wilson and Troy Burson during the early part of 1960. In testimony at Amarillo, Harold Orr gave the following description of an incident which, Orr said, occurred thereafter. According to Orr:

Approximately the latter part of May of 1960, or the first part of June 1960 anyway, it was at the grain dealers' con-



vention in the Herring Hotel at Amarillo, Tex., Mr. Estes called me in and asked me to come to his hotel room, and in his presence, he had Mr. H. E. Wilson of Electra, Tex., and it seemed he owed Mr. Wilson a substantial amount of money for a downpayment on elevators and he was trying to get Mr. Wilson to go on some tank deals and Mr. Wilson said no.

Mr. Estes said, "Well, if you don't sign the tank notes \* \* \* would you go?"

He said, "I will just use your name and your financial statement." And he said, "Yes, sir."

At that time, or approximately thereafter, we handled quite a bit of money, I can't recall, \$300,000 or \$400,000 on Mr. H. E. Wilson—and I can even remember the refinance firms, if you want me to give them to you.

Q. Who were they?

A. CIT Corp., First Acceptance Corp., and Associates Investment Co.

While the subcommittee's investigation did not establish whether or not H. E. Wilson actually agreed to Estes' use of his name, it did disclose information supporting other aspects of Orr's testimony. Three ammonia tank notes purportedly signed by H. E. Wilson were sold to CIT, Associates, and FAC later in May by Superior Manufacturing Co. The three finance companies paid a total of \$404,067 for the notes, which had an aggregate face value of \$529,266. The subcommittee's investigation indicated that Wilson's name was signed to the notes by Harold Orr. Although Wilson did not sign the fraudulent notes, the subcommittee's investigation indicated that he knew of their existence more than a year before the arrest of Billie Sol Estes.

In August 1960, Estes obtained approximately \$400,000 through fraudulent tank notes bearing the name of Troy Burson. The subcommittee's investigation indicated that Harold Orr—not Burson—signed the notes, but that Burson knew of their existence long before Estes was arrested. Southwestern Investment Co., Amarillo, Tex., which paid \$50,112 for one of the Burson notes, told the subcommittee that it had the following experience when it checked on a late payment in early 1961:

On February 14, 1961, a collect call was placed to the telephone listed under Troy Burson, Silverton, Tex. We were advised that Mr. Burson was not in and a call was left by the operator. On February 16, 1961, a person identifying himself as Troy Burson called and advised our office that he had been out of town, but the payment would be made that day.

The subcommittee's investigation indicated that Harold Orr, at Estes' instructions, signed Burson's name to seven tank notes with a total face value of nearly \$555,000 and that of Wilson to six tank notes with face values totaling almost \$821,000. Payments on these notes were made through bank accounts established at the City National Bank, Plainview, in the names of the Burson Grain Co. and Wilson Elevators. In addition to the tank notes, the names of Wilson and Burson appeared on two worthless notes totaling more than three-quarters of a million dollars which were given by Billie Sol

Estes to Commercial Solvents Corp. in the fall of 1960. (Further details concerning the notes given Commercial Solvents appear on pages 223 and 224.)

The names of three other persons from whom Estes acquired grain storage facilities also appear on ammonia tank notes. Grady Acuff, one of the original owners of a storage facility at Lamesa which Estes acquired, signed eight tank notes with a total face value of approximately \$543,000. The name of F. F. Bozeman, from whom Estes purchased storage facilities at Kress, appeared on 16 tank notes with face values totaling about \$731,000. The first two of these notes were negotiated by Estes at about the same time he bought Bozeman's storage buildings. The name of E. H. Patterson, Roswell N. Mex., who owned the South Plains Grain Co. at Levelland before Estes acquired it, was forged to two tank notes with an aggregate face value of \$230,000.

#### CONSTRUCTION OF STORAGE FACILITIES

##### *Unsuccessful Attempt to Obtain Credit*

In June 1958, several months before he purchased the Smith-Bawden facilities, Billie Sol Estes asked an Amarillo construction firm to build grain storage facilities for him. However, the deal fell through because of credit difficulties. The incident was described as follows by R. C. Davidson, president of Panhandle Steel Buildings, Inc., of Amarillo, Tex.:

In June 1958 Billie Sol Estes made inquiry about grain storage and finance to our Amarillo office through a fertilizer representative of his in Friona, Tex. A telephone followup produced the information that Estes, who at that time was not in the grain storage business at all, had learned of the attractive opportunities associated with it and, as he said, "He wanted in it." He had no preferences as to location of a facility but wanted to know the necessary procedures. Plainview was suggested as a location to which he was agreeable, and Coleman Wade (then a salesman for Panhandle) was assigned to make contact with him in Pecos, Tex. Wade returned with a signed contract subject to approval of his application for finance, extensive credit information including volumes concerning his Pecos land purchases, personal financial statements (none certified), and a copy of a magazine article, "The Power House in Pecos." The contract was for construction of tanks, buildings, and grain handling equipment totaling \$965,000. Payment was to be handled 25 percent in cash and 75 percent through Butler finance if obtainable. \* \* \*

Davidson gave the following description of Panhandle's efforts to obtain financing for Estes' proposed storage facility:

Because of the size of the contract and its importance to all concerned, I presented it personally to Mr. J. C. Acuff, of Butler in Kansas City, Mo. For a full week, during which time I remained in Kansas City to assist with information if required, every effort was made to qualify the credit

information furnished by Estes and a sincere attempt was made by Butler officials to justify the issuance of a commitment. Kansas City and Dallas banks were contacted, I was told, and other possible sources of credit information, none of which contributed to the favorable solution of the problem.

The Butler Manufacturing Co. advised the subcommittee that the request for financing for Estes' proposed facility was turned down because it "was not an acceptable risk for us and we were unable to procure nonrecourse financing."

*Construction of Additional Facilities at Plainview*

Billie Sol Estes' inability to obtain financing through Panhandle Steel Buildings, Inc., in the summer of 1958, temporarily halted his plan to build storage facilities at Plainview. However, the situation changed later in the year, after Estes acquired the Smith-Bawden elevator.

Coleman Wade, who had represented Panhandle in the Plainview area since 1958, resigned almost immediately after the rejection of the Estes credit application. R. C. Davidson, president of Panhandle, described subsequent events as follows:

In less than 30 days an announcement was made of the organization of a new Armco dealership, Plaintex Steel Building Co., in Plainview, Tex. The announced owners were Jerry Kimble and Coleman Wade. Shortly thereafter construction was started on the United Elevator terminal in South Plainview for Billie Sol Estes by this new company \* \* \*.

The subcommittee's investigation indicated that the actual name of the new company was Plaintex Steel Structures, Inc. It was formed in October 1958 by Wade, Jerald J. Kimble, and D. R. McGuire. Kimble and McGuire had been associated since 1954 in a partnership known as Pre-Fabricated Structures; Plaintex was established with Wade as a separate corporation.

Through the purchase of Smith-Bawden, which was completed around December 1, 1958, Estes acquired grain storage facilities with a total capacity of 2,960,000 bushels. Within 6 weeks after that time, Estes contracted with Plaintex for construction of additional warehouses at Plainview with a total capacity of 5,685,000 bushels—almost double that of the original Smith-Bawden property.

The Plaintex buildings were built about 2 miles south of Plainview, rather than at the Smith-Bawden location in town. According to Plaintex, construction contracts were signed on December 22, 1958, and January 17, 1959, several weeks before Estes' application for a Federal warehouse license covering the Smith-Bawden facilities was finally approved.

Contract prices for the South Plainview facilities totaled \$1,247,000, or slightly more than 25 cents per bushel of capacity. Twenty percent—approximately \$250,000—was to be paid in cash, with the remainder to be financed by Commercial Credit Corp. However, instead of making the cash downpayments called for by the contracts, Estes actually paid only \$9,800 in cash and gave Plaintex notes in the amount of \$240,000. According to J. J. Kimble, some notes were paid as agreed but others became delinquent and the final payment

on the notes was not made until August 12, 1960. Commercial Credit Corp., which provided \$997,200 in cash to finance construction work, indicated in a letter to the subcommittee that it did not know the purported downpayments were not actually made.

The Plaintex construction at South Plainview marked the beginning of a fantastic amount of storage construction initiated by Billie Sol Estes. Wayne Cooper described what happened thereafter in testimony at subcommittee hearings:

\* \* \* from that point on, it was just continuous, I mean he would call and have an idea of grain storage here and grain storage there, and I spent practically all of my time just checking out and looking over locations."

\* \* \* \* \*

\* \* \* I worked with contractors, and assistants in my office, on layout plans as to location of storage, when he would call me and ask where can we put 5 million bushels of grain storage. Then his assistant, who is a draftsman, and myself get into a huddle and try to figure out where it could be most useful, and most economically built.

By mid-1959, through the purchase of the Smith-Bawden property and construction of warehouses at South Plainview, Billie Sol Estes controlled storage facilities with a total capacity of nearly 9 million bushels. He had accomplished this feat almost entirely on other people's money. The pattern of rapid expansion with little or no initial capital investment continued throughout Estes' storage operations.

#### *Further Proposals to Panhandle*

Panhandle Steel Buildings, Amarillo, which had turned down a proposal by Estes for construction of storage facilities during the summer of 1958 because of credit difficulties, was again approached concerning construction for Estes on several subsequent occasions. The first one was in late 1958, when Estes was negotiating with Plaintex for construction of storage facilities at South Plainview. R. C. Davidson, president of Panhandle, provided the following description of the incident:

\* \* \* Before actual construction started on the South Plainview terminal, Mr. Cooper invited us to make a quotation on the proposed work and gave us a copy of the Plaintex working drawings. We declined on the basis that we could not obtain financing for Mr. Estes and were told that arrangements were made for them to pay cash. A copy of our quotation of December 19 to Wayne Cooper is attached. Hind-sight now makes it apparent that this invitation and our quotation was only to serve in keeping Plaintex prices within bounds because it was later reported that the facility was financed by Commercial Credit Corp. with recourse against the suppliers (Armco and its dealer).

During 1959 and the early months of 1960, Davidson said, Estes contacted Panhandle frequently regarding storage financing. In June 1959, Panhandle again contacted the Butler Finance Co., Kansas City, Mo. (which handled financing for buildings sold by the Butler

Manufacturing Co.), to see if credit could be arranged for Estes. On June 12, 1959, the Butler Co. advised Panhandle that attempts by Butler to secure nonrecourse financing through the Texas Bank & Trust Co., of Dallas, and other banks had been unsuccessful. In a June 23 letter to D. D. Tusha, Panhandle's Lubbock representative, relaying the news from Butler, Davidson commented:

From information received recently of an indirect nature concerning Billie Sol's financial condition, I don't know whether to say that we were lucky or not. Unfortunately, in a transaction of this kind, it's difficult to determine the true financial condition of a man whose activities are so diversified.

A third and last effort to secure financing for Estes through Butler was made by Panhandle after an accidental meeting between Davidson and Estes at the Amarillo airport on November 3, 1960. On November 4, 1960, Davidson wrote a letter to Charles Waldron, Houston representative of the Butler Manufacturing Co., concerning a 10- to 15-minute meeting with Estes at the airport on the previous day. The letter described Estes as "a human dynamo who is always selling—himself and/or his plans," and stated:

Everyone in the building business, and more especially those connected with any type of financing at all, has become intimately familiar with the name Billie Sol Estes. There is a good deal of speculation in the minds of most people in the business world as to just where he continues to get the financing to carry him forward.

\* \* \* \* \*

During the course of our conversation he asked me if I had ever been successful in encouraging either the Butler Manufacturing Co. or the Butler Finance Co. to finance him on any ventures at all. He repeated a verbal proposition he had given me in Lubbock 30 days ago to the effect that he had a million dollars cash which he would put into a \$5 million grain storage facility if he could get the balance financed. He said that Coleman Wade had been granted the Armco dealership in the western Kansas territory and that he was planning to have Coleman build some terminal space for him in Nebraska and Kansas.

This brings me to the point that I would like to suggest certainly that Butler should make a concentrated effort to find out as much as possible about this man because he is continuing to build grain storage facilities and he is using everybody else's steel but ours. During your flight with me over the southern plains I showed you over 5 million bushels in Armco steel buildings, plus several 100-foot diameter welded steel tanks under construction at his Plainview installation. Until yesterday I have never been able to understand how he arranged financing for the tanks. While we were talking he volunteered the information that these tanks were being built entirely from German and Swiss steel and that they were being financed by the Swiss steel companies. Furthermore, he told me that some of the steel



companies in these foreign countries were planning to fly him over there by jet transportation to discuss additional construction. He said that he had contacted many of the U.S. steel companies and that none of them would give him any consideration.

Perhaps nothing can be done about this man's business, and possibly nothing should be done; however, it would be regrettable if we continued to miss good business because of the lack of adequate information. Incidentally, he told me yesterday that he plans to build in Houston immediately.

The Butler Manufacturing Co. advised the subcommittee that:

The 1960 proposal for financing \$4 million was considered in a preliminary way only from the possibility of obtaining outside financing, but nothing of substance could be developed.

#### *Negotiations With Corn States Hybrid Service*

Another company approached by Billie Sol Estes about proposed storage construction was the Corn States Hybrid Service, Des Moines, Iowa. Estes conducted negotiations with Corn States in late 1959 and early 1960 for construction of approximately 2 million bushels of grain storage capacity. Corn States obtained a commitment from First Acceptance Corp., of Minneapolis, for financing three-fourths of the cost of a proposed facility, with the other one-fourth to be paid in cash. The 1.9 million bushel facility was to be built by Corn States and the Atlas Tank Co. of Tonkawa, Okla. However, the transaction fell through when Corn States refused to provide Estes with dummy invoices which would enable him to finance the entire project without making a downpayment. John J. Spence, president of Corn States, provided the subcommittee with the following description of the incident:

On March 22, 1960, I received a firm commitment from the above-mentioned finance company (FAC) for a \$400,000 installation with the understanding there would be a \$120,000 downpayment, with \$280,000 financeable balance. Then, on July 11, 1960, we received a revised commitment for \$377,500 with a \$94,500 downpayment. These commitments were issued in the name of Mr. C. E. Davis, a friend of Mr. Estes, with the understanding that Mr. Estes would also sign the mortgage.

Mr. Curtis Perry, of the Atlas Tank Co., and I flew to Pecos and again went over our proposition with Mr. Estes. At this time, he was reluctant to make the downpayment and suggested some arrangements be made whereby he did not have to make the payment and he would then go ahead with the proposition. This was highly unsatisfactory to our company so negotiations were terminated and no further work was done.

In the course of his negotiations with Corn States, Estes proposed use of a rather unorthodox financing technique. According to Spence:

At various times, Mr. Estes sent me financial statements of friends with whom he was doing business on the theory that we would contract with these people to build the grain

storage—always with the understanding that he would sign the mortgages or leases with them.

Among the financial statements sent Corn States by Estes was one for Henry M. Reeves, of Pecos. Reeves told the subcommittee that "I am sure that I never did furnish Billie Sol a statement for him to use in his enterprises" and that he had no knowledge that Estes had done so. Reeves indicated he might have furnished Estes with a copy of his financial statement for another purpose, which he described as follows:

My records do not show if I have ever furnished Billie Sol a statement, but if I did it would be in connection with a loan application which I was making and was not for the purpose of Billie Sol's enterprises. Several years ago I held some rather large, long-term notes which I desired to convert into cash and Billie Sol, among several other people, attempted to help me find a buyer for my notes.

*Proposal to Interstate Steel Co.*

Still another company contacted by Billie Sol Estes regarding storage construction was the Interstate Steel Co., Des Plaines, Ill. Howard R. Conant, president of Interstate, provided the subcommittee with the following description of a proposal made by Estes:

\* \* \* In March 1961, I went down to Pecos to meet with Billie Sol to discuss with him the purchase of 20 grain storage tanks, which he was going to install in an area near Pecos, Tex., on a tank farm. While we do not ordinarily fabricate tanks, our customer, the Atlas Tank & Steel Co., of Tonkawa, Okla., suggested that if we could work out some way of financing the purchase of the tanks either from us or from Atlas, they would manufacture the tanks and we could sell the steel. The only thing we were interested in was in selling the steel and since Atlas was not quite large enough to comfortably handle a transaction of this size themselves, we tried to work together. We contemplated selling the tanks for about \$51,000 apiece, as I recall, so that the total sale would have been somewhat in excess of \$1 million.

The proposed transaction did not materialize, a circumstance which Conant described as "one of the brightest spots in my business career in the last several years." Conant told the subcommittee the proposal fell through because:

\* \* \* We didn't get together on the terms, nor did we get together on price. It seems that Billie Sol wanted to buy the tanks for \$1,000 or \$2,000 each less than the bottom price which we quoted, and we refused to meet the price. In addition, I believe we were going to give him 90-day terms, but he wanted longer terms and we weren't willing to do that either, so the deal collapsed.

Of course, I had no idea at all that he was involved in any phony manipulations. \* \* \* As a matter of fact, I later was rather amazed that he didn't agree to pay us the price for the tanks which we asked, which I felt that he would have if he had any idea that he was going to be caught up with any time in the future.

We did investigate Billie Sol through Dun & Bradstreet and through some of the finance companies, whom he submitted as references. In general, the references were pretty good, although some of the finance companies said that occasionally he was late in payment of some of his obligations. In general, even that wasn't too negative because the finance companies reported that when he was late, he always notified them in advance and then did pay them later when he said he would.

In addition to the incidents described in the preceding pages, the subcommittee's investigation disclosed numerous other instances in which Estes had attempted unsuccessfully to have storage facilities built on credit.

#### *Construction of Steel Grain Tanks*

Although Estes' attempt to obtain steel for tank construction through the Interstate Steel Co. was unsuccessful, he eventually succeeded in having tanks with a total capacity of more than 28 million bushels built by three different firms at facilities he controlled. The tanks cost an average of less than 15 cents per bushel of capacity, only part of which was actually paid by Estes.

The Atlas Tank & Steel Co., Inc., Tonkawa, Okla., was already in the process of building tanks with a total capacity of approximately 7.5 million bushels at Estes' South Plainview terminal when the Interstate proposal fell through. Curtis Perry, president of Atlas, gave the subcommittee the following description of the work his company did for Estes:

We were advised early in July 1960, that Mr. Estes was looking for a contractor to erect some steel storage tanks.

We wrote a contract for five 114-foot diameter by 48-foot steel storage tanks on August 13, 1960, and another contract for ten 114-foot diameter by 48-foot steel storage tanks on September 13, 1960, for a total sum of \$726,250.

While the Atlas Co. was eventually paid for its construction work, there apparently were some collection difficulties. R. L. Crowder, Jr., president of the First National Bank, Tonkawa, Okla., advised the subcommittee that:

\* \* \* we did back in 1960 handle some contracts on Billie Sol Estes.

One of our customers, the Atlas Tank Co., was building grain storage bins for Mr. Estes and we advanced funds for the building against the assignment from the United Elevators, Mr. Estes the owner.

We refused to take any assignments after the first two, due to our trouble in collecting. We handled two contracts amounting to about \$170,000.

We did not suffer any loss and I do not think the Atlas Tank Co. suffered any loss.

Grain storage tanks with a capacity of approximately 12 million bushels were built for Estes by the Lubbock Machine & Supply Co., Inc., Lubbock, which also handled a considerable amount of ammonia tank paper for Estes (see p. 265). T.A. Rogers, president of Lubbock

Machine, provided the following description of that company's storage construction for Estes:

Around the first week of September [1960], Mr. Estes asked if we were interested in building grain storage. Since our construction equipment was not suited to outside work, we at first did not consider the proposal. Then we worked out a plan in our engineering department whereby the top of the storage bin could be built on the ground and by relatively inexpensive equipment of motors and jacks, the bin could be raised, ring by ring, with the workman always on or near the ground. The first four bins (then six more) we built on a verbal order from Mr. Estes, and they were not completed until late October and mid-November and December and into January 1961. He proposed (this is still 1960) to pay us by continuing to sell out the balance of his original \$3 million (plus) worth of ammonia tanks. (We attempted to finance the grain storage directly but bogged down in redtape because some were on leased land.)

Early in 1961 Mr. Wayne Cooper, the Plainview manager of United Elevators, signed a contract, at Mr. Estes' request, for 14 grain storage bins, plus aeration equipment for part of them. Altogether we constructed 12 million bushels of storage, plus tunnels, and installed aeration equipment for part of them \* \* \*.

\* \* \* \* \*

The highest amount of credit for work done at a given time extended to Mr. Estes (United Elevators and Lester & Stone) was \$697,680.20. Lubbock Machine & Supply Co. handled about \$4½ million worth of paper, most of which was endorsed with recourse, at all times assuming we were doing all of the financing on his ammonia tanks. As of April 7, 1962, Mr. Estes owed us a total of \$697,680.20 (\$644,694.21 on grain storage and \$52,985.00 on work on "country points"—pickup stations).

We have never invoiced him for about \$30,000 worth of special trusses and other material lying on our yard, at the time it was due; we thought it was useless to do so \* \* \*.

The grain storage tanks built by Lubbock Machine were at the South Plainview terminal, the South Plainview terminal annex, and at Claytonville. Additional grain storage tanks with a total capacity of about 7.5 million bushels were built by Superior Manufacturing Co., at the South Plainview terminal annex, at Silverton, and at Hereford. The cost of these facilities, which totaled around \$1 million, was deducted by Superior from the proceeds of fraudulent tank mortgages handled by Superior for Estes.

#### *Leasing Deals*

In addition to the storage space Estes owned at Plainview, United Elevators also operated a total of 5,840,000 bushels of space ostensibly leased from four individuals—Guy Nickels, Jim McCormac, G. M. Atwood, and J. C. Williamson. The subcommittee's investigation indicated that the facilities supposedly leased from Nickels, McCormac, and Atwood were actually owned by Estes, and that he

had paid these individuals 10 percent of the amount borrowed for construction of the warehouses involved as a fee for use of their credit. The exact ownership of the Williamson facility was not clear, although it appears that it may have been some sort of partnership arrangement.

Facilities supposedly leased by the four men were built by Coleman Wade. The subcommittee's investigation indicated that Estes received a total of \$170,000 in kickbacks from Wade on the construction work.

Each of the individuals involved in the storage leasing transactions also signed tank mortgages for Estes. The number and face amount of tank notes bearing their names follows:

Name	Number of notes	Face amount
Guy Nickels (Nickels Ginning Co.)	6	\$1,454,311.23
Jim McCormac	9	857,523.72
G. M. Atwood	8	452,885.04
J. C. Williamson	4	1,126,805.25

### *Country Receiving Points*

After 1959, with the exception of the steel grain tanks built by Atlas, Superior, and Lubbock Machine, most of Billie Sol Estes' storage construction was accomplished in the names of other persons; these transactions will be described in the following sections of this report. However, the subcommittee's investigation indicated that toward the end of 1961 Estes began implementing a plan to build 100 country receiving points for grain in the Plains area. The purpose of the receiving stations was to obtain grain from farmers by providing a delivery point near their farms, thus eliminating the necessity for hauling grain to more distant warehouses.

The possible effect of Estes' plan to put in 100 country receiving points on competing storage operators was discussed in testimony at Lubbock by Harry Igo, operator of Plainsman Elevators at Plainview. Igo expressed the opinion that, had Estes been able to carry out his plan, the grain-storage business would have been concentrated into the hands of a few large operators without any profit for anyone. Igo gave his personal reaction to news of Estes' plan in the following testimony:

Q. Now, when Estes started this rapid expansion and this type of competition, what did you do—what did you do to your business?

A. Well, I was not in debt very deeply at the time, but I began to try to get all of my debts paid off, and as the old saying goes, wind my ball a little tighter so I'd have a little more bounce in it, and stay a little longer.

Q. You saw a hurricane coming, didn't you?

A. Yes, sir; it looked like one.

Q. And it looked like there was going to be stormy weather ahead?

A. Yes, sir; it was black on the horizon.

In November 1961, Billie Sol Estes enlisted the aid of a Plainview real estate man, Wendell Gambill, in acquiring sites for his proposed receiving points. At the time of Estes' arrest, Gambill had acquired



a number of locations and was in the process of obtaining additional ones. According to an examination of Estes' records by Ernst & Ernst, as of April 7, 1962, one receiving facility had been completed, another was 80 percent complete, and scale houses for 12 others were in various stages of completion. Some construction work on receiving stations was done by Lubbock Machine & Supply and some by Coleman Wade.

HALE COUNTY GRAIN CO.

*Hidden Partnership With W. W. Hill*

Nearly 4.5 million bushels of storage space operated by United Elevators at Plainview was approved for storage of Government grain in the name of the Hale County Grain Co. Although the Hale County Grain Co.'s storage facilities were located in the midst of United's South Plainview terminal and operated by United employees, the company was represented as being owned by W. W. Hill of Pecos.

After the arrest of Billie Sol Estes, Hill admitted to Federal investigators that the company had actually been established as a 50-50 partnership between Estes and himself. Hill gave the following account of the negotiations leading to the establishment of Hale County:

In approximately August 1959, Billie Sol Estes, Pecos, Tex., began asking me to go into the grain storage business with him. While I was not interested at first, later, in about March of 1960, I agreed to go into such grain storage business with the understanding that it would be a 50-50 partnership, sharing the costs as well as any subsequent profits.

The first storage building, a 700-foot long structure, was to be constructed by Plain-Tex Steel Structures, Inc., of Amarillo and Plainview, Tex. This particular contractor had been suggested by Estes and I had agreed to his choice.

Records of the Hale County clerk indicate that the land on which storage facilities of Hale County Grain were located was conveyed to W. W. Hill in two separate tracts by warranty deeds from Lloyd Stone of Plainview in 1960 and 1961. However, Stone was acting as a strawman for Estes and had no interest in the land himself, according to a statement he gave investigators for the Department of Agriculture. In the statement, Stone said:

I wish to state that Estes originally instructed me to buy the land which included the tracts later sold to Hill. The reason I handled the purchase and sale in this manner, according to Estes, was that he was afraid that the cost of the land would have been much higher if it became known that Estes, with his reputation for riches, was interested in the land.

I don't know the fine points of the sale of land to Hill—in fact, I have no knowledge of any of the financial arrangements, since all that I did was sign papers presented to me for my signature. I don't know how much Hill paid for the two tracts, nor do I know how much I paid for the total acreage which included the two tracts. \* \* \*

W. W. Hill gave the following statement to Department of Agriculture investigators concerning the management of Hale County Grain Co.:

The management of the Hale County Grain Co. has been entirely under the control of United Elevators, Inc., an Estes enterprise, with actual management being performed by W. L. Cooper and his various assistants, including Melvin Glantz and Jerry Harder, both of Plainview. I did not pay any of these people directly, none of them being on my payroll. However, Cooper kept accounts on the work performed and billed my company for such expenses. \* \* \*

After the arrest of Estes, W. W. Hill contended that he had, in effect, bought out Billie Sol Estes' interest in Hale County Grain Co.; however, the subcommittee found no documentary evidence to support Hill's contention. An examination of Agriculture Department files disclosed that applications for a Government grain storage contract were filed by W. W. Hill doing business as Hale County Grain Co. On these applications, Hill consistently certified that he was owner and failed to disclose that Estes had any interest in Hale County, even during those periods of time when Hill later admitted he and Estes were actually equal partners.

*Use of Ammonia Tank Notes To Finance Construction*

The subcommittee was advised by J. J. Kimble, president of Plain-Tex Steel Structures, Inc., of Plainview, that he contracted with Hill and Billie Sol Estes on April 12, 1960, for construction of a 700-foot steel building with a capacity of 1,760,000 bushels. The agreed price for building, according to Kimble, was \$375,000, of which \$75,000 was to be paid as a downpayment and the remainder financed by Commercial Credit Corp.

A \$75,000 check to Plain-Tex on the "W. W. Hill special account" at the First National Bank of Pecos, dated May 14, 1960, and signed by Hill, was endorsed and deposited by Kimble. Hill gave the following explanation of the source of funds for the check to Plain-Tex:

The downpayment, which amounted to \$75,000 was made from funds secured through the mortgage of anhydrous ammonia tanks, a practice which was suggested by Estes. Estes had represented the tanks as his and being in existence, but I had not seen the particular tanks involved in the first three chattel mortgages I signed. In any case, the first deposit of consequence to my special bank account maintained for Hale County Grain Co. was \$93,000 approximately. \* \* \*

Hill also stated that an additional \$24,200 from tank mortgage proceeds was deposited in the W. W. Hill special account. Hill's account is confirmed by records of the First National Bank of Pecos, which disclosed deposits of \$93,320 and \$24,200—a total of \$117,520—to the account in May 1960. The subcommittee's investigation dis-

closed that Hill signed the following notes, secured by mortgages on anhydrous ammonia tanks:

Date	Company	Face amount
May 6, 1960.....	CIT.....	\$85,952
May 11, 1960.....	First Acceptance Corp.....	44,617
May 13, 1960.....	Southwestern Investment Corp.....	30,296

The amount paid for the notes and mortgages by the finance companies totaled \$123,312, somewhat more than the \$117,520 deposited by Hill; however, the difference in the two amounts presumably represented commissions taken by Superior Manufacturing Co. for handling the transactions.

In addition to the three tank mortgages Hill signed in May 1960, to obtain funds for Hale County, Hill's name appears on five additional tank mortgages with a total face value of around \$288,000 dated in late 1960 and early 1961. Hill made the following comment concerning these obligations:

None of the remainder of the mortgages, which I believe to be the last five mortgages, had anything to do with the grain company, since I was supposed to receive credit for fertilizer and/or insecticide in the amount of 10 percent of the value of the mortgages, less interest.

#### *Return of Downpayment*

When the \$75,000 downpayment check was delivered to Plain-Tex, \$37,500 was returned to Estes. According to a statement by Kimble, the circumstances were as follows:

\* \* \* Hill and Estes brought a check to me for \$75,000. However, before I actually received the check, Estes stated he was short of money and would like to have his half of the downpayment back in return for a note in the same amount. Hill was in and out of the room and I do not recall if Hill was present during Estes' request. Estes may also have mentioned this to me at an earlier date, but I am not sure. I agreed to return Estes' half of the downpayment by check and to accept his note for \$37,500. I am reasonably sure that the one transaction was contingent upon the other. In other words, if I did not agree to return Estes' half in cash and take his note, Estes would not have gone through with out building the Hale County grain facility at all. \* \* \*

Hill told Federal investigators that he did not learn of the \$37,500 check from Plain-Tex to Estes until after Estes' arrest. Kimble contended, however, that:

\* \* \* I am not sure that Hill was aware of Estes' request at the beginning but I know that Hill became aware a short time later of the return of Estes' half of the downpayment, although Hill now denies this. \* \* \* Estes did not ask me to keep this return of \$37,500 a secret from Hill. If Hill was not aware of the \$37,500 being returned by us to Estes at the time, I believe he did become aware of it a short time later. My feeling is based on subsequent conversations with Hill.

In addition, I seem to recall that when we constructed additional facilities for Hale County Grain Co., Hill made a downpayment and told me that he did not want Estes to get his hands on any of that downpayment.

Estes made no payments on the \$37,500 note during the remainder of 1960; however, according to Kimble, on December 15, 1960, Estes agreed to convert the \$37,500 demand note, plus \$1,767.08 in December 15, 1960, calling for payment of a total of \$49,083.85 in 60 monthly installments of \$818.07 each beginning on January 15, 1961. Kimble's records indicate that 13 monthly payments were subsequently made; the unpaid balance of the note at the time of Estes' arrest was \$38,448.94.

Further construction work at Hale County handled by Plain-Tex consisted of a 300-foot addition to the original 700-foot building, which added 734,000 bushels to its capacity. The construction contract for the addition, according to Kimble, was entered into with Hill and Estes on June 19, 1961; cost of the addition was \$136,000; \$27,200 of this amount was paid from funds of the Hale County enterprise on June 30, 1961, and the balance of \$108,800 was financed by Commercial Credit Corp.

#### *Kickbacks From Wade Contracting Co.*

A second storage facility was built for Hale County by the Wade Contracting Co., of Altus, Okla., under a contract entered into on July 25, 1961. Coleman Wade, president of the company, had been associated with Plain-Tex in late 1959 and early 1960. Price of the building, which was a 100-by 800-foot steel structure with a capacity of approximately 2 million bushels, was represented to be \$580,000; \$116,000 was to be paid down, with a balance of \$464,000 to be financed by Walter Heller. When the facility was completed, Walter Heller & Co. paid approximately \$464,000 to Wade, taking a note from Hill secured by a mortgage on the building. The Heller note provided for payment to Heller of a total of \$626,400 in 20 quarterly installments of \$31,320 each beginning January 15, 1962.

Although a downpayment of \$116,000 had supposedly been made on the Wade Building, W. W. Hill later admitted:

\* \* \* While some documents may indicate that a downpayment of \$116,000 was made on this 800-foot building, this was not the case, the full price, including interest, being \$626,400. \* \* \*

Hill also told representatives of the Department of Agriculture that a note for \$116,000 to the Wade Contracting Co. as representing the downpayment was never intended to be a binding obligation and had been surrendered to him by the construction company.

Even though the cost of the Wade building had been represented as \$580,000, Federal investigators found from a document in the possession of A. B. Foster, general manager of Estes Enterprises, that the actual price was originally only \$380,000. The \$464,000 obtained from Heller was intended not only to cover the entire cost of the building, but also to provide for an \$84,000 rebate. However, subsequent addition of an aeration tunnel added \$13,000 to the original cost and reduced the amount available for a rebate to \$71,000.

Records examined by the subcommittee reflect a deposit of \$35,000 to W. W. Hill's personal bank account on September 30, 1961, and \$36,000 to the Hale County account on November 30, 1961; the source of both these amounts is identified as the Walter Heller Co. W. W. Hill made the following statement concerning the deposit to his account:

Regarding the \$36,000 credited to my bank account at Pecos, I wish to state that this amount was part of \$71,000 credited to me by Walter Heller, Inc., with the amount being a figure over and above the cost of the last building. This was done for the purpose of securing additional operating capital for my company and was not unusual in any way, inasmuch as Heller was willing to lend more than the actual cost of the warehouse. This matter was not originally arranged by me, with the builder having made such original agreements. \* \* \*

However, Walter Heller & Co. said in a statement to the subcommittee that:

Our company did not knowingly loan any amounts in excess of the costs of the respective facilities, or any other facilities in which Estes was involved. We had no knowledge of any direct or indirect involvement by Estes in any of these facilities. In each case a cost price was given to us, and a downpayment of 20 percent or more was represented to have been made, so that we believed that we were financing 80 percent or less of the cost.

A \$45,000 check to Billie Sol Estes on the Hale County account was dated November 29, 1961, 1 day before the \$36,000 deposit to the account; purpose of the check to Estes was stated as "withdrawal." In addition to the \$35,000 from Heller, which was deposited to his personal account, Hill also withdrew \$30,000 from the Hale County account on August 18, 1961. The only actual cash contributions (not including funds derived from tank mortgages) made by Hill and Estes were \$19,062, each, deposited on March 14, 1961, to make the first semiannual payment of \$38,124 on the original storage building. Consequently, instead of putting cash into the Hale County venture, Hill made net withdrawals of \$46,000 and Estes \$26,000 from this enterprise. Hale County Grain Co. received \$282,000 in grain storage payments from the Department of Agriculture through March 1962.

#### PALO DURO GRAIN CO.

##### *Relationship With C. E. Davis*

Negotiations leading to construction of the Hale County Grain Co. did not occupy all Billie Sol Estes' time during the spring of 1960. Estes was also busily engaged at that time in initiating a somewhat similar—but eventually much larger—enterprise called the Palo Duro Grain Co. Palo Duro Grain Co., although represented as being solely owned by Claude E. Davis, of Coynosa (a small town near Pecos), actually began as a 50-50 partnership between Davis and Estes. As in the case of Hale County Grain Co., fraudulent tank mortgages were used to finance storage construction. In a statement



to Agriculture Department investigators, Davis gave the following account of the establishment of Palo Duro:

In the early part of 1960 I was talking to Billie Sol Estes of Pecos, Tex., about the grain storage business. I am a former resident of Tulia, Tex., and know that area to be a tremendous grain sorghum producing area. After some discussion over several days' time Billie Sol Estes told me we could build an elevator in Tulia on a partnership basis and we even talked of a stock company whereby we would issue 49 shares each to ourselves and 1 share each to A. B. Foster, Jr., and J. Robert Scott. Foster was the office manager for Estes Enterprises and Scott was a CPA and was my accountant. We talked a lot and later we decided to go into the deal on a 50-50 basis as partners. There was no written contract. Estes told me I could get my part of the downpayment by signing two chattel mortgages for anhydrous ammonia tanks and he would use the tanks in his ammonia business and we could pay the payments on the chattel mortgages out of the proceeds from grain storage. I signed two chattel mortgages in June 1960 on anhydrous ammonia tanks. Both were to Superior Manufacturing Co., Amarillo, Tex. One mortgage was in the amount of \$382,450 and another in the amount of \$75,285 for a total of \$457,735. \* \* \*

The subcommittee's investigation indicated that Davis signed two ammonia tank mortgages on June 17, 1960. One of them, with a face value of \$75,285, was purchased by the Southwestern Investment Co. The other was purchased by CIT; however, CIT told the subcommittee that the face value of the mortgage it purchased was \$322,650, rather than the \$382,450 figure given in Davis' statement. In his statement, Davis contended he had not received all the money he was entitled to from the fraudulent mortgages. According to Davis:

\* \* \* I only received one check from Superior Manufacturing Co. for \$191,200 and I thought I was to receive another check from them for \$53,091.81 but this check was sent to Estes. I went to the telephone and called Harold Orr of Superior Manufacturing Co. in Amarillo and ask him why the second check was not mailed to me. I immediately found out that Orr claimed it was sent to Estes in error. I then went to Pecos, Tex., and went to the Estes office and met A. B. Foster and was told by Foster that the check came to Billie Sol by mistake and he then wrote me a check for \$53,091.81 covering that check.

I put both checks in Palo Duro Grain Co. account at Tulia, Tex., or a total of \$244,291.81 and that represented all I received from the anhydrous ammonia tank mortgages. I thought Billie Sol Estes was going to receive \$47,000 as a "holdback" but later I found out later that Harold Orr and Estes "held back" \$65,000 instead of \$47,000 and therefore I consider that this money should be in the total accounting as a charge off to what Billie Sol put in the company.

*Construction of Storage Facilities*

In less than 2 years, storage facilities with a total capacity of nearly 19 million bushels were built by Palo Duro. More than 11 million bushels of this space was built by Plain-Tex Steel Structures, which had previously handled construction for Estes at Plainview. The contract prices for the Plain-Tex construction totaled around \$2.75 million, of which around \$720,000 was to have been paid in cash. However, as in the case of Hale County Grain, Estes gave notes for his share of the downpayments and even secured a refund of cash actually paid. Commercial Credit Corp. advanced \$1.6 million to finance construction work.

In early 1961, Panhandle Steel Buildings—which had been unsuccessful in several previous attempts to work out financing arrangements for Estes himself—contracted to build 4 million bushels of storage space for Palo Duro. The circumstances under which this occurred were described by Panhandle as follows:

Claude E. Davis of Tulia, Cayanosa, and Pecos, Tex., came to our attention first in 1960 through Billie Sol Estes. He suggested that if we couldn't obtain financing for him that he would like for us to consider building and financing plants for Mr. Davis and/or a Mr. Worsham. He sent us financial statements on both men and said that he would work out any partnership arrangements with them after their operations were established. \* \* \*

\* \* \* \* \*

We approached Mr. Davis who told us that he wasn't interested in developing any of the areas mentioned by Estes but that he was definitely interested in a three-building addition to his Palo Duro Grain Co. in Tulia, Tex. He said that financing of at least 75 percent of the total was necessary, that cash for the downpayment was readily available, and that he could give us clear title to the land on which the buildings were to be located. Because of the peculiarities of the proposed installation, its proximity to other buildings, limited access, and the fact that Mr. Davis was obviously heavily obligated for the existing facility although it was reasonably filled at the time, we invited Mr. Gene Olsen, manager of the Butler Finance Co., to visit the site in person and attempt to appraise the situation at the local level. He did so and in the few days that followed his arrival there were numerous meetings with Mr. Davis, discussions with his banker, and several discussions with Mr. Davis and Wayne Cooper of Plainview. \* \* \*

According to Panhandle, the presence of Cooper—who was general manager of Estes' elevator interests—"caused some concern." When Davis was asked "if Estes had anything at all to do with Palo Duro Grain Co., Panhandle said:

\* \* \* He emphatically denied any relationship with Estes and said that Cooper's interest was that of a friendly adviser. Cooper confirmed this. Furthermore, Mr. Davis explained that Mr. Estes and A. B. Foster were both good friends, that they were anxious to help him establish himself in the grain business, and that Estes had made an agreement with

him to put up money for a percentage interest in his Tulia operation but that he had failed to do so and that he, Davis, was no longer interested since he had found it possible to handle the operation by himself.

After completing its credit investigation in February 1962, the Butler Co. issued a commitment to finance approximately \$482,000 of the \$644,000 total cost of a storage facility to be constructed for Palo Duro Grain Co.

In addition to storage facilities constructed by Plain-Tex and Panhandle for Palo Duro, the Wade Contracting Co. built warehouses with a capacity of 3.5 million bushels. The construction contract was entered into around September 1961, and \$446,442 was obtained from Walter Heller & Co. to finance construction work. The subcommittee investigation indicated that an \$83,500 payment—presumably a kickback—was made by Wade to Davis on December 15, 1961.

#### *Davis Claim of Ownership*

Around May 1961, C. E. Davis later claimed, he took steps to buy out Billie Sol Estes' interest in Palo Duro. In his statement to Agriculture Department investigators, Davis said:

Billie Sol put up some cash for his interest and also signed numerous notes for various deals. The last money Estes put up was in May 1961 when he put in \$41,600. Shortly after this time I knew something was wrong and I told Billie to buy me out and let me out of this deal. Billie advised me that he had extended his credit too far and I would have to buy him out instead.

I then did the best I could and had a stock company set up which had a capitalization of \$250,000. I was to get 2,400 shares at \$100 per share and J. Robert Scott was to receive 50 shares and A. B. Foster was to receive 50 shares. The stock certificates were written up and these two men still owe me \$5,000 each for their shares.

The subcommittee's investigation indicated that the stock certificates were backdated to February 28, 1961. Financial statements furnished to the Department of Agriculture thereafter continued to indicate that Palo Duro was wholly owned by Davis. The subcommittee's investigation did not establish whether Davis' actions were designed to actually acquired Estes' interest in Palo Duro or simply to give that appearance.

Davis' concern that "something was wrong" with Estes' operations around May 1961 may have been related to the discovery by CIT at that time that there were irregularities in Estes' ammonia tank mortgage activities. Details concerning CIT's actions and suspicion expressed by others concerning a tank mortgage signed by Davis and purchased by CIT appear on pages 298 through 303 of this report.

#### ALLIED ELEVATORS

##### *Relationship With Worsham Brothers*

Palo Duro Grain Co. and Hale County Grain Co. were initiated as 50-50 partnerships between Billie Sol Estes and the individuals whose names were being used. Estes later made proposals to other individ-

uals under which those "lending credit" for storage construction would receive a 10 percent interest in the warehouses to be built. Like Estes' tank deals, the storage proposals promised a 10 percent commission for signing mortgages; unlike the tank transactions, the collateral actually existed.

In a number of instances, Estes tried to interest the same individual in participating in both tank and storage deals. One of these involved R. L. Skov, of Clint, Tex., to whom Estes wrote the following letter in early 1961:

DEAR BOB: Please forgive me for not getting you this information sooner.

Bob, I would be interested in going in with you on a grain elevator. All that you would furnish would be your financial statement. For example, if the grain elevator costs \$542,500, the downpayment would be \$108,500, which would leave a balance to be financed of \$434,000. You would sign this mortgage which I would sign also as a guarantor with you.

I am enclosing herewith a projection based on my past history with elevators, showing you a projection of income. As you can see, it takes a lot of operating capital before the elevators gets on a paying basis, but it is a very profitable business and by building in the right location and building a group 9 terminal which has a No. 1 priority over obtaining grain, and as long as there is a Government program, we would not have any trouble keeping it full of grain.

Also enclosed you will find a mortgage which is required to be signed on anhydrous ammonia tanks and also a lease agreement whereby I would lease the tanks back from you and also the guarantee from the tank company if I should default on the payments whereby they would be willing to take the tanks for the amount against them. After we have put 20 percent in the tanks they would be safe, unless there was an all-out depression and it became necessary for them to take the tanks back.

Let me hear from you at your earliest convenience.

Sincerely,

(S) BILLIE SOL ESTES.

P.S.—The amount of profit you would derive would be 10 percent in cash on the tank deal or 10 percent net interest in the grain elevator.

R. L. Skov turned down both of Estes' proposals. However, Estes had more success with L. G. Worsham and W. J. Worsham of Pecos. In late 1960, the two Worsham brothers signed tank mortgages for Estes. Thereafter, according to a statement given Federal investigators by L. G. Worsham:

\* \* \* Estes approached my brother and me with the proposition to help him finance a grain elevator to be known as Allied Elevators. He said he was interested in expanding his elevator operations but had used up all his credit. He stated that he could get more grain and fill more elevators if he had them, and offered us either a 10-percent commission on the cost of the elevators or a 10-percent interest in the net profits of the operation. We decided to go in with him

when he showed us projections of what we could expect from our 10 percent of the profits. We did not make the monthly payments on this elevator. I understand that the grain runs were assigned to Commercial Credit, the financing institution, to satisfy the mortgage liability \* \* \*.

Wayne Cooper, general manager of Estes' United Elevators, was also general manager of Allied's operations. Alton C. Cox, Hereford, the local manager of Allied Elevators, told USDA investigators that he had submitted his employment application to Estes Enterprises and had been hired to work under Cooper's direction. Cooper told Agriculture Department investigators that he had met the Worshams on only one occasion before Estes' arrest and had never had direct correspondence with either of them. Cooper said that, in accordance with instructions from Estes, all operating expenses for Allied were paid from funds of United Elevators.

*Construction of Storage Facilities by Kimble and Superior*

On December 14, 1960, Allied Elevators contracted with Pre-Fab Steel Structures, Inc., Amarillo, for construction of approximately 3.5 million bushells of grain storage space. The president of Pre-Fab was J. J. Kimble, who was also president of Plain-Tex Steel Structures, Inc., Plainview. The other officers and stockholders of Pre-Fab were identical with those of Plain-Tex.

According to Kimble, the price for the initial construction at Allied was originally set at \$772,000, but was subsequently reduced to \$750,000. Twenty percent of the purchase price was to be paid down; Kimble had obtained a commitment from Commercial Credit Corp. to finance the remaining \$600,000. Instead of insisting on \$150,000 in cash, Kimble said, he had agreed to allow Estes to pay \$60,000 in cash and give a \$90,000 note for the remainder. However, Estes actually paid only \$30,000 in cash and gave Kimble 15 \$2,000 checks, postdated for the fifth of each month from February 1961 through April 1962. All but one of the checks were cashed before the arrest of Estes; however, there were apparently no payments made on the \$90,000 note.

Commercial Credit Corp. advanced \$606,480 to finance construction costs of the initial Allied facilities, taking a mortgage on the buildings as security. Commercial Credit received a note with a face value of \$762,480, payable in equal semiannual installments over a 5-year period. Only one installment—\$76,248— was actually paid before Estes was arrested.

On February 23, 1961, Pre-Fab Steel Structure contracted for construction of two Armco buildings and three steel tanks with a total capacity of 2,274,000 bushels. Approximately \$400,000 of the \$500,000 cost was financed by Commercial Credit Corp. Although a downpayment of \$100,000 was supposed to be made, Estes actually paid only \$25,000 in cash and even that was not paid until nearly a year later. A \$75,000 note was given by Estes to Pre-Fab for the balance of the "downpayment," but no payments were made on it. Only about \$35,000 was paid on the indebtedness to Commercial Credit before Estes' arrest.

An additional 4 million bushels of storage capacity was built for Allied by Superior Manufacturing Co. The cost of this construction was around \$465,000. All payments were deducted by Superior from



the proceeds of fraudulent tank mortgages handled for Estes, with no actual cash being paid. As of the time he was arrested, the total actual cash expended by Estes for downpayments and installments on construction of nearly 10 million bushels of storage space at Allied was around \$200,000—approximately 2 cents per bushel of capacity.

In addition to their involvement in Allied, the Worshams' names, individually and as partners, appeared on nearly 20 tank mortgages with a total face value of more than \$1.5 million. Statements filed by W. J. Worsham with the Department of Agriculture did not disclose Estes' ownership of Allied.

#### USDA SUPERVISION OF WAREHOUSES

##### *Background*

Two separate units of the Department of Agriculture have important responsibilities directly related to storage of grain in commercial warehouses. One of these, the Agricultural Marketing Service (AMS), administers a Federal licensing system for grain storage facilities through its United States Warehouse Act Branch. The second, the Agricultural Stabilization and Conservation Service (ASCS), has responsibility for storage of Government grain in private warehouses. AMS operations are intended to guarantee protection for *all* depositors storing grain in federally licensed warehouses; ASCS activities, on the other hand, are concerned primarily with the safe storage and handling of *Government* grain in privately owned warehouses.

Although the basic purposes of their programs are different, AMS and ASCS conduct a number of similar or closely related activities involving commercial storage facilities. For example, both agencies have employees engaged in examining financial responsibility of warehousemen and in making warehouse examinations; although they do not normally inspect the same warehouses, each agency has its own set of examiners working in the same geographic area. (The subcommittee plans to give further attention in the future to the general question of possible unnecessary duplication or waste in the existence of two separate units of the Department of Agriculture with such closely related functions.)

The United States Warehouse Act was enacted in 1916 to provide a voluntary system for licensing and bonding warehouses storing agricultural commodities. By 1962, approximately 1,250 warehouses capable of storing more than 1.3 billion bushels of grain were licensed under the act. The capacity of individual grain elevators licensed under the act ranged from 25,000 to approximately 50 million bushels.

The United States Warehouse Act Branch of AMS, which administers the program established under the United States Warehouse Act, is one of a number of units concerned with activities affecting marketing of agricultural commodities which were assigned to the Agricultural Marketing Service when that Service was created in 1953. (The Warehouse Act unit had performed essentially the same duties prior to 1953, but had done so under general supervision of other agencies of the Department of Agriculture.) In carrying out its responsibilities, the Warehouse Act Branch utilizes the services of about 60 warehouse examiners stationed at eight field offices; supervisory and clerical personnel in Washington and the field offices bring the total staff of the Branch to around 100 persons. The Warehouse Act Branch field office at Wichita, Kans., had direct

responsibility for activities involving federally licensed warehouses owned by Billie Sol Estes; however, final decisions concerning issuance of licenses and the amount of bond required were made by the Washington office.

Storage of Government grain in commercial warehouses has been carried out since 1940 under terms of a uniform grain storage agreement (UGSA) with the warehouseman. The UGSA does not require the Department of Agriculture to store grain or the warehouseman to accept grain for storage; however, it does specify the rates and conditions which are applicable in the event grain is stored. In order to qualify for a uniform grain storage agreement, a warehouseman must meet requirements established by the Agricultural Stabilization and Conservation Service; approval by ASCS and the issuance of a UGSA are necessary before a warehouse is permitted to store Government grain. Practically all of the approximately 1,250 warehouses licensed under the United States Warehouse Act also have uniform grain storage agreements. Around 8,750 other warehouses, with a total capacity of more than 3 billion bushels, have uniform grain storage agreements but do not have Federal warehouse licenses; most of them are licensed under State laws.

Government grain storage operations are carried on by ASCS in the name of the Commodity Credit Corporation (CCC), a wholly owned Government corporation. Although CCC technically is a separate legal entity, its grain storage operations are conducted entirely through ASCS employees; as a practical matter, the terms "CCC" and "ASCS" are frequently used interchangeably in referring to storage operations involving Government grain. CCC storage operations are carried out by regional commodity offices under general supervision from ASCS headquarters in Washington; the Dallas Commodity Office had direct responsibility for storage of CCC grain in Billie Sol Estes' warehouses.

Examinations of the quantity and quality of stored grain in federally licensed warehouses are conducted by personnel of the United States Warehouse Act Branch; ASCS personnel are responsible for checking the quantity and quality of CCC grain in warehouses which do not have Federal licenses.

#### *Development of Dual Warehouse System*

The concurrent existence of separate programs for approval and inspection of grain storage facilities in both the Warehouse Act Branch and ASCS—described by one witness as a "dual warehouse system"—played an important part in the Department of Agriculture's handling of Billie Sol Estes' storage operations.

The fact that only a comparatively small percentage of the Nation's warehouses have been and are federally licensed has been a significant factor in the development of the dual system. Before passage of the United States Warehouse Act in 1916, there was no Federal licensing system. Since that time, the Federal program has been entirely voluntary; warehousemen who cannot—or do not—obtain a Federal license are free to operate without one, subject to any applicable State laws or regulations.

Although Federal warehouse standards and regulations may leave something to be desired, Federal requirements for warehouse operation historically have been—and still are—generally more stringent than State requirements. Some States have no meaningful system of

warehouse licensing or regulation; only a handful of States have programs comparable to the Federal system. Because of the difference in standards, federally licensed warehousemen have tended, generally speaking, to be more experienced, larger, and stronger financially than many warehousemen who do not have Federal licenses. Losses to depositors in federally licensed warehouses through spoilage or conversion of grain have been relatively rare; such losses have been much larger and more frequent in facilities which are not federally licensed.

The Federal program for licensing and regulation of warehouses is considerably older than the program for storage of Government grain. The Commodity Credit Corporation, the Government Corporation through which USDA grain storage operations are carried on, did not come into existence until 1933, 17 years after the passage of the United States Warehouse Act. Moreover, CCC operated in affiliation with the Reconstruction Finance Corporation (RFC) until 1939, when it was transferred to the Department of Agriculture. USDA operations involving storage of CCC grain in commercial warehouses did not become really significant until the late 1940's; during the 1950's, of course, CCC grain storage operations expanded to become and remain many times larger in terms of personnel and expenditures than the Warehouse Act program.

Because of the rapid growth of CCC grain inventories in the late 1940's and early 1950's, a serious shortage of storage space developed. Consequently, CCC stored substantial amounts of Government grain in warehouses which not only did not have Federal licenses, but almost certainly could not have qualified for them. The operators of these facilities, in a number of instances, had little or no previous grain storage experience; in some cases, the warehouses were substandard facilities originally built for other purposes and hastily converted for emergency use in storing grain.

In the early stages of its grain storage program, when utilizing nonfederally licensed facilities, CCC relied heavily on State laws and procedures to prevent loss. CCC's independent procedures for protecting its grain, to the extent they existed at all, were woefully inadequate; for example, the General Accounting Office, in a report issued on January 11, 1952 (I-17048), noted that the one warehouse examiner employed by the Dallas Commodity Office at the time to inspect several hundred warehouses storing CCC grain was checking only the condition and not the quantity of the stored grain.

In view of the conditions existing, it was hardly surprising that CCC suffered substantial losses due to spoilage or conversion of grain. Such losses were particularly heavy in the Dallas office area; the General Accounting Office estimated known or suspected shortages at some 50 warehouses in the Dallas Commodity Office area as of January 1952, would total at least \$3.8 million.

#### *Strengthening of CCC Storage Requirements*

After heavy losses in the very early 1950's, CCC procedures applicable to storage of grain in commercial warehouses were revised substantially; the revised CCC requirements for warehouses storing Government grain were generally similar to the requirements for licensing under the United States Warehouse Act program. By 1962, according to testimony of C. H. Moseley, director of the Dallas Commodity Office, the only significant difference between Warehouse Act Branch and CCC requirements related to the amount of bond

required for flat warehouses; this difference, which did not apply to CCC commodity offices other than Dallas, was described by Moseley in the following testimony:

Mr. FOUNTAIN. In your opinion, are there any significant differences between AMS requirements for a Federal license and ASCS requirements for storage agreements; and if so, would you describe them, please?

Mr. MOSELEY. \* \* \* In our area, it has become our practice to double the bonding requirements, double the minimum bonding requirements for flat warehouses. That was the principal difference. As far as other matters are concerned, I know of no significant difference in the standards of the two.

In practice, the difference in bonding requirements for flat warehouses between CCC and the Warehouse Act Branch in the Dallas Commodity Office area probably was not too significant. CCC normally fixed the amount of bond required at 6 percent of the value of the commodity being stored; the Warehouse Act Branch used 6 percent of the value of wheat in figuring the amount of bond, even if the commodity actually stored was worth less than wheat. Grain sorghum, the commodity most frequently stored in flat warehouses in Texas, is usually valued at about half as much as wheat; consequently, a bond figured at 12 percent of the value of grain sorghum would not differ greatly from a bond figured at 6 percent of the value of wheat.

Despite the similarity between CCC and Warehouse Act Branch requirements and procedures in recent years, the subcommittee found no indication that responsible officials of the Department of Agriculture ever gave serious consideration to the question of whether or not two separate units were necessary to carry out such closely related activities.

#### UNITED STATES WAREHOUSE ACT PROGRAM

##### *Licensing Requirements and Procedures*

S. R. Smith, Administrator of the Agricultural Marketing Service, described the objectives of the licensing and supervision program established under the United States Warehouse Act as follows:

(1) To provide protection for agricultural producers and other depositors who store their property in federally licensed warehouses; (2) to assist in the orderly marketing and financing of agricultural commodities; and (3) to set and maintain a standard for sound warehouse operation. Negotiable warehouse receipts representing commodities valued at between \$3 and \$4 billion are frequently outstanding under this program. These receipts are considered by financial institutions as highly acceptable collateral by reason of the reputation and integrity of the administration of the United States Warehouse Act.

The United States Warehouse Act authorizes the Department of Agriculture, when application is made for a Federal license, to determine whether a warehouse is suitable for proper storage of any agricultural commodity or commodities. In addition, the act authorizes the Secretary of Agriculture to prescribe duties of warehousemen with respect to the care of and responsibility for agricultural products

stored in federally licensed warehouses; in order to obtain a license, a warehouseman must agree to comply with the rules and regulations prescribed under the act by the Secretary. The act also specifically requires that a surety bond be furnished by the warehouseman, and authorizes the Department of Agriculture to examine records relating to licensed warehouses.

Under regulations of the Department of Agriculture, applicants for a Federal warehouse license must comply with three general requirements: First, the physical facilities of the warehouse must be suitable for storage and handling; second, the operators, whether owners or employees, must have satisfactory qualifications in storing and handling grain; third, the warehouse operation must be backed by adequate financial responsibility. In determining the adequacy of financial responsibility, the Department of Agriculture considers both the net worth of the warehouseman and the amount of bond furnished. In his testimony, S. R. Smith said the procedures followed by the United States Warehouse Act Branch in determining whether a warehouse license should be issued were:

Upon the receipt of an application for a license, United States Warehouse Act examiners conduct an "original" examination of the warehouse to determine its suitability for storage of the commodity for which a license is sought. This examination involves not only the physical facilities of the warehouse but also the reputation of the warehouseman, his experience in the warehouse business, and the experience of employees who will operate the business.

In addition, a financial statement is required of the warehouseman prior to licensing and the examiner looks into the warehouseman's books and records for the purpose of determining the reasonableness of items in the financial statement. Titles to land and buildings are verified to the extent practicable, as are encumbrances on these holdings. Also inquiries are made as to the warehouseman's financial and business reputation. \* \* \*

Financial statements are not necessarily accepted at face value. Additional supporting information is requested when deemed necessary. Certain items may not be allowed in determining net worth. For example, insurable assets, such as buildings, machinery, and equipment are allowable only to the extent covered by insurance; homestead values are disallowed; cash value of life insurance is not allowed unless the policies are payable to the company; stock subscription notes are normally disallowed and appreciation of fixed assets must be fully justified to be accepted. \* \* \*

If, on the basis of all findings, it appears that the warehouseman is capable of operating the facility in such manner as to provide adequate protection of the commodities to be stored, has sufficient net worth, furnishes the required bond, and meets all other requirements, a license is issued.



The adequacy of Warehouse Act Branch procedures and the manner in which they were administered are discussed in later sections of this report.

#### *Net Worth and Bond Requirements*

Under regulations of the Warehouse Act Branch, S. R. Smith told the subcommittee, two basic tests of financial responsibility must be met by grain warehousemen before a license can be issued. The warehouseman must have a net worth equal to at least 4 percent of the value of the maximum number of bushels of wheat which can be stored in his facility; in addition, the warehouseman must provide bond equal to 6 percent of the value of the wheat which can be stored in his facilities. No warehouseman may be licensed unless he has a net worth of at least \$10,000; if his net worth exceeds \$10,000, but does not equal 4 percent of the value of the wheat which can be stored in his warehouse, the deficiency in net worth may be met by an increase in the amount of bond provided. The minimum amount of bond required at the time of Smith's testimony was \$5,000. The maximum amount of bond basically required under the regulations, regardless of the amount of grain to be stored, was \$200,000; however, additional bond in excess of the \$200,000 maximum was required in case of a deficiency in net worth and permitted in any other instance in which Warehouse Act Branch personnel found that conditions existed which warranted additional bond.

According to Smith's testimony, the exact amounts of net worth and bond required are determined in the following manner:

Calculations with respect to net worth and bond requirements are made on the basis of commodity values determined annually for this purpose by ASCS and adopted by AMS for application under the United States Warehouse Act. For example, the value used for wheat during the past several years is \$1.90 per bushel. Net worth requirements are calculated on the basis of 4 percent of \$1.90, or 7.6 cents per bushel. Bond requirements are calculated at 6 percent of the same value, or 11.4 cents per bushel, up to the \$200,000 maximum.

Under regulations in effect during the period in which Billie Sol Estes was storing Government grain, a warehouseman normally was not required to provide more than \$200,000 bond no matter how much grain was stored in his facilities as long as his reported net worth was equal to 4 percent of the value of wheat to be stored and Agriculture Department personnel did not determine that conditions existed which warranted additional bond. (At the time of Estes' arrest, under these regulations, one warehouseman with a storage capacity in excess of 50 million bushels actually was providing only \$200,000 bond.) Before 1953, regulations concerning the maximum amount of net worth necessary and the maximum amount of bond to be provided were even less stringent. Carl J. Miller, Chief of the United States Warehouse

Act Branch during Estes' storage operations, described the earlier regulations as follows in testimony before the subcommittee:

The idea of the maximum is traditional from the very inception of the Warehouse Act operation in 1916. Up until 1953, and for a long time prior to that, the maximum was \$50,000. There was also another provision prior to 1953, that the maximum net worth that anyone need have was \$100,000.

So a warehouseman with a net worth of \$100,000 furnishing a \$50,000 bond could operate a grain warehouse of any capacity—any capacity at all.

The 1953 amendment, in addition to increasing the maximum of bond from \$50,000 to \$200,000, also did away with the maximum net worth requirement of \$100,000 and based net worth on the total capacity at the rate of 4 percent.

#### *Provisions for Protection of Depositors*

Licensed warehousemen who store grain for others issue warehouse receipts to persons depositing grain which evidence the warehouseman's obligation to deliver the same quantity and quality of grain to depositors at a future time. In his testimony, S. R. Smith told the subcommittee that a number of other safeguards required under the Warehouse Act were more important than a surety bond in protecting depositors; according to Smith:

\* \* \* the protection afforded by the bond itself on the total volume of grain storage capacity of a warehouse, while important, is nevertheless relatively minor when considered in relation to the other safeguards that are required both before and after a warehouse is licensed and the protective measures provided by the act and regulations.

In listing safeguards for depositors provided through the United States Warehouse Act program, Smith cited measures designed to insure that warehouses are suitable for grain storage, and that personnel involved in their operations are qualified and trustworthy; he also included provisions for insuring grain against loss or damage by fire or other accidental cause. However, according to Smith, warehouse examinations provide the most significant single safeguard; he told the subcommittee that:

Most important of all, a program of unannounced examinations is conducted subsequent to licensing of a warehouse to determine whether the grain is being maintained in proper condition and is sufficient both as to quantity and grade to satisfy all outstanding obligations of the warehouseman. Any adjustments needed to bring stocks and storage obligations into balance are required following the examination. Housekeeping and recordkeeping practices are checked and correction required where they are deficient. These actions are taken to maintain the high standards of performance required by the United States Warehouse Act.

Smith said that severe criminal penalties—fines of up to \$10,000 and imprisonment for as much as 10 years—are provided to discourage conversions of grain and other deliberate violations of the Warehouse Act. Smith also indicated that protection afforded by surety bonds was secondary to that provided by the net worth of the warehouseman in the following testimony:

The net worth of the warehouseman is of prime importance, since claims arising out of the warehouse operation are made first against the warehouseman. The fact that claims against bonds under the United States Warehouse Act have been practically nil attests to the fact that net worth requirements have been generally adequate.

Smith stated that, in addition to the financial statement filed with their original license application, most warehousemen are requested to furnish current financial statements as of the midpoint and end of their fiscal year. Smith said such statements are not usually required of corporations which make periodic public disclosure of their earnings and financial condition. Smith also said that 6 to 8 weeks prior to the anniversary date of each license, a review is made of each warehouseman's "financial position, the results of the most recent examination of the warehouse, and other significant information with respect to the warehouse operation." Since bond coverage is written for a 1-year period, the review is used to determine the appropriate amount of new bond coverage to be furnished. The warehouse license is subject to termination if the new bond is not provided.

Despite the importance assigned to a warehouseman's net worth by Smith, another Agriculture Department official testified that the Department's policy did not require obtaining financial reports from sources other than the warehouseman himself. Dabney Townsend, Acting Chief of the Warehouse Act Branch, gave the following testimony on this point:

Mr. NAUGHTON. \* \* \* what is your policy with respect to obtaining independent financial reports both on the original approval of a facility and in connection with subsequent examinations?

Is it mandatory that an independent financial report be obtained?

Mr. TOWNSEND. It is not mandatory, no, sir. It is a matter of judgment as to whether we believe that we need additional information or a financial statement comes in that reflects rather an involved financial position that we want more information or independent verification on.

Mr. NAUGHTON. Do you request Dun & Bradstreet reports customarily?

Mr. TOWNSEND. We do not customarily request Dun & Bradstreet reports, no, sir.

Mr. NAUGHTON. If an independent financial report is submitted, do you require that it be by certified public accountant?

Mr. TOWNSEND. Well, I don't know that I can answer that question exactly, sir, because we have no written procedure on that.

Townsend's testimony that it was not customary to request Dun & Bradstreet reports was something of an understatement. The Wichita field office of the Warehouse Act Branch, which had initial responsibility for insuring that the net worth of Billie Sol Estes and hundreds of other warehouse operators was adequate to protect depositors, apparently went about this task totally ignorant of any information collected by Dun & Bradstreet concerning the financial condition of the warehousemen under its jurisdiction. O. P. Harren, who was in charge of the Wichita office, told Agriculture Department investigators that he did not recall ever seeing a Dun & Bradstreet report during his Government service. Further evidence that Warehouse Act Branch personnel relied essentially on statements of warehouse operators in determining whether net worth was adequate was provided in the following testimony by Dabney Townsend:

\* \* \* we have to depend on the information that we obtain from the warehouseman under his statement. And if we are not satisfied with that, then we can go back and request a statement by a certified public accountant.

Under questioning by subcommittee members, S. R. Smith acknowledged that in cases of bankruptcy or dishonesty involving warehousemen the only real protection for depositors was provided by the surety bond. Carl Miller also affirmed that the bond is the ultimate recourse in the following testimony:

Mr. FOUNTAIN. I am sure that the criminal provisions to which Mr. Smith referred in his statement applicable to the Warehouse Act are useful in penalizing and discouraging misconduct.

However, what protection do they provide for the depositor or the Government in the event there is a conversion and the warehouseman has no assets subject to resulting claims?

Mr. MILLER. Then you have to fall back on the bond. But our work down through the years has been preventive rather than emphasizing punitive action.

#### *Exemption of Federal Licensees From CCC Requirements*

ASCS regulations in effect during the time in which Billie Sol Estes was storing Government grain required that nonfederally licensed warehouses approved for storage of Government grain meet standards substantially equivalent to those established for issuance of a Federal license; ASCS regulations also provided for subsequent examinations of such warehouses similar to those conducted by the Warehouse Act Branch for federally licensed warehouses. However, it was CCC policy to exempt federally licensed warehouses from these requirements. Roland Ballou, Assistant Deputy Administrator for Commodity Operations, ASCS, told the subcommittee, in describing this policy, that "full recognition is given to warehouse approvals and warehouse examinations performed under the authority of the United States Warehouse Act." The policy is formally stated in the ASCS grain warehouse approval handbook used by Commodity Office personnel; part 7, section 24 B of the handbook provides that:

*The provisions with respect to financial statements, credit reports, original and subsequent examinations, and surety bonds will*

not be required for those commodities covered by the United States Warehouse Act license. For those commodities not covered by the United States Warehouse Act license, all provisions of this handbook shall apply.

While ASCS regulations clearly authorize exemption of federally licensed warehouses from that agency's provisions with respect to financial responsibility and inspection of warehouses, the regulations do not make it mandatory that federally licensed houses be approved without question. Sections 24 C and D of the warehouse approval handbook provide that:

*Possession of a license under the United States Warehouse Act does not make it mandatory to automatically approve warehouses for CCC programs.* Basic standards for approval shall be considered in appraising such applications.

*Information concerning history, financial responsibility and bond status of warehousemen* licensed under the United States Warehouse Act may be obtained, when needed, from the appropriate United States Warehouse Act Branch field office.

Under operating policies in effect during Estes' storage operations, ASCS Commodity Offices ordinarily did not receive copies of financial statements and related data submitted to the Warehouse Act Branch concerning federally licensed houses. Copies of reports of original and subsequent examinations conducted by Warehouse Act Branch examiners were not customarily submitted to Commodity Offices unless they disclosed evidence of some significant problem or irregularity.

#### INITIAL LICENSE APPLICATION

##### *Original Application*

In November 1958, Billie Sol Estes filed an application for a Federal warehouse license covering the Smith-Bawden warehouse at Plainview, Tex., which Estes had arranged to purchase. The Smith-Bawden elevator already had a Federal license; however, a new license was necessary because of the change in ownership. With his application, Estes submitted a financial statement in which he stated that his net worth as of October 31, 1958, was slightly more than \$5 million; the October 31 statement—as well as all subsequent ones filed by Estes—contained the following certification:

Under penalty of perjury, I declare I have examined the above statement of assets and liabilities and that to the best of my knowledge and belief it is a true, correct, and complete statement of the financial status of the above-named warehouseman as of the date shown.

On December 4, 1958, examiners from the Wichita (Kans.) office of the Warehouse Act Branch conducted an original examination of the Plainview facilities. A report on this inspection was received by the Wichita office on December 8, 1958; the report was reviewed in Wichita on December 16 and then sent to Washington for use in determining whether Estes should be issued a license.

At the time of Estes' original application, the capacity of the Smith-Bawden elevator was 2,960,000 bushels. Under the applicable



formula, the amount of bond required—computed at 6 percent of the value of the wheat that could be stored—would have been \$337,440; however, because of the \$200,000 maximum applicable under Warehouse Act regulations, bond was fixed at the lower amount. (The amount of net worth required—approximately \$225,000—was only a fraction of the amount claimed by Estes on his financial statement.) In accordance with usual procedures, Estes was furnished a bond form made out in this amount of \$200,000 to be executed by an approved surety company and mailed to the Warehouse Act Branch.

The Standard Accident Insurance Co., which had written the surety bond for the previous owners of the Smith-Bawden facilities, was unwilling at first to continue the bond for Estes; as a result, a considerable delay resulted in action on Estes' license application. (Details concerning Estes' difficulty in obtaining a \$200,000 bond from Standard appear later in this report.)

The completed bond form was finally received in Washington on February 9, 1959. A Federal license covering the Smith-Bawden facilities (which were to be operated by Billie Sol Estes under the name of United Elevators) was then prepared and presented to Carl Miller, Chief of the Warehouse Act Branch, for signature on February 11. In accordance with regular procedures of the Warehouse Act Branch, the application file furnished to Miller contained a copy of a financial statement (form WA-51) filled out by Estes and a supplement to the financial statement (form WA-52) filled out by Examiner Warren Williams, who had conducted the original examination at Plainview. After examining this information, Miller sent the following wire to the Wichita office:

FEBRUARY 11, 1959.

Regarding Estes Plainview, Tex. Examiners investigation of financial statement apparently limited to elevator operation. Please make further investigation covering other items, and obtain audited statement, if available. Also make inquiries relative to general reputation and business integrity.

#### *McCoy Trip to Pecos*

In accordance with Miller's instructions, Donald McCoy, a warehouse examiner, from the Wichita office, went to Plainview. On February 16, 1959, McCoy flew from Plainview to Pecos in a chartered plane provided by Wayne Cooper, general manager of Estes' storage enterprises. McCoy explained his reasons for making the trip and using a plane provided by Cooper as follows:

\* \* \* I was in Plainview, Tex., and Wayne L. Cooper, general manager of grain operation for Billie Sol Estes, said to me that Cooper and I would fly to Pecos, Tex., in a chartered plane, and I agreed to do that.

At about 8 o'clock or shortly thereafter, Cooper, the pilot and I flew to Pecos, Tex., from Plainview, Tex. Later that same day, Cooper, the pilot and I flew from Pecos, Tex., back to Plainview, Tex. This flight was accomplished for the purpose of obtaining requested information concerning the financial statement filed by Billie Sol Estes in connection

with his application for a United States Warehouse Act license covering the United Elevators at Plainview, and to investigate the business integrity of the applicant. The reason for taking the plane was to accomplish the assignment in the least amount of time and least cost to the Government. To have driven the Government automobile would have required more time which could have been used on other assignments which I had at that time.

When the decision to fly to Pecos was made, I did not know that this might be construed in any way to be a favor, either to me personally or to the U.S. Department of Agriculture. \* \* \*

This was the first and only time such a situation like this was ever encountered in my Government career. Ordinarily, assignments are such that all of the work involved may be accomplished at the location of the storage facilities or by correspondence.

Immediately after his trip to Pecos, McCoy informed his superiors that he had traveled by chartered plane supplied by Cooper at no cost to the Government; since transportation was provided by Cooper. McCoy did not charge any travel expense to the Government.

#### *Report on Trip*

In reporting the results of his check on Billie Sol Estes' financial condition, McCoy did not use the standard form (WA-52) provided for this purpose, which calls for specific answers and explanations to listed questions relating to financial status of the applicant. Instead, McCoy sent a narrative report on his trip to Otto P. Harren, Chief of the Wichita office, on February 16. The report, which was immediately forwarded by Harren to Washington, was as follows:

DEAR MR. HARREN: Mr. Wayne Cooper of the United Elevators, Plainview, Tex., supplied a chartered plane at no cost to the Government for my transportation from Plainview to Pecos and return.

The purpose of the trip was to supply more information concerning the financial statement and business integrity of Billie Sol Estes, applicant for United States Warehouse Act license covering the United Elevator at Plainview, Tex.

A statement on form MF-25 is enclosed as is a December 18, 1958, balance sheet. The amount of cash in the bank was confirmed at the First National Bank, Pecos, Tex. Accounts and notes receivable could better be shown as \$291,299.97 as accounts receivable, and \$286,785 as other investment and assets and the latter amount consists of United Construction Co. first lien mortgages in the amount of \$135,000.

"Note this item has been liquidated since December 18 for the approximate amount shown."

First mortgage on three buildings and lots, Midland, Tex., \$90,000; and first mortgage on steel buildings sold to farmers, \$61,785; merchandise inventory consists of merchandise inventory of the West Texas Steel Co. (owned individually

by Billie Sol Estes) in the amount of \$48,500. Commercial fertilizer, \$885,786.26 and cotton on gin yards, \$900,000; land in the amount of 9,507 acres valued at \$2,763,900, according to the bankers is conservative.

Title to land owned by Billie Sol Estes as an individual is shown over the certification of the Western Abstract & Title Co. and may be considered as a part of this letter report. Oil production, Winkler County, is conservatively valued at \$200,000. The market value is \$240,000 while the book value is twice the market. Billie Sol Estes owns 45 percent of the shares. The home shown at \$90,000 consists of a large, well-built structure with all the trimmings. Verhalen Merchantile Co. shows Billie Sol Estes with 25 percent interest. Billie Sol Estes owns 1,600 shares of stock of the Pecos Growers Gas Co.; and this comprises about 20 percent of the shares; and he owns 625 shares of stock of the Illinois-Indian Life Insurance Co. which comprises a small percentage of the total number of shares.

Mr. Estes owns 650,000 shares of Agriculture, Inc., and this is seven-eighths of the total. He is the president of this corporation. This property consists of 16,000 acres of land in Pecos County and of the total, 10,000 acres are under irrigation and the balance in the process of being developed. According to R. C. McPherson, president of the First National Bank, Pecos, Tex., this land was purchased by Mr. Estes several years ago for about \$500,000 without the usual option of testing for irrigation water. It so happened that excellent wells have been developed.

His land produces very good yields of long staple cotton and other products.

The statement shows the value at \$2,472,408.57. A certified appraisal of 13,338 acres of this tract on July 4, 1957, shows a value of \$8,250,000. Other assets item have either been appraised at the original examination or are more or less self-explanatory.

The item of machinery and equipment consists of an immense amount of anhydrous ammonia in tanks and farm and house moving equipment. This enterprise is the largest distributor of commercial fertilizer in the country. Many of the assets are encumbered with notes or mortgages; however, the statement shows a substantial net worth. Mr. McPherson, president of the First National Bank, Pecos, Tex., stated that Mr. Estes has enjoyed a very good reputation and that he had loaned him the maximum permissible by banking law and that he handled Lawrence warehouse receipts for Billie Sol Estes and that he considered Mr. Estes a good businessman.

My findings indicated that Mr. Estes employs high-caliber men for key jobs and pays them well, thus relieving himself of a great many details. At the present time, Mr. Estes has a contract to buy one-half interest in the Kermit Dyche Warehouse, Inc., Stockton, Tex. This item does not appear on the financial statement and the property was not viewed personally by me at this time; however, it is

believed that this property is operated under the Warehouse Act to store cotton.

It developed in discussing this matter that Mr. Estes does not plan to keep the stock very long after it is issued to him. Most of the farmland of Billie Sol Estes and of Agriculture, Inc., was inspected and under the present economy, it is my opinion the values shown in the statement are quite conservative. My investigation indicates that the reputation and business integrity of the applicant are good. Mr. Estes informed me that the United Elevators, Plainview, Tex., would be incorporated sometime in the future.

I trust this is the information that you desire, and that it will now be possible to reconsider the application.

Yours truly,

DONALD L. MCCOY, *U.S. Examiner.*

McCoy did not obtain an audited statement, as suggested in Miller's wire; however, he did obtain an unaudited financial statement which showed a net worth of \$6,456,941 as of December 18, 1958. This statement was forwarded to Washington with McCoy's report where it was presented to Carl Miller. Thereafter, according to testimony of S. R. Smith:

On the basis of Mr. McCoy's investigation report, the prior examination of the warehouse facility, the filing of a \$200,000 bond, and the knowledge that the warehouse was to be under the management of an individual (Mr. Wayne L. Cooper) of known experience and capability, the license was issued on February 24, 1959.

#### *Lack of Accounting Qualifications*

Donald McCoy's performance as a warehouse examiner was praised highly by Carl Miller, who told the subcommittee that:

During my 7 years with being in charge of the Warehouse Act, we had approximately 55 to 60 men traveling all over this country in 37 States, going to 1,800 warehouses, and if all of them had performed as well as Mr. McCoy has performed through that time, I would have had no personnel problems whatsoever.

However, the following testimony at subcommittee hearings shows clearly that, while McCoy may have been well qualified as a warehouse examiner, he had very little training or worthwhile experience in investigating financial responsibility:

Mr. NAUGHTON. Have you had any accounting training, Mr. McCoy?

Mr. MCCOY. I have had no formal accounting training. I think I took one course when I went to school, and I have not kept books or maintained books and closed out, opened records, or anything of that nature.

Mr. NAUGHTON. Are you familiar with auditing procedures?

Mr. MCCOY. Some of them.

Mr. NAUGHTON. And techniques? Did you apply any auditing techniques for establishing that Mr. Estes owned the assets that you were reporting on?

Mr. McCoy. No, sir.

Mr. NAUGHTON. Is your work mostly to examine physical facilities?

Mr. McCoy. At original examinations, of course, a person checks into the financial statement the best he can. However, most of our time is spent in conducting subsequent examinations, which is the establishing of inventories and auditing of warehouse receipts and open storage accounts.

Mr. NAUGHTON. Is your primary job, then, or the one at which you spend most of your time, checking to see that none of the grain is missing, that the grain is in good condition?

Mr. McCoy. Well, I do both of those examinations, and I would say I spend more time doing subsequent work.

In view of McCoy's lack of training or experience for his mission, it was hardly fair to expect him to do a professional job of verifying Estes' financial status. The inadequate nature of the investigation made by McCoy was disclosed in questioning by Congressman Neal Smith and Chairman Fountain:

Mr. NEAL SMITH: In conducting these examinations, what do you do about liabilities? Do you have any way of checking upon the liabilities to see whether or not they exceed what they have listed on their balance sheet?

Mr. McCoy. The only way I would know would be to check the public records with somebody that did know.

Mr. FOUNTAIN. You don't do that in the normal course of business, then?

Mr. McCoy. Ordinarily I don't check the mortgage records, and so forth, which acknowledge the statement. There could be more, I suspect, and I haven't gone into that.

Mr. NEAL SMITH. Actually you can't determine what net assets are unless you know whether or not the liabilities are stated, can you?

Mr. McCoy. No.

While McCoy's own examination was admittedly inadequate to ascertain Estes' true net worth, McCoy testified that he relied heavily on statements made to him by Estes' local banker, Ray McPherson, executive vice president of the First National Bank of Pecos:

Mr. NAUGHTON. Mr. McCoy, what was your basis for evaluating the assets?

Mr. McCoy. I relied rather heavily on the banker's statement to me. I figured that he was probably the best source of information at that location. And I viewed at least part of the land that is reported here, and some of the other items on the financial statement.



The subcommittee later learned that, although McPherson habitually issued favorable credit reports about Estes to others, his own bank would not loan money to Estes without collateral worth substantially more than the amount loaned.

*Evaluation of Financial Data*

Carl Miller, who determined whether or not financial information supplied by field offices was adequate to justify issuance of a license, did not have a professional accounting background. His testimony, which follows, indicated that his training and experience prior to his Government position involved bookkeeping rather than analyzing financial statements:

Mr. NAUGHTON. Do you have an accounting background, Mr. Miller?

Mr. MILLER. Yes, I took accounting; I took bookkeeping in high school. I took accounting in college. I kept books for a store. I was a cashier in a store when I was 17 years old for about a year and a half.

I was an office manager in a grain company for about 5 years. I have worked with figures and with statements pretty near all my life.

Mr. NAUGHTON. You are not a certified public accountant?

Mr. MILLER. But I am not a certified public accountant.

Mr. NAUGHTON. Have you ever done public accounting work?

Mr. MILLER. I never have done any public accounting work; no, sir.

The original financial statement submitted by Estes to the Warehouse Act Branch showed a net worth of slightly more than \$5 million as of October 31, 1958. The second statement, obtained by McCoy, showed a net worth of almost \$6.5 million as of December 18, 1958—a gain of more than \$1.4 million in 6 weeks' time. However, according to Carl Miller, this phenomenal increase raised no question in his mind concerning the integrity of Estes' financial statement; in fact, Miller's testimony indicates he probably was not even aware of it:

Mr. NAUGHTON. Did it arouse your suspicions that here in the short space of approximately 6 weeks' time, in 1958, Mr. Estes' net worth had apparently increased by \$1,400,000 approximately?

Mr. MILLER. No, I would not say that it did, because Mr. McCoy's report indicated to us that even the December 18 statement was stated conservatively, that there were values—there were current values of some of the assets that far exceeded their book—the values stated on the books. So that we were—we were, I believed that the statement as of December 18 was a conservatively stated statement.

No effort was made to check it against the one previously furnished, nor the one that he might have gotten together 6 months ago or a year ago or any other time.

## EXTENT OF ESTES' STORAGE EMPIRE

*Rapid Growth of Storage Operations*

The approval of Billie Sol Estes' original storage facilities at Plainview for a Federal warehouse license on February 24, 1959, was only the first of many such decisions made by personnel of the Department of Agriculture. By the end of February 1962, Estes owned or had some interest in more than 87 million bushels of storage capacity in Texas. This was more than twice the amount of Texas warehouse space operated by any other warehouseman, and made Estes one of the largest warehousemen in the country.

During the 3-year period following the issuance of Billie Sol Estes' first warehouse license, there were 39 more instances in which storage facilities owned wholly or partially by Estes—or additions to such facilities—were licensed or approved by USDA personnel. In addition to its first license at Plainview, United Elevators obtained three more Federal licenses at Kress, South Plains, and Silverton, Tex.; the 4 licenses were amended a total of 19 times to provide for added storage space. Additional Federal licenses were obtained for the Palo Duro Grain Co. and Allied Elevators; there were a total of eight amendments at these two facilities. In addition to the federally licensed facilities, Estes was interested in three State-licensed facilities—the Hale County Grain Co. at Plainview, the South Plains Grain Co. at Levelland, and the Farm Grain & Warehouse Co. at Lamesa. The three facilities—and a total of four additions to them—were approved for storage of CCC grain by the Dallas commodity office.

The following tables show the amount, location, and date of licensing or approval of storage space in which Estes had an interest. For federally-licensed houses, the date given is the date of licensing; for those facilities which were not federally licensed, the date given is that on which the Dallas commodity office approved issuance of a uniform grain storage agreement for the facility. (Uniform grain storage agreements were also approved for each of the federally licensed facilities within a short time after issuance of the license.) Significant details concerning the manner in which Estes obtained licensing or approval of his storage space will be discussed in the next few pages of this report. Tables on pages 424–426 of the appendix give additional details concerning licensing and approval of facilities operated by United Elevators.

## Storage space licensed or approved by date and location

[Thousands of bushels]

Date of license or UGSA	Federally licensed facilities					State licensed facilities approved for storage of CCC grain under UGSA		
	United Elevators				Palo Duro Grain Co.—Tulia (3-4619)	Allied Elevators—Hereford (3-4694)	United Elevators—Lamesa	Hale County Grain Co.—Plain view
	Plain-view (3-4458)	Kress (3-4596)	South Plains (3-4597)	Silverton (3-4601)				South Plains Grain Co.—Level-land
Feb. 24, 1959	2,960							
May 11, 1959	3,420							
July 24, 1959	2,265							
Sept. 16, 1959	1,985							
Nov. 10, 1959							666	
Dec. 1, 1959	1,370							
Feb. 19, 1960		2,744	915					
May 6, 1960				2,190				
June 30, 1960								1,406
July 8, 1960					2,170			
Sept. 22, 1960							1,760	
Sept. 30, 1960		300		483				
Oct. 17, 1960	1,006							
Nov. 1, 1960	1,977							
Nov. 3, 1960					2,350			
Nov. 28, 1960					1,132			
Dec. 7, 1960								1,041
Dec. 13, 1960	4,027							
Dec. 28, 1960	1,000							
Jan. 3, 1961					1,034			
Jan. 13, 1961								1,016
Feb. 20, 1961	2,967							
Apr. 26, 1961	2,000							
May 26, 1961	1,000			1,000				
June 5, 1961					4,014			
June 26, 1961						5,730		
Aug. 3, 1961	1,000	500						
Aug. 21, 1961					2,064			
Sept. 12, 1961					2,514			
Oct. 11, 1961								734
Oct. 17, 1961	3,989							
Oct. 30, 1961						4,000		
Nov. 13, 1961	3,000							
Nov. 20, 1961							1,995	
Nov. 22, 1961					3,512			
Feb. 14, 1962	8,851							

<sup>1</sup> A uniform grain storage agreement was approved for the Farm Grain & Warehouse Co., Lamesa, on Nov. 10, 1959; at this time, Billie Sol Estes was shown as owner of 35,000 of approximately 80,000 shares of stock. On Apr. 26, 1961, a new UGSA was issued for United Elevators to operate the Lamesa facilities as lessee.

<sup>2</sup> Estes apparently had no interest in South Plains Grain Co. at the time the UGSA was issued, but acquired an interest prior to approval of the first addition to its facilities on Dec. 7, 1960.

## Total space licensed or approved

[Thousands of bushels]

Year	United Elevators	Palo Duro Grain Co.	Allied Elevators	Hale County Grain Co.	South Plains Grain Co.	Total, all facilities
1959	12,000					12,000
1960	14,642	5,652		1,760	1,447	23,501
1961	16,122	13,138	9,730	2,729	1,016	42,735
1962	8,851					8,851
Total, 1959-62	51,615	18,790	9,730	4,489	2,463	87,087

<sup>1</sup> Approximately 666,000 bushels of storage space at Lamesa was initially approved for storage of Government grain in 1959 but did not become a part of the United Elevators operation until 1961; consequently, this space is included in the 1961 figures.

## RAPID EXPANSION QUESTIONED

*Memorandum From Moseley in 1960*

Even before his first Federal warehouse license at Plainview was approved, Billie Sol Estes had made arrangements for construction of additional facilities which would almost triple the size of his original 2,960,000-bushel facility at Plainview. In late 1959, Estes began acquisition of additional facilities at other locations; he also began building additions to the space acquired. By May 1960, some 14 months after his initial license was issued, Estes owned or had an interest in more than 15 million bushels of storage space and was continuing to expand.

On May 11, 1960, C. H. Moseley, Director of the Dallas Commodity Office, sent the following memorandum to Andrew J. Mair, then Deputy Administrator for Operations of the Commodity Stabilization Service (now called the Agricultural Stabilization and Conservation Service):

Date: May 11, 1960.

To: Andrew J. Mair, DAO, CSS, Washington.

From: C. H. Moseley, Director, CSS CO, Dallas.

Subject: CCC bonding requirements for warehouses licensed under United States Warehouse Act.

In accordance with procedure and precedent we have never questioned the financial responsibility or the bonding required of warehousemen licensed under the United States Warehouse Act. We understand that generally their bonds do not exceed \$200,000, but our files contain no information on the subject, and it is not our desire that they should. Occasionally, however, we encounter a case which seems to be deserving of special consideration, and it is the purpose of this memorandum to seek your advice on such a case.

Billie Sol Estes, doing business as United Elevators, operates facilities at Plainview, Kress, and South Plains, Tex., with a total capacity over 15 million bushels. Other facilities of the same firm pending approval or under construction have capacities of from six to nine million bushels. As the attached Dun & Bradstreet report shows, the operations of Mr. Estes are extremely complex and are characterized by heavy indebtedness.

Do you think we should continue our "hands off" policy or require additional bond?

Attachment.

Under questioning by Congressman Bass, C. H. Moseley gave the following explanation of the use of the term "hands off" in his memorandum:

Mr. BASS. Mr. Moseley, what is meant by the statement about the "hands off" policy in the memorandum dated May 11, 1960, directed to Mr. Andrew J. Mair, DAO, CSS, Washington?

Mr. MOSELEY. I think that is partially explained in the first paragraph, where I point out that, under our procedure and precedent, we are not responsible in the Dallas Commod-

ity Office for reviewing the financial responsibility, or for determining the bonding requirements of those warehousemen who are licensed under the United States Warehouse Act.

Mr. BASS. Explain specifically, then, why you use the term "hands off" and put it in quotes. Did this "hands off" policy originate with someone else, was it a directive to you?

Mr. MOSELEY. No, sir. It was my choice of words, indicating that the financial responsibility of U.S. licensed warehousemen did not come under the heading of my business \* \* \*. I believe that I put it in quotes because it is not normal, formal language for an official memorandum. It is a somewhat slang expression.

In response to further questioning from Congressman Bass concerning the reason for his memorandum, Moseley stated that:

The only thing wrong I saw in the operation was that I felt there should be more bond simply due to his rapid growth and the size of the operation.

Later in his testimony, Moseley again emphasized that he wrote the May 11, 1960, memorandum concerning Estes:

\* \* \* only because I felt that the facility was growing so rapidly that additional bond was in order. I had in mind no other irregularities except the rapid growth.

Additional details regarding Moseley's concern about rapid expansion by Estes and other warehousemen are discussed later in this report; later sections of the report will also cover complaints received from other warehousemen as a result of Estes' rapid expansion.

#### *Forwarding of Dun & Bradstreet Reports*

Since recourse to a warehouseman's bond is necessary only in the event his net assets are not sufficient to handle claims resulting from his operations, Moseley's concern about the adequacy of Estes' bond logically must have included at least some element of doubt about Estes' financial condition. This is borne out by the fact that Moseley transmitted to Washington with his May 11 memorandum a number of Dun & Bradstreet reports concerning Estes' financial status.

According to sworn statements given to Agriculture Department investigators, the Dun & Bradstreet reports were obtained at the request of Lee Wanner, Chief of the Storage Management Division of the Dallas Commodity Office, and Wanner's assistant, Albert Eads. Wanner explained the circumstances leading to the request for the Dun & Bradstreet reports as follows:

I had never heard of Billie Sol Estes prior to 1959, but knew he was inexperienced in the grain business. However, he had hired competent grain personnel including a general manager, Wayne Cooper. Mr. Cooper visited our office several times concerning additional warehouse construction. In March of 1960, our uniform grain storage agreement covered approximately 15 million bushels of warehouse storage space. Mr. Eads and myself were concerned about this expansion. A check of Dun & Bradstreet reference book manual revealed no valuable information. We requested Mr. Baird (Robert B. Baird of the Fiscal Division)



to order a formal Dun & Bradstreet report on Billie Sol Estes.

Wanner gave the following description of subsequent developments:

\* \* \* When I received the Dun & Bradstreet report it actually consisted of several reports; however, I made no record of them and do not know the exact number or the dates of the reports. Mr. Eads and I discussed the reports. There were many chattel mortgages listed in these reports but we were not sure of their significance because the information concerning Billie Sol Estes' net worth was inconclusive. We discussed the reports with Mr. C. H. Moseley, Director, Dallas ASCS Commodity Office. We discussed the fact that the Estes warehouses were federally licensed and normally we do not question financial responsibility or bond posted under the United States Warehouse Act. It was decided that the Dun & Bradstreet reports should be sent to the Deputy Administrator Operations, CSS, Washington, D.C. Mr. Moseley prepared a memorandum dated May 11, 1960, to Andrew J. Mair, transmitting the reports.

An examination of USDA files disclosed that five Dun & Bradstreet reports were received by the Dallas office and forwarded to Washington; the reports were dated December 16, 1959, and February 29, April 7, 21, and 28, 1960.

The December 16, 1959, Dun & Bradstreet report contained a summary at the beginning of the report which read as follows:

In recent years expansion has been very rapid and believed to have been financed mostly through outside support on a secured basis. Financial details are lacking, however, it is generally believed that investment is centered primarily in deferred assets and encumbrance heavy. Activities are very diversified and strong volume is being maintained. *Financial strain is evidenced by continuous slow trade relations.*

The last sentence of the above report was heavily underscored in copies of the report found in USDA files. The report also contained a four-page listing of chattel mortgages recorded against Billie Sol Estes between June 1958 and May 1959; although not totalled in the report, the total face value of the listed obligations exceeded \$7 million. An item on the last page of the report indicated that payments were past due on a \$160,000 account owed by Estes.

The four 1960 reports consisted of only one page each; however, three of them contained significant information. The February 29 report indicated that Estes owed \$2.5 million on a single account; although not identified in the report, the creditor involved no doubt was Commercial Solvents Corp. The April 7 report, quoting a newspaper item in the March 9 edition of the Pecos Independent as its source of information, stated that Estes was building a large grain storage terminal at Tulia on which construction was already underway. The April 28 report listed four separate chattel mortgages for \$900,000 each—a total of \$3.6 million—from Billie Sol Estes to Commercial Solvents; all four mortgages had been recorded on April 9, 1960, and the report gave no description of the property covered. (The subcommittee's investigation subsequently indicated that two of the

mortgages reported were duplicate filings and that the property covered was anhydrous ammonia tanks; however, this was not disclosed by the report.)

*Washington Handling of Moseley Data*

According to a sworn statement by Roland Ballou, Assistant Deputy Administrator for Operations of ASCS (which was called CSS in 1960). Moseley's May 11, 1960, memorandum was received in Ballou's office in Washington on May 16, 1960, and routed to Norman J. Gromen, Chief of the Warehouse Standards Branch, Inventory Management Division, CSS, for action. Gromen, in a sworn statement, confirmed receipt of the memorandum and the attached copies of the five Dun & Bradstreet reports on the morning of May 17; in his statement, Gromen gave the following account of subsequent events:

\* \* \* I contacted Carl J. Miller, Chief, U.S. Warehouse Act Branch, Agricultural Marketing Service, and informed him that I had some financial information on an elevator operator who was licensed under the United States Warehouse Act which I thought might be of some interest to him. It had always been my practice to inform Miller informally of any significant information which I received regarding any licensee under the United States Warehouse Act. Also, when Miller was considering granting a license to someone who had done business with ASCS he would call me to determine our experience with that person. All of this was conducted in a routine manner on an informal basis without the preparation of any written memorandums.

After I had contacted Miller about the memorandum from Moseley, Miller came to my office and I showed him the information contained in the memorandum and the Dun & Bradstreet reports which Moseley had forwarded. I believe that Miller and I were the only persons in my office at that time. \* \* \*

Gromen stated that he had no record of the exact date of his meeting with Miller, but that the sequence of memorandums involved showed it was between May 17 and May 20. Although he recalled discussing the Dun & Bradstreet reports with Miller and giving Miller a copy of Moseley's memorandum, Gromen was not certain whether he had also given Miller copies of the Dun & Bradstreet reports. Gromen summarized his own consideration of the information in the reports as follows:

I did not make any analysis of the Dun & Bradstreet reports when I received them. They had been forwarded by Moseley as being of possible interest to the U.S. Warehouse Act Branch and were routed to me to be brought to the attention of that branch. \* \* \*

Carl Miller also gave a sworn statement concerning the handling of the May 11 memorandum. In his statement, Miller corroborated Gromen's account of the manner in which the May 1960 meeting in Gromen's office had been arranged, and gave the following description of what took place:

\* \* \* I believe that Gromen and I were the only persons in Gromen's office at that time. Moseley's memorandum

pointed out that Estes' operations were extremely complex and characterized by heavy indebtedness. I reviewed the Dun & Bradstreet reports while in Gromen's office but I did not make a detailed analysis of them because they did not seem to be as revealing or conclusive as financial information on Billie Sol Estes which was on file in the U.S. Warehouse Act Branch. I was made aware at that time that Moseley, whose office was the principal depositor in the Estes' warehouses which were licensed by the U.S. Warehouse Act Branch, was, in effect, suggesting that the amount of the required bond should be raised and I agreed that this should be done. \* \* \*

\* \* \* I do not believe that Gromen furnished me with copies of Dun & Bradstreet reports. I did not consider that I needed those in connection with the decision that I had made in this matter. \* \* \*

Despite the possible significance of some of the information they contained, the Dun & Bradstreet reports apparently made very little impression on Miller; when asked at subcommittee hearings if he recalled seeing the April 28, 1960, report which listed mortgages to Commercial Solvents totaling \$3.6 million, Miller responded:

No, sir. I do not recall seeing that. I have seen it since. \* \* \* But whether I looked at it at that time or not, I cannot answer the question.

The subcommittee found no evidence to indicate that Carl Miller—or any other USDA official who had access to the information in May 1960—took the trouble to compare the data contained in the December 16, 1959, Dun & Bradstreet report with the financial statement submitted to the Department by Estes as of December 31, 1959. If they had done so, it would have been readily apparent that the more than \$7 million listed by Dun & Bradstreet in recorded chattel mortgages alone was \$3 million greater than the approximately \$4 million in *total* liabilities declared by Estes. (Estes reported less than \$3 million in secured notes payable on his December 31, 1959, statement.)

A mere glance at the February 29, 1960, Dun & Bradstreet report would have disclosed that Estes apparently owed a single creditor \$2.5 million; this was more than 10 times the approximately \$248,000 in accounts payable listed on his December 31, 1959, statement.

#### *Action to Increase Bond*

Although Carl Miller took no effective action to investigate Estes' financial status or to increase bond coverage on existing facilities, he did act to provide for additional bond on new storage space. Miller also suggested that the Wichita office ascertain whether Estes employed an independent auditor and, if so, obtain a copy of the last audit report. These actions were taken by Miller in the following memorandum to O. P. Harren, head of the Wichita office, on May 20, 1960:

Please note the attached copy of a memorandum from the Dallas Commodity Stabilization Service Commodity Office. While we have more information regarding the financial condition of this firm than Mr. Moseley has, we are inclined to agree that an increased bond would be a prudent require-

ment. This would be based on the unusually rapid expansion of storage capacity, the single ownership, the involved financial structure, and the brief experience we have had with Mr. Estes.

With respect to any additional capacity for which Mr. Estes may file application for license, please require additional bond equal to at least 10 cents per bushel. That is, increase the \$200,000 bond accordingly.

We should also like to ascertain whether Mr. Estes employs an independent auditor, and if so we should have a copy of the last audit report. If not, there is all the more reason for requiring an increased bond.

In response to Miller's request, O. P. Harren of the Wichita Office wrote to Wayne Cooper, general manager of United Elevators, on May 24, 1960; in the May 24 letter, Harren asked Cooper whether Billie Sol Estes employed an independent auditor and, if so, for two copies of the last audit report. In a reply dated May 27, 1960, Cooper told Harren:

This is to advise you that Mr. Estes does not employ the services of an independent auditing firm, and such statement as requested is not available.

Mr. Estes has in his employ Mr. A. B. Foster, Jr., who is general manager of Billie Sol Estes Enterprises and a former agent for the Internal Revenue Service, who prepares financial reports for his various companies.

Carl Miller's action in ordering increased bond for future additions to Estes' storage capacity was a matter of judgment. While Warehouse Act Branch regulations prescribed a \$200,000 maximum limit on bond coverage regardless of the amount of storage capacity under ordinary circumstances, the regulations provided for higher bond in case the appropriate official of the Branch found that conditions existed which warranted additional bond. However, according to the following testimony of Dabney Townsend, Acting Chief of the Warehouse Act Branch, there were no written regulations as to the factors which should be considered in determining whether to require bond in excess of the normal maximum:

Mr. NAUGHTON. \* \* \* Do you have any guidelines as to what judgment factors should be used in raising a bond beyond the maximum at which it otherwise would be placed?

Mr. TOWNSEND. I don't think we have any written guidelines on that. \* \* \*

Townsend described the procedure followed in a number of instances in which the Branch determined that additional bond should be required, based on judgment factors, as follows:

\* \* \* We have advised—did advise some 2 or 3 years ago all field offices to require an additional 10 cents a bushel above the maximum \$200,000 bond on unconventional storage space, with a maximum of \$500,000.

Although his testimony did not make it clear, Townsend later advised the subcommittee that additional bond was not automatically required for unconventional (flat) warehouse space, but that the 10-

cents-per-bushel formula was used in the event it was required. Townsend also stated that \$500,000 was the top limit in every case he knew of in which additional bond was based solely on judgment, except for Billie Sol Estes.

*Washington Reply to Dallas*

On May 20, 1960, Carl Miller sent a memorandum to Norman Gromen, of the CSS Washington staff, to be used in drafting a memorandum to C. H. Moseley, Director of the Dallas Commodity Office. The memorandum follows:

1. To supplement Mr. Moseley's file we attach additional information on Mr. Estes' financial condition.

2. When Mr. Estes took over United Elevators Co., he retained the manager and operating personnel of Smith-Bawden Grain Co., who have had considerable satisfactory experience.

3. Our brief experience with United has been satisfactory.

4. In view of the rapid expansion of United Elevators, we believe additional bonded protection is warranted in the event any additional capacity is proposed for licensing.

5. Thank Mr. Moseley for calling attention to this rather unusual case.

Enclosures.

In a footnote to the memorandum, Miller advised Gromen that:

We have directed our field office to require additional bond at 10 cents per bushel for any additional capacity on and after this date.

After receiving Miller's May 20 memorandum, Norman Gromen drafted a memorandum on May 24 for the signature of Roland Ballou, Deputy Administrator for Operations, CSS, addressed to C. H. Moseley. The memorandum, which follows, was signed by Ballou and sent to Moseley on June 2, 1960:

CCC BONDING REQUIREMENTS FOR WAREHOUSES LICENSED  
UNDER UNITED STATES WAREHOUSE ACT

This is in reply to your memorandum of May 11, 1960, in which you make inquiry concerning the possibility of requiring additional bond for Billie Sol Estes, doing business as United Elevators, who is licensed under the United States Warehouse Act.

The information you have transmitted was referred to the United States Warehouse Act Branch for review and consideration. Personnel of that Branch have furnished us copies of financial statements of Billie Sol Estes as of December 18, 1958, June 30, 1959, and December 31, 1959. They have also furnished a copy of a letter report, dated February 16, 1959, from one of their warehouse examiners concerning this enterprise and a copy of a certification by the Western Abstract & Title Co. of the property owned by Billie Sol Estes. These documents are attached for your information and files.



The United States Warehouse Act Branch has also advised that when Mr. Estes took over the United Elevators, he retained the manager and operating personnel of Smith-Bawden Grain Co., who have had considerable satisfactory experience in the storage of grain. They also advised that their brief experience with United Elevators has been satisfactory.

It is our understanding that in view of the rapid expansion of United Elevators, the United States Warehouse Act Branch will give consideration to requiring additional bond protection in the event any additional capacity is proposed for licensing.

If, after your review and consideration of the foregoing and the attachments, you desire any additional information, please advise.

Copies of the three financial statements filed by Billie Sol Estes with the Warehouse Act Branch and the report by Donald McCoy concerning Estes' financial status were forwarded to the Dallas Commodity Office with the June 2 memorandum. The subcommittee found no evidence that the Dallas office made any effective use of this information with respect to the State-licensed warehouses for which it had sole responsibility.

#### BOND FIXED AT \$700,000

##### *Surety Company Unwilling To Increase Bond*

Billie Sol Estes continued to expand his storage operations at a rapid pace after the May 1960 exchange of memorandums between CSS and the Warehouse Act Branch. License amendments on September 20, October 17, and November 1, 1960, brought the total capacity of United Elevators to more than 21 million bushels; by that time his bond had reached \$578,000. (Estes had also secured approval of additional facilities under both State and Federal licenses in the names of others.)

On November 18, 1960, O. P. Harren, head of the Wichita Office, notified Carl Miller that Estes was then seeking approval of an additional 4 million bushels of space at Plainview with another million bushels to be completed in December. Under the 10-cent-per-bushel formula, the first addition would have increased Estes' required bond coverage to \$981,000; the second would have added another \$100,000. Harren advised Miller that the Aetna Casualty Co., the surety company carrying Estes' bond, was unwilling to raise the amount above \$700,000 and proposed that the matter be handled by obtaining two bonds, each covering only part of Estes' storage facilities. (Details concerning Aetna's refusal to write more than \$700,000 in bond coverage are discussed later in this report.) Harren's November 18, 1960, memorandum to Miller follows:

Subject: Billie Sol Estes, d.b.a. United Elevators.

We examined this warehouseman's additions at Plainview to be included by amendment. His bond should be increased to \$981,000 to include this space.

The Aetna Casualty Co. objects to carrying more than \$700,000 and can place the excess with another surety company, not as an underwritten coverage but under a

separate bond. This would, of course, require a new license at the location to be covered by the new bond, to coincide with the new bond effective date.

It has been proposed to extend the present bond to \$600,000 to cover the facilities at Plainview with a new total capacity of 17,033,000 bushels; South Plains, 915,000 bushels; and Silverton, 2,673,000.

The warehouseman would then apply for a new license now with the same license number, with a bond in another surety for \$381,000 on the 5,021,000 bushel elevators at Kress, Tex.

There is another amendment pending in December to include another million bushels at Plainview, which will bring that bond up to \$700,000.

Please wire if this is acceptable so we may prepare the papers for a new license at Kress.

#### *Waiving of 10-Cent-Per-Bushel Formula*

Miller replied to Harren's memorandum with the following wire on November 22, 1960:

YLK18, United Elevators, when preparing our memo of May 20, we did not anticipate amendments which would increase bond to amount indicated. We prefer to retain all houses under one bond. Will accept current amendment basis \$700,000 bond and further increase of million in December without increase in amount of bond.

On November 23, 1960, Harren sent Wayne Cooper, general manager of United Elevators, a new bond form in the amount of \$700,000, to replace a previous form given Cooper calling for \$981,000.

On December 13, 1960, a license amendment was issued covering 4,027,000 bushels of additional storage capacity at Plainview.

On December 16, 1960, Donald McCoy, a warehouse examiner at the Wichita office, sent Carl Miller a memorandum indicating that Wayne Cooper, manager of United Elevators, intended to meet with Miller in the near future to discuss acceptability of warehouses proposed to be built in Kansas and Nebraska. McCoy suggested Miller discuss bonding requirements during this meeting. The memorandum follows:

At the recent examination to amend the license of United Elevators, Mr. Wayne Cooper stated that he planned to make arrangements for an interview with you in your office in the very near future.

The purpose of the meeting was to discuss the licensing of certain proposed elevators to be built in Kansas and Nebraska or perhaps I should say to obtain your approval of certain proposed elevators. I don't know how many elevators are planned at this time, however, the basic design of each is the same. The first stage consists of two large, 500,000-bushel steel tanks with twin legs of 5,000-bushel-per-hour capacity each and all the other receiving and shipping facilities. Each elevator is eventually destined to have a total of six tanks of 500,000-bushel capacity each, or a total capacity of 3 million bushels.

I think it would be well to discuss the bonding requirements of the Estes empire with Mr. Cooper. As you can see from the last amendment to include 1 million bushels at Plainview, the warehouseman has reached the limit established by the bonding company and your limit set out in the wire dated November 22, 1960.

We are holding the last amendment for the agreement to extend bond.

On December 28, 1960, another license amendment was issued for 1 million more bushels of storage space at Plainview; bond coverage remained at \$700,000 under instructions given by Carl Miller on November 22.

On January 18, 1961, the Wichita office advised Carl Miller by wire that still more storage space—3.5 million bushels—was ready for examination at Plainview, and asked for a decision on bonding requirements. (If the 10-cent-per-bushel formula of May 1960, which had been waived by Carl Miller on November 22, 1960, for space added in December, had been reapplied for the January space, the bond required would have been \$1,050,000.) The January 18 wire follows:

Re our memo December 16 United Elevators, Plainview, Tex., 3-4458. Wayne Cooper in office today. Has 3½ million bushels of space in Plainview ready for examination. Will assign examiner first of next week. Need decision on bonding requirements. Present bond \$700,000 is limit set by surety. Renewal bond due February 23.

Carl Miller responded to the Wichita message with a wire, also on January 18, authorizing approval of the 3.5 million bushels of space at Plainview under the current \$700,000 bond.

#### *Request for \$1 Million Bond and Independent Audit*

While approving addition of a further 3.5 million bushels of storage space without an increase in the \$700,000 bond, Carl Miller also instructed Wichita office personnel in his January 18, 1961, wire to ask for \$1 million bond and an independent audit before renewal of Estes' licenses in February. Miller's wire appears below:

Re United Elevators proceed with Plainview amendment basis \$700,000 bond. To continue licenses fix renewal bond at \$1 million. Also require current financial statement certified by independent qualified auditor. Cooper did not visit us per your December 16 memo. We feel more bond and independent audit minimum reasonable requirements in view rapid expansion and increasing potential liability to depositors.

It soon became apparent that Estes would have no more success in obtaining a \$1 million bond through Aetna in January than he had achieved in his previous effort to obtain \$981,000 coverage. This was made clear in a letter from warehouse examiner Donald McCoy to O. P. Harren, his superior at the Wichita office, on January 25, 1961. In the letter, McCoy advised Harren that agents of the bonding companies had confirmed that it was impossible for Estes to obtain a \$1 million bond; however, McCoy suggested an alternative bonding proposal:

It now develops and is confirmed by personal interview with agents of the bonding companies that it is impossible to obtain the services of a bonding company in the amount of \$1 million; however, arrangements have been made whereby Aetna would execute a bond in the sum of about \$700,000 or a little more and GIC of A in the sum of about \$300,000. Under the circumstances the only feasible thing to do was to prepare two renewal bonds based on some kind of an analysis of the various licenses involved and this analysis follows:

	Capacity	Percent of total	Percent of \$1,000,000
3-4459 Plainview, Tex.....	21,000,000	70.92	\$709,200
3-4596 Kress, Tex.....	5,021,000	16.96	
3-4601 Silverton, Tex.....	2,673,000	9.03-29.08	290,800
3-4597 South Plains, Tex.....	915,000	3.09	
Total.....	29,609,000	100.00	

As a result of the above and with the assurance of the bonding agents that the surety companies would execute the bonds, same were prepared in the amounts of \$710,000 and \$300,000, of course, Mr. Miller may require a single bond which would terminate the licenses.

#### *Estes' Meeting With Carl Miller*

On the same day McCoy's letter was written—and 2 days before it reached the Wichita office on January 27—Billie Sol Estes met with Carl Miller in Washington.

Billie Sol Estes went to Carl Miller's office for the obvious purpose of persuading Miller, if he could, not to insist on the proposed \$300,000 increase in bond coverage at United Elevators. However, Estes did not limit his conversation with Miller to business matters; in fact, the nature of Estes' comments to Miller are a good illustration of his persuasive technique. Under questioning by Chairman Fountain, Miller gave the following description of his discussion with Estes:

Mr. FOUNTAIN. Just what did he say?

Mr. MILLER. He took up a great deal of time, Mr. Fountain, telling me about his humble beginning and his early life and the struggle that he had had from a poor boy to what he was now, which was obviously a millionaire now.

He told me about working his way north with combine crews during the harvest time, from Texas on up to the Canadian border. He told me how he had gotten into the cotton-growing business by buying cheap land near Pecos, finding that water was available for irrigation, that this land when irrigated would produce 2 bales of high-quality cotton per acre, which he sold for as much as 50 cents a pound and it didn't take long to pay for the land and the irrigation wells. \* \* \*

\* \* \* \* \*

\* \* \* He told me about his philosophy of life, how you win by losing, you multiply by dividing, you increase by diminishing—

\* \* \* He said that the idea of the word "surplus" of anything was wrong, surplus grain; there was no such thing. It was merely a matter of working out a method of getting our abundance into the stomachs of hungry people around the world, and he was about to solve that problem by going over to India and doing something which I told him a good many people had failed to do.

He said that the ability to raise food in this country in abundance was a God-given gift and if we didn't use that gift to the full, that gift would be taken away from us. In other words, we would forget how to raise the grain.

This took quite a while and we had quite an interesting conversation. I learned, I thought, quite a bit about him but apparently not enough.

Mr. FOUNTAIN. Did that make any impression on you?

Mr. MILLER. Yes, it did. I described him forever after as the most unusual person I had ever met.

While giving Carl Miller a glowing description of his business success and humanitarian plans, Estes did not forget to include an account of his churchwork. When asked by Congressman Bass if Estes mentioned this subject, Miller responded:

Mr. MILLER. He mentioned his churchwork and the number of people, young people, whom he was helping through school.

Mr. BASS. How much money he was giving to the church and all that?

Mr. MILLER. That he was a lay preacher and he covered that subject pretty thoroughly.

After telling Carl Miller a colorful—if somewhat inaccurate—story of his progress from humble beginnings to a position of wealth and prominence, Estes finally got around to the real purpose of his visit. Carl Miller described this purpose, under questioning by Congressman Langen, as follows:

Mr. LANGEN. \* \* \* I suppose that he tried to convince you that there was no need for expanding the bond?

Mr. MILLER. Well, in a—in a gentle way, yes; not in a desk pounding way at all. \* \* \*

\* \* \* I think it was his purpose to so convince me; yes, sir.

According to his testimony, Miller agreed to reconsider his decision to increase the bond if Estes submitted a report by an independent auditing firm concerning his financial condition. Miller's description of the agreement with Estes follows:

\* \* \* He did indicate that his financial standing was good and I told him that in order to satisfy ourselves of that, we would ask him to employ an auditing firm so that he could give us some independent verification of what he had repre-



sented to us; and when he agreed to do that, sir, we then said, that on the basis of a consideration of that, we will remain with this \$700,000 bond until we see what the independent verification—what independent verification you can furnish.

Miller told the subcommittee that Estes mentioned the names of prominent people, whom Estes described as acquaintances, during their conversation; however, Miller stated that this did not influence his decision. Miller was questioned concerning this point by Chairman Fountain:

Mr. FOUNTAIN. Did he ever allege his friendship with your departmental superiors or other influential persons in an effort to persuade you to do anything?

Mr. MILLER. No, sir; he did not.

Mr. FOUNTAIN. He never mentioned his acquaintance with prominent people?

Mr. MILLER. He mentioned his acquaintance with prominent people, but not in such a way as to try to influence me, sir. \* \* \*

Mr. FOUNTAIN. Were you influenced or persuaded to do anything which you did not think was proper by virtue of any conversation?

Mr. MILLER. No, this had no such influence on me.

Mr. FOUNTAIN. Did he ever tell you or suggest or infer that it was the desire of your departmental superiors or of any other influential persons outside the Department that he be given any special favors?

Mr. MILLER. No, he never suggested anything of the sort.

In his testimony, Miller stated that he had final responsibility for making all decisions involving Billie Sol Estes' financial statements and surety bond coverage beginning with the issuance of Estes' first Federal warehouse license in 1959; Miller said his decisions were not reviewed by his superiors, and that they never spoke to him on behalf of Estes. Miller also stated that he had never met Estes before the January 25 conference.

Dabney Townsend, Miller's assistant, testified in response to questions by Congresswoman Dwyer that he knew of no outside intervention in connection with the bond matter:

Mrs. DWYER. To your knowledge, Mr. Townsend, were there any phone calls, visits to your office, or Mr. Miller, or any letters written by Members of Congress or public officials on behalf of Mr. Estes getting this \$700,000 bond?

Mr. TOWNSEND. Not to my knowledge.

Mrs. DWYER. Mr. Miller never discussed this with you, or had correspondence?

Mr. TOWNSEND. The only knowledge I have is the visit of Mr. Estes to the office in January of 1961. I know of no outside telephone calls or visits from outside persons with respect to this bond.

The subcommittee investigation, which included a thorough search of USDA files and questioning of many of its employees, disclosed no evidence that anyone other than Estes or Estes' employees contacted Warehouse Act Branch personnel concerning issuance or renewal of warehouse licenses.

*Correspondence With Estes' Banker*

In financial statements filed with the Warehouse Act Branch, Billie Sol Estes consistently identified the First National Bank of Pecos as the bank with which he did business. On January 27, 1961, 2 days after meeting with Estes, Carl Miller wrote a letter to Ray McPherson, executive vice president of the First National Bank of Pecos. (Miller identified McPherson as president of the bank, rather than by his correct title.) In the letter, Miller quoted Estes as saying that a complete independent audit would entail a tremendous effort, particularly from the standpoint of inventory, and asked McPherson for any advice or comment he might wish to give concerning Estes. Miller's letter follows:

JANUARY 27, 1961.

DEAR MR. MCPHERSON: Mr. Billie Sol Estes, who we understand is a customer of your bank, has become rather heavily interested in the grain storage business. At the present time his facilities have a storage capacity of more than 26 million bushels. He has told us that he intends to add substantially more warehouse space.

Since Mr. Estes has chosen to operate these warehouses under the U.S. Warehouse Act, we have a responsibility for evaluating the extent of financial resources and the amount of surety bond which are or should be back of the operation. Knowledge of the integrity and ability of a licensee to honor his obligations is also important.

As a licensee, Mr. Estes can become the custodian of many millions of dollars worth of grain belonging to depositors. Our interest lies in the protection of such depositors and in the integrity of warehouse receipts representing the products.

We should very much appreciate any advice or comment you may wish to give us concerning Mr. Estes. The balance sheets he has supplied are not prepared by independent auditors, and Mr. Estes points out that a complete independent audit would entail a tremendous effort, especially in the field of inventory which is widely scattered.

Your comments, of course, will be treated in strict confidence.

Very truly yours,

CARL J. MILLER,

*Chief, United States Warehouse Act Branch.*

On February 2, 1961, Miller received a letter from McPherson warmly endorsing Estes; the letter was similar to many others written by McPherson or other officers of the First National Bank of Pecos in response to inquiries about Estes' financial condition. In the letter, dated January 30, 1961, McPherson told Miller:

I have your letter concerning Mr. Billie Sol Estes who has extensive grain storage interests.

Mr. Estes has been doing business with us for about 6 years, and during this time we have extended him loans up to our limit and have also secured loans for him through our correspondent banks for additional \$400,000. We have found Mr. Estes to be very prompt in meeting his obligations and at one time we handled a considerable amount of equipment for him under a warehouse contract. This contract was

through the Lawrence warehouse system, and they sent their fieldman in to check his warehouses about twice every 6 weeks. Their fieldman never did find the inventory short by one single item.

We believe Mr. Estes to be honest and reliable. He is of good morals and character. In dealing with us, he has always performed just as agreed, and we have found no discrepancy in any statements he has ever made us.

As well as being in the warehouse business, Mr. Estes is a large irrigated cotton farmer. He also has interest in a well service company, a pump company, an engine company, a concrete premix plant, and is one of the largest distributors of chemical fertilizer and insecticide in this area.

The last financial statement furnished us from Mr. Estes shows him with a net worth in excess of \$5 million.

Yours very truly,

RAY C. McPHERSON,  
*Executive Vice President.*

### *Two-Bond Proposal*

Two days after the January 25 meeting in Washington, the Wichita office of the Warehouse Act Branch—which presumably did not know about Estes' visit to Carl Miller's office—was still proceeding with plans for coverage of Estes' warehouse operations with two separate surety bonds totaling slightly more than \$1 million. The two bonds would provide \$710,000 coverage for facilities at Plainview and \$300,000 total coverage for facilities at all other locations. Donald McCoy, the warehouse examiner handling details of the license renewals for Estes' facilities, had been assured that Estes could secure the two bonds necessary for this coverage.

On January 27, 1961, Warren Williams, who was temporarily in charge of the Wichita office, received Donald McCoy's January 25 letter containing the two-bond proposal. Later the same day, Williams forwarded a copy of the McCoy letter to Carl Miller in Washington; in the memorandum of transmittal, which follows, Williams used language indicating that he either anticipated or was recommending approval of the two-bond proposal by Carl Miller:

We have just received Mr. McCoy's original report to amend license 3-4458 to include additional tanks having a total capacity of 2,957,000 bushels. He left with the warehouseman an agreement to extend bond currently on file in the amount of \$700,000, as you instructed in your wire of January 18, 1961.

You requested the renewal bond in the amount of \$1 million. You will note in Mr. McCoy's letter of January 25 that he prepared two renewal bonds and he gives his analysis of these bonds. When you have reviewed Mr. McCoy's letter, will you kindly indicate your approval.

The subcommittee found no record in the files of any response to Williams' January 27 memorandum, which was received in Washington on January 30; Carl Miller advised that the Wichita office was notified by telephone that the order to increase Estes' bond was being reconsidered.

On February 2, 1961, the Wichita office sent the following letter to Wayne Cooper, general manager of United Elevators:

This pertains to your renewal bonds prepared by Mr. McCoy in the amounts of \$710,000 to cover the Plainview operations and \$300,000 to cover the remaining warehouses in Texas operated by Mr. Estes.

You are undoubtedly aware of the study being made of Mr. Estes' financial status for the purpose of determining whether the bonding amounts could be revised. It is also possible that you are deferring execution of the two bonds pending our decision in this matter. At any rate, we suggest that you defer execution of the two bonds until you hear from us about the bond amount. We presume that you will be able to execute a single bond without too much delay to be available before the expiration date of February 23.

On February 10, 1961, in accordance with instructions from Washington, the Wichita office sent Wayne Cooper a renewal bond form in the amount of \$700,000, to be filled out by the surety company and returned to Wichita; the renewal bond would become effective as of February 24, 1961, if the license were renewed. Cooper was advised that the two bonds previously prepared by McCoy and left with him should be canceled. (The Wichita office apparently believed that the two bonds had already been executed by the surety companies, even though not yet returned.)

*Submission of Audit Report*

On February 21, 1961, the Warehouse Act Branch office in Washington received a financial statement purporting to show Billie Sol Estes' financial condition as of December 31, 1960. The statement was accompanied by a letter dated February 14, 1961, indicating that it had been prepared by Winn P. Jackson, a Lubbock, Tex., certified public accountant. The statement, and the accompanying letter appear below:

LUBBOCK, TEX., *February 14, 1961.*

Mr. BILLIE SOL ESTES,  
Pecos, Tex.

DEAR SIR: We have examined the balance sheet, presented in condensed form, of Billie Sol Estes as of December 31, 1960. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances; except that our examination did not include the generally accepted auditing procedure of observing and testing the methods used in determining inventory quantities, prices, and amounts.

By reason of the limitation of the scope of our examination as to inventories, no opinion may be expressed as to the fairness of presentation in the accompanying balance sheet of the financial position of Billie Sol Estes as of December 31, 1960.

Respectfully,

JACKSON & RODGERS,  
WINN P. JACKSON,  
*Certified Public Accountant.*

*Condensed balance sheet, Billie Sol Estes, as of Dec. 31, 1960*

ASSETS	
Current assets:	
Cash on hand and in banks.....	\$480, 641. 97
Accounts and notes receivable....	\$2, 136, 721. 13
Less allowance for bad debts.....	17, 211. 76
	<u>2, 119, 509. 42</u>
Inventories, merchandise for re- sale, at lower of cost or market.....	<u>942, 701. 13</u>
Total, current assets.....	3, 542, 852. 52
Land and depreciable assets, at cost:	
Land.....	2, 062, 748. 60
Buildings.....	\$4, 402, 760. 82
Machinery and equipment.....	12, 261, 784. 94
Furniture and fixtures.....	32, 802. 60
Oil production.....	200, 000. 00
Minerals and royalties.....	20, 000. 00
Total.....	16, 917, 348. 36
Less accumulated depreciation....	<u>4, 458, 696. 41</u>
	12, 458, 651. 95
Other investments and assets:	
625 shares, Oil Industries Life Insurance Co., at cost.....	21, 875. 00
Verhalen Mercantile stock, at cost.....	35, 000. 00
Agriculture, Inc., stock, stated at $\frac{1}{2}$ of equity in net assets, Dec. 31, 1960.....	1, 664, 647. 03
Prepaid interest on notes payable..	211, 641. 28
Residence, Pecos, Tex., at cost....	<u>90, 000. 00</u>
	2, 023, 163. 31
Total assets.....	<u><u>20, 087, 416. 38</u></u>
LIABILITIES AND NET WORTH	
Current liabilities:	
Accounts payable, trade.....	\$543, 782. 03
Notes payable, secured, current portion.....	1, 278, 411. 32
Accrued interest payable.....	<u>61, 203. 67</u>
Total, current liabilities.....	1, 883, 397. 02
Long-term debt, portion due after 1 year:	
Notes payable, buildings and equipment.....	\$3, 627, 437. 55
Notes payable, real estate.....	<u>841, 627. 06</u>
	4, 469, 064. 61
Total liabilities.....	6, 352, 461. 63
Net worth, Billie Sol Estes.....	<u>13, 734, 954. 75</u>
Total liabilities and net worth.....	20, 087, 416. 38

The December 31, 1960, financial statement showed a net worth of \$13.7 million—\$6 million more than the net worth shown on the financial statement previously filed by Estes as of June 30, 1960. However, Carl Miller told the subcommittee that the tremendous increase in net worth shown in the December 31 statement did not disturb him; one reason for Miller's lack of concern may have been a telephone call from Estes just before the audit report was received, which Miller described as follows:

He called me from Pecos. He said, "The audit is completed. I am putting it in the mail tonight. The reason I am calling



you is that it will arrive one day late, one day later than you expect it."

He remarked that he owed a debt to me for requiring him to have this audit made because the auditors had gone through his books and records with a fine-tooth comb and they told him he was worth a great deal more than he thought he was worth.

With that kind of statement, he could borrow money at lower rates of interests than otherwise.

#### *Spurious Nature of Jackson Audit*

The subcommittee's investigation disclosed that Winn Jackson had made no audit whatsoever of Estes' operations, but had simply copied on his own stationery figures provided by Estes; for this, Estes paid Jackson \$6,000. As a result of his conduct, Jackson's license to practice was suspended for 2 years by the Texas Board of Public Accountancy. Further details concerning Jackson's relationship with Estes and the manner in which the December 31, 1960, report was obtained appear in another part of this report.

Carl Miller testified that he considered the Jackson audit report to be authentic and relied upon it; Miller said that he interpreted the second paragraph of Jackson's letter as limiting his certification only with respect to the inventory figures included in the balance sheet. Miller stated that he had received and accepted CPA reports for other warehousemen with limitations similar to that in the Jackson report, but had never obtained an interpretation of the meaning of such language. Dabney Townsend, Miller's assistant, told the subcommittee he knew of no case in which the Warehouse Act Branch had ever questioned the authenticity of a CPA report before accepting it.

Although, according to this testimony, Carl Miller did not doubt the authenticity of the Jackson CPA report, he took steps to disallow or obtain further information concerning some of the items it contained. These actions were described in the following testimony by S. R. Smith, Administrator of the Agricultural Marketing Service:

Since Mr. Jackson did not include in his audit any check on inventory quantities, prices, and amounts, the item on the financial statement labeled: "Inventories—merchandise for resale—at lower of cost or market—\$942,701.13" was disallowed in the review of the financial statement. This was the only item on the statement labeled "Inventories."

The resulting net worth as shown, was well in excess of the requirement under the regulations. However, Mr. Carl Miller did not accept the financial statement on this basis alone.

Information on file disclosed that insurance in excess of \$6.5 million was carried on the grain elevator properties. Even discounting the claimed value of depreciable assets of some \$12.4 million, to the extent these were not covered by insurance, an allowable net worth of nearly \$7 million was indicated.

This compared with the net worth of \$2,250,284 required on the 29,609,000-bushel capacity existing at that time. In

view of these circumstances, the new bond due February 24, 1961, was accepted in the amount of \$700,000.

Mr. Miller took further steps to seek information relating to Mr. Estes' financial position. On February 23, 1961, Mr. Miller wrote to Mr. Estes on the subject of insurance coverage on depreciable property listed as buildings, machinery and equipment, furniture and fixtures. Mr. Estes replied by submitting two letters, one from the Superior Manufacturing Co., of Amarillo, Tex., and one from the Lubbock Machine & Supply Co., Inc., of Lubbock, Tex., and stating that anhydrous ammonia tanks were not customarily insured and that the finance companies who had made loans on this type of asset did not require then that they be insured.

Mr. Estes also supplied a letter from the Superior Manufacturing Co., of Amarillo, certifying that Estes had purchased from Superior, anhydrous ammonia tanks valued in excess of \$9 million and had paid for them in full.

As of February 24, 1961, Billie Sol Estes' warehouse licenses were renewed.

On March 2, 1961, Carl Miller sent the following memorandum to C. H. Moseley, director of the Dallas Commodity Office; with the memorandum, Miller sent a copy of the Jackson CPA report:

At our request Mr. Estes has supplied a balance sheet as of December 31, 1960, prepared by Jackson & Rodgers, certified public accountants, of Lubbock, Tex.

With respect to the comments on merchandise inventory, Mr. Estes has informed us that an actual audit of this item would require observation of more than 4,000 anhydrous ammonia tanks scattered over a wide area.

On the basis of the statement, we have accepted a \$700,000 bond, even though storage capacities have been increased. Further substantial increases are planned according to Mr. Estes.

The attached audit report certifies to net worth considerably in excess of statements formerly filed by Mr. Estes.

Since CSS seems to be the principal depositor in United Elevators, we think you will be interested in this information.

In April, May, June, and August, 1961, five more license amendments totaling 5.5 million bushels of space were approved for United Elevators, bringing its total capacity to 35.1 million bushels. A further financial statement submitted during this period showed Estes' net worth as of June 30, 1961, as \$15.4 million; this was several times the \$2.7 million in net worth required under the Warehouse Act Branch formula, calculated on the basis of 4 percent of the value of 35 million bushels of wheat. The amount of bond required was kept at the \$700,000 figure set by Carl Miller for renewal of Estes' licenses in February 1961.

In early September 1961, a special examination of the quality and quantity of grain in storage at Estes' Plainview facilities was made; the reasons for and results of this examination are discussed later in this report.

## SECOND WARNING FROM DALLAS COMMODITY OFFICE

*Estes' Financial Responsibility Questioned*

On September 13, 1961, C. H. Moseley, director of the Dallas Commodity Office, sent Frank Hussey, Deputy Administrator of the Agricultural Stabilization and Conservation Service in Washington, an administratively confidential memorandum entitled "Financial Responsibility of Billie Sol Estes." The memorandum read as follows:

Please forward the attached material to Mr. Carl J. Miller, Chief, U.S. Warehouse Act Branch, Special Services Division, AMS, for his consideration, since it is not within our jurisdiction.

In their conversations with me, the complainants alleged that the chattel mortgages totaling \$7,745,156 were not fully reflected on the financial statements. Of course we have made no comment.

For your information, we can certainly substantiate the statement that "the trade in general has been disturbed for some time about the activities of this warehouseman."

It is also true that rumors are widespread. Some of the rumors are ridiculous, while others are vicious and alarming.

Attached is a package of Dun & Bradstreet reports.

Attached to the Moseley memorandum was a copy of the following letter to Moseley from Frank M. Phariss, assistant general manager, Producers Grain Corp., Amarillo, Tex.; the Phariss letter was dated September 8, 1961:

Mr. Triplett and I discussed with you the other day our concern about the progress of one of our new warehousemen. The trade in general has been disturbed for some time about the activities of this warehouseman, not so much concerned from a competitive standpoint as it is about the manner in which he has expanded his operations. The Department and the present administration is getting a lot of criticism because of some of the rumors which have been spread and that actually originated from this warehouseman.

We sincerely believe that for the protection of the Department all of the activities of this warehouseman should be thoroughly investigated; then, if everything is in order, the Department at least can have its name in the clear. I am enclosing some data which you may or may not wish to use.

I want to personally thank you for meeting with the trade the other day, because I feel that you did help to clear up some matters that were in doubt in the minds of those present.

Very truly yours,

FRANK M. PHARISS.

The enclosed "data" referred to by Phariss consisted of copies of 11 Dun & Bradstreet reports concerning Billie Sol Estes; the reports were dated August 20, 1959; February 29, April 7, 21, and 28, May 13 and 26, October 26, November 29, and December 13, 1960; and April 6, 1961. The October 26, 1960, report contained two pages listing chattel mortgages involving Estes filed in Reeves County

from January 1, 1959, to October 1960; an adding machine tape attached to this report listed the amounts of the chattel mortgages on the two pages and gave a total of \$7,745,156. The August 20, 1959, report also contained a listing of chattel mortgages and an adding machine tape totaling them at \$4,716,276.

*Events Responsible for Moseley Memorandum*

In a sworn statement, C. H. Moseley gave the following account of the events responsible for his September 13 memorandum:

On August 30, 1961, I attended a meeting of members of the grain trade at Amarillo, Tex. Prior to the meeting I met, at their request, with J. Frank Triplett and Frank M. Phariss of Producers Grain Corp. They stated that Estes was having trouble with CCC-owned grain in his warehouses, that the grain had been seriously damaged and that they felt the Estes warehouses should be examined. Phariss showed me some Dun & Bradstreet reports which he said indicated that chattel mortgages totaling over \$7 million were not fully shown on Estes' financial statement. I requested that Phariss furnish me the Dun & Bradstreet reports, and he stated that he would consider it.

\* \* \* \* \*

About September 10, 1961, I received a letter dated September 8, 1961, from Phariss, to which he had attached several Dun & Bradstreet reports pertaining to Billie Sol Estes. I recall that some of these were photographic copies. I did not make any analysis of these reports but transmitted them with Phariss' letter to Frank W. Hussey, Deputy Administrator, Commodity Operations, ASCS, by memorandum dated September 13, 1961. \* \* \*

Frank Phariss, in a sworn statement, said that he had been discussing the financial status of Billie Sol Estes with Tom Jones for some time prior to the meeting with Estes. (Jones was manager of Southern Farm Supply Association, an Amarillo firm, which had distributed anhydrous ammonia for Commercial Solvents in the Plains area prior to Estes' entry into that market.) According to Phariss, Jones had run adding machine tapes on chattel mortgages listed for Estes on Dun & Bradstreet reports which revealed that the mortgages were apparently not fully reflected in the financial statement information included in the same reports.

Phariss gave the following description of his meeting with Moseley:

About the latter part of August 1961, C. H. Moseley, Director, Dallas ASCS Commodity Office, U.S. Department of Agriculture, Dallas, Tex., was in Amarillo, Tex., to discuss certain matters with members of the grain trade. Prior to that meeting, J. Frank Triplett, vice president and general manager, Producers Grain Corp., and I met with Moseley in my office at my request. I showed some of the Dun & Bradstreet reports to Moseley and explained to him that the chattel mortgages apparently were not fully reflected in the financial statements. I raised the question with Moseley of whether the Government should be getting involved with an individual who was not financially responsible.

I expected Moseley to look into this matter since I, at that time, thought that Moseley was responsible for handling the bonding requirements for grain elevators that were licensed by the Federal Government. Moseley advised me that he did not handle the bonding but that if I would send the information which I had to his office he would forward it to the responsible office in Washington, D.C. \* \* \*.

Tom C. Jones, who is a certified public accountant as well as being general manager of Southern Farm Supply Association, gave the following statement concerning the circumstances leading to his discussions with Phariss:

Southern Farm Supply Association's first concern over the financial condition of Billie Sol Estes was in 1957. At that time one of Estes' firms purchased fertilizer from the Southern Farm Association plant at Sulphur Springs, Tex. Estes asked for a line of credit of \$250,000 for the purchase of fertilizer. I requested information on Estes from certain banks and customary credit sources and was not satisfied with the information which I received. I then requested a report from Dun & Bradstreet as we do in all instances where a person or firm unknown to us requests the extension of credit. At first Dun & Bradstreet was unable to furnish information on Estes but later rendered reports in accordance with routine requests under our contract.

Frank M. Phariss, executive vice president and assistant general manager, Producers Grain Corp., Amarillo, Tex., and I frequently confer on mutual problems. Phariss became concerned with Estes' operations when Estes' grain elevator at Plainview, Tex., began offering free storage on grain. Phariss also wondered how Estes was able to obtain a license to operate a grain elevator from the U.S. Government so rapidly. Phariss asked me if I had any financial data on Estes. I then discussed the Dun & Bradstreet information with Phariss and pointed out to Phariss that the chattel mortgages on certain reports were apparently not fully shown in the financial statements included in these reports.

#### *Washington Handling of Information From Dallas*

According to a sworn statement by Roland Ballou, Assistant Deputy Administrator of ASCS, the September 13, 1961, Moseley memorandum and the attached copies of Dun & Bradstreet reports were received in Ballou's Washington office on September 20; Ballou then forwarded the material to Carl Miller's office without analyzing or making copies of it.

On September 21, 1961, Miller addressed a memorandum to C. H. Moseley on the subject of "Financial Responsibility of Billie Sol Estes" in which Miller reported:

Mr. Ballou has handed me your memorandum of September 13 on the above subject. We shall look into the facts and let you know our findings in due course.



Recently personnel from your office and from our Wichita office joined in a thorough examination of Mr. Estes' operations at Plainview, Tex. I am sure you have been made acquainted with the results of that examination.

Carl Miller, in a sworn statement, described his actions after receiving the material from Moseley as follows:

\* \* \* I did not make any analysis of the Dun & Bradstreet reports although I do remember that one report had an adding machine tape attached to it with a total figure of \$7,745,156 and that Moseley stated in his memorandum that the complainants had alleged that chattel mortgages totaling \$7,745,156 were not fully shown in Estes' financial statement.

I took the Dun & Bradstreet reports and financial statements on Estes which were on file in the U.S. Warehouse Act Branch to the office of Charles G. Cleveland, chief investigator, Internal Audit Division, Agricultural Marketing Service. Mr. Cleveland and I discussed Estes' financial condition and agreed that a preliminary investigation should be conducted. It was my understanding that the Internal Audit Division would request a current Dun & Bradstreet report on Estes and would then attempt to reconcile the information in that report with the working papers of Winn P. Jackson, certified public accountant, who had prepared a financial statement on Estes as of December 31, 1960, which was on file in my office and which showed a net worth for Estes of \$13,734,954.75.

#### *Audit Division Investigation Requested*

On September 22, 1961, Carl Miller sent the following memorandum to Donald Russell, Director of the Internal Audit Division of the Agricultural Marketing Service:

Subject: Billie Sol Estes doing business as United Elevators.

On September 21 we discussed with Mr. Cleveland certain information from the Dallas office of ASCS and allegations from other sources that the financial condition of Mr. Estes might bear investigation.

We left our file of information with Mr. Cleveland for copying and discussed a plan of investigation which very briefly includes obtaining a current Dun & Bradstreet report. It was then proposed that Mr. Estes should be approached to obtain his permission to interview the certified public auditors who prepared his balance sheet early in 1961.

If we can be of further assistance, please let us know.

Mr. Estes doing business as United Elevators is licensed under the Warehouse Act at Plainview, Tex., and certain other points.

On September 28, 1961, Russell's office sent the following memorandum concerning Billie Sol Estes to the Director, Special Services Division, AMS (George Dice, Director of this Division, was Miller's immediate superior):

As discussed by Mr. Cleveland and Mr. Miller, a current Dun & Bradstreet report on the above individual has been

requested. As soon as the report is received we will conduct such further inquiry as appears to be warranted.

Dabney Townsend, Carl Miller's assistant, testified at subcommittee hearings that the Warehouse Act Branch normally asked for Internal Audit Division investigations less than 10 times a year; Townsend said that, to his knowledge, the Estes case was the only one in which an inquiry had been made into matters covered by a report from a certified public accountant.

More than 6 months elapsed between the day that Carl Miller requested the AMS Audit Division to look into Estes' financial status and Estes' arrest in late March 1962; however, the Warehouse Act Branch never received a report on the results of the Audit Division investigation. Furthermore, except for an unproductive inquiry in March 1962, which was prompted by the events leading to Estes' arrest, the Warehouse Act Branch never made any effort to ascertain the status of the Audit Division investigation. (The Audit Division investigation is discussed in another part of this report.)

#### SUBSEQUENT EVENTS INVOLVING WAREHOUSE ACT BRANCH

##### *Letter From McCoy*

On October 3, 1961, Donald McCoy sent the following letter to O. P. Harren, head of the Wichita office, warning about potential difficulties presented by Estes' continued expansion:

There are two points which I would like to bring up concerning an operation in Plainview, Tex., known as the United Elevators.

First, it is now known that this organization is expanding at an increasing rate. The last estimate called for 200 million bushels of storage space at this one location. It would seem that this is entirely too great a risk to have at one place, especially when we consider the type of construction.

The conveyor system, for example, is a maze of screw conveyors connecting one tank to another, and so forth. At this writing there are about 3 miles of screw conveyors in action. A strong wind or tornado would render havoc with this sort of arrangement and would undoubtedly result in the largest grain salvage operation in history.

Second, the present facilities present a tremendous problem in getting at a clean cutoff at all locations. Added tanks and buildings will only add to the problem. It would seem advisable to review this entire operation before the operation gets any larger.

McCoy's letter was soon called to the attention of Carl Miller; Miller told the subcommittee what he did about it in the following testimony:

Mr. NAUGHTON. Are you familiar with any action that may have been taken as a result of that communication from McCoy?

Mr. MILLER. Well, it didn't reach 200 million in the first place—far from it. And as to a strong wind, a strong enough

wind destroying almost everything, everything in that property was insured against strong winds.

Mr. NAUGHTON. Did you see this letter?

Mr. MILLER. Yes, I saw that letter.

Mr. NAUGHTON. When did it first reach your attention?

Mr. MILLER. I suppose shortly after it was written.

Mr. NAUGHTON. What action did you take at that time?

Mr. MILLER. Just to read the letter is about all, because this is a speculation. This is thinking out loud about something that may happen if we reached way up into the stratosphere. And it didn't appear likely that anything like that was going to happen, Mr. Naughton.

#### *Call to Miller*

Despite McCoy's letter and the unresolved question concerning Estes' financial status, the Warehouse Act Branch continued doing business with him as usual. License amendments covering nearly 7 million bushels of additional space for United Elevators were issued in October and November 1961; more than 8.8 million bushels more space was approved in February 1962.

In January 1962, Carl Miller received a telephone call from Billie Sol Estes; Miller described the call as follows:

Mr. Estes called me from somewhere in town—I don't know where—and asked me to have dinner with him the next night. I told him that I could not because I was leaving town the next morning to go to Texas. I was going to College Station for a meeting called the workshop meeting put on by Texas A. & M. Mr. Moseley was present and gave a talk.

I was on the program. Several others were on the program. It was a 2-day meeting. There were, as I recall, Mr. Moseley, no Estes representatives at that meeting because it was out of their area of operation. This was in south Texas.

But in this telephone call I commented over the phone to Mr. Estes that it appeared that production of grain sorghum would decline and that this could empty elevator bins in Texas and that obviously in this process perhaps some of the operators were going to be injured financially, and that we were concerned because when there is a reduction, a rapid reduction of that kind, some people fail and some people might be tempted to help themselves to a little bit of grain that belongs to other people.

We didn't want that to happen. We wished we knew the names of the operators who couldn't weather the storm.

He indicated to me—he told me—that as far as he was concerned, he would not help himself to anybody else's grain. He said, "Before I would do that, I would bring you the keys to all my plants and tell you to go lock them up and keep me out."

#### *Failure To Request Financial Statement*

In February 1962, Estes' renewal bond was accepted even though the Warehouse Act Branch did not have the semiannual financial

statement customarily required in connection with renewal action. S. R. Smith, Administrator of the Agricultural Marketing Service, gave the subcommittee the following explanation of this occurrence:

In connection with the renewal bond furnished by Mr. Estes which was accepted February 24, 1962, I want to point out that this was done without receiving a year-end financial statement. However, a financial statement as of June 30, 1961, reflecting a net worth of \$15,394,110.10, was on file.

I would like to give the committee the background on this. Lists of expiring bonds are prepared by the Washington office and forwarded to the field offices approximately a month prior to the first of the month in which the new bonds become due.

This leadtime is necessary to permit the field offices to prepare and forward the bond forms to the warehouseman, and for the warehouseman and surety to execute the bond and file it in time for acceptance by the U.S. Warehouse Act Branch in Washington, prior to the anniversary date of the license.

A list of warehousemen whose bonds were due in the month of February 1962, which included Estes, was transmitted to our Wichita field office on December 28, 1961.

The requirement for furnishing semiannual financial statements is a matter of policy and not of regulations. Further, there is a normal timelag of 6 to 8 weeks before financial statements are received.

The field offices of the Branch make the calls for financial statements and follow up when the statements are not received within a reasonable time. In this case, when the request for financial statements went out in January 1962, the Wichita field office inadvertently failed to send a request to Mr. Estes. This was not known in the Washington office at the time the Estes bond was approved and accepted on February 16, 1962.

The only explanation for this omission we have been able to establish is the inexperience of the new clerical field office force, whose task it was to send out the notices.

Gaye M. Jewell, a clerk-stenographer in the Wichita office of the Warehouse Act Branch, gave the following explanation of the circumstances which resulted in the failure to request a financial statement from Estes:

A financial statement is requested from each warehouseman at intervals of 6 months. When the license is issued a financial statement card is set up on which the license number, the name of the elevator, and the location of the elevator is shown. The name of the manager of the elevator is written in pencil to allow for changes in managers. In the upper left-hand corner appears in red the two dates on which the statement for that warehouseman is called for. Four columns appear on the card. They are headed: "As of (date)," "Net worth," "Requested," and "Received."

At the end of each month, it is my duty to check these cards one by one and separate the cards with that month's date in red in the upper left-hand corner. I do this by removing

the file drawer containing the cards, taking it to my desk, and looking through the cards separating the cards dated for that month. When this has been done, I send out three financial statement forms WA-51 and a letter requesting a statement for each warehouseman whose card was separated. I show that this has been done by writing the date this request was sent out in the "Requested" column of the card. The original and one copy is returned to this office and the warehouseman retains the third copy for his files. When the statements are received in this office, I check them for completeness and accuracy. If there are no errors, I record the cutoff date, the net worth, and the date the statement is received on the financial statement card for the respective warehousemen.

The financial statement for Billie Sol Estes, doing business as United Elevators is called for on June 30 and December 31. These dates appear in the upper left-hand corner of the financial statement card. When checking the cards for the December 31 call dates, the card for this organization, through inadvertency, clung to another card or was somehow overlooked and was not separated with the December 31 cards. Therefore the request for this statement was not sent out.

#### ESTES' PROBLEMS WITH BONDING COMPANIES

The Warehouse Act Branch office in Washington was notified in late 1960 and again in early 1961 by the Wichita office that Billie Sol Estes was unable to obtain a single bond in excess of \$700,000. In addition, Estes' initial license application was delayed for a considerable period of time because of failure to furnish the \$200,000 bond required—a circumstance that might logically have resulted in some suspicion of his ability to obtain the bond. S. R. Smith, Administrator of the Agricultural Marketing Service, told the subcommittee that

Setting a limit of underwriting participation is a matter of policy and administrative decision of each surety in each case.

Therefore, Smith said, program administrators "saw no occasion to pursue the reasons" which caused the surety company to impose a \$700,000 limit. However, the subcommittee, through documents obtained under subpoena, did explore the reasons why two separate surety companies either refused or limited bond coverage to Estes.

#### *Difficulty in Obtaining Initial Bond*

The Standard Accident Insurance Co. of Detroit was bonding the Smith-Bawden Grain Co. when Estes acquired that company's Plainview facilities in 1958. Estes attempted to obtain the \$200,000 bond required at that time from Standard; the effort was made through the Harder Agency at Plainview, which dealt with Standard's branch office in Dallas. On December 29, 1958, Standard's home office in Detroit informed the company's Dallas office that it was unwilling to authorize a bond for Billie Sol Estes on the basis of the information submitted. In a letter to the Dallas office on December 30, 1958, the home office explained its reasons as follows:

In order to enable us to authorize a bond of this size for Mr. Estes we will need the following information:



(1) A CPA statement accurately detailing Mr. Estes' financial situation. The statement submitted was unsatisfactory in this regard.

(2) We will need to know something of the background of Mr. Estes, including a retail credit report and the agents recommendation. We would like to know his reputation in the community.

(a) In this regard we would like to point out that the D. & B. report states, as you are aware, that Mr. Estes owes approximately \$1 million secured by chattel mortgages and that his assets are heavily encumbered. It is also stated that on at least one occasion credit has been refused him and on another he was slow in paying.

Since, however, this was a supplemental rather than an original report, perhaps the original can explain this more fully. At any rate we would be unwilling to authorize this bond without this additional information.

The CPA statement requested by the home office was never furnished. However, on January 30, 1959, the Dallas office advised the home office that Estes had requested reconsideration of his application for bond, based on the individual indemnity of H. M. Reeves, a Pecos concrete contractor. With the January 30 letter, the Dallas office included a CPA statement for Reeves showing a very substantial net worth. The Dallas office also told the Detroit office that:

We expect our agent to be calling us every day next week for an answer as to whether or not we could provide the bond with the additional indemnity as stated above.

In a February 4, 1959, file memorandum, E. Clyde Wilber of the home office made the following comments concerning a telephone conversation with George Powledge of the Dallas office about the proposed bond for Estes:

\* \* \* George advised that he now has a retail credit report on Billie Sol Estes in his possession, which indicates his net worth in excess of \$9 million. The report is otherwise favorable except that it indicates that he is sometimes late in making some of his trade payments. It further indicates that several civil suits have been filed against him but each has either been won by him or dropped. The report goes on to indicate that he is a partner in 15 other businesses and is considered honest. \* \* \*

I asked George what his frank opinion of the risk was and he recommended that we write the bond since we are getting the indemnity of Reeves and on the understanding that the old Smith-Bawden people are going to continue managing the warehouse operation. In this regard, George has told the agent that if and when the Smith-Bawden men drop out of the picture, we will want to retire from the risk. \* \* \*

I advised George that I still was not sold on the risk and certainly on the basis of Billie Sol Estes' standing and reputation, we would prefer to decline the risk. George agreed but felt that the indemnity of Reeves makes the risk writeable and I reluctantly went along with him on this basis.

Although it finally agreed to write Estes' bond, Standard retained only 25 percent of the risk for its own account, placing the remainder with other companies.

H. M. Reeves gave the subcommittee the following account of his agreement to assist Estes in obtaining bond:

On December 18, 1958, I signed a bonding company's endorsement agreement on a warehouseman's bond which they were making for Mr. Estes. \* \* \* I received no consideration of any character for executing the indemnification agreement to Standard Accident Insurance Co., and I was motivated in executing the agreement purely by a desire to assist Mr. Estes, whom I had known favorably for several years.

*Standard Refusal To Renew Bond Without CPA Report*

In a September 25, 1959, letter to the Harder Agency, its agent in Plainview, Standard requested a CPA report on Estes for use in determining whether to renew his bond. The letter stated:

As you know, the anniversary date of the Federal warehousing bond on the above elevators comes up in December. We feel that before the anniversary date, we should be furnished with a CPA statement of Mr. Estes. We realize that the man has a great deal of equities but in acquiring these equities, he has had to assume tremendous financial responsibilities so we are in need of a detailed CPA statement that will show the entire picture including the details of the payout on these equities and how the income for taking care of these equities has been arranged so they can be paid as the obligations are due. \* \* \*

A copy of the September 25, 1959, letter to the Harder Agency, together with a copy of the August 20, 1959, Dun & Bradstreet report on Billie Sol Estes, was sent by Standard's Dallas office to the home office in Detroit. In a memorandum to Dallas on September 29, acknowledging receipt of this information, the home office commented:

We are certainly in agreement with your comments after reading the latest Dun & Bradstreet report.

We frankly feel that Billie Sol Estes is getting in "over his head."

Much will depend on what information you are able to develop \* \* \* but the way things stack up at present, our inclination is toward retiring from the risk at renewal date.

On November 13, 1959, George Powledge, manager of Standard's Dallas office, advised the home office that it was unlikely the Estes bond would be renewed by Standard, and made the following comments on the situation:

\* \* \* One reason why I felt inclined to handle this bond in the first place was due to the fact that Billie Sol Estes was maintaining in his organization some very capable men that had run this type of operation for the former owner of these warehouses. These people are still with Mr. Estes and are still running this operation for Estes.

The agency understands that we will not be asked to continue this bond beyond its anniversary date in December, as they have been told that the Aetna has indicated they would write this bond without any indemnity and without having a CPA statement from Estes, as I requested in my letter of September 25 to the agency, copy of which was furnished you. I am sure that Billie Sol Estes has some real financial worth and possibly has equities worth several million dollars. His worth is only equities in various business, and what disturbs me is whether or not he can make over and above taxes sufficient money to liquidate his indebtedness and clear his equities. This is the reason why I think the only way anyone could appraise his true worth is to have a very complete and accurate CPA statement, including profit and loss figures.

It appears this gentleman has tried to pattern his operations after the operations in the book called "Cash McCall." He seems to be willing to buy anything as long as he can buy it on a long-term payout. It is interesting to observe that, from January 1, 1955, to the latter part of December 1958, he claims to have increased his net worth by over 400 percent as he gave a statement as of January 1955 showing a net worth of \$1,590,989.70 with liabilities at that time of \$781,232.12. In December 1958, he claims worth of \$6,456,941.42 and increased his liabilities to \$4,221,358.45. At the same time, he increased his cash from \$46,250 to December 18 of \$337,638.07. His largest increase in worth has been from the investment in Agriculture, Inc., and equipment for handling commercial fertilizer. The man may be a genius, but it just does not make sense to me that he can make sufficient money to liquidate his indebtedness after taxes and pay off the tremendous indebtedness that he has. The only way I think anyone could actually appraise his worth is a CPA statement.

I have already made up my mind that if we cannot secure a CPA statement, we would not be interested in the renewal. I understand from the agency that they have informed Mr. Estes of the contents of my letter of September 25 about wanting the new statement, and that is possibly causing him to seek the bond elsewhere. \* \* \*

#### *Estes Obtains Bond From Aetna*

In late 1959, presumably because of Standard Accident's insistence on a CPA statement as a prerequisite for renewing his existing bond, Billie Sol Estes began attempting to obtain a new bond from the Aetna Casualty & Surety Co. Estes' negotiations were conducted through a Fort Worth agency, the M. O. Andrews Co., and Aetna's branch office in Dallas.

On October 2, 1959, Aetna's Dallas office sent the company's home office in Hartford, Conn., copies of a December 18, 1958, financial statement for Billie Sol Estes (containing the same net worth data as the statement of that date previously submitted to the Department of Agriculture) and the August 20, 1959, Dun & Bradstreet report on Estes; in a memorandum accompanying this data, the Dallas office asked authorization to execute a \$200,000 bond for Estes.

On October 9, 1959, Aetna's Hartford office advised Dallas that the proposed bond for Estes was being declined. The Hartford office indicated dissatisfaction with information in the Dun & Bradstreet report and a feeling that warehousing was "simply another sideline" for Estes; it also commented that Estes' financial statement was "impossible to evaluate."

W. N. Pitts, manager of the bond department in Aetna's Dallas office, told the Hartford office in an October 15, 1959, memorandum concerning Estes:

Don't throw away your file. Agent getting statement breakdown and other data for submission.

On November 9, 1959, the M. O. Andrews Co. submitted to Aetna's Dallas office a considerable amount of additional financial data concerning Estes, including a 15-page listing of accounts receivable totaling \$832,677 and appraisers' reports on some of Estes properties; also included was a copy of the June 30, 1959, financial statement previously submitted to the Department of Agriculture, which showed a net worth of \$6.6 million. In a letter accompanying this material, the Andrews Co. noted that:

The bond will cover only the grain operations of Mr. Estes. The grain operations are under the direction of Mr. Wayne Cooper of Plainview, Tex. This grain warehouse and facility is the same as the old Smith-Bawden Grain Co., of Plainview, and Mr. Cooper was associated as president of this company for many years. This company under Mr. Cooper's direction has a long history of profitable operations. Mr. Cooper and the present management are well known locally and have an excellent reputation in the grain trade and with the U.S. Department of Agriculture.

On the basis of the additional information submitted, the Hartford office authorized execution of a \$200,000 bond for Estes; the authorized bond was subsequently issued to cover a 1-year period beginning with the renewal of Estes' licenses on February 24, 1960.

#### *Aetna Correspondence With Standard*

On April 20, 1960, W. N. Pitts, of Aetna's Dallas office, sent a memorandum to the home office in Hartford concerning a telephone conversation with representatives of Standard Accident about Billie Sol Estes; referring to Standard, Mr. Pitts stated:

\* \* \* It appears that they were on the grain warehouse bond and the information they got they didn't like and decided to get off of it. They thought there were a number of hot checks in the area out there by Estes and also there might be a possibility of income tax evasion. This possibility stems from the same information we originally had that the local agents originally handling the account there are doing considerable to discredit Estes.

The April 20 memorandum from Dallas suggested that the Hartford office contact the home office of Standard to "find out why they got off the business"; the memorandum also reported on a call by Pitts to the M. O. Andrews agency:

\* \* \* on receipt of this information I called Mr. Claude Dickerson of our agency in Fort Worth and he told me that

there had just been an examination by the U.S. Department of Agriculture and that every grain of the commodity was there and accounted for, that Mr. Cooper is keeping his fingers on this at all times and that they have been paid some \$30,000 or more in premium and that the man has paid off like clockwork. The Standard apparently had other indemnity on the bond they had. Dickerson tells me that their checkups are very good.

On April 27, 1960, Aetna's Hartford office wrote Standard's home office in Detroit to request information concerning Estes; in the letter, the Hartford office indicated that they had assumed until recently that the Aetna bond was the first one written for Estes' grain storage operations. E. Clyde Wilber, of Standard, replied to Aetna's request for information in a letter dated May 6, 1960, which stated:

For your confidential information, we are pleased to advise that we retired from this risk for the following reasons:

1. Mercantile reports indicated worth centered in deferred heavily encumbered assets and financial strain evidenced by continuous slow trade payments.

2. While Mr. Estes is reputedly worth several million dollars, we were informed that this worth was represented largely by equities in various businesses and we were disturbed as to whether or not he could make, over and above taxes, sufficient money to liquidate his indebtedness and clear his equities. In other words, we felt that he might be getting in over his head.

3. We further felt that the only way we could appraise this situation and his true worth was by way of an up-to-date certified public accountant's balance sheet and profit-and-loss statement. This we were unable to secure.

I believe one could say that we had little tangible evidence derogatory to the risk and it was more a case of not being able to get complete information which would satisfy us that the risk was not abnormal.

A copy of the letter from Standard was sent by L. L. Tarbell of Aetna's Hartford office to the Dallas office on May 11, 1960, with a memorandum in which Tarbell commented:

We cannot disagree with Mr. Wilber's comments on the financial statement of Mr. Estes. As I told you when this business was first put up to us, it was practically impossible to analyze the statement. However, it appears that the Standard developed no tangible derogatory information and I see no reason why we should not continue on this bond.

Of course if we were asked to increase this bond substantially or write additional bonds, we would have to have up-to-date financial information and probably would want to check the financial statement to quite some extent and also talk with the bank where our principal does business.

*Bond Increased From \$200,000 to \$700,000*

In August 1960, through the Andrews agency, Billie Sol Estes submitted to Aetna a financial statement showing a net worth of \$7.6



million as of June 30, 1960; the Andrews agency asked Aetna to approve increased bond for Estes up to around \$700,000 to cover additional facilities to be completed in the next 60 to 90 days. On September 21, 1960, the Hartford office authorized an increase in bond from \$200,000 to \$279,000 to cover the first section of new construction completed; however, the Hartford office advised Dallas that no further increases would be considered until additional information had been submitted and considered.

In early October 1960, Estes visited Aetna's Dallas office several times and met on one occasion with a representative of the American Surety Co., which was sharing the bond risk with Aetna. In the course of these visits, Estes made what must have been—at least temporarily—a very forceful and favorable impression on W. N. Pitts, manager of the bond department in Aetna's Dallas office; an October 14, 1960, letter from Pitts to the Hartford office, which follows, indicates that Estes' persuasive genius inspired not only confidence, but enthusiasm:

Time is quite an essence in this matter and we had Mr. Estes in here three times within the last week and we had a meeting on Wednesday with Mr. Estes, Mr. Foster, his general manager, and with P. K. Birdwell, of the American Surety Co.

We pointed out the frustration we had in trying to completely understand Mr. Estes' operations, so we sent them back to Pecos to give us a breakdown of his operations and then a combined operations statement so that we could see exactly where the financial worth of Mr. Estes lies and frankly how much.

We attach hereto the financial statement of Billie Sol Estes, broken down under United Elevators, United Chemical Co., and Billie Sol Estes other than the two foregoing. Frankly, I wish that you personally could have been in on these meetings as it is most revealing and some of the information, of course, is absolutely completely confidential. The attached letter of the Superior Manufacturing Co. certainly is something that he does not in any way want to be in circulation because of the fact that he feels the Government might change his depreciation schedule on the anhydrous ammonia tanks to a 10- or 15-year proposition instead of a depreciation factor of 5 years. As Mr. Estes pointed out that he wanted to build an Estes empire and the only possible way in the world for him to do it was with utilizing the depreciation and capital gain. As far as money itself is concerned, Mr. Estes is not the least bit interested in acquiring an income of cash in itself because that means a tremendous tax payment. He wants to obtain those things which he can eventually sell or dispose of on a capital gain basis.

When Mr. Estes was in the office earlier in the week, he brought with him the letter from the Superior Manufacturing Co. to substantiate the valuation of his anhydrous ammonia equipment and he brought with him the operating statement of United Chemical Co., which is his individual operation,

and a financial statement of United Chemical Co. Now this is the first information as to the valuation of this operation that we had any knowledge of and it is the first time the assets and liabilities of that operation show up. We therefore more or less literally threw up our hands and told him he would have to go back and give us a composite picture of the entire operation and it is attached hereto.

We want to point out to you that it appears that he has a very substantial income-tax liability to pay, but this is not necessarily true. In order to do this or become subject to it he must sell the cotton in the current tax year which he does not intend to do or at least he will only do so on the advice of his tax accountant.

The subjects discussed with Mr. Estes were many and varied. For example, the writer brought up the question of the possibility of the Federal Government emptying his grain warehouses. His answer to this was very quick. He stated that we certainly did not think that he would in anyway go into this kind of an operation banking on the sole mercy of the Federal Government. He tells me that he would welcome a depletion of the grain from his warehouses as he could get the storage and buy it on a credit basis from the farmers. In this way, he would sell anhydrous ammonia to the farmers, they would bring him his grain and he in turn then has an understanding with Chemical Solvents Co. whereby they will take the grain and they will use it in making alcohol and other products. In other words he is looking far beyond the possibility of trouble with the Federal Government removing their grain from the warehouses. It was most interesting.

We might point out that Mr. Estes told us this noon that he carries \$3½ million in life insurance in the event anything should happen to him so that this operation would not break up through inheritance taxes.

He apparently hires a very highest rate people that he can get and pays them excellent salaries and gives them many other benefits.

We think the man is entitled to the bonds he is requesting and possibly well beyond what we have already considered.

Shortly thereafter, Aetna increased its surety bond coverage for Estes—first to \$578,000 and then to \$700,000.

#### *Aetna Refuses To Write Bond Over \$700,000*

In November 1960 Estes asked Aetna to increase his bond coverage to \$981,000; Aetna declined to do so, although it was willing to make a slight increase in its \$700,000 coverage in accordance with the two-bond coverage then being proposed by the Wichita office of the Warehouse Act Branch.

By December 1960, W. N. Pitts, of Aetna's Dallas office, apparently was having second thoughts about Estes. In a December 19, 1960, memorandum to the Hartford office, Pitts suggested that Estes be required to provide a certified audit within the next 6 months, stating that—

I have been giving an awful lot of thought to the above account and without a doubt Mr. Estes is one great promoter. \* \* \*

We realize that it would be a terrific proposition to try to get any such information together for us before the February 19, 1961, renewal of any bonds we might have, but I think we are on a considerable amount of liability for a very small premium rate and that we should probably become adamant even though the agency in this has a terrific amount of premiums coming from that operation. \* \* \*

I get a bit jittery on this business and of course I am not too worried about it as long as they have the excellent man in charge of the grain operations which they do have but we have no way of keeping constant track whether or not the fellow is there and operating the operations. I wish you would give this a thought and discuss it with me when we are talking or write me a note.

On December 22, 1960, in accordance with Pitts' suggestion, L. L. Tarbell, of Aetna's Hartford office, notified Dallas that—

\* \* \* I feel we should insist upon being furnished with audited CPA statements sometime during the year 1961 and you should notify your agent that unless these statements are forthcoming we will not continue on this business beyond February of 1962.

Despite its concern about Estes, Aetna renewed its \$700,000 bond coverage for an additional year, effective from February 24, 1961.

#### *Continuation of Bond Without Certified Audit*

In August 1961 Aetna was informed of rumors of possible irregularities in Billie Sol Estes' business dealings involving the South Plains Grain Co., a State-licensed warehouse at Levelland, Tex. However, the rumors were explained by the M. O. Andrews Co. as being due primarily to personal animosity between Estes and E. H. Patterson, a former associate in the South Plains venture.

Later in 1961, Aetna reminded the M. O. Andrews agency that it would require a certified audit before renewing Estes' bond. On October 31, 1961, Claude Dickerson of the Andrews agency sent Aetna's Dallas office a letter making the following comments:

The only way a bonding company would be called upon to pay a claim under a grain warehouse bond is because of loss of *quantity* or loss of *quality*. We think a thorough discussion of both of these items might be helpful in your understanding of this particular grain warehouse business.

\* \* \* \* \*

This warehouseman has selected a capable, experienced man, whose integrity has never been questioned (Wayne Cooper) as general superintendent of all grain storage operations. Mr. Cooper has complete control of hiring all employees, including local warehouse managers. All the local managers selected by Mr. Cooper are men of long experience in the storage of grain. Warehouse receipts are issued only by Mr. Cooper or certain designated employees

at the home office. Mr. Cooper and his designated employees have complete control of grain loaded in and grain loaded out. In other words, no grain could be shipped without Mr. Cooper's knowledge. Mr. Cooper is financially independent and he would not do anything that would jeopardize his reputation. \* \* \*

\* \* \*  
Mr. Estes has constructed and purchased warehouses and storage facilities of the best construction and with the most up-to-date testing equipment and equipment for conditioning the grain. Hotspot detection systems are installed to detect heating of the grain at any location in the warehouse. Adequate aeration systems are installed to keep the grain cool and a regular system probes or samples is maintained. Much of the equipment installed is not required by either Federal or State laws for storing grain. \* \* \* The fact that Mr. Estes has provided facilities better than required is an indication that this is not strictly a promotion deal, but he is vitally interested in the preservation of grain in his possession.

The Andrews agency memorandum pointed out that premiums on fire insurance for Estes' warehouses amounted to approximately \$60,000 annually and that the agency was earning close to \$15,000 per year on this business. (The fire insurance coverage, although obtained by Estes through the Andrews agency, was not written by Aetna.) The Andrews Co. memorandum then indicated that other surety companies were willing to write Estes' bond if they could also get his fire insurance business; the language of the Andrews Co. memorandum follows:

The Miller's Mutual Fire Insurance Co. has prepared a bond for Mr. Estes and has offered to execute it and lay it on his desk at any time that he will allow them to write his fire insurance. An agent in Muleshoe, Tex., being an agent for Trezevant & Cochran has also a power of attorney for execution of this bond in the amount of \$700,000, likewise, providing he can secure the fire insurance. An agent in Pecos has a letter from the Gulf Coast Underwriters in Houston giving him authority to execute the bond, providing they can write the fire insurance.

In the concluding paragraphs of the memorandum, Dickerson stated:

Although we know that last year it was definitely requested that a CPA statement be available before renewal of this bond, still we believe consideration should be given to the fact that this agency is earning a large commission on this account, plus the fact that we have done business with Aetna some 25 years or more with, we believe, a fairly good record. Although we have been told these bonds are extremely difficult to get, still, apparently, Mr. Estes has three sources that are ready, willing and eager to take his bond and it is difficult to understand why this agency should

be penalized by the loss of the fire insurance business simply because a CPA statement is not available.

We are making a definite request that for very important agency reasons this bond be executed.

The subcommittee's investigation did not establish whether Estes actually could have obtained surety bonds from other sources by transferring his fire insurance business or whether this claim was merely one more of his many misrepresentations.

As of late January 1962, Aetna had still not been provided an audited statement concerning Estes' financial condition. On January 23, 1962, the M. O. Andrews Co. sent Aetna an unaudited statement showing a net worth of \$16.3 million as of November 31, 1961. Although expressing considerable reluctance to do so, Aetna ultimately renewed Estes' bond at the \$700,000 figure for an additional year under an arrangement whereby only one-fourth of the risk was taken by Aetna and the remainder was assumed by other surety companies.

#### GRAIN STORAGE POLICIES AND PROCEDURES

##### *Background*

Earlier sections of this report have covered, to a considerable extent, the dual system under which warehouses are licensed by the AMS Warehouse Act Branch and approved for storage of Government grain by the Agricultural Stabilization and Conservation Service; they have also covered the circumstances of questions raised by the ASCS Dallas commodity office with the Warehouse Act Branch concerning Billie Sol Estes' grain storage operations. Details previously covered will not be repeated in this section.

Although Warehouse Act Branch licensing standards and ASCS approval requirements for grain storage facilities are basically similar, there are substantial differences in the size of the two programs involved and the organizational arrangements under which they are carried out.

The Warehouse Act Branch had a total of less than 100 employees in Washington and its 8 field offices in 1962; only 5 of the field offices are concerned with grain storage facilities. The Wichita office of the Warehouse Act Branch, which has responsibility for Texas and 5 other States, had 16 employees; by contrast, the Dallas ASCS commodity office alone (1 of 5 commodity offices carrying on grain storage operations at that time) had around 500 employees in 1962; of this number, approximately 40 were engaged in duties involving warehouse approval and inspection.

In 1962, the Wichita office of the Warehouse Act Branch was responsible for licensing and supervising operations of about 425 warehouses with a total capacity of around 600 million bushels in the 6-State area under its jurisdiction. In these same States, ASCS had grain storage contracts with nearly 2,700 warehouses with a total capacity of more than 2 billion bushels. The Dallas commodity office, at that time, was storing grain in nearly 900 warehouses with a capacity of more than 880 million bushels in Texas alone.

Under the procedures—and the operating practices—of the Warehouse Act Branch, practically all significant decisions affecting warehouses are made on an individual basis in Washington: field offices,



in effect, provide the Washington office with information on which to base decisions and implement them after they are made. On the other hand, ASCS decisions relating to approval and supervision of warehouses are customarily made by the commodity office concerned; information relating to individual warehouses is not normally sent to Washington.

As a practical matter, it would be extremely difficult for ASCS to centralize its operations in Washington as the AMS Warehouse Act Branch does. The approval and supervision of warehouses storing Government grain is only one of a number of duties assigned to Commodity Office personnel; they are also responsible for the acquisition, movement, and disposition of the Government's multibillion-dollar commodity inventories. The workload requires hundreds of employees and involves innumerable decisions every day. The Warehouse Act Branch, on the other hand, deals with less than 2,000 grain warehouses throughout the Nation; the necessity for making decisions with respect to each warehouse, under ordinary circumstances, would—at most—occur only a few times a year in connection with examinations, additions, or license renewals.

#### *Approval Requirements and Procedures*

Although the Warehouse Act Branch and ASCS have essentially similar standards for approval of grain warehouses under their respective programs, some requirements are—either actually or potentially—more important to ASCS than to the Warehouse Act Branch. This is true because ASCS, in addition to its responsibility for approval of State-licensed warehouses, also is the owner (through CCC) of the grain to be stored there. Since it is responsible for by far the largest grain merchandising and transportation operations in the country, ASCS must be particularly concerned about the ability of warehousemen to promptly load out the quality of grain called for in loading orders; otherwise, large-scale grain movements could not be carried out efficiently. Furthermore, if losses occur which cannot be recovered from the warehouseman or his surety company, ASCS (CCC) suffers a direct financial loss.

Although there have been no really significant differences in recent years between Warehouse Act Branch and ASCS requirements concerning financial responsibility of warehousemen, there has been a considerable variance in the number of instances in which the financial responsibility of the warehouseman or the adequacy of his surety bond has become an issue. For the Warehouse Act Branch, such instances have been almost nonexistent in recent years; Carl Miller told the subcommittee that he could recall only one case in the 7 years prior to 1962 in which it had been necessary to proceed against the bond of a federally licensed warehouseman; ASCS and its predecessor agencies, however, have been forced to seek recourse against warehousemen or their bonding companies on a substantial number of occasions. (For reasons previously discussed, the difference in losses suffered should not be construed as reflecting the relative efficiency of personnel responsible for the two programs involved.)

It is rather surprising, in view of ASCS ownership of grain in storage and its more frequent loss record, that procedures prescribed by ASCS for checking financial responsibility are—in at least one respect—weaker than those of the Warehouse Act Branch. ASCS regu-

lations provide for examination by Commodity Office personnel of financial statements submitted by warehousemen, however, they also specify that information shown on such statements should be accepted as correct in the absence of information to the contrary from other sources. The applicable regulation, which appears in the ASCS Grain Warehouse Approval Handbook (17-GR), follows:

#### ANALYSIS OF FINANCIAL STATEMENTS

*Acceptability.*—Financial statements shall be examined to the extent necessary to determine their general acceptability. Excessive analysis and verification of financial statement data which may unnecessarily delay the approval of warehouses or increase administrative costs should be avoided. The information shown on statements certified by the warehouseman and a reputable public accountant should be accepted as correct. Information shown on statements certified only by warehousemen should be accepted on the same basis unless information is available from the report of inspection, credit report, or other sources which indicate that the statement may not be reasonably correct (No. 14(A), p. 11).

Prior to 1958, ASCS (then CSS) regulations provided that the Commodity Office "shall obtain a credit report from a reliable source as an additional verification of the financial history and reputation of the applicant." However, in 1958 the word "shall" was changed to "may," and obtaining of credit reports thereafter was authorized but not required.

Despite the negative tone of the ASCS regulations, it should be noted that in practice independent credit reports were obtained fairly often by ASCS. The Dallas commodity office, it might be added, was obviously far more accustomed to obtaining Dun & Bradstreet reports than the Wichita office of the Warehouse Act Branch, whose chief did not recall ever seeing such a report in the course of his official duties.

#### *Policy Regarding Use of Commercial Storage Facilities*

The rapid growth of CCC inventories of surplus grain in the 1950's created tremendous storage problems. The shortage of storage space was so severe during some periods that private warehousemen were allowed to store Government grain in such nonconventional facilities as oil tanks, tents, and even a skating rink. In the Midwest, CCC storage needs were partially met by the eventual acquisition of approximately 1 billion bushels of Government-owned storage bins used primarily for storage of corn. In areas such as Texas, however, where sorghum and wheat were the principal grain crops, the Department of Agriculture's policy was to rely almost exclusively on privately owned facilities to provide space for storage of CCC grain.

As a result, incentives were provided during the 1950's to encourage expansion of privately owned warehouse space. These measures were described as follows in testimony by Secretary Freeman:

In order to provide adequate facilities in which to store the tremendous accumulation of surplus grain, the Government adopted policies designed to encourage private enterprise to construct commercial warehouse space. These policies included—

(1) Guaranteed storage agreements under which warehousemen were guaranteed that, if they would construct new storage space, the Government would assure a minimum percentage of occupancy for a period up to 6 years. This practice was discontinued in 1954.

(2) Accelerated amortization of construction costs—which was authorized by law and provided some tax relief for a brief period.

(3) Government loans which were made available to commercial grain storage warehousemen by the Small Business Administration.

(4) Attractive storage rates paid to commercial warehousemen by the Department of Agriculture—which were deliberately increased several times from 1952 through 1956, and were maintained at a high rate until 1960 when they were reduced by about 19 percent.

(5) Priority use of private warehouses for storage of Government grain over Government-owned storage bins in the same locality.

These policies induced a tremendous expansion of commercial storage space during the 1950's. Commercial grain storage capacity under uniform grain storage agreements increased from about 1 billion bushels in 1951 to over 4 billion bushels in 1960.

#### *Concern About Overexpansion in 1959*

By the late 1950's, C. H. Moseley, director of the Dallas commodity office, had become increasingly concerned about what he regarded as overexpansion of commercial grain storage capacity in the Southwest. In July, 1959, Moseley recommended to his superiors in Washington that a public statement be made in an effort to discourage further expansion. Moseley's recommendation was made in a suggestion submitted on June 18, 1959 for the agenda of a meeting of commodity office directors to be held in Minneapolis on July 15. Moseley's suggestion follows:

JUNE 18, 1959.

Frank R. McGregor, DAO, CSS, Washington.

C. H. Moseley, Director, CSS CO, Dallas.

Agenda for Minneapolis Directors' Meeting.

Attached are our suggestions for the agenda of the Directors' meeting in Minneapolis.

5. (a) What is the problem?

Review of grain storage policy.

Should CCC take cognizance of serious overexpansion of commercial storage?

Should we continue to approve unlimited expansion in areas where additional storage will not serve farmers directly?

Should we rely upon competition, empty space, storage rates, and free enterprise to solve the problem?

Should any public statements be made recognizing the adequacy of storage space in certain States?

In allocating CCC-owned grain for reconcentration, should consideration be given to priorities for existing

houses or those constructed prior to a certain date, perhaps January 1, 1960? If so, should such an announcement be made?

(b) How does it affect other offices?

Affects all grain offices.

(c) What will be the benefit of discussion at the Directors' meeting?

A meeting of the minds concerning the problem and a look at the future.

We now have 40 million bushels more space than is required for the current wheat harvest and new construction continues at a million bushels per day.

(d) What is the recommended solution?

We have none at this time.

(e) Is a decision expected at the Directors' meeting?

Probably not.

After discussion at the July 15, 1959, meeting in Minneapolis, the problem of overexpansion was again discussed in Washington on July 27, 1959, at which time it was decided that no public statement would be issued. The discussion took place at a meeting between officials of the Department of Agriculture and representatives of the grain trade serving on the Department's Grain Storage Advisory Committee. Minutes of this meeting contain the following account of what was said:

There was some discussion of the bill which is being considered in California which was referred to as a bill of necessity and convenience. If enacted into law, this bill would require a warehouseman to show the necessity of the structure before he would be allowed to build. It was reported that the bill was on the Governor's desk awaiting his signature.

This was followed by a considerable discussion of the question of how to prevent overexpansion. There was some sentiment for a press release which would tend to discourage any further expansion. It was finally agreed, however, that such a release could be misinterpreted and that in the long run it might be better to leave the question of further expansion to the judgment of the individual warehouseman. There was also some discussion of the possibility of tightening up on Commodity Credit Corporation's requirements for approval. It was pointed out that any move in this direction would have to apply across the board and could not be used to exclude individuals who were as well qualified as those who are now storing grain. Several instances of tightening up on the part of the Commodity Credit Corporation were pointed out and it was finally agreed that this process had not been a discouragement to expansion. It was also agreed that the Government was not in a position to say who could or could not go into a business and that the present policy of offering the facilities of the Department to industry in helping them make such decisions was as sound now as it was at the time it was adopted.

*Subcommittee Recommendation in 1960*

In a report adopted on August 31, 1960 (H. Rept. 2220, 86th Cong.), the Committee on Government Operations formally adopted the following recommendation by the subcommittee concerning Department of Agriculture storage policies:

The subcommittee recommends that the Department of Agriculture revise its grain storage policies to avoid encouraging further expansion of commercial storage facilities in areas where such expansion is unnecessary and undesirable. \* \* \*

In addition to the general recommendation that USDA policies be revised, the report included a specific recommendation that:

In areas where existing commercial storage space is already more than adequate for normal commercial needs, but where even more storage space must be constructed because there is no empty storage space available for additional Government grain being taken over under the price support program, the added storage space needed for Government grain should be provided, insofar as practicable, without further construction of commercial storage space. Rather than encouraging more commercial construction where there is no foreseeable commercial need, the Department of Agriculture should try to provide needed additional storage space for Government grain under these conditions by—

- (1) Encouraging expansion of farm storage facilities;
- (2) Utilizing directly, where feasible, any Government-owned installations which are properly located and are or can readily be made suitable for emergency grain storage;
- (3) Acquiring Government storage facilities wherever the total cost will be lower over the anticipated period for which new overflow storage will be required than the cost of any reasonable alternative method of meeting the need for additional storage space.

The storage recommendations formally adopted in the August 31 report had previously been submitted by the subcommittee to the Department of Agriculture on June 30, 1960, at which time the subcommittee was informed by the Department that its recommendations would be submitted to the CCC Advisory Board and the CCC Board of Directors for consideration. However, when asked whether the subcommittee's recommendations were ever presented to the CCC Board, Lionel Holm, Secretary of the Commodity Credit Corporation, responded as follows:

In anticipation of that question, I have made a search of the records, of the minutes of the Corporation, and I can find no record where the specific—or the recommendations in toto, put it that way, as a group—were ever placed on the agenda and considered and discussed by the Board of Directors. \* \* \*

*Moseley Recommendation in 1961*

In 1961, C. H. Moseley, director of the Dallas commodity office, again recommended that the Department of Agriculture take action to



discourage further storage expansion. The recommendation was contained in a memorandum prepared by Moseley as a result of a meeting in the fall of 1961 at which Moseley, James Ralph, then Assistant Secretary of Agriculture, and John White, Texas commissioner of agriculture, were present. Moseley described what happened at the meeting in the following testimony:

The substance of the discussion was the serious overexpansion of storage space and Dr. Ralph only listened to Commissioner White and I, and asked me to write the memorandum on the subject. He made no commitments and did not express himself one way or the other as for it or against it.

The gist of my recommendation was that we issue a press release and stop approving new warehouses. \* \* \*

On October 31, 1961, Moseley sent the following memorandum to Ralph:

U.S. DEPARTMENT OF AGRICULTURE,  
COMMODITY STABILIZATION SERVICE,  
*October 31, 1961.*

U.S. Government memorandum.

Subject: Overexpansion of grain storage facilities in the Southwest.

When you were in Dallas last week we conferred with Mr. John White, commissioner of agriculture for the State of Texas, concerning the serious overexpansion which is now taking place in the grain storage industry of the Southwest. Upon concluding that discussion you requested that I write you a letter upon this subject, sending copies to the Under Secretary, the Administrator, and the Deputy Administrator, Commodity Operations.

The rapid expansion of storage facilities in the Southwest can best be illustrated by the record of total space approved under the uniform grain storage agreement since January 1, 1958, as shown below:

[In bushels]

	Oklahoma	Texas
Jan. 1, 1958.....	144, 651, 300	353, 016, 300
Jan. 1, 1959.....	172, 685, 000	529, 432, 700
Jan. 1, 1960.....	216, 761, 400	624, 194, 100
Jan. 1, 1961.....	229, 667, 000	721, 982, 000
Jan. 1, 1962 (estimated).....	247, 715, 00	893, 978, 000

NOTE.—These figures do not include farm storage.

The stocks of CCC-owned grain now stored in Oklahoma total approximately 118 million bushels and in Texas, approximately 545 million bushels. In addition, there are approximately 28 million bushels of 1961 crop wheat remaining under loan in Oklahoma and 14 million bushels in Texas. Redemptions are being made very rapidly, and substantially all of the 1961 wheat should be redeemed. With milo harvest nearly complete, approximately 150 million bushels of empty space have been offered us for use for CCC grain. Of course, this space is not needed.

As in any industry with overexpanded facilities and high fixed costs, there is a strong tendency toward price wars. With the vast amount of empty space awaiting the current milo harvest, rate cutting became

widespread and assumed many forms. One of the most common inducements offered farmers is to give them free storage until March 31, 1962, the maturity date of grain sorghum loans. This gives the farmer the advantage of the gross loan rate and raises the effective price-support level 8 to 12 cents per hundredweight. The warehouseman hopes that the grain will be taken over by CCC at maturity and that it will remain in storage thereafter in order that he may earn storage under the uniform grain storage agreement. Rate cutting also takes other forms, such as cash payments and various tie-in sales arrangements. Some warehousemen buy the producer's excess milo which is ineligible for the loan at inflated prices if he places all of his loan milo in storage with them.

These symptoms of an overexpanded industry do not necessarily mean that the storage rates under the UGSA are too high. The question of fair and reasonable storage rates is an entirely different matter. When we reduced storage rates by 19 percent on July 1, 1960, the expansion of storage increased rather than decreased.

Although we have no desire to hamper free enterprise, we believe that the policies of CCC are in a large measure responsible for the rapid expansion of the storage industry to meet the needs of the farmers and the Government and that we now have some responsibility for curtailing further expansion.

Our feed grain program for 1961 has been a success. We expect further good results in 1962 in reducing the production of both feed grains and wheat. Efforts to expand the exportation of our abundance are also meeting with success. One of the significant results will be a lessening of the need for grain storage and the expense thereof. We believe, therefore, that the time has come for us to reconsider our long-established policy of executing uniform grain storage agreements with all warehousemen who meet our requirements. We believe that there is more than ample storage space in the Southwest to meet the need for the foreseeable future. The need for storage can be expected to decrease rapidly in the months ahead as the result of the feed grain and wheat programs and continuing exports. For the past 3 months we have been reducing our stocks by sales averaging 17 million bushels per month. Yet, during October we approved 20 million bushels more new space in Texas alone and another 49 million is under construction in this State. This way lies disaster.

It is our considered opinion that the grain storage industry of the Southwest faces economic collapse within the next 1 or 2 years if the present trend continues. The risk to the Government will increase as warehousemen storing millions of bushels of grain face bankruptcy.

The solution which we propose takes the form of a press release along the lines of the attached rough draft. In simple terms we propose to stop approving further expansion under the uniform grain storage agreement. Exceptions will be limited to the following circumstances:

1. Port elevators may be approved for additional export handling facilities. They will not be approved for dead storage.

2. It is barely possible that the farmers in some isolated area might develop a local need which should be met. If such a facility were approved, it would be small in size and would not be used for the storage of reconcentrated grain.

3. Warehouses which are destroyed by fire or other disaster could be replaced by facilities of the same size at the same location.

4. Provision must be made to approve facilities which are under construction on the date of the announcement.

The significance of this last item makes it very important that no hint of this proposal reach the public prior to the issuance of a press release. It is for that reason that this memorandum is marked "Administratively confidential." Any advance rumors concerning this proposal could bring about a further sharp increase in "starts."

C. H. MOSELEY.

With the memorandum, Moseley forwarded to Washington the following draft of a proposed press release:

[Draft]

ASCS ANNOUNCES NEW POLICY OF APPROVING  
GRAIN STORAGE SPACE

Dallas commodity office of the Agricultural Stabilization and Conservation Service today announced a change of policy in approving warehouses under the uniform grain storage agreement in Texas, Oklahoma, and New Mexico.

Generally, the Dallas ASCS commodity office will not approve any new storage space or expansion of already existing warehouse space in these three States, C. H. Moseley, director, announced.

This new policy went into effect November —.

"We believe that more than ample space has been built to meet any need in the foreseeable future," the Dallas ASCS commodity official pointed out.

He added that changes in the feed grain and wheat programs indicate storage needs for storing grain owned by Commodity Credit Corporation will decrease rapidly in the months ahead.

With milo harvest in the Southwest almost complete, approximately 150 million bushels of empty space from Texas, Oklahoma, and New Mexico have been offered for storing CCC-owned grain.

"We have been reducing stocks during the past 3 months by selling approximately 17 million bushels per month," Moseley explained.

Continuing, he said there are some types of storage the Dallas ASCS commodity office may accept under UGSA, such as tidewater warehouses built only for loading ocean-going vessels; those built to meet a well-defined local need; those built to replace existing storage and those which were under construction November —.

Heretofore, ASCS has followed the practice of approving applications under UGSA when warehousemen and the facility met minimum requirements. Now, as in the case of other commodities, space will be approved only as it is needed.

Moseley said today's announcement in no way precludes construction of warehouses by industry, only the policy ASCS will follow in approving warehouses under the uniform grain storage agreement.

*CCC Board Decides Against Action*

On December 26, 1961, the Board of Directors of the Commodity Credit Corporation decided against limiting further approvals of warehouses for storage of Government grain. The action of the Board was taken after its members received the following memorandum from Horace Godfrey, Executive Vice President of the Commodity Credit Corporation:

U.S. DEPARTMENT OF AGRICULTURE,  
COMMODITY CREDIT CORPORATION,  
*Washington, D.C., December 20, 1961.*

Subject: Approval of warehouses under the uniform grain storage agreement.

This is in further response to a request for information on a recent proposal made before the Board that no further approvals of warehouses be made under the uniform grain storage agreement.

As you well know, our current storage situation is changing. We have considerable storage space available to us in various parts of the country which is far in excess of our needs. Currently, there is nearly 5 billion bushels of storage space approved under the uniform grain storage agreement. This figure, plus approximately 1 billion bushels of space in Commodity Credit Corporation-owned bins and the reserve fleet at east and west coast anchorages make a total of approximately 5.75 billion bushels of storage space available to CCC at this time. In comparison, our current stocks of grain total approximately 3.2 billion bushels.

Because of the overexpansion of commercial grain facilities, particularly in certain sections of the country, the demands from warehousemen for stocks of grain for storage are rapidly increasing. This is particularly true in the Southwest where expansion of storage facilities has been the greatest.

This overabundance of storage space has led to the proposal that we approve no additional facilities under the uniform grain storage agreement. While this action would eliminate one problem, it would raise several others.

The price-support program is primarily to benefit the producer. In order to take advantage of price-support loans on wheat, approved storage facilities must be made available to all producers within reasonable distances. Limiting approvals would make the producer, in effect, a captive customer of the warehouseman and would diminish the bargaining power which a producer would have with respect to storing his grain. Moreover, the refusal by CCC to approve any additional facilities would actually shackle commercial freedom of action and establish a Government control over the economy of the grain warehousing industry.

Moreover, there is a serious question as to whether anyone today can go into the grain business without a uniform grain storage agreement because of the size of CCC inventories and the quantities being placed under price-support loans. Denial of approval to warehousemen who meet CCC's standards would also be morally, if not legally, questionable.

If CCC were to deny further approvals, we would be subjected to heavy congressional and industry pressures because we are denying a person the right to establish himself as a public warehouseman.

Finally, any proposal to limit additional warehouse approvals must carry certain exceptions. Experience has demonstrated that in matters of this kind the exceptions soon nullify the purpose of the rule.

In brief, there is very little that can be said in favor of denying further approvals to warehousemen. It may be held that, since CCC is in a large measure responsible for the rapid expansion of grain storage facilities, it now has the responsibility for curtailing further expansion. It would effectively stop additional construction of warehouse facilities for grain and would save the administrative costs involved in additional examination and maintenance of records. It could also reduce the constant demands and pressures made upon CCC to fill unused storage space for grain.

It is my judgment that the factors against the limiting of further approvals of warehousemen under the uniform grain storage agreement preponderantly outweigh any factors in favor of such action. It is, therefore, recommended that no action be taken by CCC to attempt to deny or restrict additional approvals under the uniform grain storage agreement.

(signed) H.D. GODFREY.

In his testimony, which follows, C. H. Moseley told the subcommittee that his warnings about overexpansion had generally been proved wrong because of increased grain production until 1961, when the situation finally changed:

Our inventories continued to build up and, although I viewed overconstruction, overexpansion, with alarm over a period of years, I was generally proved wrong the next spring when we actually needed the space.

Now I think after these many years I have been proven right this year because I don't think we are going to need the space any more.

#### *Dallas Commodity Office Approval Requirements*

As has been previously noted, approval of a warehouse for storage of CCC grain under a uniform grain storage agreement does not necessarily mean that grain will actually be stored there. The UGSA sets forth the terms and conditions which will apply in the event CCC grain is stored, and its issuance indicates that the warehouseman receiving it is considered to be properly qualified for storage of Government grain. CCC policy is to approve all applicants considered qualified for UGSAs, without regard to whether or not additional storage space is needed; C. H. Moseley, director of the Dallas commodity office told the subcommittee that "Our policy is that we will approve space for any warehouseman who meets our requirements \* \* \*."

In his testimony, Moseley stated that he had established requirement for warehousemen storing CCC grain in the Dallas commodity office area, which in some respects, exceeded the minimum standard prescribed by regulations. It was Moseley's practice to require a double surety bond for flat warehouses; Moseley's testimony, which follows, indicated that the double bond was retained after flat warehouses proved successful in order to serve as a deterrent to overexpansion:

Mr. NAUGHTON. Is it true, Mr. Moseley, that you have been requiring a double bond for flat or nonconventional facilities?



Mr. MOSELEY. Yes, sir, that is correct.

Mr. NAUGHTON. Why have you done that?

Mr. MOSELEY. We started that a number of years ago at a time when flat facilities were somewhat experimental in nature and no one knew in the trade or in the Government how successful would be the latest developments in aeration equipment and in handling equipment for flat storage.

At that time we did not know whether there was a greater risk involved or not. In order to be on the safe side, we doubled the bonding requirement on the flat storage.

Mr. NAUGHTON. So these flat facilities were not usual and customary?

Mr. MOSELEY. At that time. However, a great change has taken place and the flat storage facilities have over the years proven themselves. The aeration systems have been developed to a very high level of efficiency.

It would be difficult to say now that flat storage is inferior to upright storage. However, because we had our bonding requirements previously established there, and because in general we didn't want to reduce any bonds in the face of such a rapidly expanding industry, we simply did not change.

Another practice followed by Moseley was to require personal endorsements from the major stockholders of corporations storing CCC grain. The effect of this requirement in discouraging expansion of commercial storage space was described by Moseley in the following testimony:

Mr. NAUGHTON. Now if you had been willing to permit them to do it, these people naturally would have been interested in setting up a corporation with the least amount of invested capital they could get by with?

Mr. MOSELEY. There was that tendency; yes, sir.

Mr. NAUGHTON. And your requirement they assume personal financial responsibility was to prevent the practice of setting up a shell corporation, with very little assets against which you could recover?

Mr. MOSELEY. That is correct.

Mr. NAUGHTON. Now did you find that any of the people who wanted to get into the grain storage business, when they learned what your requirements were, personal financial responsibilities, higher bond, did any of them then decide not to get approval under your regulations and go instead to the U.S. Warehouse Act Branch?

Mr. MOSELEY. I don't know of any that took that alternative. A great many of them decided not to go into the grain business after talking to us. We have been very, very discouraging on the subject over the years and a great many of them decided it wasn't as good a thing as they had been led to believe. Also, some of them looked askance at that personal endorsement form. Oilmen tend to look at that as they would a rattlesnake.

Mr. NAUGHTON. In other words, they wanted Uncle Sam to take the gamble instead of taking it themselves.

Mr. MOSELEY. Yes, sir; and many, many of them were discouraged and did not go into the business.

Moseley gave the following description of steps taken by the Dallas commodity office to tighten its storage requirements as more space became available:

We have made a distinct effort to improve the quality of grain storage facilities. We have removed from the approved list several houses of questionable value. And we have continued to tighten up all the time our requirements as to load-out capacity and handling equipment and aeration. Our standards have been constantly going up as we saw plenty of space becoming available from time to time.

*Procedures in Dallas Commodity Office*

Moseley told the subcommittee that the approval of storage agreements was handled by the storage management division of the Dallas commodity office, usually without his prior knowledge. Moseley's testimony on this point follows:

Mr. NAUGHTON. What is the process and what has been the process for approval of new applications for uniform grain storage agreements in the Dallas commodity office and who are the officials involved?

Mr. MOSELEY. That function is in our storage management division. The chief of that division is Mr. Lee Wanner. His assistant is Mr. Albert Eads and his subordinate is Mr. Donald Kolp. Those are the key men in the execution of warehouse contracts.

Mr. NAUGHTON. Who has the authority to approve a warehouse contract in the Dallas office?

Mr. MOSELEY. Mr. Wanner, Mr. Eads, Mr. Kolp, and of course the director or the acting director.

Mr. NAUGHTON. Is it customary for them to consult with you before approving a contract?

Mr. MOSELEY. Not unless there is something which they feel we should discuss. They normally approve them in a rather routine fashion, when the applicant meets the regular requirements.

The routine manner in which federally licensed warehouses were approved for storage agreements was described by Moseley in the following testimony:

Mr. FOUNTAIN. Do you automatically accept issuance of a Federal license as a sufficient basis for entering into a storage agreement?

Mr. MOSELEY. Almost automatically. I would say it is prima facie evidence of eligibility. We do have the authority to deny such contracts but it is almost automatic.

Mr. FOUNTAIN. Do you make any inquiry behind the issuance of a Federal license?

Mr. MOSELEY. No, sir, we do not. We have no desire to duplicate the responsibilities of AMS.

Mr. FOUNTAIN. In other words, there is no requirement you look behind it?

Mr. MOSELEY. That is right.

#### APPROVAL OF ESTES' STORAGE CONTRACTS

##### *Federally Licensed Warehouses*

At the time of his arrest, Billie Sol Estes owned or exercised some degree of control over grain storage facilities with a total capacity of slightly more than 87 million bushels. Nearly 80 million bushels—more than 90 percent—of this storage space was federally licensed. Federal licenses for 51.6 million bushels of storage capacity were issued to Estes himself, doing business as United Elevators. Federal licenses for another 28.5 million bushels of space were issued to C. E. Davis and the Worsham brothers, doing business respectively as Palo Duro Grain Co. and Allied Elevators. The issuance of Federal licenses for Estes' warehouses by the AMS Warehouse Act Branch has been discussed in some detail in previous sections of this report. The preceding discussion also covers most of the more significant actions by ASCS personnel involving federally licensed warehouses. Matters previously covered will not be discussed in this section.

As has been previously noted, it was the practice of the Dallas commodity office to approve federally licensed warehouses for uniform grain storage agreements almost automatically; this procedure was authorized under ASCS regulations, but was not required. C. H. Moseley, director of the Dallas commodity office, told the subcommittee that he was frequently consulted about approval of Estes' facilities by his subordinates; Moseley's testimony on this point follows:

Mr. NAUGHTON. Let me ask you then about the facilities with which Mr. Estes has been connected. Were they approved in a routine fashion or were you consulted about the approval and the approval of each expansion?

Mr. MOSELEY. I was consulted many times as the expansion took place, because it was so amazingly rapid. And I was consulted even before the applications were made as our people would report that millions and millions of more construction was underway. So we were very mindful of the expansion and we were concerned about it as the record shows.

Although Moseley was kept informed because of Estes' rapid expansion, the subcommittee's investigation indicated that grain storage contracts for Estes' warehouses were approved on a perfunctory basis within a few days after such facilities were federally licensed. The routine manner in which this was done is perhaps best illustrated by the fact that, on one occasion, the commodity office, apparently through inadvertent error, actually issued a uniform grain storage agreement on recently completed facilities a few days before the license was obtained. (The error did not result in any benefit to Estes, since no grain was loaded into the facilities involved before they were licensed.)

Moseley testified that none of his Washington superiors ever asked him to approve storage contracts for Estes, and the subcommittee's investigation disclosed no evidence of such intervention. The subcommittee's investigation indicated that contacts with the Dallas commodity office relating to approval of grain storage contracts were handled by Wayne Cooper, general manager of Estes' storage operations, rather than by Estes himself.

Actions taken by C. H. Moseley to raise questions with AMS Warehouse Act Branch officials concerning Billie Sol Estes have been discussed in detail in previous sections of this report.

#### *State-Licensed Facilities*

Although most of Billie Sol Estes' grain storage space was federally licensed, approximately 7,600,000 bushels was under State license. Facilities at Lamesa with a capacity of 666,000 bushels and 2,463,000 bushels of space at Levelland (South Plains Grain Co.) were known to be controlled by Estes. An additional 4,489,000 bushels of capacity at Plainview (Hale County Grain Co.) was ostensibly owned by W. W. Hill. Testimony of C. H. Moseley regarding approval of the Lamesa and Levelland facilities follows:

Mr. SMITH. Do you play any part in determining whether or not financial statements submitted by grain storage operations are sufficient?

Mr. MOSELEY. In connection with houses which are not licensed under the United States Warehouse Act, I am responsible for the review and acceptance of those statements.

Mr. SMITH. But specifically with regard to Billie Sol Estes, did you have anything to do with determining whether or not the financial statements he submitted were sufficient and should be taken at face value?

Mr. MOSELEY. I was responsible for the approval of the two State-licensed houses, the small house at Lamesa and the house at Levelland.

Mr. SMITH. Did he submit a financial statement with regard to that operation, the same as he did with others?

Mr. MOSELEY. Yes, sir.

Moseley testified that the Lamesa contract was approved on April 2, 1961, and the Levelland facilities in September 1961, and that financial statements submitted by Billie Sol Estes in connection with approval of the contracts were not questioned by the Dallas commodity office. The subcommittee's investigation indicated that, while Estes supposedly did not control the Lamesa and Levelland installations prior to the dates given by Moseley, he did have an interest in them before that time. A financial statement for Estes was submitted to the Dallas commodity office in connection with the Lamesa facility in November 1959; the subcommittee's investigation did not disclose evidence that any question was raised concerning it.

The financial statements submitted to the Dallas commodity office contained the same misleading information concerning Billie Sol Estes' financial condition as did the ones provided to the AMS Warehouse Act Branch. In testimony at subcommittee hearings, which follows, C. H. Moseley stated that the Dallas commodity office would

have refused to approve storage contracts for Estes if it had been aware of this:

Mr. SMITH. If you had actually known the net worth was zero, would you have requested a higher bond?

Mr. MOSELEY. We would have refused to approve the house.

Mr. SMITH. So it was a very material factor?

Mr. MOSELEY. Yes, sir.

Billie Sol Estes has been indicted for submission of false statements to the Commodity Credit Corporation, but has not yet been tried on these charges.

A table on page 426 of the appendix contains additional information concerning approval of grain storage contracts for both State and federally licensed warehouses operated by Billie Sol Estes doing business as United Elevators.

#### ASSIGNMENT OF GRAIN STORAGE PAYMENTS

##### *Assignment to Commercial Solvents*

Until around 1940, the assignment of payments due to firms providing goods or services for the Federal Government to third parties was generally prohibited by law. However, the Assignment of Claims Act and subsequent amendments to it relaxed the prohibition against assignments considerably in order to encourage private financing of defense contractors. (In the absence of an assignment, claims of Federal agencies against sums owed Government contractors normally take precedence over debts owed private financing agencies. However, under certain circumstances, firms holding a valid assignment covering money owed by the Government to a contractor may be in a position to assert a prior claim as against Government agencies.)

The subcommittee's investigation indicated that it apparently has been the practice of the Department of Agriculture to allow the assignment of proceeds of CCC grain storage contracts without considering whether or not a particular assignment operates to the benefit or detriment of the Government. The Department told the subcommittee that:

Assignment of earnings under UGSA contracts is not an unusual arrangement; it is an arrangement rather frequently employed by warehousemen for the benefit of their bankers or creditors. It has not been CCC's practice in connection with assignments made by warehousemen to inquire about indebtedness by the warehouseman to his assignee. Therefore, our Dallas commodity office was not familiar (prior to April 1962) with the facts relating to any advances or loans that may have been made by Commercial Solvents to Estes either before or after the execution of assignments by Estes.

The subcommittee's investigation indicated that, in accordance with a prior agreement to do so, Billie Sol Estes executed an assignment of grain storage payments due or to become due to United Elevators to Commercial Solvents on March 4, 1959. A copy of the instrument of assignment was sent by Commercial Solvents to the Dallas com-



modity office on April 1, 1959; receipt was acknowledged by the Dallas office on April 2. In notifying the Dallas commodity office of the assignment, Commercial Solvents Corp. identified itself as a "financial institution." The assignment to Commercial Solvents was renewed in August 1960; at that time Commercial Solvents identified itself as a "person or firm holding lien or encumbrance" rather than a "financial institution."

#### *Inaccurate Reports to Subcommittee*

For several years the subcommittee has been receiving, at its request, monthly reports from the Commodity Credit Corporation identifying the recipient and purpose of each CCC payment in excess of \$50,000. A review of reports received by the subcommittee during the period of Estes' storage operations disclosed that Commercial Solvents was properly identified as the recipient of only two of the many payments it received under the assignment from Billie Sol Estes. The two payments, which were made on April 15 and June 18, 1959, totaled approximately \$307,000.

Commercial Solvents received CCC payments aggregating more than \$7 million after June 1959. However, reports made to the subcommittee showed these payments as being made to United Elevators, Plainview, Tex., with no mention being made of either Commercial Solvents or Billie Sol Estes. The payments to United—although very large—did not stand out because payments as large or even larger were being made to other warehouses.

If the payments being made by CCC under the assignment had been properly reported, reports to the subcommittee would have disclosed that constantly increasing amounts were being paid to Commercial Solvents Corp., 260 Madison Avenue, New York City. Since payments to a chemical sales firm on grain storage contracts are hardly a usual occurrence, the situation might well have attracted the subcommittee's attention. If the payments to Commercial Solvents had been properly identified, some inquiry almost certainly would have been made in early 1961, when the subcommittee learned through reports in trade journals that Walter Berger, former executive vice president of the Commodity Credit Corporation, had become associated with Commercial Solvents.

Dallas commodity office officials and employees responsible for preparing the reports of payments over \$50,000 were questioned by subcommittee representatives concerning the failure of such reports to properly identify payments to Commercial Solvents. They ascribed the omission of Commercial Solvents' name as a clerical error. The subcommittee's investigation did not disclose evidence to the contrary.

#### GOVERNMENT SHIPMENTS OF GRAIN TO ESTES' WAREHOUSES

##### *Allegations of Favoritism*

When Billie Sol Estes was arrested in March 1962, he owned or had an interest in grain storage facilities in west Texas which were approved for the storage of a total of 87 million bushels of Government grain. While approval of a warehouse for Government storage does not necessarily mean that any grain will be shipped there, Estes' elevators actually were storing many millions of bushels of Govern-

ment-owned grain sorghum and a substantial amount of CCC wheat. After Estes' arrest, there were many widely circulated rumors and allegations concerning the manner in which he obtained Government grain for storage.

A fairly typical example of these allegations is the one made by Marshall Formby, then a candidate for Governor of Texas, the day after Estes' arrest. According to an Associated Press report published in Texas newspapers, Formby issued a statement which included the following language:

How did Estes fill grain storage bins with a reported 85 million bushels unless he had help from high officials in Washington? The annual income of Estes must have been around \$8 million a year. The question unanswered is why were his storage bins always full when the bins of many other grain men were half full?

The validity of Formby's allegation was not hard to assess. Instead of being full, as charged by Formby, Estes' warehouses actually contained a total of not quite 34 million bushels of Government-owned grain when he was arrested—less than 40 percent of their 87 million bushel capacity. An additional 12 million bushels of grain belonging to producers who had pledged it as collateral for Government loans was also stored in Estes' facilities, but even if loan grain had been included the total would have reached only 46 million bushels—less than 55 percent of capacity.

Many other rumors and accusations were publicly circulated concerning the manner in which Estes obtained Government grain for storage; most of them involved a comparatively few basic charges. Some of these charges related to alleged preferential treatment of Estes by Government employees in ordering shipments of grain to and from his warehouses; in substance they were:

1. Unnecessary shipments of grain were made from the Kansas area to Estes' warehouses, bypassing available storage space in the Kansas area on the way to west Texas.

2. Estes' warehouses were given preference over those of competitors in the allocation of Government grain being "reconcentrated" for further storage. In addition to general allegations of favoritism in allocation of grain shipments, specific charges were made that—

- (a) Shipments were dispatched to Estes' warehouses before construction was completed, causing a serious accumulation of unloaded railroad cars.

- (b) Substantial unnecessary freight costs were incurred through shipments of grain to Estes' facilities when shipments could have been made at a lower cost to warehouses in other parts of Texas.

3. Estes' warehouses were not unloaded as rapidly as those of his competitors.

Another category of allegations involved the offering of free storage and other inducements to producers in order to obtain grain for storage.

No evidence—or even specific allegations—of favoritism in shipments of Government grain to Estes' warehouses was submitted

by anyone directly to the subcommittee; however, an effort was made to confirm or disprove every such allegation which came to the subcommittee's attention through news reports or its own investigation. This was not an easy task. Practically all of the allegations were general rather than specific, and most of them necessitated examining the treatment of Estes' competitors, as well as Estes himself, in order to determine whether he had received preferential treatment. In its examination of this subject, the subcommittee made considerable use of information developed by personnel from the General Accounting Office on temporary assignment to the Senate Committee on Government Operations. On this assignment, GAO staff members reviewed movements of CCC-owned grain through the Dallas Commodity Office area (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas) during calendar year 1961. The review was made by personnel from GAO offices in Washington, Dallas, Kansas City, and Chicago who were experienced in grain storage and transportation matters. Other GAO personnel also examined shipments of grain into Estes' warehouses to determine whether any excess transportation costs to the Government resulted from such shipments.

Through the courtesy of Chairman McClellan of the Senate committee, the subcommittee was given access to data developed in the review by GAO personnel on assignment to that committee. Comer Harvill, the GAO supervisory accountant who had been in immediate charge of the work done for the Senate committee, was then temporarily assigned to the subcommittee by the General Accounting Office. While on this assignment, Mr. Harvill prepared a statement for the subcommittee based primarily on the data collected in the earlier study for the Senate committee. Mr. Harvill's full statement appears on page 393 in the appendix of this report.

#### *Grain Movement Patterns and Procedures*

An understanding of the usual pattern for movement of CCC and privately-owned grain is essential in evaluating the propriety of shipments to Estes' warehouses. In its operations, the Commodity Credit Corporation normally utilizes the "usual and customary channels, facilities, and arrangements of trade and commerce" in warehousing and transporting its inventories of agricultural commodities. Consequently, grain acquired by CCC from producers under the price-support program is, for the most part, stored in commercial warehouses, and shipments of Government grain usually follow the same pattern as movements of privately-owned grain.

At harvesttime, producers normally bring grain by truck to "country" elevators near the point of production. The grain may be sold to the elevator or, if eligible, pledged at the elevator as collateral for a price-support loan; if the producer does not redeem it by paying off the loan within a specified time, the grain is then "taken over" by CCC. Some grain (usually feed grain) is sold at country points to meet local needs; marketing of the remainder is handled through shipments to "terminal" elevators. Terminals have official weight and grading services which are not available at country elevators and are normally situated at more convenient locations for marketing and further transportation.

Wheat produced in the Kansas area which is sold for export usually moves by rail from terminal elevators, many of them in Kansas City, to Texas and Louisiana port cities. Because of insufficient space at port elevators, grain intended for export frequently cannot be moved directly from Kansas terminals to port locations; in such cases, it is usually stored in terminal elevators en route.

Grain storage operations of the Commodity Credit Corporation, the wholly owned Government corporation which holds legal title to Government commodity inventories, are carried on through Department of Agriculture employees in Washington and in regional commodity offices. During the period covered by the subcommittee's investigation, two regional commodity offices were involved in shipments of Government grain to west Texas elevators for storage. They were the Kansas City office, which handled Government grain storage operations in Kansas, Nebraska, Missouri, Colorado, and Wyoming, and the Dallas office, which had responsibility for operations in Texas, Oklahoma, New Mexico, Louisiana, and other States. (In 1963, the Dallas Commodity Office was closed and its duties assumed by the Kansas City office.)

Donald Smith, director of the Kansas City Commodity Office, testified at subcommittee hearings that his office analyzed the need for "reconcentration" movements (movement of grain for further storage) in the Kansas City area, coordinating its work with the Dallas and Washington offices. Smith told the subcommittee:

\* \* \* It is our responsibility to review the situation in the area as to the storage needs as we can foresee them in the future, not only for Commodity Credit Corporation's requirements on grain that they may take over from price-support operations, but also to make certain that there is adequate space available for the producers to store their new crop.

Consequently, it is our responsibility to attempt to analyze this situation as far in advance as we can and to project the needs and then plan actions necessary to give the necessary relief to the storage situation in our area. \* \* \*

Generally the overall plans are proposed by our office and when space is available in the Dallas area, the Dallas office and our office generally work in conjunction with one another in determining the movement into that area. Movements to some of the other areas are generally specifically authorized out of the Washington office. In all instances, the general movement of grain on the reconcentration program is known to my Washington superiors through various communications.

Smith testified that movements of grain from the Kansas City area are made for two purposes—to meet program needs such as export and domestic sales of CCC grain, and to free space needed for storage of CCC and producer grain. Smith described the normal movement of wheat being shipped from the Kansas City area as follows:

Generally the wheat would move out of our area to the southeast, or to the south, or the gulf. That is the normal movement for most of the wheat that is produced in the Kansas City area. The freight rate structures are set up to provide that type of a movement. \* \* \*

*Policy Considerations Relating to Grain Movements*

According to USDA witnesses, it is the policy of the Commodity Credit Corporation not to move Government-owned grain unnecessarily from the point where it is originally stored. Donald Smith described his understanding of this policy in the following testimony at subcommittee hearings:

Mr. NAUGHTON. Is it the policy of Commodity Credit Corporation that grain is not to be moved from the point of production, unless such movements are necessary?

Mr. SMITH. That is correct. Necessary for the purpose of program needs, necessary for the purpose of providing space for grain which we acquire as a result of price support, and necessary to provide space for the oncoming crop.

The reasoning behind CCC's policy against unnecessary grain movements was explained by C. H. Moseley, Director of the Dallas Commodity Office. In his testimony Mr. Moseley told why CCC prefers "flat" grain (grain which has not been moved by rail) to grain which has been shipped by rail from the producing area to a storage facility at another location:

Mr. NAUGHTON. Is it more advantageous for Commodity Credit to have grain in storage, without billing, assuming this is where it was brought by the producer?

Mr. MOSELEY. Very definitely. We always prefer flat grain, and we prefer to leave our flat grain flat as long as possible, for several reasons.

Mr. NAUGHTON. Would you explain those for the record?

Mr. MOSELEY. Yes.

First, we don't like to have the money tied up in transportation. Second, we don't like to have to pay annual renewal charges on the freight. Third, because of the influence of truck competition, in our area at least, flat grain is worth more than rail grain with the freight backed off. The flat grain, of course, can go anywhere. It is in the ideal merchandising position, because it can go anyplace. With the rail grain, you are tied up as to where you can go.

*Analysis of Shipments*

An analysis of CCC accounting records made by GAO personnel on temporary assignment to the Senate Committee on Government Operations disclosed that a total of 16.5 million bushels of CCC grain had been ordered shipped to United Elevators and other Estes-related facilities (Hale County Grain Co., Palo Duro Grain Co., Allied Elevators, and South Plains Grain Co.) by Government employees. This was 37 percent of the total amount of 44.8 million bushels of Government-owned grain which Estes acquired for storage. Of the 16.5 million bushels, 8.5 million was reconcentrated from the Kansas City Commodity Office area and the other 8 million was shipped from within the Dallas Commodity Office area. (The remaining 28.3 million bushels of CCC grain acquired by Estes was in storage when he acquired elevators, or was obtained through producers or other warehousemen; because USDA had loaded out 11.1 million bushels of grain prior to Estes' arrest, only 33.7 million bushels was still in storage at the end of March 1962.)



The analysis of CCC records showed that 3.5 million bushels of Government grain (22 percent of the 16.5 million bushel total) was shipped to Estes' facilities in 1959 and 1960; the other 13 million bushels was shipped during 1961; 8.6 million bushels of the total movement was wheat and the remaining 7.9 million was grain sorghum. Most of the wheat originated in the Kansas City Commodity Office area, while shipments from within the Dallas office area were primarily grain sorghum. The heaviest movement to Estes' facilities took place in the late spring and early summer of 1961, when about 7.5 million bushels of wheat and nearly 2 million bushels of grain sorghum were received. (A table showing shipments of grain to Estes' warehouses by years appears in appendix 13A, p. 428.)

The grain shipped to Estes' warehouses from the Kansas City area during 1959, 1960, and 1961 was only a small part of the total movement of grain from the Kansas City area during the 3-year period. USDA records indicate that reconcentration orders for a total of 312 million bushels of grain were issued by the Kansas City Commodity Office during calendar years 1959 through 1961; of this total 273 million bushels was ordered shipped to the Dallas office area and 8.5 million went to Estes' facilities.

Donald Smith, director of the Kansas City Commodity Office, told the subcommittee that shipments out of country elevators in his area had been necessary to make room for grain to be harvested, and that shipments to the Dallas area were made only because terminal space was not available in the Kansas City area. Smith described the situation in 1961 as follows:

\* \* \* in 1961 when our movement out of the area was substantial, we had many, many requests from terminal elevators to move grain out. And we had to move grain out of terminal elevators in order to make space for grain we were bringing in from the country. In that year we moved around 110 million bushels of grain out of country elevators into terminal space in our area, and in order to make room for that grain, we had to move grain out of the terminals, to program needs or to other areas.

#### *Necessity for Shipments From Kansas City Area*

In his statement to the subcommittee, Comer Harvill gave the following description of the investigation his group made to ascertain whether 1961 movements from the Kansas City area were necessary:

In addition to reviewing the commodity office records in this matter, we interviewed the president of the Terminal Elevator Grain Merchants' Association in Kansas City. The association represents all of the major terminal merchandisers, comprising more than 1 billion bushels of capacity, of which about 321 million bushels is located within the Kansas City area. The president of the association confirmed the information contained in the commodity office records with respect to the tight storage situation, and the plans for reconcentrating grain out of the Kansas City area. He also informed us that he had received no complaints from the members of the association that space offered to CCC was not being utilized during the reconcentration.

We also reviewed the CCC occupancy of all Kansas City area terminals east of Salina, Kans. (107 terminals), and interviewed all warehousemen storing CCC-owned grain at an average of less than 60 percent of their capacity during the quarter ended June 30, 1961. The interviews, with warehousemen representing 37 terminals, included reviews of the warehouse records where necessary, and were oriented toward determining whether the Kansas City commodity office knowingly bypassed available terminal space in shipping grain into the Dallas area.

The review disclosed no indication that the Kansas City Commodity Office had bypassed eligible terminal elevators in the Kansas City area in order to send grain to Estes' warehouses.

Donald Smith told the subcommittee that the Kansas City area "had an acute grain storage situation up until about October of 1961"; after that time, Smith stated, the shortage of storage space eased. Most of the grain shipped to Estes' facilities in 1961 arrived at its destinations in May, June, and July, with the final small shipments reaching there before the end of September.

Since part of the Government grain shipped into Billie Sol Estes' facilities originated from warehouses within the Dallas area, GAO personnel also reviewed reconcentration of CCC-owned grain from other Texas warehouses into Estes' elevators. Comer Harvill described the result as follows:

\* \* \* The review disclosed that these movements were made from country warehouses to terminals in accordance with normal procedures. Specific allegations as to the shipment of grain from three country warehouses located within the Plainview area into United Elevators, Plainview, were checked. Interviews with the warehousemen, and a review of the Dallas Commodity Office records, disclosed that two of the three warehousemen had requested that the CCC grain be moved, and the third movement was a normal reconcentration.

The detailed review by GAO personnel of CCC shipments to Estes' warehouses did not cover the 3.5 million bushels of grain shipped to these facilities prior to 1961. The subcommittee's investigation of this subject also did not include a specific examination of the 1959 and 1960 shipments of Government grain to Estes' facilities; however, the subcommittee's general investigation did not disclose any indication of irregularities in these shipments.

#### *Grain Allocation Procedures*

The directors of both the Kansas City and Dallas Commodity Offices told the subcommittee that, while their superiors in Washington were informed of general movements of grain from one commodity office area to another, Washington did not decide and was not informed which elevators received grain shipments. Both men testified that the Kansas City office decided whether shipments to the Dallas area were necessary, and the Dallas office decided which warehouses in its

area would receive the shipments. Donald Smith, director of the Kansas City office, told the subcommittee:

Mr. NAUGHTON. Do your Washington superiors know to which elevators grain is being shipped, particular elevators?

Mr. SMITH. No, sir. \* \* \*

Mr. NAUGHTON. Now, when you get an order, let's say, for shipment of a million bushels of grain from the Kansas City area down to Mr. Moseley's area, would that order indicate which warehouses are to receive that grain or would it leave it up to you as to which ones would get it?

Mr. SMITH. No; the actual elevators that will get the grain is determined by the Dallas office and we are instructed which elevators to ship the grain to. \* \* \*

C. H. Moseley, director of the Dallas Commodity Office, confirmed Smith's account in the following testimony:

Mr. FOUNTAIN. \* \* \* Did any of your superiors in Washington have anything to do with the allocation of grain to the various storage facilities?

Mr. MOSELEY. They did not.

Mr. FOUNTAIN. That was all done by your office?

Mr. MOSELEY. Yes.

Mr. FOUNTAIN. All Washington does is set policy?

Mr. MOSELEY. Yes. They were mindful of each movement between areas; but they had nothing whatever to do with designating the origins; that was done by the Kansas City office; or designating the destinations, which was done by the Dallas office.

The subcommittee devoted considerable attention to the reasons why one grain storage facility might receive grain shipments in preference to another, assuming both wanted grain for storage. C. H. Moseley, director of the Dallas Commodity Office, told the subcommittee that CCC gave priority first to terminal elevators over country warehouses. He gave the following reasons:

First, it is a normal and customary trade practice. No one would move grain into country positions were there not a critical shortage of storage space in terminals.

That situation has prevailed from time to time.

Secondly, since most of the grain will have to move to terminals ultimately, we would incur an additional in-and-out cost if we shipped it first to country houses.

Third, all terminals have official weights and grades which make it possible for us to catalog our inventories and to know what our stocks are when the time comes for a sale or other disposition.

Terminals can generally operate faster and make our deliveries faster to meet our export schedules. They can mix and blend grain and deliver out uniform qualities in a manner most advantageous to the owner.

The terms of the Uniform Grain Storage Agreement are more explicit for terminals. We expect and receive accurate deliveries of both quality and quantity from a terminal.

The terminals not only receive priority on the inbound movement; they receive priority on the outbound movement, as we make most of our export deliveries from terminals.

Moseley described the factors involved in choosing between terminal elevators as follows:

The first consideration—and here are several of the considerations—the first one is the amount of space offered which can best meet our needs as I have described them.

Then we attempt frequently to select qualities and quantities to fit existing stocks by moving into terminals the proper qualities and quantities of grain, to enhance our merchandising position.

We must consider the age and the quality of the old rail billing held by the terminals, both before and after the movement.

For example, a terminal may hold old billing which it is imperative to move; and yet the stocks of grain may not be suitable for immediate merchandising. The addition of the proper qualities and quantities of new grain may enable us to move out the old billing.

In many years an important consideration is to save some space for local needs because we must meet the harvests as they approach. We give some consideration to the record of terminal warehousemen in doing a good job and in meeting our load-out schedules.

Then, last in this list of criteria is reasonably equitable treatment of terminal warehousemen.

During periods when Dallas area terminal warehousemen offered more storage space than there was grain to fill it, a grain allocation committee of the Dallas Commodity Office determined the amount of grain to be shipped to each warehouse. This committee was formally established by Moseley on March 22, 1960, but had operated informally prior to that time. In his testimony, Moseley gave the following description of the committee's operations during the period when shipments were made to Estes' facilities:

\* \* \* it is composed of four men—a marketing specialist, a traffic man, a storage specialist, and an allocation and shipping man. \* \* \* They decide which warehousemen are to receive the grain based on our policies and based on the various criteria which must be considered.

Our basic policy is very simple: That it must be what is in the public interest. From there on, it becomes quite complicated, as we must weigh the many factors which determine where grain can be stored best.

#### *Alleged Preferential Allocation of Grain*

The charge that Billie Sol Estes had received preferential treatment in the allocation of Government grain shipments, as compared with other Texas warehousemen, was one of the more frequent and persistent allegations made concerning his operations.

In testimony before the subcommittee, USDA witnesses denied emphatically that Estes had received preferential treatment either in

the allocation of CCC grain shipments or in the acquisition of Government grain by other means. To support their position, the witnesses relied heavily on tables comparing the amount of Government grain in Estes' facilities with the amount stored in other Texas warehouses; they also presented tables comparing space offered and shipments allocated to Estes' houses with similar data for other warehousemen. This data related, for the most part, only to Estes' major storage enterprise, United Elevators, and did not include figures for the other warehouses in which Estes had an interest; however, it is doubtful that inclusion of the other storage operations (Hale County Grain Co., Palo Duro Grain Co., Allied Elevators, and South Plains Grain Co.) would have made any significant difference in the picture presented.

When Estes was arrested in March 1962, Agriculture Department witnesses pointed out, United Elevators had a total capacity of approximately 54 million bushels of which less than half—approximately 25.6 million bushels—was being utilized to store Government-owned grain. The witnesses stressed the fact that United Elevators had only 47 percent of its approved space filled with Government grain, while the warehouse operators with the four next largest capacities in Texas had their space from 52 to 77 percent occupied by Government grain at the same time.

The Department of Agriculture also provided a table showing that all west Texas terminal elevators in which Billie Sol Estes had no interest were filled to an average 63 percent of capacity with Government grain at the time of his arrest, as compared with United's 47 percent. However, the Department's statistics did not reflect the fact that United Elevators had completed construction of nearly 9 million bushels of storage space after the 1961 harvest, while three of the other four warehousemen had not added any substantial amount of additional storage capacity.

Still another table presented by USDA indicated that United Elevators had offered CCC storage space for more than 20 million bushels of grain in 1961 and early 1962 and received allocations totaling less than 7 million bushels—31 percent of the space offered. The table indicated that other terminal warehouses in west Texas in which Estes had no interest offered space for 26.5 million bushels of grain during the same period and were allocated 19.5 million—73 percent of the space offered.

The comparative data presented by the Department of Agriculture demonstrated the erroneous nature of some allegations made about Estes' acquisition of Government grain—such as the charge that his elevators were full while those of his competitors were half empty. However, the comparisons did not have much significance to the subcommittee beyond that, since the point at issue was not really the amount of Government grain in Estes' warehouses but the circumstances under which it got there. In testimony at a later stage of the subcommittee's hearings, Secretary Freeman conceded that percentages were "relatively irrelevant."

#### *Alleged Shipments to Unfinished Facilities*

Because of the many different factors involved in determining which warehouse should receive Government grain shipments, a



comparison of the amounts of grain received by different warehouses does not have much meaning in the absence of additional information. However, if shipments of CCC grain had been sent to Estes' warehouses before they were completed it would have strongly indicated the existence of either preferential treatment or gross negligence. C. H. Moseley, director of the Dallas Commodity Office, was questioned at subcommittee hearings about allegations that such shipments had been made; he responded as follows:

\* \* \* The way it was stated, that grain was arriving on track while warehouses were under construction is true as far as it goes, because warehouses were under construction almost constantly during 1961 and no grain could arrive on track at a time when there wasn't a warehouse under construction.

But the significant fact is that we never allocated to him a bushel of grain and never shipped him a bushel of grain until after the warehouse had been approved, examined, licensed, and bonded.

Moseley's statement was supported by the investigation conducted by GAO personnel. Comer Harvill informed the subcommittee that-

The inquiry at the Dallas Commodity Office into the allegation that CCC-owned grain was shipped to Estes' warehouses before completion consisted of a comparison of the inventory position of United Elevators with commodity office grain allocations on a day-to-day basis for a period from May 1960 through December 1961. The comparison, based on information obtained from sources other than the commodity office, as well as the commodity office records, disclosed that the commodity office did not allocate CCC-owned grain to United Elevators before the warehouse space was approved under the uniform grain storage agreement.

The subcommittee's investigation confirmed that there was a considerable amount of congestion because freight cars were arriving at Estes' major facility in Plainview faster than they could be unloaded. C. H. Moseley told the subcommittee that such congestion is not uncommon in connection with large-scale grain movements; Moseley said the problem was particularly troublesome in 1961 because:

Kansas City's needs rose rather late in the season \* \* \*. It came at a bad time of year for us, because of our own activity and the harvest season, which was imminent. If we could always plan these things with certainty, they could be strung out over a longer period in a much more orderly manner. But the grain had to go someplace and congestion always results.

Wayne Cooper, general manager of Estes' storage operations, attributed unloading difficulties to the simultaneous arrival at Plainview of shipments from several different origins in Kansas. Cooper said that when heavy shipments were coming in from Kansas:

\* \* \* we experienced some difficulty in unloading for the reason that there were various shippers, I think out of Kansas,

and rail movement is not consistent, it does not move on a 24-hour basis, so I think we did experience some difficulty there by simultaneous arrival from various elevators.

C. H. Moseley told the subcommittee that delays in unloading freight cars at Plainview did not result in any additional cost to CCC, since any demurrage charges incurred had to be paid by Estes.

*Alleged Unnecessary Freight Costs*

Considerable publicity was given after Estes' arrest to allegations that a substantial amount of unnecessary freight had been paid in order to ship grain to Estes' warehouses, rather than to other Texas warehouses. In connection with these allegations, it was pointed out that the rail distance from Kansas City to Galveston (export point for most grain from west Texas) through west Texas was more than 300 miles longer than the more direct route through Fort Worth or Dallas. However, this was not necessarily significant, since the cost to the Government would reflect the rate charged by the railroad, rather than the actual cost of shipment.

An important factor to be considered in ascertaining whether unnecessary freight costs have been incurred is the "transit privilege" permitted under railroad tariffs; this privilege permits storage of grain en route from origin to ultimate destination under certain circumstances without additional freight cost. Storage in transit, if permitted by applicable railroad tariffs, can be at points which are not on the most direct rail route from origin to destination. When grain intended for export is stored in transit, the "local" freight rate is paid for the distance moved from origin to the transit storage point; when a further movement is made to the ultimate destination, the shipper pays only the difference between the amount already paid and the export rate from origin to destination rather than the higher local rate from the storage point to the export point.

Since grain is a fungible commodity, transit billing (which evidences entitlement to the transit privilege) does not have to be used on the identical grain brought in by rail; it can be applied to an identical quantity of grain which arrived at the storage facility by other means if the warehouseman so desires. However, the potential value of transit billing can be realized only if shipments of grain are made by rail to the destinations permitted under the applicable tariffs. Transit privileges do not apply to truck shipments. At subcommittee hearings, C. H. Moseley gave the following explanation of the importance of transit privileges:

Whenever we move grain, if we are not going to final destination, we must store that grain in transit. The railroads provide in their tariffs that we can pay the domestic freight rate into the point of storage which can be considerably out of a direct line of movement. It can be stored anywhere in a very broad area. Then when we ultimately move the grain out to gulf export, or its final destination, the rates are adjusted to where our actual cost is the same as it would have been had we gone from the origin point directly to gulf export. In other words, the railroads waive any out-of-line costs which might be incurred.

Another important factor, of course, is that when the grain goes export it takes a cheaper rate, and the rates are

then adjusted to where CCC pays the export rate from the original point of origin to the final destination, as though it were a straight line.

Grain has several transit stops. You can stop it several times.

These transit privileges also apply to the products. You can bring wheat in and it can be milled in transit and then the flour and bran moved out on the same transit privilege. This makes it pretty necessary from a practical standpoint that we make our reconcentrations by rail and not by truck; whereas, when we are going all of the way to the gulf, with flat grain, we can go by truck. \* \* \*

General Accounting Office personnel made a comprehensive review of freight costs on substantially all shipments of CCC grain into warehouses associated with Estes during a 3-year period from April 1, 1959, through March 31, 1962. The review included grain shipped from both Kansas and Texas, and covered about 17.6 million bushels of grain. (The quantity exceeded the 16.5 million bushels shipped to Estes' facilities because the review also included grain shipped to the McSpadden Grain Co.)

Orvel L. Tate, a supervisory traffic management specialist in the Transportation Division of the General Accounting Office, gave details of the GAO work in the following testimony at subcommittee hearings:

Loading orders that were issued by the Kansas City and Dallas ASCS offices were forwarded to the Department's main building, and they were sealed when I received them. I opened the documents myself, and we conducted a comparison of the planned movements indicated in the load orders and compared them with other available transportation costs by alternative routes, to see whether there had been any excess costs incurred by the ASCS offices. This rate examination was conducted by journeyman technicians. All were selected by myself and one of the assistant directors as being well qualified to do this.

It was reviewed by three separate individuals, not each shipment was reviewed three times, but the three individuals reviewed all of the original work done by these technicians and it was again given a spot review by myself and another technician of the same grade that I am.

GAO witnesses told the subcommittee that the General Accounting Office recovers around \$20 million annually in overcharges found through its overall audit work on Government freight costs—an amount which far exceeds the cost of the audit work and is sufficient to pay for a very substantial percentage of GAO's other operations. Total freight costs on shipments to Estes' facilities were estimated at around \$4 million; results of the GAO review of these costs were described by Comptroller General Joseph Campbell as follows:

Our examination disclosed minor differences in rates applicable via alternative routes, resulting in higher net transportation costs of approximately \$650 for 6,679,000 pounds of grain out of the approximate total of 531.5 million pounds of grain reconcentrated into the warehouse named above.

According to Orvel Tate, the \$650 additional cost on shipments to Estes' facilities was due to clerical errors in making tariff changes and probably would be voluntarily refunded if a request were made to the railroads involved. Tate said the \$650 in additional charges was substantially less than the cost of the GAO audit, which required 550 man-hours.

#### *Review of Shipments to Estes' Warehouses*

Although evidence developed by GAO personnel and the subcommittee's investigation clearly established that Estes' elevators were complete when shipments were ordered there and that freight costs for shipments to his facilities were no higher than to other possible destinations, this did not eliminate the possibility that Estes might have been given preferential treatment over his competitors in the allocation of CCC grain for storage. Neither did the fact that Estes received less grain in proportion to the amount of space offered than his competitors eliminate this possibility, since much of his space was offered after the period of heavy grain shipments and since CCC's stated policy in determining where to store grain is to give a high priority to the best interests of the Government and a low priority to equal division among competing warehousemen.

In view of this, GAO personnel made a thorough review of the management considerations involved in allocating grain to Estes' warehouses during 1961, the period when the heaviest shipments of grain were made to his facilities. The comprehensive nature of this review can be seen from the following description by Comer Harvill of the records examined in making it:

The review of the Dallas Commodity Office's allocation of CCC-owned grain to terminals primarily involved the use of information compiled by the Dallas Grain Allocation Committee, which maintains a card record of each terminal warehouse, known as a "terminal participation record." Each warehouseman's offer of space to CCC is recorded on his card as the offer is made; adjustments are made as grain is shipped into the warehouse, and as the warehouseman changes his offer. These records, combined with tabulations of the type and quality of CCC grain already in store in the warehouse serve as a basis for selecting the warehouse to receive CCC grain. The records, therefore, are the logical basis for reviewing the selection of warehouses to receive grain, provided the records can be supported as to accuracy. The records were verified by (1) reference to a letter survey of terminal space available made by the Dallas Commodity Office on April 13, 1961, (2) records of telephone offers from the warehousemen, (3) interviews with grain terminal warehousemen in Fort Worth, and (4) reconciliation of information recorded on the terminal participation records with accounting data in selected instances.

In addition to the terminal participation records, we utilized (1) daily correspondence between the Kansas City and Dallas Commodity Offices covering the 1961 reconcentrations, (2) data processing listings, prepared from accounting records, showing the source and disposition of each loading order issued during the 1961 reconcentration, (3) data

processing listings, showing the source, and the disposition of each loading order issued in connection with moving grain into or out of Estes' warehouses for the entire period that Estes was known to be associated with the warehouses. These records were supplemented by documents supporting the transactions between the Dallas Commodity Office and Estes' warehouses.

According to Comer Harvill, an analysis of allocation of CCC grain to Estes' warehouses and those of about 40 competitors disclosed that the key decisions to allocate most of the 13 million bushels which Estes received during 1961 were made by the Dallas office during April, May, and June of that year. Because of the normal timelag between decisions to allocate and actual deliveries of grain, the heaviest shipments to Estes' warehouses were in May, June, and July. Although some of his competitors received shipments after that time, no shipments of CCC grain were made to Estes' warehouses after September.

#### *Shortage of Storage Space in Texas During 1961*

C. H. Moseley, director of the Dallas commodity office, told the subcommittee that, although the situation eased considerably later in the year, the principal factor considered by his office in allocating grain during the spring and summer of 1961, when shipments were being made to Estes' warehouses, was where space could be found in terminal warehouses in line of transit to the Gulf of Mexico. Moseley said CCC was forced to incur added expense to move more than 8 million bushels of grain into country warehouses, because suitable terminal space was simply not available. He described the situation as follows:

\* \* \* when we reconcentrate grain it is the only economical thing to do, to place that grain in terminal warehouses. There was not an excess of storage space in terminal warehouses in the second and third quarters of 1961. In fact, there was a rather critical shortage of storage space in terminal houses at that time. You understand, of course, that this thing changes very, very rapidly from one year to another, and at the present time there is excess space almost everywhere in our territory. But at that time the terminals were substantially filled with grain, or they were holding space in anticipation of the 1961 crop harvest, which is their normal function, to receive that grain from farmers. The space was not made available to us in the quantities which we desired. That is illustrated by the fact that during this same period of time we actually reconcentrated more than 8 million bushels into country warehouses in Texas and Oklahoma, a very undesirable thing to do. There was space in country houses and we were forced to use about 8 million bushels of it, much to our disadvantage.

The Department of Agriculture furnished the subcommittee with a detailed listing showing the location of the country elevators receiving grain, and the dates and amounts of CCC grain allocations to these elevators. The tabulation showed that a total of 8,507,437 bushels of grain—4,388,416 bushels of wheat and 4,119,021 bushels of grain sorghum—had been ordered shipped to country elevators between April 20 and August 16, 1961.



GAO personnel made a detailed review to ascertain whether or not suitable space in other terminals was available when grain was allocated to Estes' facilities. On the assumption that terminal space closest to export ports should have been utilized, if feasible, before elevators further inland in order to facilitate prompt delivery when export outlets were found, the GAO personnel first checked the availability of space near ports and then reviewed the situation further inland. Comer Harvill gave the subcommittee the following description of what was done:

\* \* \* starting at the gulf coast and working north, we reviewed the daily availability of terminal space offered to CCC in each of 50 competitive terminals located on railroad lines from Fort Worth to the gulf coast and in west Texas during the months of April, May, and June 1961. Most of these terminals were not offering any space during this period, but a detailed review was made of any space that possibly could have been used as an alternative to shipping grain to Estes' warehouses. Satisfactory explanations were obtained in all situations where space was not used. The most important reasons why offered space could not be used included (1) the Kansas City commodity office was shipping wheat while many of the terminals were substantially filled with CCC-owned grain sorghums and were offering space only for grain sorghums, and (2) some terminals were storing qualities (particularly protein value) of wheat that could not be profitably blended with CCC-owned stocks that were being reconcentrated. \* \* \*

Harvill summed up the results of the review by GAO personnel of 1961 reconcentrations of grain to Estes' facilities as follows:

The review disclosed no preferential treatment in the allocation of this CCC-owned grain to Estes' warehouses.

#### *Alleged Favoritism in Loading Out Grain*

Although perhaps not as widespread as charges of preferential treatment in shipments into his facilities, there were a number of allegations of favoritism to Estes in the loading out of Government grain. The basic charge made was that Estes' warehouses were loaded out at a slower rate than his competitors; another allegation made was that warehousemen who complained against Estes were loaded out at a faster than average rate.

C. H. Moseley told the subcommittee that the Dallas commodity office had no fixed procedure for allocating load-out orders "because there are so many, many factors to be considered". Moseley indicated that the primary consideration is "where we can get the delivery of the kind and proteins and test weight and qualities that we require to fill out loading orders." Another important factor, according to Moseley, is the age of transit billing on rail grain; he explained this as follows:

\* \* \* after considering the qualities and kinds and grading factors of that grain which is needed, then the next criterion we look at is the age of the billing. We move the oldest billing first, in order to protect ourselves against ultimate expiration.

Another factor limiting CCC's freedom of choice in loading out grain, Moseley stated, is that—

Whenever we are selling the grain, it is the buyer who has perhaps the loudest voice in determining which warehouse we are going to load out. \* \* \*

Prior to the arrest of Billie Sol Estes, 11.1 million bushels of CCC grain had been loaded out of his facilities for export or other program uses; 6.9 million bushels was wheat and 4.2 million bushels was grain sorghum. More than 10 million of the 11.1 million bushels was shipped out after February 28, 1961, practically all of it in late 1961 and early 1962.

During their inquiry, GAO personnel gave specific consideration to allegations that Estes had received preference by having his warehouses loaded out at a slower rate and that warehousemen who complained against Estes were loaded out more rapidly. Comer Harvill described the nature and results of this review as follows:

Since all terminals considered competitive to Estes' warehouses were substantially filled by June 30, 1961, load-out was not significant in an evaluation of whether preference was being given to Estes' warehouse at that time. Our review of comparative load-out histories, made largely in conjunction with the review of reconcentration of CCC-owned grain into the Dallas warehouses, covered the period from November 1961, through March 1962. During the review, specific consideration was given to allegations that (1) Estes' warehouses were given preference by being loaded out at a slower rate than other terminals; and (2) warehousemen who complained against Estes were being loaded out at a greater rate than average.

The review consisted of summarizing pertinent information from the terminal participation record (confirmed as to accuracy as described above) of each terminal under Dallas commodity office jurisdiction, and comparing the load-out history of each terminal. The history of any warehouse showing a greater than average load-out was reviewed in detail. The review disclosed no preference either to Estes' warehouses or to other warehouses.

Satisfactory explanation of higher than average rates of load-out, obtained in all cases examined, included (1) loading out warehouses storing wheat of specific protein content to meet export demands; and (2) movements to utilize old transit billing in meeting export demands.

C. H. Moseley told the subcommittee that Estes called him not long before his arrest in an unsuccessful attempt to get the classification of his main facility at Plainview changed from a "9" or terminal installation to an "8" or country warehouse in the belief this might slow down the rate of unloading. Moseley said Estes also contacted others in the Dallas office and Moseley's immediate superior in Washington, Frank Hussey, in an attempt to obtain the reclassification; he gave the following description of these incidents:

Mr. NAUGHTON. Did Mr. Estes at any time complain about load outs from his elevators?

Mr. MOSELEY. By inference, at least, he complained in the one telephone call I received from him. That was the only time I ever carried on a conversation with him. You will recall from my earlier testimony he wanted to change his warehouse from a 9 house to an 8 house for the purpose of slowing down our load out.

Mr. NAUGHTON. You normally load out from terminal elevators?

Mr. MOSELEY. Yes; and we were calling upon him rather heavily for deliveries of milo on sales, and we were not calling on 8 houses to that extent, and he wanted to change over, and I refused to do that.

Mr. FOUNTAIN. When was that?

Mr. MOSELEY. It was quite recently. I think perhaps in January of this year.

Mr. NAUGHTON. Did you have any discussion with Mr. Hussey concerning this attempt by Estes to get his Plainview facility reclassified?

Mr. MOSELEY. Yes. Mr. Hussey told me that Mr. Estes had spoken to him about it, also.

Mr. NAUGHTON. What was the substance of your conversation?

Mr. MOSELEY. We just discussed the problem, and our unwillingness to permit a warehouseman to give poorer service to the Government. And we agreed that the change should not be made.

I might say previously that I had been told that some of Mr. Estes' people had made the request of some of the people in my office. I had learned through my staff that the question had been raised concerning changing United Elevators at Plainview from a 9 house to an 8 house; and my staff had told them "No.," as I did.

Mr. NAUGHTON. How was it raised with your staff, do you know? And with which staff people?

Mr. MOSELEY. I don't remember for sure. Probably someone from the Storage Management Division told me the question had been raised and they had given a negative reply, and I concurred in that.

While the subcommittee did not find any indication that other warehouse operators tried to get the classification of their facilities changed, Billie Sol Estes was by no means the only one who was unhappy about the rapid load out of Government grain during late 1961 and early 1962. Secretary Freeman told the subcommittee in his testimony that "commercial storage operators protested quite vigorously"; the Secretary also said the Department of Agriculture "received dozens—perhaps hundreds—of letters from warehousemen protesting the load out."

#### *Claims of Influence*

Although a thorough investigation developed no credible evidence to support his allegations, the subcommittee found ample evidence that Billie Sol Estes himself claimed or suggested he could obtain Government grain for storage by means of influence, political pressure,

or bribery. Frank M. Phariss, assistant general manager of Producers Grain Corp., Amarillo, stated in a September 8, 1961, letter to C. H. Moseley concerning Estes that:

\* \* \* The Department and the present administration is getting a lot of criticism because of some of the rumors which have been spread and that actually originated from this warehouseman.

When asked about the rumors, Moseley told the subcommittee that:

\* \* \* Mr. Estes and his people gave the inference at various times that they had no worries in obtaining grain for storage. Those inferences were a part of his buildup in arranging financing and constructing these buildings as he continued his expansion. He was being successful in attracting a certain amount of grain from farmers and, in order to continue expansion and financing, he painted an optimistic picture of his future prospects.

Testimony of Frank Cain, a Dallas lawyer, at a State hearing in Dallas was the source of more specific allegations concerning Estes' purported ability to obtain Government grain through improper methods. Cain, who represented Pacific Finance Co., had a series of meetings with Billie Sol Estes shortly before Estes was arrested; the primary purpose of these meetings was to ascertain whether a plan could be worked out for Estes to pay back money obtained from finance companies on fraudulent tank mortgages. According to Cain, Estes proposed using grain storage revenues to pay the finance companies; Cain attributed to Estes statements to the effect that he could keep his storage facilities full of Government grain through "payoffs" of "a hundred thousand to two hundred thousand dollars a year." Cain said Estes gave no details concerning the identity of persons allegedly receiving "payoffs," and the subcommittee found no evidence that any had been made. Cain himself testified that he did not believe Estes was telling the truth.

#### GRAIN ACQUIRED FROM PRIVATE SOURCES

##### *Sources of Grain Stored by Estes*

When Billie Sol Estes was arrested in March 1962, a total of 44.8 million bushels of Government-owned grain either were or had been stored in his warehouse. An additional 12.3 million bushels of grain being stored in Estes' warehouses by producers at the time of his arrest was acquired by CCC under the price-support program on April 1, 1962.

An analysis by GAO personnel disclosed that only 37 percent—16.5 million bushels—of the 44.8 million bushels of Government grain stored in Estes' facilities for varying periods of time prior to his arrest was directed there by Government employees; the other 63 percent was acquired through the actions of private firms or individuals.

The analysis by GAO personnel showed that 13 percent of the CCC-owned grain—5.9 million bushels—was already in storage in warehouses at the time they were acquired by Estes. Another 16 percent—7 million bushels—was acquired through "exchange"

transactions with Cargill and other warehouse operators. These transactions were described by Comer Harvill, who supervised the GAO personnel, as follows:

\* \* \* The exchange contract was developed by the Dallas commodity office to reduce the loss of value in transit billing as it ages. The contract permits CCC to exchange grain having transit billing with a grain merchandiser, who will ship the grain immediately, for grain sold to the merchandiser in various warehouses without transit billing. Each exchange is initiated from the grain trade. Most of the requests come from exporters. The warehouseman actually storing the grain is usually not a party to the transaction; ownership of the grain in store has merely changed hands.

The inquiry for the Senate subcommittee disclosed that Cargill, Inc., a worldwide merchandiser, had owned most of the 7 million bushels of grain in Estes' warehouses prior to exchanging it with CCC for grain stored in other warehouses. The grain which Cargill received was, in most cases, delivered to Cargill's export warehouse at Port Arthur, Tex. Interviews with personnel of Cargill, and a review of the Dallas commodity office records disclosed that Cargill had also purchased substantial quantities of CCC-owned grain stores in Estes' warehouses. The review disclosed no irregularities.

Thirty-four percent of all Government grain which was in or had passed through Billie Sol Estes' storage facilities before his arrest—15.4 million bushels—belonged to producers at the time it was brought to his warehouses and was later taken over by the Government under the price support program. Although this was slightly less than the 37 percent (16.5 million bushels) which entered Estes' warehouses through Government shipments, the producer grain was more important as a source of storage revenue.

This was true because the bulk of Government shipments were not made until 1961, and most of the wheat shipped in at that time was loaded out within a few months; on the other hand, substantial amounts of grain sorghum brought in by producers as early as 1959 were still in storage when Estes was arrested. Since production of wheat is comparatively limited in the area in which Estes' warehouses were located, almost all of the producer grain acquired was grain sorghum. Grain sorghum accounted for more than 85 percent of the storage revenues of United Elevators, Estes' major storage operation.

#### *Heavy Production of Grain Sorghum*

The predominance of grain sorghum as a source of storage revenue for Billie Sol Estes is hardly surprising in view of the location of his warehouses in the heart of the heaviest sorghum producing area in the Nation. C. H. Moseley gave the following testimony on this point at subcommittee hearings:

Mr. FOUNTAIN. Was the production of grain sorghum concentrated in that area?

Mr. MOSELEY. The production of grain sorghum was concentrated in that area. That is the largest grain sorghum producing area in the Nation.



Mr. FOUNTAIN. I ask that question because as I recall in examining one of the maps which we had in one of our reports, it indicated to me that practically all of the grain sorghum was concentrated in the States of Texas and Kansas.

Mr. MOSELEY. And concentrated on the South Plains. Hale County, Tex., the county where Plainview is located, grows more grain sorghum than a great many States do, a great many grain sorghum States.

Billie Sol Estes built or acquired grain storage facilities in eight different counties of the Texas Plains area. Seven of these counties—and 7 more counties adjoining them—were among the leading 20 counties in the Nation in acreage of sorghum, according to the 1959 U.S. Census of Agriculture. These 14 counties had a combined total acreage of 2.7 million acres of sorghum in 1959, more than 15 percent of the national total. However, because production per acre on the irrigated and heavily fertilized land of the Plains area far exceeds the national average, the 14 counties produced 113 million bushels of grain sorghum that year, more than 20 percent of the national total. Hale County, in which Estes' largest storage facility was located, produced nearly 16 million bushels, a total exceeded by only six States.

The 1959 production of grain sorghum in the areas near Este's warehouses was almost double the amount produced in 1954, according to production statistics from the U.S. Census of Agriculture. Wayne Cooper, general manager of Estes' storage operations, attributed the increase to greater use of fertilizer. Cooper gave the subcommittee the following description of sorghum production in the Plains area:

Our area production is relatively stable. Hale County, in which Plainview is located, I think you will find probably 95 percent under irrigation. It is not dependent upon rainfall, and production, when the acreage is planted, is assured. So, there is not much gamble on the production in the irrigated section.

The harvest in that area has been increased considerably by the application and more use of fertilizer, and production since the time that I went into the grain business in 1955 has probably gone from an average of say 2,000 to 2,500 pounds to the acre to a possible average of 5,000 to 6,000 pounds to the acre at present. Now that is since 1955. I might be off on my figures, but they are roughly correct.

Lloyd Stone, an employee of Estes in the Lester-Stone Co. at Plainview, linked the increase in grain sorghum production to reduced prices for anhydrous ammonia in the following testimony at Plainview:

Q. Now, on that score, is it a fact that a cheaper price on anhydrous ammonia actually increased the total production of grain in the area here?

A. Yes, sir.

Q. Can you give me some idea on the figures on that on a per acre basis?

A. I think up until the time that ammonia got so cheap that the average production, probably, of Hale County, was some 4,000 pounds per acre, and that also with hybrids

considered. But with the increased use of fertilizer, and most people use twice as much as they had ever used before because they were buying it at a price that they could afford to do that. And, in the process, I imagine Hale County this year probably averaged 6,000 pounds to the acre.

#### *Selection of Warehouse by Producers*

Under provisions of the price-support program, producers may obtain CCC loans on eligible grain at harvesttime. If the producer repays the loan at any time before a specified "takeover" date, the grain remains his property; if the loan is not repaid, the grain becomes the property of CCC. Price-support loans can be obtained on grain stored on the farm, a practice which is customary procedure in Midwestern corn-growing areas. However, most price-support loans for wheat and grain sorghum are made on grain stored in commercial warehouses; if price-support loans are not repaid, CCC takes ownership of the grain in storage. Almost all producer-owned grain stored in Estes' facilities was grain sorghum, which is harvested in the fall of the year and, if not redeemed by its owner, taken over by CCC on April 1 of the following year.

In order to be eligible for price-support loans, grain stored in commercial warehouses must be in a facility approved for the storage of CCC grain; however, under CCC procedures, the producer selects the particular warehouse in which his grain is to be stored. Grain taken over by CCC normally remains in storage in the same warehouse indefinitely, being moved out only when necessary to meet program needs or to make space for grain being harvested. The producer is responsible for paying storage charges up to the takeover date; after that time payments are made by CCC.

When asked at subcommittee hearings whether CCC exercised any control or influence over the choice of an elevator for storage of loan grain by a producer, C. H. Moseley testified:

No, sir; we do not. \* \* \* when the farmer delivers at harvesttime we definitely have nothing whatever to say about it.

The subcommittee's investigation included interviews with a number of producers and competing warehousemen in the area where Estes' facilities were located. All those interviewed told subcommittee staff members that they knew of no instance in which any Government officer or employee had influenced or attempted to influence producers to store grain in Estes' warehouses.

#### *Competition for Producer Grain*

The Commodity Credit Corporation stores grain in more than 10,000 commercial warehouses throughout the country under terms of a standard uniform grain storage agreement (UGSA). This agreement does not insure that the warehouseman will get any CCC grain for storage; it merely approves his facilities for storage of a specified maximum quantity of grain. If the facility is subsequently utilized for storage of Government grain, the terms and conditions of the UGSA apply to the CCC grain stored there.

All warehouses storing Government grain are paid a uniform storage rate. Prior to July 1, 1960, the storage rate averaged around 16½ cents per bushel on an annual basis; after that time it was reduced to around 13½ cents per bushel.

Grain brought to a warehouse by producers for storage under Government price support loans is often stored in the same warehouse for substantial periods of time after it is taken over by CCC; acquisition of such grain is obviously attractive to warehousemen with storage space which would otherwise be unused. Although there were many local and seasonal exceptions, storage space was generally in short supply in major grain-producing areas from the early 1950's until late in 1961; under such conditions, the warehouseman could fill his elevator at harvesttime with little or no effort. However, when the amount of storage space available substantially exceeded the amount needed, as has been the case generally since late 1961 and occasionally before that time, there was considerable incentive for warehousemen to actively seek producer grain for storage. As a result, the offering of inducements in order to influence producers to bring grain to a particular warehouse was a common practice in many producing areas.

A frequent inducement offered producers by warehousemen was free storage for grain sorghum under price support loan from the time it was harvested and brought to the elevator in October or November until it was taken over by CCC on April 1 of the following year. Since the storage rate was more than a cent a bushel per month, the free storage period was worth more than 5 cents per bushel. According to Wayne Cooper, general manager of Estes' storage operations, a shorter period of free storage was given producers at first and then gradually lengthened; Cooper told the subcommittee:

\* \* \* It became progressively worse. \* \* \* Three years ago, there would have been very little giveaway storage. I would say in 1960, for the crop in the fall of 1960, storage giveaway probably averaged sometime in January. Then last year, 1961, it became almost universal practice in Texas that the storage was given away through March 31.

Cooper freely acknowledged that Billie Sol Estes gave free storage to producers; the subcommittee's investigation confirmed his contention that practically all warehousemen in Texas did the same thing. C. H. Moseley told the subcommittee that free storage was not the only inducement offered:

Mr. MOSELEY. In addition to free storage there is a practice of not deducting shrinkage for moisture which is in the grain and giving the farmer the benefit of gross weight.

Mr. FOUNTAIN. I think we have brought some of that out in some of our previous hearings.

Mr. MOSELEY. There are other inducements, even including Gold Bond stamps.

Mr. FOUNTAIN. Including what?

Mr. MOSELEY. Gold Bond stamps, green stamps.

USDA witnesses told the subcommittee that the Dallas Commodity Office was aware that Estes and other Texas warehousemen were offering free storage. However, they stated that neither Texas law nor the Department of Agriculture's regulations and policies prohibited such practices. Roland Ballou, a Washington official of USDA, described the Department's position as follows in his testimony:

Our attitude is that, until such time as Commodity Credit Corporation acquires ownership of the grain in

question, the relationship between the producer and the elevator operator is their business and not the Department's business. We do not purport to be a policeman for the storage industry insofar as their competitive practices are concerned.

\* \* \* we have consistently taken the attitude that we were not in position of exercising control over those practices. I don't think that the industry has ever recommended that the Department institute regulations which regulate the competitive position of one elevator against another.

We have declined to get into that field.

Although free storage was not against the Department's regulations, USDA officials testified that the practice of purchasing producer's equities in loan grain was prohibited. Warehousemen who engaged in this practice, in effect, made cash payments to producers to induce them not to redeem grain under Government loan; as a result, grain which might otherwise have been sold on the commercial market was acquired by CCC and remained in the warehouse at Government expense. C. H. Moseley testified that the Department of Agriculture took steps to halt this practice:

\* \* \* we have definitely frowned upon the purchasing of equities in this manner. It is a violation of the regulations in the handbook for warehousemen to purchase equities. We have investigated a number of warehousemen and we have admonished them not to do it.

Moseley told the subcommittee that confusion between the offering of free storage (which was permitted under USDA regulations) and the purchase of equities (which was not allowed) probably led to allegations that Estes had been permitted to offer free storage while his competitors had been restrained from doing so.

#### *Alleged Use of Low-Cost Ammonia as Storage Inducement*

In its investigation, the subcommittee gave particular attention to the allegation that Billie Sol Estes had obtained producer grain for storage in return for selling them anhydrous ammonia at reduced prices. A letter from Estes to Wayne Cooper, general manager of his storage operations, on December 28, 1960, clearly indicates that Estes was considering offering a discount on fertilizer to producers in return for their promises to store grain in his facilities. In the letter, Estes stated:

\* \* \* my thinking now is that we should try this fertilizer deal whereby we will give 10-percent discount off of whatever the prevailing price is in the area and give this discount the 10th of the month to farmers. I understand if we are not competitive in every way, that the farmers would not be obligated in any way to bring us their grain. If Continental should get the grain, we couldn't hold them liable.

I think we should do this in the name of Wheeler Fertilizer Co. and see how it works. You know a smart man is a man that can win a battle and not get blood all over him, and I feel this will cause some commotion among the fertilizer people, but I believe it will work.

Let's try to put this into action in the Hereford area. You and Stoney [Lloyd Stone of the Lester-Stone Co.] think this over, and we will make a definite decision and give it a try.

However, Wayne Cooper told the subcommittee that the fertilizer-grain storage proposal was never put into effect. Cooper testified that:

I am sure that it was Mr. Estes' intention at that time to try to work a tie between grain and fertilizer. He tried that on several occasions in telephone conversations with me, and it just never happened, we never combined them; I never solicited a farm customer on the basis of a reduction of fertilizer cost to him, for his grain business, in all my time with Estes. So I think the results, the end results of that, were absolutely nil.

Gerron S. "Mutt" Wheeler, who operated the Wheeler Fertilizer Co. for Estes, also denied that fertilizer sales had been tied to grain storage. Wheeler gave the following testimony at a hearing in Amarillo:

Q. \* \* \* Did you give any special concessions in the sale of anhydrous ammonia to a farmer if he would store grain in one of Estes' grain elevators?

A. No, sir.

Q. You did not?

A. No.

Q. In your operation there wasn't any hooking of the grain storage business to the ammonia sales?

A. No, sir.

Subcommittee staff members interviewed a number of producers and competing warehousemen in the Plainview area; according to their statements, none of those interviewed had been offered reduced ammonia prices as an inducement to bring grain to Estes' warehouses, nor did they know of such an inducement being offered to anyone else. The subcommittee's investigation disclosed, moreover, that the Department of Agriculture took the position that fertilizer discounts—like other inducements offered to secure grain—were not prohibited by its regulations. On April 7, 1960, the office of Senator Ralph Yarborough of Texas forwarded to the Department a complaint from a Texas constituent that:

Payments for storing grain and other commodities are so high that this storage has become a very lucrative business. To obtain grain to store, persons are cutting fertilizer prices and are encouraging a vicious circle of overplanting. It is grossly unfair business competition for a storer of grain to lose money selling fertilizer in order to reap more profit on his storage business.

On April 20, 1960, Raymond J. Pollock, then Director of the Grain Division, in the Washington Office of USDA's Commodity Stabilization Service, sent the following reply to Senator Yarborough:

This is in reply to your letter of April 7, 1960, enclosing a letter from Mr. Richard T. Weber, Pasadena, Tex., com-



menting on practices being followed wherein some grain warehousemen are cutting the price of fertilizer in order to attract storage business.

You are probably aware there is a surplus of grain warehouse space existing in the Southwest at the present time. Under such conditions it is not uncommon for warehousemen to offer various forms of inducements to attract customers. Apparently the situation referred to in Mr. Weber's letter is one type of inducement currently being employed. We have heard of others such as warehousemen offering producers free storage time.

Any such inducements or arrangements made between producers and warehousemen prior to the time that Commodity Credit Corporation has an interest in the commodity, are beyond our jurisdiction and must be resolved by the parties involved. We therefore are unable to take or suggest any remedial action in the instant case.

According to testimony at subcommittee hearings, Pollock did not call the allegations made in Weber's letter to the attention of the Dallas Commodity Office. In December 1960, Estes made arrangements to have Lucian Morehead, a Plainview lawyer, contact the Dallas Commodity Office concerning the legality of offering discounts on fertilizer to obtain grain for storage. In a letter to Estes on December 22, 1960, Wayne Cooper reported the results of this inquiry as follows:

\* \* \* it has been developed through Lucian Morehead in his conversation with the Dallas Commodity Office that they do not regard such discounts as in violation of any rules or regulations under the uniform grain storage agreement or other commodity requirements.

*Estes' Methods of Obtaining Producer Grain*

Although Estes offered producers free storage, this practice did not give him a significant competitive advantage because other warehousemen were matching his offer. However, a number of other factors worked to Estes' advantage in obtaining grain from producers.

Wayne Cooper, general manager of Estes' storage operations, told the subcommittee that Estes retained the same management when he acquired additional warehouses as a means of promoting goodwill and thereby obtaining grain for storage. Cooper's testimony on this point at subcommittee hearings was as follows:

Mr. FOUNTAIN. What sort of program of public relations did you have in effect in an effort to get the farmers to store their grain in Mr. Estes' facilities?

Mr. COOPER. In each case of purchase by Mr. Estes of operating elevators, we would retain the same management in the elevator. It was more or less of a succession from the previous owner, where the manager and personnel were retained, who had built up the goodwill of the farmers over a period of years. We were hopeful, Mr. Estes was hopeful of maybe not securing more grain, but holding at those particular elevators the goodwill of the customers that the elevator had had, and that was the source of our grain and our public relations.

Mr. FOUNTAIN. So when you bought facilities, to some extent you depended upon the goodwill which had been created and farmers who had been doing business with that facility, continuing to do business with it.

Mr. COOPER. That is true and I think he put quite a lot of value, in his purchase price of these elevators, on the goodwill that had been built up in those areas where the elevators were located.

Perhaps the most important single reason for Estes' success in obtaining producer grain was the location of his facilities in the heart of an area where production of grain sorghum was both heavy and expanding. Estes was able to exploit this location to a greater degree than some other warehousemen because he had both terminal and country elevators. Estes' country houses, which were scattered at several different locations, were able to draw truck deliveries of grain from producers in a large section of the Plains area; his terminal facilities were well located to handle rail shipments of both CCC and producer-owned grain from more distant points.

By 1961, Billie Sol Estes had country warehouses at Plainview and five other locations (Kress, Lamesa, Silverton, South Plains, and Levelland); these facilities could receive grain from producers and ship it by rail to Plainview for storage in Estes' huge facility at that location. During 1961, Estes began to put into effect a plan to build 100 country receiving points for grain throughout the Plains region: according to popular accounts, Estes planned to place these receiving points a few miles apart on every paved highway in the area. If Estes' planned network of receiving stations had been completed, he would have been able to take delivery from most producers at points far closer to their farms than the warehouses of his competitors.

Another device successfully used by Estes to obtain producer grain for storage was to pay a commission to other warehousemen to ship producer grain to his facilities when their own country points were too full to take additional grain. The Cargill elevator at Plainview was among those receiving such commissions. Paul Russell Daly, manager of the elevator, gave the following testimony at Amarillo:

Q. \* \* \* did Estes make overtures to other elevators that would permit other elevators to make a profit by moving grain to his elevators?

A. Yes. He would, in my opinion, let's say, have the people receive the grain from the farmers, then they would load the cars, and instead of storing it in their own elevator, for one reason or another, they would load it up and ship it to his elevator \* \* \*.

#### QUANTITY AND CONDITION OF GRAIN

##### *Warehouse Examinations*

Witnesses from the Agricultural Marketing Service placed considerable emphasis on the value of warehouse examinations in insuring that the quantity and quality of grain in storage in federally licensed warehouses is adequate to protect depositors. Such examinations are obviously indispensable. However, testimony at subcommittee hearings, which follows, indicated that examiners could at best only

estimate the amount of grain in storage. The testimony also indicated that accurate measurement of grain in flat warehouses was particularly difficult:

Mr. NAUGHTON. Of course, the proof of the pudding as to whether the stocks are there and the condition they are in occurs when you issue the loadout orders, doesn't it? Your warehouse examiners go in and measure the stocks and do their best to estimate whether they are all there. But you really find out when you load that out, examine it, and put it on the scales and weigh it.

Mr. MOSELEY. That is correct, that is the only time you actually know.

Mr. NAUGHTON. I think there was a case in Illinois several years ago in which the warehouse examiners were finding that the grain appeared to be all there, as they measured the bins, and one day somebody came along and used an extra long probe and found a false bottom about 6 feet below the top of the bin.

Mr. MOSELEY. I read of that.

Mr. NAUGHTON. And I think you had a Commodity Credit loss of over a million dollars on that one, even though it appeared the grain was all there.

Mr. MOSELEY. We are now using power probes. They will go down all the way.

Mr. NAUGHTON. The point I am trying to establish is that you can go along for a long period of time when you are maintaining constant inventories, or increasing Government inventories, and shortages don't tend to show up as readily as they do when you issue a loadout order.

Mr. MOSELEY. You can't determine them accurately until you issue a loadout order, but you can determine a reasonable approximation by measurement. However, the measurement of flat warehouses is extremely difficult. One of my friends last week compared it to measuring the ocean on a rough day. The hills and valleys in these enormous flat warehouses are so great that they are extremely difficult to measure accurately.

Mr. NAUGHTON. This is because instead of being constructed so the buildings are completely filled with grain and you simply measure the capacity of the house, the grain is put in piles and, there may be large open spaces, so this causes your difficulty.

Mr. MOSELEY. There are many piles and the grain is put in at several different points, and it is drawn out at several different points along the building, which makes a series of hills and valleys in the grain.

Periodic examinations of Billie Sol Estes' storage facilities by AMS warehouse examiners disclosed no significant shortages or quality deficiencies. A special joint examination of Estes' warehouses at Plainview was made by AMS and ASCS examiners in September 1961 because of rumors circulated by other warehousemen concerning alleged serious deterioration of grain there. On September 15, 1961, the Wichita office of the AMS Warehouse Act Branch sent a memoran-

dum to Washington about the special examination which stated in part:

Subject: 3-4458, Billie Sol Estes d.b.a. United Elevators  
Plainview, Tex.

We submit Mr. McCoy's and Mr. Pollard's report of subsequent examination of United Elevators. They worked with a crew of CCC examiners, at the request of Mr. C. H. Moseley, Director, Dallas CCC. It appears Mr. Moseley was disturbed about repeated complaints about this operation. The results of the examination indicate that these rumors are unfounded.

#### *Results of Loadout*

Neither periodic examinations made before Estes' arrest nor a special examination made shortly after it disclosed significant shortages in the quantity of grain in storage at Estes' warehouses. However, when the warehouses were loaded out, a deficiency in quantity of well over a million bushels was disclosed. Because of the tremendous amount of grain handled by Estes' facilities, the deficiency was somewhat less than 2½ percent of the total grain handled. A table showing results of the loadout by location appears on page 428 of the appendix.

An audit by the Office of the Inspector General, Department of Agriculture, examined the reasons for undershipments from Estes' facilities; the audit also included undershipments of about 100,000 bushels from warehouses operated by Coleman McSpadden. The report on this audit contains the following analysis of the causes of the undershipments:

The overall undershipment of 1,572,963 bushels represented 2.3215 percent of grain handled. Losses due to decreases in the moisture content accounted for 0.9253 percent and losses from other sources amounted to 0.0283 percent, leaving 1.3679 percent attributed to handling.

The losses attributed to decreases in moisture content were based on a comparison of the moisture content of grain received with the moisture content of grain shipped. For each 1 percent decrease in moisture, the commodity office used a conversion factor of 1.25 percent in determining the weight loss. Where moisture was shown to be a factor in the weight decrease, our determination of the average outbound moisture content compared favorably with that determined by the commodity office. The average moisture of grain received was determined by warehouse examiners from records at the warehouse location. The total quantity of grain handled by the warehouse (CCC and others) was also determined by the warehouse examiners at the warehouse location.

The subcommittee's investigation, as well as those conducted by the Department of Agriculture and the Internal Revenue Service, disclosed no evidence of conversion of Government grain. A special survey made by the Office of the Inspector General at the request of the subcommittee indicated that purchases of grain by United Elevators exceeded sales by approximately \$50,000.

The subcommittee's investigation indicated that Estes accepted high-moisture grain from producers in order to encourage storage of grain in his warehouses. However, "shrinkage" was not written off to compensate for moisture losses. Testimony by Wayne Cooper, general manager of United Elevators, on this point follows:

Mr. NAUGHTON. Did you ever talk with Mr. Estes about the fact that he apparently was not allowing for shrinkage, as was the custom?

Mr. COOPER. I talked with Mr. Estes about that on numerous occasions. In the operation of our company, prior to the sale to Estes, we realized that shrinkage would occur on grain, of high moisture grain, and we periodically charged back to shrinkage. It was our practice, and a necessary thing to do, and I suggested to Mr. Estes numerous times that this be done. In fact, in 1959 I think that I arbitrarily charged off \$33,000 worth of shrinkage just to meet that particular period of time. I think that was in 1959 because it had been my practice in the operation of grain storage to do that. But I probably reported to him I had done that, and that was probably when he told me not to charge off shrinkage; that we would make it up sometime later.

I had numerous conversations with him concerning shrinkage and handling loss, because it occurs in any grain operation. Even though you receive 13 percent moisture grain, which is required for delivery by Commodity Credit, you still have moisture loss under 13 percent, and grain becomes drier and drier the longer it is in store.

In other words, you might—this grain may come to a moisture of 10½ or 11, and the same percent of loss in weight is there whether you are shrinking from 15 to 13 percent, as it is from 13 to 11 percent.

Mr. NAUGHTON. Was some of the grain you were taking over from farmers fairly wet?

Mr. COOPER. The grain that—it was common practice there, and has been since the year 1957, when we had a very wet fall, that year I think initiated it, that grain would be taken of moisture content in excess of 13 percent; and then it developed that the farmer was not charged back with the shrinkage of this grain to reduce it to 13, and this has been absorbed by the warehousemen for the last 2 or 3 years.

AMS Warehouse Act Branch officials were asked to explain why the examination of Estes' warehouses shortly after his arrest in late March 1962 did not disclose the substantial quantity deficiencies revealed when the grain was loaded out. They suggested that the following might have been contributing factors:

1. A substantial period of time elapsed between April 1962 and the final loadout, and some unknown portion of the shrink and operational loss occurred during that time.
2. With respect to grain received at the facilities in the fall of 1961, it is likely that the major portion of the shrink occurred after April 1962 when warmer weather occurred.



3. The measurement technique which was the basis for the April determinations is subject to some margin of error. This is particularly true in determination by measurement of the quantity of grain in large tanks or flat storage buildings of the sort which characterized the Estes operation. An error of as much as 1 percent in this determination could affect the determination by as much as 400,000 bushels.

4. It is difficult to obtain a truly representative sample of a large mass. If the test weight per bushel on samples obtained from stored grain is as little as 0.5 pounds different from the true test weight of the entire mass, this alone can account for a difference of 1 percent in results.

USDA storage contracts provide that the warehouseman is responsible for the monetary value of any quantity deficiencies disclosed when grain is loaded out. Since the claim for such deficiencies against Estes was less than the amount of storage payments accrued but not paid for storage of Government grain in Estes' warehouses, it was not necessary to file claims against bonds on these facilities. The Department of Agriculture has advised the subcommittee that it is taking steps designed to obtain a higher degree of accuracy in the measurement of grain inventories.

#### FINANCIAL OPERATIONS OF UNITED ELEVATORS

##### *Profits of United Elevators*

During the 3-year period in which Billie Sol Estes operated United Elevators, the Commodity Credit Corporation paid approximately \$7.6 million for storage and handling of Government grain stored in United's warehouses. According to records maintained by Wayne Cooper, general manager of United Elevators, net profits on United's operations averaged substantially more than \$100,000 per month during 1960 and 1961. Testimony by Cooper at subcommittee hearings follows:

Mr. COOPER. For the year 1959 the statement prepared by United Elevators' accountant, for the grain operation only, showed net profit of \$430,925.91. For the calendar year 1960, the net profit of the operation of United Elevators was \$1,345,824.67. I do not have the final month of 1961. Through the month of November for the year 1961 our books reflected a net profit of \$1,539,149.52. That was for 11 months of the year 1961. That could be projected percentage-wise for 1 more month and it should reveal closely the income of that company for the year 1961.

Cooper furnished the subcommittee with detailed profit-and-loss statements for United Elevators covering the years 1959 and 1960 and

the first 11 months of 1961. A summary of data shown on the statements follows:

	1959	1960	Jan. 1 to Nov. 30, 1961
Storage/handling income.....	\$875,445.55	\$2,713,027.93	\$3,324,130.50
Other income.....	61,188.21	104,099.35	155,518.90
Total income.....	936,633.76	2,817,127.28	3,479,658.40
Depreciation.....	198,585.41	367,740.16	697,879.23
Interest.....	43,732.44	225,187.52	202,886.96
Other expenses.....	263,390.00	878,374.93	1,039,742.69
Total expenses.....	505,707.85	1,471,302.61	1,940,508.88
Net profit.....	430,925.91	1,345,824.67	1,539,149.52

In addition to payments for storage of Government grain by United Elevators, the Commodity Credit Corporation also paid approximately \$1.7 million for storage of grain at other facilities owned or controlled by Billie Sol Estes. These payments were not covered by Estes' assignment to Commercial Solvents Corp.; however, most of the payments were assigned to pay construction costs.

A table showing payments for storage of Government grain in facilities owned or controlled by Estes appears on page 429 of the appendix.

#### *Source of Operating Funds*

Although storage operations of United Elevators were extremely profitable, Billie Sol Estes realized almost no cash from them because CCC storage payments were assigned to Commercial Solvents. Consequently, cash from other sources had to be used to meet operating expenses of United. Testimony by Wayne Cooper, general manager of United Elevators, concerning this situation follows:

Mr. COOPER. When we would need money in the operation of United Elevators, I would call on the manager of the fertilizer company, Lester-Stone Co., and tell him the amount of money I would have to have to meet expenses that I anticipated possibly 10 to 15 days in advance, and if he could not furnish the money to me, if he did not have it in his bank accounts, then I would call Mr. Estes or Mr. Foster and ask permission to draw a draft on an account in Pecos, usually on Billie Sol Estes, at the First National Bank, Pecos, Tex.

Mr. FOUNTAIN. Did you ever go through any mental strain wondering whether or not you were going to get the funds to meet expenses?

Mr. COOPER. Chairman Fountain, that was constant. It wasn't just seldom, it was constant.

In testimony at Plainview, Lloyd Stone, who worked for Estes at the Lester-Stone Co., gave the following testimony concerning the transfer of funds to United:

We furnished the operating capital for United Elevators. There was no set amount that we would give them. We would give them all that we could afford to from time to time. And, each month, and sometimes several times a month, we handed them money for their operation capital. Those funds were transferred to the United Elevators from Lester-Stone. We carried [it] on our books as a payment for our fertilizer to Pecos and charged Billies Sol Estes' account with that.

United Elevators had a bank account at the Hale County State Bank in Plainview from late 1958 until October 1960, when the account became inactive. R. D. Payne, president of the Hale County State Bank, told subcommittee representatives that there were numerous times when United's balance was insufficient to pay checks written on its account. Payne said that a deposit was usually made the next day to cover such checks before they were returned unpaid. According to Payne, the bank had to make five or six calls a month to Wayne Cooper because checks in excess of Estes' balance had been received and were being processed for return unpaid.

The subcommittee's investigation indicated that the volume of overdrafts on United's account led to "a sort of request" from officials of the Hale County State Bank that it be moved. The United account was then moved to the First National Bank, Tulia, Tex. Marvin Carlyle, president of the First National Bank of Tulia, told Federal investigators that it was necessary for him to call Cooper from time to time to cover overdrafts on the United account.

## AMMONIA SALES OPERATIONS

### BACKGROUND

#### *Use of Commercial Fertilizers*

Since World War II, agricultural productivity in the United States has increased greatly; a major factor in this development has been greater use of commercial fertilizers.

Commercial fertilizers are used to supply primary plant nutrients—nitrogen, phosphoric acid and potash—to soils which are deficient in these elements. Other elements needed for crop production—calcium, magnesium and sulfur—are known as secondary plant nutrients and are usually present in the soil in adequate quantities. Commercial fertilizers can be produced and applied in either solid or liquid form, and different types of fertilizer contain varying percentages of one or more of the three primary plant nutrients. The amount of nitrogen, phosphoric acid, and potash in a particular type of fertilizer is shown by a three-number formula which gives the respective percentage of each of these nutrients. For example, ammonium phosphate, which contains 11 percent nitrogen and 48 percent phosphoric acid but no potash, would be designated 11-48-0.

In 1940, according to Government estimates, agricultural use of the three primary plant nutrients in the United States totaled 1.8 million tons of which 419,000 tons was nitrogen, 912,000 was phosphoric acid, and 435,000 was potash. By 1962, total agricultural consumption of these nutrients had increased nearly fivefold, to 8.4 million tons. Nationwide use of nitrogen was up approximately eight times, to 3.4 million tons, while consumption of phosphoric acid and potash had reached 2.8 and 2.3 million tons, respectively. The amount of nitrogen used for agricultural purposes in Texas increased much more rapidly than in the rest of the United States, rising from less than 7,000 tons in 1940 to more than 256,000 tons in 1962.

Anhydrous ammonia ( $\text{NH}_3$ ), a liquid fertilizer containing 82 percent nitrogen, has become one of the more important types of fertilizers used in the United States. Its popularity is due to several advantages which it has over most other types of fertilizer. Because of its high nitrogen content, anhydrous ammonia costs less per pound of nutrient. As a liquid, it is particularly well adapted for use in irrigated farming where it can be added to the irrigation water. Anhydrous ammonia's liquid form also eliminates the labor involved in lifting and carrying heavy bags of solid fertilizer.

Prior to World War II, the percentage of nitrogen applied to crops in the form of anhydrous ammonia was very small. By 1962, however, about 23 percent of the total nitrogen used for fertilizer in the United States was in the form of anhydrous ammonia. In Texas, more than half of all nitrogen used in 1962 was applied as anhydrous ammonia, most of it in irrigated areas in the western part of the State.

*Production and Distribution of Anhydrous Ammonia*

About 75 percent of total world production of anhydrous ammonia is synthetic, with the remainder being obtained as a byproduct of other processes. Synthetic anhydrous ammonia is produced by bringing together nitrogen and hydrogen gas at high temperatures and pressures in the presence of a suitable catalyst. The end product is ammonia gas, which can be used directly, converted to liquid by refrigeration, or absorbed in water to make ammonia solution.

The nitrogen used to synthesize ammonia is extracted from the air; natural gas is the cheapest and most commonly used source of hydrogen for ammonia production in the United States, although oil, coal, or water can also be used. Economical manufacturing of ammonia requires a continuous operation, since procedures for shutting down and restarting the manufacturing process are time consuming and expensive.

Anhydrous ammonia is usually stored at local distribution points in storage tanks ranging in size from 6,000 to 30,000 gallons until it is delivered to farmers for use in the field. It is customary for a retail distribution outlet to have portable tanks with capacities of 500 to 1,000 gallons which are used to transport the ammonia to the fields where they are left until emptied by the farmers. These tanks can also be used for storage at the distribution point during the off-season.

*Price Structure*

For some commodities, sales competition is based partially, or even primarily, on factors other than price, such as quality or special suitability for a particular use. However, this is usually not so in the case of anhydrous ammonia, which, for all practical purposes, is identical regardless of where or by whom it is produced. While factors such as prompt service, customer loyalty, and availability of storage facilities or application equipment may sometimes be significant, price is ordinarily the dominant consideration.

Anhydrous ammonia prices are customarily quoted by producing companies on an f.o.b. plant basis, with freight to the delivery point being added to arrive at the total price. Consequently, if different producers quote identical prices at producing plants, the quoted delivered price would normally be lowest from the nearest plant because of a lower freight cost. For example, if Commercial Solvents and Phillips Petroleum quoted identical f.o.b. plant prices for ammonia produced at Solvents' plant at Sterlington, La., and Phillips' plant at Etter, Tex., the list price for Solvents' ammonia delivered at Etter would exceed the list price for Phillips' ammonia at Etter by the cost of freight from Sterlington to Etter.

However, under what William Leonhardt, Commercial Solvents' financial vice president, identified in testimony as an "industrywide formula," price differences due to freight costs are equalized. Under this formula, instead of charging the distributor the actual freight cost from plant to destination, the manufacturer would charge only an amount equal to the freight cost from the nearest competing producing plant to that destination.

In the example given above, the actual price charged by Solvents for ammonia delivered to Etter would be the same as that charged by Phillips because Solvents would absorb the entire freight cost. For



ammonia delivered to destinations near Etter, Solvents would absorb the amount by which freight costs from Sterlington exceeded freight costs for the much shorter distance from Etter. While "freight equalization" makes it feasible for manufacturers to sell ammonia in areas closer to another firm's plant, it also tends to create a more uniform price structure than would otherwise be present.

Perhaps three-fourths of the anhydrous ammonia produced in the United States goes into liquid or solid forms of fertilizer. The remainder is used for a variety of industrial purposes such as manufacture of chemicals, explosives, and synthetic fibers.

Production of anhydrous ammonia, as might be expected, has increased rapidly in recent years to keep up with increased demand. In 1950, 22 plants with a combined annual capacity of 1.7 million tons produced anhydrous ammonia. By 1962, there were 62 such plants with an estimated annual capacity of 5.9 million tons. As of January 1960, there was only one anhydrous ammonia plant with a capacity of 158,000 tons annually located in the western part of Texas. However, a number of such plants with a combined annual capacity of more than 750,000 tons were located in east Texas and Louisiana.

Marketing of anhydrous ammonia for use as a liquid fertilizer does not follow a fixed pattern. Some ammonia producers maintain their own distribution system for selling ammonia at the wholesale or even retail level; in other cases, bulk distribution facilities are maintained by cooperative associations. A large percentage of anhydrous ammonia is marketed through independent bulk distributors; these independent distributors may maintain their own retail outlets or sell at wholesale to independent retailers or both.

Most anhydrous ammonia is transported from producing plants to distribution centers in railroad tank cars with a capacity of 10,000 gallons (25.7 tons), although some is transported in tank trucks with a lesser capacity. The ammonia is usually loaded directly into railroad tank cars or tank trucks as it is produced rather than being stored at producing plants.

#### ESTES' EARLY SALES OPERATIONS

##### *Aggressive Sales Tactics*

Billie Sol Estes began selling anhydrous ammonia produced by Commercial Solvents Corp. in 1958, some 7 years after his arrival in Pecos. Estes had been selling farm chemicals in the Pecos area since the early 1950's, when he began ordering insecticides for resale to his neighbors along with those purchased for use in his own farming operations. By 1957, Estes had expanded his product line to include solid fertilizer and anhydrous ammonia and his sales territory to include much of the area around Pecos and El Paso. Estes obtained chemicals from a number of different suppliers, both before and after he became a customer of Commercial Solvents.

From the beginning of his operations, Estes demonstrated considerable talent for selling agricultural chemicals, usually disposing rapidly of everything shipped to him and asking his suppliers for more. Estes made sales by using aggressive competitive methods, particularly with respect to price. His flamboyant tactics are demonstrated by the following excerpt from an advertising circular distributed by the

"Farmers Co-op" in 1956 (while described as a co-op, this enterprise was actually owned and controlled by Estes):

Phone: HI 5-3057

Night phone: HI 5-2854 or HI 5-3108

FARMER'S Co-Op, Box 1052, PECOS, TEXAS

THE EYE OPENER

THE FARMERS FRIEND

THE GIANT KILLER

JULY 28, 1956

The Co-Op has already broken insecticide prices 22½ percent and will strive to break it more. We will have the best wholesale prices that we can obtain at all times. Let's join hands for a greater savings and convenient finance.

#### PURPOSE OF CO-OP

1. To supply farmers insecticides and fertilizers at wholesale prices.
2. To have strong purchasing power by buying on volume basis.
3. To obtain Fall terms.
4. To meet demand by having large stock on hand, and contracted for.
5. To be in a position to obtain as good a wholesale price as available.

*Officers of Co-Op are the only ones responsible for indebtedness or any obligation made by Farmer's Co-Op.*

#### APPLICATION AND DELIVERY

1. Application: Planes available when needed.
2. Delivery: Free on all insecticides, any amount.

A specific example of Estes' methods was provided by a former competitor, who told the subcommittee that:

In the summer of 1957 Estes was selling Ag Chem insecticide and at one time sold a truckload to a farmer in the Lazy L Cafe in Pecos at \$4 per hundredweight when our cost on this material was approximately \$7 per hundredweight to manufacture at the time. He dared one of our salesmen to sell some at the same price.

Prior to Billie Sol Estes' entry into the business, fertilizer prices in the Pecos area had been relatively stable. W. J. "Coot" Worsham, who became an associate of Estes' in the grain storage business after unsuccessfully trying to compete with him in the fertilizer business, described in testimony at Pecos how the situation changed after Estes began his operations:

Q. Now, Mr. Worsham, I think that you were a partner and owner of Worsham Enterprises, is that right?

A. Yes, sir.

Q. And I believe that you used to sell fertilizer until about 1957?

A. Yes, sir.

Q. And I think then you sold out to Southwest Fertilizer?

A. Yes.

Q. Why did you sell out?

A. Well, it looked to me like the thing was getting so highly competitive and prices being cut until I didn't figure I could stay there.

Q. Who was responsible for that situation?

A. Well, there had been a little price cutting, but not so much but what we could live with until Mr. Estes got into it.

In addition to his fertilizer business, Worsham also operated a crop dusting service which utilized airplanes to spray crops with insecticide. In further testimony at the same hearing, Worsham explained why he decided to get out of the crop dusting business in the Pecos area:

Q. Was there any particular reason for that that Mr. Estes was associated with?

A. Well, yes, I had heard that he had bought some airplanes so I figured "the handwriting was on the wall."

Another of Estes' former competitors in the Pecos-El Paso area gave the subcommittee the following account of the effect of Estes' sales tactics on his business:

In 1957, which was the first year Estes started in the ammonia business, this company sold approximately 4,000 tons of anhydrous ammonia. From 1957 through 1961 we operated the same branches in the same area but our sales of ammonia dropped to approximately 800 tons for the year 1961.

#### *Credit Problems*

While Billie Sol Estes' eagerness to order progressively larger quantities of chemicals must have been a continual source of joy to the sales departments of his suppliers, his talent for running up fantastically large unpaid bills was a constant problem for company officials responsible for credit and collections. Although the more than \$5 million balance charged against his account with Commercial Solvents was by far the largest, Estes ran up unpaid bills in six-figure amounts with at least three other farm chemical suppliers and owed smaller overdue accounts to a number of others. Estes' maximum indebtedness to Agricultural Chemicals, Inc. of Llano, Tex. (a firm then controlled by the Murchison interests of Dallas), exceeded half a million dollars, as did the amount owed the Pennsalt Chemical Co.

Billie Sol Estes may not have invented the slogan "Buy now, pay later," but he was undoubtedly one of its most enthusiastic followers—a circumstance which helps to explain his apparent ability to sell farm chemicals at a loss without going out of business. A west Texas man familiar with Estes' chemical sales operations described his "marketing pattern" with a succession of suppliers as follows:

\* \* \* he would sell the supplier into letting him have a large quantity on terms; Estes would promptly dump the

material for whatever cash price he could get (from 10 to 80 percent below cost), use the money raised to put out some local brush fires, and then ride the supplier as long as he could. It all could be summarized as a kiting operation in which he had to promote a bigger deal every year so he could raise enough cash to make a partial payment on deals he had promoted in years before.

Most of Estes' creditors, large or small, seem to have shared at least one common experience—they had trouble collecting from him. A typical example is the experience of the California Spray-Chemical Corp., which began selling Estes insecticides in the spring of 1954. Under its agreement with Estes, Calspray was to provide Estes with a \$75,000 line of credit under terms calling for payment of all invoices by the 10th of the month following the month of delivery. Four percent interest was to be charged on amounts not paid on time, with final settlement to be made no later than December 31, 1954. In a letter written on October 28, 1957, Calspray described its experience under this agreement as follows:

Under this arrangement our account reached a high credit of \$65,000. No payments were made during the course of the season, and the full balance of \$65,000 was owing on December 1. Sporadic payments were received during the first 4 months of 1955 and final settlement for 1954 business, including the interest, was received in June of 1955.

With some misgivings we entered the 1955 season under a similar expression of agreement as to terms. In 1955 our account reached a high credit of \$92,000, with no payments during this season. Payments began in May of 1956 and the principal amount was eventually settled by a payment in April of 1957. We have not collected the \$3,000 interest and are at the present time filing suit for this amount.

Having been burned 2 years in a row, we declined to make further credit available to Mr. Estes under any circumstances for the 1956 season. Undoubtedly this has contributed to the slowness with which the account was settled, in addition to the fact that Mr. Estes invariably had many other places to use our money.

While it was usually difficult to collect from Estes, it was not impossible. Most of his earlier creditors were eventually paid, and some of those who took vigorous action managed to collect fairly promptly. Olin Mathieson Chemical Corp. told the subcommittee that—

\* \* \* during the period beginning May 29, 1957 and ending July 31, 1957, Olin sold Mr. Estes approximately \$95,000 worth of agricultural ammonia.

The terms of payment under which the ammonia was sold to Mr. Estes were net cash, 30 days after date of invoice, interest to accrue thereafter, the entire unpaid balance to be paid according to the terms of Mr. Estes' promissory note, with final payment due February 1, 1958. This note was not paid when due and it was necessary to use legal means to collect. The entire amount due was collected on March 5, 1958, and Olin terminated its business arrangement with Mr. Estes.

Throughout his operations, Billie Sol Estes displayed remarkable talent for finding new chemical suppliers when those he already owed refused to extend further credit. Although he usually found new suppliers who did not know or were willing to disregard his questionable previous record, Estes did not hesitate to make new approaches to former suppliers. Olin Mathieson described what took place after it suspended business dealings with Estes in March, 1958:

Thereafter, in the late spring or early summer of 1958, Mr. Estes again approached Olin with another proposal to purchase agricultural ammonia. At this time Mr. Estes offered a substantial cash payment in advance which he proposed that Olin accept with the understanding that when the advance cash was used up, a substantial line of credit in excess of any previous line be granted by Olin for Mr. Estes' use. This proposal was not accepted by Olin, because of its previous experience with Mr. Estes described above.

Many of Estes' early attempts to secure new or renewed credit from chemical suppliers were successful. However—as the Olin Mathieson situation indicated—by early 1958 and even before, Estes' poor credit record was catching up with him. In testimony at Amarillo, N. J. Cain told why he refused an order from Estes for 40 cars of ammonia in 1957, when Cain was an employee of the Monsanto Chemical Co.:

Q. Was that delivery made?

A. No, I cut the order on him.

Q. Why did you cut the order?

A. I considered he wasn't a good credit risk at the time.

Q. And approximately when was that?

A. It was about 5 years ago, approximately.

Q. That would have been about 1957, then?

A. Yes, that is correct.

Q. Well, did you hear of and know of Mr. Estes before you met him?

A. Yes, sir. We had heard a great deal of him in this Pecos situation. At one time he had ordered two cars from Lion Oil, and there was some difficulty in getting the money at that time. That was about 1954 or 1955.

In November 1957, a letter from Calspray describing its unhappy experience with Estes in detail was read at a meeting of the Agricultural Chemicals Credit Association. After that time, until he tried Commercial Solvents, Estes apparently had no success in obtaining additional supplies of ammonia on credit. Estes himself told an associate, Coleman McSpadden, according to testimony by McSpadden at Amarillo, that "he had tried a number of other places, maybe as many as 25 other companies, and he hadn't been able to locate anybody that would supply him." Unlike many of Estes' stories, this one—while perhaps exaggerated—may have been essentially accurate.

#### AMMONIA SALES IN 1958

##### *Complementary Problems*

As Billie Sol Estes' credit difficulties were becoming more acute, Commercial Solvents Corp. was having troubles of a different sort.



By 1958, according to testimony of Commercial Solvents' president, Maynard Wheeler, the company had lost most of its customers for direct-application anhydrous ammonia. How this happened was described as follows in a November 1958 memorandum from Wheeler's predecessor, J. A. Woods, to members of Commercial Solvents' executive committee:

A large part of the output of our Sterlington ammonia plant was sold initially for direct application in agriculture. As new ammonia producers entered the field in recent years, they moved to secure a market for their ammonia by outright purchase or financial support of direct application distributors (Dow bought Chemical Enterprises, Continental/Cities Service bought Mid-South, Escambia bought Southeastern Liquid, Standard of Indiana bought Schrock, etc.). As these and other ammonia producers moved to buy up or control distribution facilities, many of whom were our customers, our potential market has been effectively squeezed. We have also been adversely affected by direct competition from the tax-free co-op, Mississippi Chemical, to whom we have lost most of our market in Mississippi.

Because of its vulnerability to competition in the direct-application ammonia market, Commercial Solvents had invested in plants which could convert approximately 75 percent of its 140,000-ton annual output of ammonia into nitric acid, nitrogen solutions, and solid ammonium nitrate. However, this still left about 35,000 tons to be disposed of as anhydrous ammonia; much of it had to be sold to industrial users at price levels far lower than those prevailing in agricultural markets.

As matters stood, in early 1958 Billie Sol Estes had tremendous sales talent but no ammonia. Commercial solvents had plenty of anhydrous ammonia, but was unable to dispose of it at attractive prices. In the circumstances, it was hardly surprising that Estes got quick results when he contacted Solvents in May 1958, to inquire about distributing the company's ammonia. Coleman McSpadden summarized Estes' account of what happened as follows:

He said that Commercial Solvents needed an outlet and distributor for their anhydrous ammonia, and of course he needed the anhydrous ammonia, and it was kind of love at first sight for both parties.

They needed each other, and that is probably the reason—well, he told me that was the reason they were able to make this deal on his first trip to see them.

By June 2, 1958, Estes had signed a contract to buy from 1,000 to 3,000 tons of anhydrous ammonia and from 250 to 1,000 tons of nitrogen solution during the remainder of 1958, and the first shipments were already on the way to west Texas. Estes agreed, in the event payment was not made within 30 days, to give notes bearing interest at 5 percent and payable on February 28, 1959. According to Maynard Wheeler, before entering into the June agreement Commercial Solvents made "what we considered (and still consider) thorough inquiries concerning Estes' credit standing and reputation as a businessman."

*Rapid Disposal of Ammonia*

Almost before the ink on his contract with Commercial Solvents was dry, deliveries of anhydrous ammonia to Billie Sol Estes had not only reached but exceeded the maximum quantity it called for. On July 18, 1958, Clyde T. Marshall, then general manager in charge of agricultural sales for Commercial Solvents, noted in an interoffice memorandum to Fred Burg, assistant treasurer, referring to the Estes contract, that

The maximum 3,000 tons anhydrous ammonia covered by our written agreement has been exceeded by about 400 tons thus far in July and it is estimated that requirements during August and September will be for 750 to a maximum of 1,500 tons.

Shipments of ammonia to Estes were consigned to the Farmers Co. of Pecos, a business name under which Estes had been selling ammonia on a comparatively small scale since 1957. The Farmers Co. handled insecticides as well as fertilizer, and conducted business at several locations in the Pecos and El Paso areas. C. M. "Chuck" Wesson was sales manager for the Farmers Co.; Estes had hired Wesson away from a competing firm in May 1958. According to Wesson, the retail price of ammonia in the Pecos area at the time he joined the Farmers Co. was about 6 cents a pound or \$120 a ton; Wesson described what happened thereafter in testimony at Pecos:

Q. Now, that price prevailed through the territory served by the Farmers Co.?

A. That is right. Until we had a price war and Billie Sol came out with a cheaper price.

Q. When was that?

A. That was June or July.

Q. Now, by "price war", do you mean somebody else dropped the price first?

A. No, sir. Billie Sol Estes did.

Q. In other words, there wasn't any price war. As a matter of fact, he just started cutting the price?

A. That's right.

\* \* \* \* \*

Q. Now, what did you drop the price to?

A. As I recall, it was down to 1 cent and then it went to 4 cents.

Q. Way below his cost?

A. Yes, sir. But there was a deal there that they had to buy with every dollar's worth of anhydrous ammonia, the farmer, I think, would have to buy \$10 worth of insecticides, as I recall.

Q. All right, sir. Now, how long did that continue?

A. Oh, I presume it continued for maybe a month.

Q. Then it went back up?

A. Around 6 cents or 6½ cents, somewhere around there.

*Failure to Pay*

Before the end of July 1958, officials of Solvents began to exhibit some signs of uneasiness about collecting from Estes. After noting

in his July 18 memorandum to Burg that deliveries of ammonia to Estes had already exceeded the maximum quantity called for by the contract, C. T. Marshall continued:

In view of this it is suggested that definite settlement arrangements be made with interest-bearing notes covering all material that has or will exceed 30 days net terms. During June 5 and 6 at Pecos, Tex., I made it clear to Messrs. Estes, Foster, and Wesson in our M. K. McConnell's presence that CSC would not extend credit beyond 30 days without interest as per our agreement \* \* \*.

In a letter to Estes on July 22, 1958, Burg made the following comment:

We believe that in conversations with our Mr. McConnell before inception of our contract for anhydrous ammonia and ANA nitrogen solution you did indicate that you expected to pay for this material on approximately one-third discount, one-third net 30 days and one-third 5 percent interest-bearing notes. We were sorry to learn that competition has prevented your carrying out your original intention of discounting and paying on net terms. You did, however, in our last conversation with you, feel that by August 10 funds would be available so that a substantial remittance could be made about that time.

On August 6 and September 8, 1958, Massey K. McConnell, who was then sales supervisor for Commercial Solvents in charge of agricultural chemical sales in the southern sales district, went to Pecos to discuss payment of Estes' account.

However, these collection measures were unsuccessful. William S. Leonhardt, then treasurer of Commercial Solvents, reported to then President Woods on October 30, 1958, that:

\* \* \* to date sales to Mr. Estes have totaled 4,953 tons of anhydrous ammonia and 1,078 tons of dixsol solutions. No payments have been made to date. We hold \$510,000 of 5-percent interest bearing notes due February 28, 1959, and there is \$37,000 in the open account for which notes will be requested 30 days after shipment.

(Estes had actually made one \$10,000 payment on his account in August, but Leonhardt apparently was not aware of it.)

It was about this time, according to testimony by Leonhardt in Dallas, that Commercial Solvents—

asked Mr. Estes to come in to talk about a past due account on some fertilizer we had sold him during the period of, roughly, May through August, 1958, and Mr. Estes said he had a proposal that he would like to make to Commercial Solvents.

#### GRAIN STORAGE-FERTILIZER AGREEMENT

##### *Estes' Proposal*

The proposal Billie Sol Estes made to Commercial Solvents in the fall of 1958 was for that firm to provide financing for his entry into the

storage business in the Plains area of Texas and to postpone collection of the more than half a million dollars in notes due on February 28, 1959. In return, Estes offered to buy more fertilizer from Solvents, assign Government grain storage payments to Solvents, and provide security for his debt.

Since Billie Sol Estes declined to answer questions, the subcommittee has no direct testimony from him as to why he proposed the grain storage-fertilizer agreement. According to testimony at Amarillo of Coleman McSpadden, Estes said he got the idea from observing the operations of Harry Igo, a fertilizer distributor and operator of the Plainsman Elevator at Plainview. McSpadden quoted Estes as saying:

\* \* \* he had visited with Mr. Igo at Plainview, Tex., and Mr. Igo had a very wonderful operation, grain storage and fertilizer \* \* \*.

Billie Sol Estes took many actions during his business career which appear to have been motivated more by his personal inclination toward rapid expansion and diversification than by any real consideration of the possible long-range consequences. In this instance, however, Estes' proposal offered two obvious advantages from his point of view. In the first place, it would enable him to postpone the necessity for either paying his debt to Commercial Solvents or defaulting on his notes because he could not pay. In addition, it offered Estes an opportunity to enter the lucrative grain storage field with someone else's money.

On November 5, Estes came to New York City where he remained until November 12. During this time, he discussed sales aspects of his proposal with Massey McConnell, C. T. Marshall, and W. W. Jackson, Solvents' vice president in charge of sales. Financial aspects of the proposal were discussed with William S. Leonhardt, treasurer of Commercial Solvents Corp. To supplement the discussions with Estes, Solvents officials analyzed market prospects in west Texas and made an investigation of Estes' credit.

On November 14, 1958, a memorandum summarizing the results of Commercial Solvents' study of the Estes proposal was sent by President Woods to the members of the executive committee.

#### *Potential Benefits for Commercial Solvents*

In his memorandum President Woods described the attractive market for anhydrous ammonia in the Pecos area and the even more attractive potential market in the Plains area as follows:

Our sales department has investigated the market for anhydrous ammonia and nitrogen solutions in the State of Texas and particularly in the Pecos and South Plains areas served and to be served by Estes. From a marketing point of view this is an attractive area of operations for CSC.

A recently conducted market survey shows that last year's consumption in the Pecos area was 11,000 tons of anhydrous ammonia and 2,200 tons of nitrogen solutions. In this market Mr. Estes' organization sold for CSC during the past season 5,000 tons of anhydrous ammonia and 1,000 tons of solutions. In the coming year and forward, he is projecting sales of 6,000 tons of ammonia and 2,000 tons of solutions,

which we believe he can do. In the South Plains area there was a consumption of 58,000 tons of anhydrous ammonia and 2,300 tons of solutions. In this market Mr. Estes has projected sales of 3,000 tons of anhydrous ammonia and 800 tons of solutions, which we feel is conservative.

With an abundance of water from irrigation sources and with resulting high yields, these areas should continue to support an increase in nitrogen consumption. A share of these markets, therefore, can be obtained for CSC providing our dealer is in a position to influence sales to farmers in the area. As a substantial farmer and with a lengthy and successful record in selling equipment and service to farmers, we feel that the Estes organization can develop and hold the nitrogen tonnage projected.

Woods also stated that the west Texas sales being made through Estes were the company's most profitable volume market for anhydrous ammonia and made the following comparison with sales to industrial ammonia users:

\* \* \* A typical case is our contract earlier this year with Atlas Powder for approximately 9,000 tons of ammonia at a price returning a gross profit to us of \$125,000. Even lower prices have recently been quoted Atlas which, if we had met them, would have reduced our gross profit on this total business to \$50,000. On the basis of our actual experience this year the equivalent ammonia sold in the west Texas agricultural market would have returned a gross profit of \$325,000. This additional profit, plus the present oversupply of ammonia in all markets, is the basis for our proposal that we consider financial assistance to our dealer, Billie Sol Estes, whereby he can expand and increase CSC's volume of ammonia in this area to approximately 9,000 tons a year or better.

While Woods did not break them down, the figures he quoted indicated a potential gross profit of more than \$36 per ton on sales to Estes as compared with about \$5.50 per ton for sales to Atlas at prevailing price levels.

#### *Credit Investigation*

In his November 14, 1958, memorandum, President Woods told the executive committee that:

Our credit department has investigated Mr. Estes' financial and credit standing and has concluded that he is a satisfactory risk for the \$550,000 now outstanding in his account and for the additional amount of credit now under consideration. \* \* \*

Among the major credit references for Billie Sol Estes cited by Woods were the John Deere Co., Anderson-Clayton Co., and the First National Bank of Pecos. Their comments were reported to the executive committee as follows:

*John Deere Plow Corp. (Dallas Division).*—Deere reported they have been doing business with Mr. Estes for several years and have completely checked him out. They found



that a good opinion of Mr. Estes was held by all. Deere's exposure with Estes ran from \$400,000 to \$500,000 and all paper was met on time when due. Mr. Estes took over a distributorship for them in Fort Stockton during 1958 and sold a half million dollars' worth of large cotton-picking machines. Deere report that in their opinion Mr. Estes has done an outstanding job in agricultural development in his area. As to Mr. Estes' personal integrity, the Deere representative stated that he holds nothing back and is perfectly frank and puts all the facts on the table.

*Anderson Clayton & Co. (Western Cotton Oil Division).*—Their representative verified most of the information we had obtained. They have been with Mr. Estes on a yearly loan on his cotton crop since 1949. Loans have been in excess of \$1 million. As security for these loans, they hold a second lien on some of Mr. Estes' acreage. To our question as to their opinion of Mr. Estes personally, their answer was "the best." They also stated that through the years, Mr. Estes has always settled his crop loans in accordance with contract terms.

*First National Bank of Pecos.*—They have been doing business with Mr. Estes since 1951 and for the past 7 years have extended him credit up to the amount of their loan limit which is \$46,000. They have also secured loans for him through their corresponding banks up to a total of \$200,000. In their dealings with Mr. Estes, they have found him to be honest and reliable in his dealings. This bank reports that they and corresponding banks have been satisfied in every way.

A Dun & Bradstreet report, dated August 5 and received by Commercial Solvents on August 21, 1958, was less favorable. In a summary, the report made the following comment concerning Estes' operations:

CURRENT DETAILED FINANCIAL INFORMATION IS LACKING. RECENT EXPANSION HAS BEEN VERY RAPID AND PUBLIC RECORDS WOULD INDICATE THAT EXPANSION IS BEING HANDLED LARGELY THROUGH NOTES. ESTES HAS SUBSTANTIALLY DIVERSIFIED HIS HOLDINGS. THERE IS CONSIDERABLE SLOWNESS IN RETIRING TRADE OBLIGATIONS.

The Woods memorandum indicated that Estes had submitted an unaudited statement showing a personal net worth of around \$5 million, as of April 1, 1958, and that his financial statement was being investigated more thoroughly. William Leonhardt, Commercial Solvents' treasurer, went to Texas shortly after the memorandum was distributed; Leonhardt was in Pecos from November 17 through November 20, 1958. In testimony at Dallas, Leonhardt summarized the action taken as a result of the credit investigation as follows:

\* \* \* Our position on all of it was that we had examined his financial statement, we were unable to obtain an audited statement, so on this statement we felt that the only posi-

tion we could take was to obtain all the security we could get. We instructed our legal counsel to prepare the best type agreement that we could get as far as we were concerned, and to get the type of collateral that we needed to record the mortgages, etc. Our lawyers were instructed that we wanted the best protection for Commercial Solvents we could get.

In testimony at subcommittee hearings Leonhardt emphasized that Commercial Solvents had relied on security rather than Estes' financial statements; according to Leonhardt:

From the very beginning with Mr. Estes in 1958, right up until March 1962, we followed this policy of always obtaining security from Mr. Estes. We did not rely on his financial statements.

*Security Offered by Estes*

Under the proposed agreement with Estes, Commercial Solvents was to obtain notes from Estes totaling \$900,000, payable in five annual installments beginning on February 28, 1960. Of the \$900,000 total, approximately \$550,000 was to be applied to existing indebtedness for anhydrous ammonia delivered in 1958; another \$125,000 was to cover additional shipments of ammonia to be made in 1959. The remaining \$225,000 was to be advanced in cash for use in purchasing the Smith-Bawden grain storage facilities at Plainview, Tex.

The Woods memorandum stated that, "The basis for Mr. Estes' request for a loan is that he has invested \$900,000 in ammonia tanks and application equipment in the Pecos area, and has contracted to purchase \$600,000 in equipment to handle direct application of ammonia in the South Plains area." According to the memorandum, payment of Estes' notes would be secured by the following:

1. Chattel mortgage lien on 800 ammonia tanks of 1,000 gallon capacity and 400 tanks of 500-gallon capacity purchased in 1958 by Mr. Estes at a cost of approximately \$890,000.

2. Second mortgage on land, buildings, and equipment used or pertaining to grain storage business to be purchased on December 1, 1958, from Smith-Bawden for \$850,000—two grain elevators in Hale County, Tex. Present replacement cost estimated by Mr. Estes at \$1,100,000.

3. Assignment of an existing life insurance policy on the life of Mr. Estes—face value of policy \$500,000.

4. Beginning December 1, 1958, Mr. Estes will assign, each year, all storage receipts from grain stored in two grain elevators, to be applied on next installment due on notes—excess to be applied to open account—current and future receipts estimated at minimum of \$470,000 per annum.

5. Mr. Estes has given us appraisals on six pieces of land totaling 22,905 acres having a cost of \$5,800,000 and encumbered by mortgages, etc., totaling \$1,054,000. Mr. Estes agrees that he will not sell, transfer, etc., or pledge, mortgages, etc., on this property without prior approval of Commercial Solvents Corp. during the life of the loan.

Although the security offered by Estes may have seemed impressive, much of it was misrepresented or subject to qualifications. The second mortgage on the Smith-Bawden warehouses was subject to the prior claim of the original owners. Estes' life insurance policy was payable only in the event of his death. The value of real estate which Estes proposed not to further encumber or transfer was grossly overstated.

The chattel mortgage on ammonia tanks was virtually worthless because most of the tanks did not exist and Estes had already signed mortgages for several times the value of those that did. The subcommittee's investigation disclosed that tank mortgages totaling around \$900,000 were recorded in Estes' name in Reeves County during 1958. However, according to an Ernst & Ernst audit made after Estes' arrest, the value of tanks and equipment actually acquired by Estes during 1958 was only around \$275,000.

By contrast, the assignment of Estes' grain storage revenues eventually resulted in larger payments to Commercial Solvents than were originally predicted.

#### *Evaluation of Grain Storage Situation*

In his November 14, 1958, memorandum to Commerical Solvents' executive committee, President Woods pointed out that Billie Sol Estes' contract to purchase the Smith-Bawden facilities included a guarantee that there would be at least 1,500,000 bushels of CCC grain in storage there on December 1, 1958. Under Estes' proposal to Solvents, payments for storage of the CCC grain would be assigned to Commercial Solvents; in effect, the U.S. Government would serve as collection agent for Commercial Solvents.

While William Leonhardt was in Pecos meeting with Billie Sol Estes, W. W. Jackson, Commercial Solvents' vice president in charge of sales, was in Washington talking with officials of the Department of Agriculture. The purpose of Jackson's visit to the Department, according to a November 19 memorandum from Jackson to S. T. Ellis, then executive vice president of Commerical Solvents, was "to better evaluate" the value of the proposed assignment of storage revenues. In the memorandum Jackson reported that:

At the office of the Commodity Stabilization Service, Grain Division, I had a lengthy meeting with Mr. John Tripp, Deputy Director. Mr. Tripp was most helpful and direct in his answers to my inquiries. Their Division is responsible for the administration of the grain storage program and he was quite familiar with the Plainview area. A summary of Mr. Tripp's comments follows:

(a) The Government owns 2 billion bushels of storage now and is expected to require over 4 billion bushels of storage in 2 years, based on the current program.

(b) It is costing the Government over \$1 million per day to store surplus.

(c) The 300 to 400 million bushels additional storage, currently programed, is not sufficient to handle the 1959 surplus. They believe they will require up to 1 billion bushels additional storage.

(d) There is no indication in the next 5 years of any change in the grain storage program that can or will affect Estes' storage position.

(e) Based on the storage rates in Texas for wheat, the Estes storage should bring him 17.155 cents per bushel per year, plus 2.25 cents throughput (basis: rail). This is \$170,000 per year for storage for each million bushels, plus \$22,500 per year per million bushels, based on one throughput. Truck charges would increase the throughput to either 5½ cents per bushel or 8 cents per bushel, depending upon the storage procedures. On the basis of 2.8 million bushels stored per year, this would give Estes \$480,000 per year to assign to CSC.

#### *Approval by Board of Directors*

Minutes of a meeting of the executive committee of Commercial Solvents on November 24, 1958, indicate that Estes' proposal was discussed and that the executive committee unanimously adopted a resolution recommending that the board of directors authorize company officers to accept it. A board of directors meeting was held later the same day. Following is a verbatim extract of the portions of the minutes of that meeting dealing with the Estes proposal:

The president then submitted a memorandum dated November 14, 1958, addressed by him to the members of the executive committee, with respect to a proposal that the corporation make a term loan in the amount of \$900,000 and extend credit terms to a dealer, Mr. B. S. Estes, in connection with his purchases from the corporation of anhydrous ammonia and nitrogen solutions for resale in the State of Texas, and he stated that the executive committee, at its meeting held this date, had adopted a resolution recommending to the board of directors that the officers be authorized to make a term loan in an amount not in excess of \$900,000 and extend credit terms to Mr. Estes in accordance with said memorandum.

After discussion, on motion, duly made and seconded, the following resolution was unanimously adopted:

*Resolved*, That the officers of this corporation be, and they hereby are, authorized to make a term loan in an amount not in excess of \$900,000 and extend credit terms to Mr. B. S. Estes, in connection with his purchases from this corporation of anhydrous ammonia and nitrogen solutions for resale in the State of Texas, in accordance with the memorandum of the president with respect to said matter, dated November 14, 1958, submitted to this meeting.

On November 24 and 25, Billie Sol Estes was in New York and reached final agreement with officials of Commercial Solvents on details of his proposal. A master agreement and separate fertilizer agreement, each dated as of December 1, were executed at this time.

Under the master agreement, Billie Sol Estes gave Commercial Solvents Corp. promissory notes totaling \$900,000 payable in equal annual installments over a 5-year period beginning February 28, 1960; \$225,000 of this amount was to cover a cash advance made by Commercial Solvents to Estes; the remainder was to secure existing and future indebtedness for anhydrous ammonia.

As security, Estes gave Commercial Solvents a chattel mortgage covering 800 1,000-gallon ammonia tank-trailers and 400 500-gallon

acid tank-trailers. Estes also gave Commercial Solvents a second mortgage on the Smith-Bawden storage facilities and assigned to Solvents life insurance policies on his life with a total face value of \$500,000.

In addition, Estes agreed to assign to Commercial Solvents payments for storage of Government grain in the Smith-Bawden facilities. Solvents agreed to turn over the first \$105,400 in Government storage payments to the prior owners of the Smith-Bawden facilities. Estes also promised to assign to Solvents Government storage payments on any additional grain storage facilities he subsequently acquired in Floyd or Hale Counties.

Under the fertilizer agreement entered into at the same time as the master agreement and also dated December 1, Estes agreed to purchase his requirements of ammonia from Commercial Solvents at its published prices with a proviso that Commercial Solvents Corp. was not obligated to deliver more than 12,000 tons in any year. Solvents agreed to meet competitive prices in the event that ammonia was available to Estes from other suppliers at a lower price than quoted by Solvents. Estes was to be allowed a line of credit not to exceed \$500,000 evidenced by promissory notes with interest at 5 percent.

With the agreements signed, Billie Sol Estes was ready to expand his ammonia sales operations from Pecos to the heavily irrigated Plains area more than 200 miles to the northeast.

#### ESTES EXPANDS OPERATIONS TO PLAINS AREA

##### *Preliminary Steps*

Billie Sol Estes did not begin ammonia sales operations in the Plains area until after December 1, 1958, when his grain storage-fertilizer agreement with Commercial Solvents was signed. However, Estes was apparently considering such a move—and potential competitors were concerned about the possibility it might occur—much earlier in 1958.

At least one ammonia distributing firm in the Plains area became concerned about the possibility that Estes might establish operations there almost as soon as Estes began handling Commercial Solvents ammonia. In the following testimony at Amarillo, N. J. Cain described an incident which happened shortly after Cain became an official of Southern Farm Supply Association, of Amarillo, in May 1958:

\* \* \* We were dealing with Commercial Solvents, we did not have an exclusive on their products, and did not ask for it, but I had only been here about 2 weeks, and along the first part of June I heard that Commercial Solvents was going to supply Billie Sol Estes. We were familiar with the Pecos situation, the pricing down there, we did not want to see it get in such a situation as it had gotten on the High Plains. I drove to Louisiana and talked to Clyde Marshall, the sales manager, and Mr. McConnell, the sales supervisor, of Commercial Solvents Corp. They told us that they were going to supply Billie Sol Estes, and he would confine that operation strictly to Pecos and he would not be competitive with us in this area. \* \* \*



By late 1958 reports were circulating in the Plains area that Billie Sol Estes was planning to move in. One source of these reports was Harold Orr, then an ammonia tank salesman for Superior Manufacturing Co., of Amarillo, and later a participant in Estes' fraudulent tank mortgage activities. In testimony at Plainview, Fred Sims, who was a fertilizer dealer at the time, gave the following account of an incident which took place in his office at Black, Tex., a small town northwest of Plainview:

A. \* \* \* back in the fall of 1958. Harold Orr came by and told me that there's a man in the country that was going to move in up there and take over the fertilizing business, and if I wanted to stay, I'd better line up with him.

Q. Who was that?

A. Harold Orr.

Q. Who was he talking about?

A. Billie Sol Estes.

#### *Acquisition of Lester-Stone Co.*

Under his December 1, 1958, agreement with Commercial Solvents, Billie Sol Estes was assured more than half a million dollars in additional credit for anhydrous ammonia. In order to sell this ammonia in the Plains area, Estes needed both a wholesale distribution system and local retail outlets. He moved rapidly to acquire them.

In December 1958, Estes began negotiating to acquire control of the Lester-Stone Co. Like Estes' recently purchased storage facilities, the Lester-Stone Co. was located at Plainview, a town of around 18,000 people in a heavily producing irrigated farming area about 50 miles north of Lubbock. The Lester-Stone firm, a partnership of Glenn Lester and Lloyd Stone, had been a fertilizer distributor since 1955 and serviced about a dozen retail outlets in small towns around Plainview.

On January 1, 1959, Estes bought out the partnership interest of Lloyd Stone. The circumstances and negotiations leading to sale of his partnership interest were described by Stone in the following testimony at Plainview:

Mr. Estes had acquired the ownership of the Smith-Bawden Grain Co. here in Plainview sometime in November. And he came to me sometime in December and told me that he needed to acquire a fertilizer business in this area; that he was going into the fertilizer business. And he told me that he had looked around and he wanted to buy a going business; and that he judged ours to be the kind that he wanted. He told me that he was coming in here to go into the fertilizer business and that he would be rough competition. And he wanted to let me know that he was coming; that there would be rough competition; and that he wanted to buy us out; and that he felt like it would be a favor for me because we were small, insignificant; and that we had experienced some difficulties in fertilizer business as far as the price. And we felt like, or I did, that the best thing I could do was to sell out to him and get the money out of it that I could and go to work for him.

According to testimony at Plainview by Glenn Lester, Estes promised to give Stone \$70,000 for Stone's partnership interest, paying part of that amount in cash and giving notes for the remainder. Stone remained with the firm as an employee.

After Estes bought Stone's interest in January 1959, the Lester-Stone firm terminated its business arrangements with the Monsanto Chemical Co., which had been its ammonia supplier, and began using ammonia produced by Commercial Solvents and billed to Lester-Stone through Estes' Farmers Co. By the end of 1959, because of below-cost sales, Lester-Stone had incurred a huge book loss and owed Farmers Co. a large unpaid fertilizer bill. What happened next was described by Lester as follows:

\* \* \* Mr. Estes decided he was going to have another sale to sell some more cheap ammonia. I said, "No. I believe we have sold enough of that." He said, "Well," he said, "Whether you like it or not, we're going to sell it." He said, "I'll just call for payments until the ammonia—for what Lester-Stone Co. owes Farmers Co.," which was one of his concerns, he said, "We'll just close out the deal." He said, "You'll just be out in the cold."

\* \* \* Q. He stated that he would call that account in effect just to foreclose on the partnership and close you out?

A. That's right.

Q. What did you reply to that?

A. Well, I don't remember exactly. But it didn't set very well with me. We had a few words. And finally, he said, "Well, I'll just buy you out, then." And we come up with a trade whereby he agreed to pay me so much money, and I would continue to work for the concern and I'd take a note for the balance.

Q. What was your trade?

A. Well, he said that he would give me \$25,000 for what I—my equity, if there was any, and if I would continue to work for the company. And he paid me \$5,000 in cash and gave me notes for \$20,000.

\* \* \* Q. Will you give, as you remember it, the specific words that Mr. Estes said to you when he offered you the prospects of either being foreclosed or selling out at this price of \$25,000? What did he say to you at that time?

A. Yes, I remember the words very plainly. He said, "Well, we'll just temper the rod with a little mercy here." [Audience laughs.]

And, Judge, I couldn't laugh about it when he said it, either.

Lester's testimony did not indicate whether or not he and Stone had been equal partners and why he had acquiesced in a course of conduct involving below-cost sales.

#### *Establishment of Wheeler Fertilizer Co.*

After acquiring an interest in the Lester-Stone Co., in January 1959, Estes turned his attention to Hereford, a town of about 7,500 popu-

lation some 65 miles northwest of Plainview. This time, instead of taking over an existing fertilizer distribution firm as he had done in Plainview, Estes started a new one. The business was established in the name of Gerron S. "Mutt" Wheeler, a filling station operator who, by his own account, was "a stranger to the fertilizer business." Although ostensibly an independent distributor, Wheeler was actually an employee of Billie Sol Estes; he described his arrangement with Estes in the following testimony at Amarillo:

Q. Tell us the substance of the contract arrangement you had with Billie Sol Estes.

A. I was to deliver and handle his ammonia, on salary plus commission on the net profits, and he was to tell me what to sell it at, the prices quoted and the equipment to be furnished.

Q. What did you call your business?

A. Wheeler Fertilizer.

Q. Was that a partnership or a corporation?

A. Supposed to be a proprietorship.

Q. What was your salary?

A. The first year was \$10,000.

Q. And after that?

A. Up to \$15,000; I am drawing \$15,000 now.

Q. And in addition you were to get 25 percent commission on net profits of your operation?

A. Correct, yes, sir.

Estes also disposed of ammonia through a Lubbock distributor, Coleman McSpadden. Estes' relationship with McSpadden is discussed on page 381 of this report.

#### *Obtaining of Additional Retail Dealers*

Using the Lester-Stone Co. as his primary base of operations, Billie Sol Estes moved rapidly in early 1959 to acquire additional retail outlets. To obtain additional dealers, Estes offered them a guaranteed margin of profit. In his testimony at Plainview, Glenn Lester described what was done:

Q. Now, Mr. Lester, did Estes give you any instructions about the acquisition of additional dealers and additional distributors?

A. Well, yes. He asked us to get out and get the boys in and move all the ammonia we could.

Q. Did he give you instructions about how to do it?

A. Well, yes. We were to guarantee them so much margin regardless of the price that they sold ammonia for. We guaranteed to meet any competition.

Q. In other words, in this thing he first dropped the price below cost?

A. That's right.

Q. And then he told you to go to other dealers and other distributors and tell them that you would guarantee them a margin of profit no matter what the cost was?

A. That's right.

Q. And no matter what the price was or was selling for?

A. That's right.

Q. Now, what was that margin of profit?

A. Well, we started out \$10 plus the use of the equipment, the rental that they got out of the equipment that they rented to the farmers. About \$10 a ton.

Estes did not hesitate to threaten destructive competition in case dealers were reluctant to buy their ammonia from him. In testimony at Plainview, James Winders, a dealer at Earth (a town of about 1,000 located 40 miles west of Plainview), gave the following description of a telephone conversation with Estes in early 1959:

A. \* \* \* he told me if I did not buy anhydrous ammonia from him the next year, he would put me out of business.

Q. What did you respond to that?

A. Well, I asked him if he didn't think he should come up and talk to me about it. At that time, I didn't have a large business but I didn't owe anyone anything, and I thought the man ought to come and talk with me before he just took over my business. He said, "There's nothing to talk about. That's just the way it is."

Estes used promises as well as threats to obtain dealers, according to testimony of Weldon Bradley at Plainview. Bradley, who at the time was a dealer at Dimmitt (a town of 3,000, 40 miles northwest of Plainview) gave the following account of a conversation with Estes at the Lester-Stone office:

A. \* \* \* He said he didn't want to hurt me. He wanted to sell me ammonia, and fix it so I would have a margin in it so that I could meet anybody's price. And made me feel pretty good. And I come out of that place pretty well assured that I was going to be taken care of. \* \* \*

As Billie Sol Estes began to make good on his threats to sell ammonia below cost, more and more dealers decided to obtain their supplies from Lester-Stone. According to Lloyd Stone, "\* \* \* they were in a position that they weren't competitive and they couldn't do any business; so, they came to us and wanted to join us." In his Plainview testimony, Stone described the speed and extent of Lester-Stone's growth:

Q. Now, when you started, you had 10 dealers. How many dealers do you have now?

A. Seventy-eight.

Q. So, you expanded from 10 to 78 dealers?

A. That is correct.

#### ESTES CAPTURES LARGE SHARE OF MARKET

##### *Price-Cutting and Attempted Price-Fixing*

According to testimony of associates and acquaintances, Billie Sol Estes declared in advance that he intended to seize a large share of the Plains ammonia market. In testimony at Amarillo, Harold Orr described a comment made by Estes in January 1959, at the Hilton Hotel in Plainview. According to Orr:

Mr. Estes stated he was going to control the anhydrous ammonia business in the Panhandle area, and he was going to do it by dropping the bottom out of the price marketing.

In his Plainview testimony, Lloyd Stone gave the following description of a conversation with Estes in early 1959:

Q. Now, what did Billie Sol Estes say to you about how to go about building the business and expanding it?

A. Billie Sol always used analogies, and he said, "Now, we can go in here and work real hard for 15 years and build a business, or we can come in and"—as he said it, "Now, these people have all of this business just in their little hot hands." And he said, "Now, if we try to get it this way, we're not going to be able to get it." But, he said, "If we hit them, it will all fly up in the air and when it falls down, then, we'll grab our part of it."

Despite Billie Sol Estes' talk of price cutting, one of his associates was apparently actively promoting a price-fixing meeting at about the same time. In testimony at Amarillo, Coleman McSpadden—a competitor of Estes at the time, although he later became an associate—told of a meeting in the ballroom of the Jim Hill Hotel at Hereford on January 14, 1959. McSpadden said the meeting was called by Lloyd Stone of the Lester-Stone Co., but Estes did not attend. McSpadden gave the following account of what took place:

Q. What was the topic of discussion, or what was the purpose of the meeting?

A. Of course, we were all called together to try to raise the price of ammonia to where the dealers could make a profit on the sale of anhydrous ammonia.

Q. There were dealers from all major suppliers there?

A. Yes, sir, and the ballroom was substantially full of people. It was a great turnout.

Q. You knew a good many of them?

A. Yes, sir, I knew quite a few of them.

Q. Now, did they arrive at an agreed price at that meeting?

A. Yes, sir.

According to McSpadden, those attending the meeting agreed to charge uniform prices for anhydrous ammonia; McSpadden's testimony on this point follows:

Q. Tell us what the retail prices were that were agreed upon at that meeting.

A. We agreed to sell anhydrous ammonia at 5.75 at the dock in the customer's tank.

Q. That is cents per pound?

A. Cents per pound, yes, sir; 6.25 at the dock in the dealer's tank.

Q. That is where the dealer furnished the tank to the farmer?

A. Yes, sir.

Q. All right?

A. And 6.75 with the dealer's tank and applicator.

Q. That is where the dealer was furnishing the tank and applicator?

A. Yes, sir.

Q. All right, sir?



A. And 7.50 cents per pound for a turnkey job, where the dealer takes his tractor and goes out and applies it for the farmer.

Q. Was there a general consent and general agreement among those present on that set of prices?

A. We took a vote.

Q. You took a vote?

A. Yes, sir.

Q. Did it pass or fail?

A. Oh, it passed.

### *Estes' Sales Tactics*

Despite the high hopes of its participants, the Hereford meeting—according to McSpadden's further testimony—did not stop Estes. McSpadden described subsequent events as follows:

Q. What happened immediately after that meeting?

A. Well, before most of us could get back to our offices, the Estes group broke the price back to, I believe it was 4.50 cents a pound, and they started booking immediately, just as fast as they could.

\* \* \* \* \*

Q. Then almost before you could get back to your work, his people were in the field at a lesser price?

A. Yes, sir.

Q. Did they pile up a deal of business by that?

A. Yes, sir, they did. \* \* \*

Customary commercial terms are hardly adequate to describe the sales tactics used by Billie Sol Estes to take over a major share of the Plains ammonia market in 1959. In a way, perhaps the most appropriate description of what happened is the World War II term "blitzkrieg," defined by Webster as "war conducted with lightninglike speed and force."

Estes' competition was extremely difficult, if not impossible, for most retail dealers to combat with their own resources. This is illustrated by testimony at Plainview of Fred Simms, a dealer near Hereford who agreed to handle ammonia provided by Estes; Simms gave the following account of instructions he received from Estes:

\* \* \* he told us he would pay us \$10 a ton for every ton we sold, and we'd start out selling it for 4½ cents a pound. And then, he said if anybody meets that price up there, then drop it a quarter of a cent. And he said, "And then if anybody meets that, drop it another quarter." And he said, "Until it gets to 3 cents a pound." And he said, "There's no need of calling me or anything, bothering me until it gets down to 3 cents a pound. And when it gets that cheap, then, let me know."

Estes' low prices, as might be expected, made it easy for his dealers to sell to farmers. In his testimony, Simms described what happened when he publicized the reduced price:

A. \* \* \* I contacted a few farmers and told them. I'd have to drive over the country, you know, and contact them. But then after about the first week, well, they would come to my office.

Q. They were lined up to get in?

A. Yes, sir. They were wanting it. It wasn't very hard to sell.

The results of the sales tactics inaugurated by Estes in early 1959, were summed up by Coleman McSpadden as follows:

\* \* \* from that date forward, Mr. Estes practically controlled the anhydrous ammonia market in the area, and other dealers were either going broke or going out of business or merging or selling out \* \* \*

#### *Advance Booking*

A sales practice which Estes probably originated and certainly used extensively was that of "advance booking." In his testimony at Amarillo, N. J. Cain, of Southern Farm Supply Association, stated that the custom was peculiar to the Plains area and had come into wide use about 1959. Cain indicated there were two types of advance booking, "jawbone" or "conversational" booking, which was simply a promise of delivery at a future date with payment to be made on delivery, and "cash" booking in which advance payment was made for future delivery of ammonia at a guaranteed price.

Billie Sol Estes made substantial sales of ammonia on a cash-in-advance, basis. In testimony at Plainview, Lloyd Stone gave the following description of the technique Estes used to obtain large amounts of advance booking without giving competitors an opportunity to match his price:

\* \* \* to use his terminology, we'd just surround them and then hit them. What he meant by that was that we'd get on the telephone and notify all of our dealers at a certain day—and not to begin before and not to let the word out—but on a certain day, a certain morning, we'd start booking ammonia. And we'd contact everybody that we could. And, by night, we would have a lot of it in.

Some of Estes' dealers suffered losses when they booked advance orders at reduced prices and then were unable to obtain ammonia from Estes with which to make deliveries. In testimony at Plainview, Weldon Bradley of Dimmitt said he had booked advance orders for a substantial amount of ammonia at four and a quarter cents per pound; Estes was to provide the ammonia and guarantee Bradley \$10-per-ton margin. Bradley described what happened next as follows:

Q. What happened after that?

A. Well, the next thing I knew, I couldn't get any ammonia.

Q. From the Lester-Stone Co.?

A. That's right.

Q. And then what did you do?

A. Well, I made a trip down here every day for about a week trying to get the thing straightened out. And find out why—I had these farmers' money and they were wanting their ammonia. They didn't seem to want their money back. All they were interested in was the ammonia. And I held them off so long as I thought I could. And one time I came down here and it seemed that they were very des-

perate for ammonia. And they called Pecos and they wanted me to talk to Billie Sol myself. Because I had a bunch that was after me. And I told them I would talk to him. I would like to find out what the deal was. And they couldn't get a hold of Billie. But they did let me talk to—I suppose it was his top man.

Q. Foster?

A. I believe it was Foster. He said, "Bradley, we'll have you a load of ammonia in there by 9 o'clock in the morning." He said, "I'll see to that personally." Well, I went back and assured my customers that they could start lining up out there and get it as long as the transport would last. But it never did arrive.

Bradley finally gave up hope of obtaining the ammonia promised by Estes. In further testimony, he described how he secured ammonia to meet his commitments:

Q. Then, what did you do?

A. Well, I went back up to Lowell Sharp [a distributor at Hereford]. I went back to Phillips at Dimmitt to see if I could buy some ammonia they were selling. And they told me that they wouldn't sell anybody any ammonia that had anything to do with Estes. But finally, there was one that said, "I'll sell you some." At that time, ammonia had gone back up to 6 cents a pound. He said, "If you will let me unload at night," says, "I'll bring you some in the morning at 6 cents a pound." I filled all of those contracts, those four-and-a-quarter contracts with 6-cent ammonia.

Q. How much did you lose on that transaction?

A. About \$7,500.

Q. Then, did you have any further relationship with Lester-Stone?

A. No; I didn't. \* \* \*

#### *Effect on Competitors*

A number of fertilizer dealers went out of business because they could not meet Billie Sol Estes' price competition. Lowell Sharp of Hereford was formerly a partner in the Plains Fertilizer Co., a wholesale and retail fertilizer business at Hereford. In a hearing at Amarillo, Sharp described his experience after Estes began to compete with him.

Q. What was the name of the concern that Mr. Estes was selling through, in your area?

A. Lester-Stone Co.

Q. What was the price at which Lester-Stone people were putting it on the market?

A. Well, his dealers were booking the ammonia to the farmers at \$80 per ton, delivered to the farmers.

Q. Now, that was some \$7 or \$8 below your cost, wasn't it?

A. That's right.

Q. What did that do to your business?

A. Stopped it.

Q. It stopped it?

A. Yes, sir.

There were reports—which were not verified by the subcommittee—that as many as 80 fertilizer dealers went out of business because of competition from Estes. W. W. Jackson, vice president of Commercial Solvents, commented on this point during his testimony before the subcommittee as follows:

Mr. NAUGHTON. Is it or is it not true, as reported, that some 80 fertilizer distributors in west Texas were forced out of business by the practice of Billie Sol Estes of consistently selling fertilizer below the cost at which he himself acquired it?

Mr. JACKSON. You are asking me now for my personal opinion. I will present it on that basis. In my opinion, sir, that is not true.

Mr. NAUGHTON. What is your opinion as to the true state of facts?

Mr. JACKSON. My opinion is that many of those operators were marginal operators, some of them were truckdrivers who got into the business of anhydrous ammonia as a work of opportunity, and it is quite understandable. Others were companies who tried to get in on the beginning of what appeared to be a rapidly growing and lucrative market. It is true it was rapidly growing, but unless you are set up with all the equipment, which represents a major investment, it is pretty difficult to stay in business.

We have seen cases where these companies were absorbed by our competition. As a matter of fact, one of our largest customers, if not the largest customer, back before we ever heard of Estes, was completely absorbed by a major petroleum company.

Another was lost to us by an oil company. Standard took over Shrock. The Mid-South, a very substantial Midsouth distribution account which was in many respects similar to Estes in that they had substantial investment in tanks, trailers, applicators, equipment, was lost to us because a producer came in, a producer—a combination of Cities Service and Continental Oil—that bought out this equipment.

So it is very difficult to generalize.

I think that there probably were companies who were, in effect, discouraged from continuing business. This is normal.

The dealers who managed to stay in business in competition with Estes found the going rough. Harry Igo, operator of Plainsman Fertilizers in Plainview, considered selling his business to Estes but decided against it because, in Igo's words, " \* \* \* he had a non-compete clause in there that provided I wouldn't go back into business anywhere in the United States or the world or any planet in outer space that was now existing or any that would be discovered." Although Igo stayed in business for himself until January 1962, when he sold out to W. R. Grace Co., he stated in testimony at Lubbock that there was no profit in the fertilizer business during the 3 years he was competing with Estes.

Southern Farm Supply of Amarillo, a regional wholesale cooperative, found itself in the position of having to send customers to competitors because "they were selling cheaper than we could buy." As a result

Southern Farm Supply became an agent for the Monsanto Chemical Co. handling ammonia on a consignment basis rather than as an independent dealer.

James Potts, general manager of the Taylor-Evans Farm Store, indicated in the following testimony at Amarillo that competition from Estes was more severe in some areas than in others:

Q. Now, did you sell any anhydrous ammonia in any other area of your operation, other than Amarillo area?

A. Yes; our largest sales in ammonia are south of here in the Tulia and Happy area, but the price hasn't been nearly so severe in that area.

Q. Would you say prices in that area were more stable?

A. Somewhat. The dealers representing Mr. Estes were friends of ours, and refused to be as cutthroat as in some of the other places.

Q. Now, approximately how much did your business drop here in Amarillo area?

A. This last year the tonnage was down at least 1,500 tons.

Q. Have you ever had opportunity to sit down and actually figure it on a percentage basis?

A. Here at Amarillo and the points west of here our tonnage, our business, was down from 80 to 90 percent; in the Canyon-Dawn area, approximately 40 to 50 percent. The further we got away from Wildorado and Bushland, where we were competing against these lower prices, the more ammonia we moved.

Q. In other words, the competition was greater right here in the Amarillo area, in your operations, than it was south of here?

A. That's right.

Potts also described a practice to which his firm was forced to resort in its efforts to meet Estes' competition.

\* \* \* Mr. Estes and his associated dealers, or whatever association there might be, were selling fertilizer for less than we could buy it, and so we couldn't ask our farmers to pay more (that is, our customers) and what little we did sell in this area, we disguised our men as farmers, and went to their storage and picked it up, and paid \$60 a ton for it, because we could not buy it for that price.

Q. Now, what's that—let's go over that again——

A. We were unable to compete at all, so in Bushland and Wildorado we disguised several of our employees as farmers, took the names off our tanks, and went into their operation and bought ammonia, to where we could at least be a little competitive, where people really wanted to trade with us; and that was about all the ammonia we bought, was what we bought through them, and they thought they were selling to farmers; but that was the only way we could stay in the picture.

Q. Did you have a title for this, like "Farmer Jones" operation?

A. The boys went under their own names.



While competing distributors and dealers felt the impact most heavily, producers of ammonia with markets in the Plains area were also seriously affected. In order to maintain any sales volume at all in areas in which Estes was competing, they had to reduce their price sharply. The result, in a number of instances, was smaller sales at lower prices.

#### *Complaints to Commercial Solvents*

The aggressive sales tactics used by Billie Sol Estes in taking over a large share of the Plains ammonia market in 1959 resulted in a considerable amount of ill feeling toward Estes' supplier, Commercial Solvents. The intensity of this reaction is documented in letters of complaint sent to Commercial Solvents by officials of Southern Farm Supply of Amarillo. Aside from Billie Sol Estes, Southern Farm was the only substantial ammonia customer Commercial Solvents had in west Texas at that time.

On September 2, 1959, N. J. Cain, agricultural chemicals manager for Southern Farm, wrote a letter to Massey McConnell, Commercial Solvents' regional sales supervisor, in which Cain stated:

Speaking of doubtful parentage, CSC's dealings out here are beginning to look more and more like the unhappy results of a "shotgun marriage." Of course, you have no control over retail prices, as that would be illegal; however, when the retail price drops a considerable amount below the wholesale price, it should be a matter of immediate concern to everyone interested in the future of the industry \* \* \*.

In his letter, Cain told McConnell that one of the rumors then prevalent in west Texas was that below-cost sales of ammonia were being made as part of—

a pyramid scheme to convert ammonia into quick cash to invest in other enterprises such as grain elevators and dropping CSC some hush puppies in the form of grain assignments. Some rumormongers go so far as to assert that CSC willingly entered into such an agreement to dispose of surplus ammonia, while others are of the opinion that it is a case of reaching an arm in the buzz saw to try to recover a finger.

On October 15, Tom C. Jones, general manager of Southern Farm, wrote to Ward Jackson, Commercial Solvents' vice president in charge of sales. In the letter, Jones commented:

\* \* \* I have, over a period of the last 10 months or a year, registered protests to Mr. Marshall [then general manager in charge of agricultural sales for Commercial Solvents] as to your underwriting and supplying of one particular individual in this area, who operates with devious and unscrupulous tactics in the sale of ammonia and those tactics have discouraged many potential dealers of ours from entering into the ammonia business.

We are quite firmly of the opinion that these low, vacillating and unstable retail prices are responsible for less tons of ammonia being applied this past spring than was used the previous spring. We feel that this came about because the farmer felt that the longer he waited, the more chances he would have to get an even lower price with the inevitable

result that as the end of the season (because of plant size) came, they all wanted ammonia at once, and there was not enough time, facilities nor product to supply the demand.

Each time we complained about these 4¼-cent retail prices on ammonia, Mr. Marshall would give me his repeated assurance that this particular individual was and had been paying the accepted, prevailing dealer prices for the ammonia; but in many cases, he had been hauling the ammonia considerable distances and then delivering to ammonia dealers or applicators at prices in the neighborhood of \$14.25 per ton less than what the prevailing dealer-applicator's price would be in the area, and to competitors.

If this were a single instance, we could very well accept it as a temporary or local condition, but where it has the continuing appearance of a widespread disease, and has prolonged itself over a matter of many months, we are forced to the inevitable conclusion that the pricing policy on agricultural ammonia for application in this area by Commercial Solvents Corp., must certainly be open to challenge and to question.

We have had a most difficult time in living with these conditions, and marketing ammonia, when it has been generally known that we are procuring ammonia from the same source as this operator.

In a reply to Jones' letter dated November 23, 1959, Vice President Jackson, of Commercial Solvents, stated:

I have discussed the Texas anhydrous ammonia situation, particularly that current in the Hereford area, with our representatives and with Mr. Loy Everett [who had replaced C. T. Marshall as general manager for sales of agricultural chemicals]. I have also rechecked all invoices and contract commitments with customers operating in this area.

While I cannot say that all details have been brought to my attention, I have very definitely established the fact that other purchasers of anhydrous ammonia in the Texas area are paying our market price, which is also our published list price. I might say that with one specific account in the Texas area, we neither condone, nor understand, his methods of operation; however, he is purchasing anhydrous ammonia from CSC at market price, with no discount whatsoever from this price, which is currently \$86 f.o.b., Sterlington, La., plus normal freight equalization with Etter, Tex., and will be \$88 f.o.b., Sterlington, La., freight equalized, beginning January 1 through June 30, 1960. We well realize that the reports on this account, together with specific actions we, ourselves, have verified, would cause one to question our relationship with this organization, but I can assure you of the facts as mentioned above.

On November 30, 1959, Jones again wrote Jackson, commenting that:

The price at which you are billing this particular customer is not of primary importance, but the crux of the whole issue is that you are providing several tools with which

he conducts a business practice that is apparently directed toward the elimination of competition.

Jones closed his letter with the following paragraphs giving Commercial Solvents formal notice that Southern Farm would no longer handle Solvents' ammonia:

I am quite sure you can realize and appreciate our past position in attempting to market anhydrous ammonia at a current quotation when this same individual was offering to deliver ammonia to some of our accounts at a price ranging from \$80 per ton delivered, down to as low as \$50 per ton delivered.

In view of these things, we have no other alternative than to discontinue any purchasing relationship from Commercial Solvents Corp. and this letter will constitute a formal notification that we will be taking no further shipments of anhydrous ammonia and/or any other product manufactured by Commercial Solvents Corp. from this time. \* \* \*

In a personal letter to Massey McConnell, written on December 15, 1959, Jones made the following comment concerning the operations of Billie Sol Estes:

I do not know how close you have been to the situation regarding Commercial's preferred customer here in the High Plains area, but this bird is completely unscrupulous and is a price butcher and completely devoid of any business ethics whatsoever. I hope you will keep yourself personally clear from as much of his operations as you can, for certainly, sooner or later, this bird is going to run afoul of the Justice Department or the Federal Trade Commission, by virtue that he not only breaks the price down to \$50 per ton delivered on ammonia, but he has made entirely too many statements to the effect that he was going to put thus and so out of business, and these statements together with his actions are not endorsed by the various antitrust statutes which are on the Federal books.

#### *Estes Becomes Largest Ammonia Distributor*

Before the end of 1959, Billie Sol Estes was in a position to call himself—probably accurately—the largest anhydrous ammonia distributor in the world. The following table, prepared from data supplied by Commercial Solvents, shows the number of tons of Solvents' ammonia shipped to Estes by months and quarters during 1958 and 1959:

	1958	1959		1958	1959
January.....	0	1,045	August.....	578	3,644
February.....	0	2,524	September.....	358	4,175
March.....	0	3,933	Total, 3d quarter.....	2,781	14,200
Total, 1st quarter.....	0	7,502	October.....	32	1,066
April.....	0	2,141	November.....	284	1,272
May.....	1,281	2,376	December.....	607	1,460
June.....	743	4,472	Total, 4th quarter.....	923	3,798
Total, 2d quarter.....	2,024	8,989	Total for year.....	5,728	34,549
July.....	1,845	6,441			

During 1958, Billie Sol Estes sold less than 6,000 tons of Commercial Solvents' ammonia, none of it in the Plains area. During 1959, Estes disposed of 34,500 tons of Solvents' ammonia, a sixfold increase; most of it was sold in the Plains area. The key to Estes' tremendous increase in volume of ammonia handled was his willingness to sell large amounts at low prices and his ability—with occasional exceptions—to obtain sufficient amounts of ammonia to make promised deliveries. It is interesting to note that the amount of ammonia sold by Estes in 1959 almost exactly equaled the 35,000 tons surplus for which Commercial Solvents was trying to find an agricultural market.

Billie Sol Estes had rather neatly solved Commercial Solvents' problem of finding a market for its surplus ammonia. In the process, however, at least two other problems of a potentially serious nature had been created. The first was that Commercial Solvents had become almost completely dependent on Billie Sol Estes for its agricultural sales of ammonia. The aggressive tactics which had multiplied Estes' sales volume had also alienated Commercial Solvents' other customers and kept it from getting new ones. By the end of 1959, Estes was Commercial Solvents' only important customer in west Texas and was accounting for more than three-fourths of the company's total sales of direct application ammonia. The second problem was the size of Estes' indebtedness to Commercial Solvents, which exceeded \$3.5 million by the end of 1959.

According to testimony by representatives of Commercial Solvents, Billie Sol Estes was billed for ammonia at the company's regular published market prices. During the time in which Estes was distributing Solvents' ammonia, these prices ranged from a low of \$80 per ton to a high of \$92 per ton f.o.b. the company's Sterlington, La., plant. Part of the variation in prices represented seasonal factors, since ammonia prices customarily are lower in the late summer and fall than during the winter and spring months. The remaining variation was accounted for by increased prices beginning in late 1960. Commercial Solvents' officials testified that—except for a \$4 per ton "off-railhead freight allowance" Estes was given no discounts or rebates from published prices.

According to Ward Jackson, the cost of shipping ammonia from Sterlington to Billie Sol Estes' receiving points in west Texas averaged around \$20 per ton. Jackson said that Commercial Solvents absorbed an average of about \$12 per ton of this amount to "equalize" shipping costs from Louisiana with the lower freight rate from the Phillips Petroleum Co. ammonia plant at Etter, Tex.; the remaining \$8 per ton was paid by Estes.

When the list price of anhydrous ammonia was \$88 per ton, the net delivered price to Estes—after deducting \$4 per ton allowance and payment of around \$8 per ton freight—was about \$92 per ton. The net return for Commercial Solvents—after absorbing the \$4 allowance and paying \$12 freight—was approximately \$72 per ton. Commercial Solvents' manufacturing cost, according to testimony at Dallas by William Leonhardt, was \$30 to \$35 per ton.

#### *Profits and Losses*

The wholesale price of ammonia delivered in West Texas to Billie Sol Estes averaged more than \$90 per ton. However, Estes frequently

made retail sales for less than that amount. As a result, the books of his distributing firms showed tremendous losses. Glenn Lester, who was associated with Estes in the Lester-Stone Co., gave the following testimony at Plainview concerning what happened in 1959:

Q. Now then, at the end of the year, did your partnership with Mr. Estes, did that turn out to be a profitable partnership for you?

A. Not for me; no.

Q. What kind of a loss did your Lester-Stone Co. show at the end of the first year?

A. Oh, I believe it was something over \$300,000.

Q. In other words, in order to achieve this expansion and take most of the market here, you took a loss that year of about \$300,000?

A. That's right.

Although Billie Sol Estes' ammonia sales operations in 1959 resulted in tremendous paper losses, they also provided him with an extremely large amount of money to spend—perhaps as much as \$2 million. This paradoxical result occurred because Estes was selling for cash and buying on credit. During 1959, Estes received ammonia shipments from Commercial Solvents priced at a total of more than \$3 million. However, Estes made direct payments to Commercial Solvents during this period of only around \$15,000. (Commercial Solvents also received net payments of about \$400,000 under its assignment of Estes' grain storage revenues.) Consequently, after operating expenses were paid, money received by Estes from ammonia sales was available for storage operating expenses, construction of additional storage facilities, or other purposes.

The circumstances under which Estes succeeded in obtaining such a huge amount of credit from Commercial Solvents during 1959 are discussed in detail in the following section of this report.

#### OTHER 1959 EVENTS

##### *Assignment of Grain Storage Revenues*

In his November 14, 1958, memorandum describing the proposed agreement with Billie Sol Estes, President Woods of Commercial Solvents told members of the executive committee that "Mr. Estes is using this vehicle of grain storage relations with the farmers as his entrance into the anhydrous ammonia business in the South Plains area." Since Estes had agreed to assign the revenues derived from storage of CCC grain to Commercial Solvents, the company had an obvious interest in the success of Estes' storage operations. This interest was demonstrated by Vice President Jackson's visit to the Department of Agriculture to inquire about the grain storage situation before Commercial Solvents signed the storage-fertilizer agreement with Estes.

Estes' agreement with Commercial Solvents was signed on December 1, 1958. However, apparently because of difficulty in obtaining a surety bond, Estes did not obtain a Federal warehouse license until February 24, 1959. Estes' first Uniform Grain Storage Agreement, which made him eligible to store CCC grain, was not approved until March 9, 1959. In accordance with his December 1, 1958 agreement Estes signed a CCC form assigning storage revenues under the UGSA



to Commercial Solvents. The assignment form was dated March 4, 1959, but did not become effective until it was received by the Dallas commodity office on April 2, 1959.

#### *Inquiries by McConnell*

In the period before issuance of Estes' Federal warehouse license, Commercial Solvents apparently sought information concerning him from James McConnell, then a member of its board of directors. McConnell, a former Assistant Secretary of Agriculture, had at one time been in charge of the Government grain storage program. On January 3, 1959, McConnell wrote a letter to C. T. Marshall, Solvents' agricultural sales manager, in which he said, referring to Billie Sol Estes: "I have not yet heard anything from my various inquiries about how he is regarded in various quarters."

#### *Refusal To Endorse Bond*

The subcommittee's examination of Commercial Solvents' files did not disclose any further communication from McConnell concerning the results of his inquiries about Estes at this time. A few days later, however, Commercial Solvents declined to endorse a surety bond for Estes' grain storage operations. In a January 14, 1959, letter written to William Leonhardt at Estes' request, Wayne Cooper, general manager of United Elevators, had requested Commercial Solvents to sign as additional indemnity on Estes' application for a \$200,000 bond needed to obtain a Federal warehouse license. The letter stated that "The warehouseman's bond is of utmost importance to our operation for without it we will be unable to store grain." Solvents' refusal to honor this request was described by Leonhardt in the following testimony at Dallas:

Q. Did your company go on the bond of United Elevators that they put up for the Commodity Credit Corporation?

A. No, sir; we refused it.

Q. You were asked to do that?

A. Yes, sir.

Q. By Mr. Estes?

A. Yes, sir.

Q. And why did you refuse?

A. Because we were not in the grain elevator business and we assumed that everything that he was doing, as far as we were concerned, was his business and not ours.

#### *McConnell Becomes USDA Consultant*

On January 19, 1959, McConnell was appointed a consultant to the Secretary of Agriculture. McConnell's testimony at subcommittee hearings concerning the circumstances leading to his appointment follows:

Mr. FOUNTAIN. How did that come about? What were the circumstances?

Mr. McCONNELL. I can't remember, sir. I don't recall what the circumstances were.

Mr. FOUNTAIN. Did the Secretary ask you to become a consultant?

Mr. McCONNELL. Yes, he did.

Mr. FOUNTAIN. Did he explain the reasons why he wanted your services?

Mr. McCONNELL. He must have, but I have forgotten what they were.

Mr. FOUNTAIN. That was January 1959. You don't recall your being given that appointment at all?

Mr. McCONNELL. Well, I am not clear on it, as to how that happened.

In further testimony, McConnell was asked whether his duties included advising the Secretary on matters involving storage of Government grain:

Mr. FOUNTAIN. Did your duties include advising the Secretary on problems in connection with price supports, storage, and sale programs on agriculture commodities?

Mr. McCONNELL. No. It was more on personnel, going over talks that he made, things of that character, and visiting with him about his problems.

The Secretary at that time was under strong opposition on reducing price supports. As I recall there was not much change in the legislation being proposed at that time.

Mr. FOUNTAIN. Do you recall any of the matters which you discussed with him during that period of time when you served as consultant?

Mr. McCONNELL. Not particularly. I recall his asking about certain people for certain jobs he had to fill.

Mr. FOUNTAIN. Mr. Naughton?

Mr. NAUGHTON. Mr. McConnell, are you familiar with the language of your appointment, the description of your duties as they appear in the official appointment?

Mr. McCONNELL. No.

Mr. NAUGHTON. Let me read them to you. This is a description of a new position which I believe relates to you:

"Effective January 19, 1959, Office of the Secretary, immediate office."

The description is as follows:

"Serves as a consultant to the Secretary of Agriculture and advises him on problems in connection with Government price support, storage, and sales programs on agricultural commodities, particularly those relating to cotton and tobacco."

Whatever you may have done, your duties did call for advising the Secretary on Government price supports, storage, and sales programs, did they not?

Mr. McCONNELL. That is what that says; yes.

Mr. NAUGHTON. And, as a matter of fact, wasn't one of the questions that was foremost in the Department's mind at this time, the question of whether or not the Uniform Grain Storage Agreement rates should be reduced?

Mr. McCONNELL. Possibly.

Department of Agriculture records indicate that McConnell was in Washington in connection with his service as a consultant on January 23-28 and February 15-20, 1959.

#### *Change in Commercial Solvents' Management*

While Billie Sol Estes was taking preliminary steps to move into the Plains ammonia market, important changes were taking place in the management and control of Commercial Solvents.

According to an article published in Fortune magazine in May 1959, a series of events occurring earlier in 1959 had resulted in the departure of J. Albert Woods, who had been president of Commercial Solvents since 1950. In January 1959, the article stated, the Jeremiah Milbank family interests advised Solvents' directors that they opposed reelection of Woods as president and were prepared to fight a proxy contest to prevent it. The Milbank interests represented according to Fortune, over 800,000 shares, or around 30 percent of Solvents' 2,700,000 shares of outstanding common stock. As a result of the Milbank ultimatum, Fortune said, Woods resigned as president on February 16, 1959, and Senior Vice President Maynard C. Wheeler was made "acting president" to fill the vacancy.

Fortune described what took place at Commercial Solvents' 1959 stockholders meeting as follows:

The Milbanks supplied all nominees to be elected at the April 2 annual meeting. In addition to Jeremiah, Jr., who was standing for reelection, they nominated Paul Shields, William W. Burch, a member of the Jeremiah Milbank organization, H. V. Sherrill, a partner in the Shields firm and a classmate of young Jeremiah, and Arthur E. Palmer, Jr., a lawyer associated with the Jeremiah Milbank interests.

On April 8, the board of directors met to elect Maynard Wheeler president and to make Jeremiah Milbank, Jr., chairman of the executive committee. William S. Leonhardt, who had been Solvents' treasurer, was promoted to vice president in charge of financial affairs.

#### ESTES' INDEBTEDNESS REACHES \$3.5 MILLION

##### *Estes Allowed To Exceed Credit Limit*

Under terms of his December 1, 1958, agreement with the company, Billie Sol Estes had given Commercial Solvents notes totaling \$900,000 to cover existing indebtedness for fertilizer of \$540,000, additional deliveries of fertilizer in the amount of \$135,000, and a \$225,000 cash advance. The notes were payable in equal annual installments, with the first payment due on February 28, 1960. In addition, Solvents gave Estes a \$500,000 line of credit for purchase of additional fertilizer on open account. At the end of February 1959, Estes' total indebtedness to Solvents was approximately \$1,200,000. Only about \$300,000—well within the \$500,000 limit—was on open account.

During March 1959, Commercial Solvents shipped Estes nearly 4,000 tons of ammonia. By the end of March, Estes' open account indebtedness exceeded \$675,000—more than \$175,000 over the agreed credit limit.

Although Estes had already exceeded his line of credit, Commercial Solvents continued to ship him increasingly larger amounts of ammonia during most of the rest of 1959. Shipments from April through June totaled nearly 9,000 tons—an average of almost 3,000 tons per month. From July through September, Solvents shipped Estes more than 14,000 tons of ammonia—an average of well over 4,500 tons a month and more than five times as much as he had used during the same period in 1958. Although some grain storage revenues were received by Solvents under its assignment, Estes made no direct payments for ammonia during the spring and summer of 1959. By the end of September, as a result, Estes owed Commercial Solvents

about \$3.5 million. Since \$2.7 million of this was on open account, Commercial Solvents had allowed Estes to exceed his line of credit by more than \$2 million.

Although Commercial Solvents apparently placed no restrictions on shipments of anhydrous ammonia to Billie Sol Estes during the spring and summer of 1959, there were indications of some concern on the company's part about the Estes account during this period. Solvents' records indicate that its representatives held three meetings—one each in January, February, and March—with Estes during the first 3 months of 1959, but that these meetings did not include personnel responsible for credit or collections. In April, however—after his line of credit had been exceeded—William Leonhardt, Solvents' chief financial officer, met twice in New York with Estes.

Estes' increasingly large indebtedness was called to the attention of Commercial Solvents' board of directors on May 25, 1959. Minutes of a meeting on that date contain the following statement:

The president then described the substantially increased volume of sales of anhydrous ammonia and nitrogen solutions being made and anticipated to be made to Mr. Billie Sol Estes, in Texas, in excess of that contemplated at the meeting of the board held on November 24, 1958, and he outlined the increased amount of credit and the extended credit terms being granted Mr. Estes in support of his sales program. There followed a general discussion of the matter.

Minutes of a meeting of Solvents' executive committee on June 18, 1959, indicate that William Leonhardt told the committee Estes had "expanded his sales from the original basis of 5,000 tons per year to an estimated 25,000 tons per year, and that a new contract was being prepared to provide for an increased amount of credit and extended credit terms in support of the expanded sales program of Mr. Estes." On June 22, President Wheeler advised the board of directors that Leonhardt was then in Texas "reviewing with Mr. Estes his entire operations and discussing with him the proposed new arrangements between Mr. Estes and the corporation."

On July 27, 1959, President Wheeler told the board that the proposed new agreement with Estes would probably be ready for execution before the next meeting of the board. After discussion, according to the minutes, "it was agreed that the matter should be referred to the executive committee for approval of the proposed new agreement or such other action as it might deem appropriate."

President Wheeler's forecast that an agreement with Estes would be ready for signing before the August meeting of the board did not materialize. An August 18, 1959, memorandum from Leonhardt to Wheeler, which was submitted to a meeting of the executive committee on that day, indicated that under new arrangements still being discussed with Estes it was anticipated that both the amount of ammonia Estes was required to take under this contract and Estes' open line of credit would be doubled. Under the proposed arrangement, Estes would be required to take a minimum of 10,000 tons and a maximum of 24,000 tons annually instead of the previous 5,000-ton minimum and 12,000-ton maximum; Estes would also be permitted a maximum of \$1 million indebtedness on open account instead of the previous limit of \$500,000. According to the memorandum, it was contemplated that Commercial Solvents would receive added security in the

form of additional storage revenue assignments and second mortgages on storage facilities.

*Signs of Increased Concern*

In addition to describing the proposed new agreement, Leonhardt's August 18, 1959, memorandum also discussed Billie Sol Estes' financial condition. Leonhardt stated that "It is my understanding that the question has again been raised regarding the obtaining of certified audited financial statements from Mr. Estes. Mr. Estes operates principally as a sole proprietor and has refused to have his statements audited by outside independent accountants." After describing his own initial examination of Estes' unaudited financial data, Leonhardt commented that "Because of the type of check made, it was not possible to ascertain the exact extent of Mr. Estes' unrecorded liabilities. In the writer's opinion, based on D. & B. reports, conversations, etc., Mr. Estes' unrecorded liabilities could be significant."

After considering the data in Leonhardt's memorandum, members of the executive committee expressed the belief that management should at least try to obtain further security before entering the proposed agreement. According to minutes of the August 18, 1959, meeting of the committee:

\* \* \* It was the consensus that the officers of the corporation should continue their efforts to obtain a purchase money chattel mortgage on material sold by the corporation to Mr. Estes and held in his inventory pending resale by him, and should also endeavor to obtain, as additional security, a mortgage on certain farmlands in Texas owned by Mr. Estes; but that if, in the judgment of the officers, such mortgages or other additional security could not be obtained, it would be advisable to enter into the proposed new agreement in any event.

On August 24, 1959, according to minutes of the board meeting on that date, President Wheeler stated that the officers of the corporation would try to obtain the additional security discussed by the executive committee. Wheeler also described plans to tighten up on the Estes' account, stating that the officers would "station an employee of the corporation in Texas to maintain contact with Mr. Estes' operations there and keep the management informed with respect thereto" and would "reiterate to Mr. Estes that, as provided in the proposed new agreement, the corporation would expect full settlement on February 28, 1960, of all amounts then due." After Wheeler's statement, the board of directors adopted a resolution authorizing the officers of the corporation to enter into the proposed agreement with Estes.

President Wheeler's announced intention to require full payment from Estes of all amounts due on February 28, 1960, had considerable significance. At the time it was stated, Estes owed Solvents nearly \$2.5 million on open account—nearly \$1.5 million more than the credit limit in the proposed agreement. In addition, a payment on a note of \$180,000 plus interest was also due on February 28, 1960. Since payments under the grain storage revenue assignment were not likely to exceed half a million dollars between August and the end of February, Estes would have been forced to raise more than a million dollars by February 28 to keep his account with Solvents current.



Two days after the board meeting, on August 26, 1959, W. W. Jackson sent a memorandum to J. V. O'Leary, then general sales manager, in which he made the following comment concerning the Estes contract:

The administration of the contract will be watched very carefully and Mr. Wheeler has asked that no changes in the contract or application of the contract be made without his specific approval.

On September 10, 1959, Billie Sol Estes came to New York where he remained until September 12 for meetings with Wheeler and Leonhardt. From a subsequent report on these meetings made by Leonhardt to the executive committee, it appears that Estes objected to making such a large payment on February 28, 1960, and offered further security in return for extended credit. According to minutes of the executive committee meeting on September 15, 1959, Leonhardt reported that—

\* \* \* as a practical matter he [Estes] could not operate his fertilizer business under the payment and credit provisions of his present arrangements with the corporation. Mr. Leonhardt then reported on the extended payment and credit arrangements being discussed with Mr. Estes, and said that to secure such arrangements Mr. Estes had orally agreed to give the corporation, in addition to the present security held by the corporation, a chattel mortgage on material sold him by the corporation and held in his inventory pending resale by him, to assign to the corporation all receivables from sales of such material, and to give the corporation a mortgage on certain parcels of land in Texas owned by him. \* \* \*

A similar report on discussions with Estes was made by President Wheeler to the board of directors at a meeting on September 28, 1959.

Despite the promises made by Estes in September, a new agreement still had not been signed by October 22. On that date, Loy Everett, Solvents' agricultural sales manager, sent the following telegram to the company's Sterlington plant: "Please make no further shipments to Billie Sol until further notice."

#### CONTINUING PROBLEMS FOR COMMERCIAL SOLVENTS

##### *Signing of Revised Agreement*

Negotiations for a revised agreement between Commercial Solvents and Billie Sol Estes, which had been lagging during the summer and early fall of 1959, proceeded rapidly after ammonia deliveries to Estes were cut off on October 22.

On October 29, President Wheeler, William Leonhardt, and James McConnell went to Texas where they remained until November 1. During the trip, according to Commercial Solvents, Wheeler and McConnell inspected Estes' properties at Plainview and Pecos, and Leonhardt discussed with Estes proposed changes in the agreement with Solvents. A revised fertilizer agreement was signed as of November 1.

As might have been anticipated from reports made to Solvents' executive committee and board of directors in September, the November 1 agreement was significantly more favorable to Estes than the proposal originally discussed. The original proposal would have called for collection of substantially more than a million dollars from Estes

on February 28, 1960. The agreement actually signed relaxed this requirement considerably. Instead of imposing a maximum credit limitation of \$1 million (which Estes had already far exceeded), the new agreement set a potential limit close to the amount Estes currently owed. In effect, it retroactively approved the status quo.

The November 1 agreement provided that Estes' total indebtedness (not including the amount owed on long-term notes) could not exceed \$2.5 million plus the amount of CCC storage payments which had been earned but not yet paid. The actual amount of credit extended, within the \$2.5 million limitation, was not to exceed the amount owed for unsold fertilizer in Estes' inventory covered by a chattel mortgage to Solvents plus the amount of customer accounts receivable assigned by Estes to Solvents. Since the balance payable on Estes' open account with Solvents was around \$2.8 million on November 1, the revised agreement gave Estes an opportunity to defer payment of practically all of it if he had sufficient fertilizer in inventory and assigned a large enough amount of customer accounts receivable to comply with the terms of the agreement.

As of December 15, 1959, a revised master agreement was signed which provided for Estes to give Solvents added security, including mortgages on land and additional storage facilities. Estes also agreed to give Solvents a chattel mortgage on unsold ammonia held in inventory.

While the 1959 negotiations with Commercial Solvents were going on, Estes apparently had also been talking with at least one of Solvents' competitors—a circumstance which may have had some bearing on the credit concessions given him. A December 9, 1959, file memorandum by W. W. Jackson stated that: "Apparently Grace Chemical has given Billie Sol Estes a suggested offer covering anhydrous ammonia \* \* \*." The Grace offer to Estes, according to Jackson's memo, would have permitted Estes to pay only \$20 per ton in cash for Grace ammonia, with the balance due being available for investment in grain, cotton, or ammonia storage facilities on which the Grace Co. would take a mortgage.

Another feature of the Grace offer, according to Jackson, was that Estes would be given a \$3 per ton handling credit on anhydrous ammonia. Commercial Solvents subsequently gave Estes a \$4 per ton handling credit on ammonia, which was made retroactive for all of 1959.

#### *Restrictions on Ammonia Shipments*

Although Commercial Solvents made substantial concessions in its announced plans to make collections on Billie Sol Estes' indebtedness to the company, it did impose significant restrictions on further ammonia shipments to Estes after the signing of the revised agreement. William Leonhardt, Commercial Solvents financial vice president, gave the following description of these restrictions in testimony at subcommittee hearings:

We had quite a running battle with Mr. Estes from the very beginning. Mr. Estes was a very difficult businessman to handle and control. He was continuously selling more anhydrous ammonia than he was projecting. The balance would climb up, we would withhold credit from Mr. Estes, we would tell him we wouldn't ship any more unless we got

more security. In 1959 we found it necessary to make another arrangement with Mr. Estes. In 1960 there were at least four or five times during the year when we really had the screws on Mr. Estes as far as I was concerned. We would not ship him ammonia. In that year we shipped him the lowest amount of ammonia during the 3-year period. We insisted on additional collateral. Each time we did this Mr. Estes would either come to New York, or once or twice I went down to Texas. He would finally furnish good collateral for us, and in essence met all the conditions that we laid down. But it was a very difficult thing to keep up with Mr. Estes and keep the credit under control. I think we did that job on him.

Documents in Commercial Solvents files amply support Leonhardt's testimony that shipments to Estes were restricted. On November 20, 1959, Loy Everett, agricultural sales supervisor for Solvents, sent the following telegram to its regional sales representative, Massey McConnell:

Have discussed ammonia supply with Leonhardt. Do not ship additional ammonia cars until advised further.

Other communications throughout most of 1960 authorized release of specified amounts of ammonia to Estes.

Ammonia shipments to Estes averaged around 2,000 tons per month during 1960. On occasion, Estes would be shipped amounts of ammonia larger than those to which he was considered entitled with a proviso that excess shipments be deducted from his quota for subsequent months. An example of this is the following teletype sent by F. J. Burg, assistant treasurer of Solvents, to the Sterlington plant on May 2, 1960:

Billie Sol Estes anhydrous ammonia credit approval for May 2,000 tons, less excess taken in April, which we figure to be approximately 148 tons.

#### *Report to Board of Directors*

During the summer and fall of 1959, the minutes of practically every meeting of Commercial Solvents' executive committee and the board of directors contain some reference to a report by management on developments involving the Estes contract. The last such reference appears in the minutes of the November 23, 1959, meeting of the board of directors. At this meeting, according to the minutes, President Wheeler described the trip that he, Leonhardt, and James McConnell had made to Texas in late October to visit the Estes enterprises. Leonhardt gave a report on the status of Estes' open account credit. The minutes contain the following reference to a favorable report by McConnell on the Estes storage and farming operations:

Mr. McConnell then reported to the board that he was very favorably impressed with the operations conducted by Mr. Estes, with respect to farm productivity, method of distribution of nitrogen, and facilities for the storage of grain, and that he was also very favorably impressed with the organization and personnel in charge of the various operations of Mr. Estes.

After the favorable report by McConnell at the November 23, 1959, meeting of the board, minutes of meetings of Commercial Solvents' executive committee and board of directors contain no further reference to Billie Sol Estes until late April 1960. However, although there is no indication that the executive committee or the board of directors were notified, Commercial Solvent's management was having serious problems with Estes during this period.

At its August 1959 meeting, the board of directors had been informed that management intended to tighten up on the Estes account by—among other measures—stationing a company employee in Texas to watch Estes' operations. This step had been suggested by W. W. Jackson as early as August 14, 1959. In a memorandum to J. V. O'Leary on that date, Jackson said:

I am very concerned about \* \* \* our apparent inability to keep a close check on the Billie Sol Estes operations. \* \* \* I wonder if it would not be possible and practical to have a CSC representative, with either production and/or accounting experience, established in the Estes area to assist Estes, where possible. Obviously, the man's main job will be to keep a very close watch on our investment and the Estes inventory and operations.

O'Leary agreed with Jackson's suggestion in a memorandum to Jackson on August 17, 1959, in which O'Leary commented that "I am most anxious that someone be specifically assigned to this area." On August 24, 1959, President Wheeler told Solvents' board of directors that the officers would station a man in Texas to "keep the management informed" with respect to Estes' operations. Two days later, on August 26, 1959, Jackson sent another memorandum to O'Leary in which Jackson said:

In a discussion with Mr. Wheeler on the Billie Sol Estes contract and its administration, it has been agreed that we will make a man available to handle various aspects of this account. This man will locate in Texas, presumably in either Pecos or Plainview. His duties and operations will be defined after further discussion.

Commercial Solvents told the subcommittee that the plan to station a man in Texas was not carried out because "it was eventually learned that Estes would not accept any such arrangement as we had in mind." Minutes of the executive committee and the board of directors do not reflect any report by management concerning Estes' attitude and the abandonment of the announced plan.

#### *Proposed Sales Control System*

Concern on the part of Commercial Solvents management as to the disposition of ammonia being shipped to Estes was reflected in November 1959, in a proposal by William Leonhardt that a sales control system be established. The proposal was made by Leonhardt to Loy Everett, Commercial Solvents' sales manager for agricultural chemicals, in a meeting on November 12, 1959. A memorandum written by Everett to Leonhardt on November 13, 1959, contained the following description of the proposed system:

\* \* \* In your office yesterday you advised me that you wanted a sales control system established promptly and that

Messrs. McConnell and Rainer should immediately go to Texas to install the system. I understood from you that you had already advised Massey of the details for him to handle. I list below the reports which you requested under the control system.

1. "WEEKLY REPORT"—Close of day Friday.
  - (a) Ammonia inventory by shipping points.
    1. By railhead points.
    2. By off-railhead points.
2. "MONTHLY REPORT"
  - (a) Opening inventory by shipping points.
  - (b) Ammonia receipts for the month.
  - (c) Sales for the month.
  - (d) Closing inventory.

The above reports are to be made on the basis of tons of anhydrous ammonia. I have suggested that we also include numbers of loaded tank cars by shipping points. Since Mr. McConnell was out in the territory I advised Mr. J. E. Wheeler and Mr. Rainer of your request and asked that they advise Mr. McConnell to handle this as quickly as possible. \* \* \*

As of November 27, 1959, the requested reports had not yet been received. An inquiry concerning them from W. W. Jackson to Everett on that date was answered in a November 30, 1959, memorandum to Jackson as follows:

The reports referred to in your letter of November 27 have not been put in effect for lack of information. Mr. McConnell reported when he returned from his recent trip to Texas that he was unable to obtain the information needed for the report during his trip but stated that the information had been promised and that he expected the reports to be submitted to him by mail from the Estes organization.

It seems evident at this time that our personnel will be unable to make the report from their own observations but must rely on such information as may be given to them by Mr. Foster.

#### *Price Reduction Scheme*

By late 1959, complaints about Billie Sol Estes' business ethics and tactics must have been a familiar story to Commercial Solvents management. This may explain why a reported attempt by Estes to bribe a competitor as part of a scheme to obtain an undeserved price reduction from Commercial Solvents apparently did not surprise company officials.

James Oates, a representative of the Monsanto Chemical Co., testified about the incident at a hearing in Lubbock, Tex. Oates, who had refused a job offer from Estes in early 1959, described a subsequent contact with Estes as follows:

A few months later he did contact me regarding the price of ammonia on the plains, and asked me if I would be interested in making \$5,000 for a few minute's work. And I said, "Well, I don't know, what's the proposition?" And he said, "I would like for you to set the price of one load of



ammonia to one of your customers at a figure which I would give you at the time that I tell you to do this, and for this little chore, I would put \$5,000 in the bank in your account today and give you the bank account—give you the slip on this.”

Q. Did you—what reply did you make to that?

A. I told him that I wouldn't be interested in it at all.

Q. Now, what he wanted you—what was his purpose, did he say, in making that kind of—

A. Well, I did ask him what his purpose was, and he said that he had sold quite a number of tons, if I remember correctly, something around 10,000 tons of ammonia, at a discount price, and that he had a contract with his company at that time, which, if some major competitor should break the price below that, he would—they would back him up. In other words, he would make the difference between what he had sold already in advance and the price that he told me to set this one load on.

Ward Jackson, vice president of Commerical Solvents, discussed the matter in the following testimony in subcommittee hearings.

Mr. JACKSON. I can't recall the whole circumstance, but we can make that particular report available. It is in our file. I do recall the name of the company. I don't recall the name of the man. As I remember, and this is purely from memory because I don't have the docket with me today, Mr. Estes is reported to have offered \$5,000 to a Monsanto salesman if he would sell him  $x$  number of cars at  $x$  or  $y$  below market price. And the purpose of that was pretty obvious. We had him on a market-price contract. Under the terms of that contract we had no method or reason for extending to him lower than market price unless he could prove to us that he had had a bona fide competitive offer, something in writing, and this is very clearly presented in our contract for the purpose of avoiding pressure from rumors and things like that, if we could see it, we would evaluate it on that basis.

Also, in terms of our contract, we did not have to accept that, but we had the right to. We had the right to be competitive.

One can speculate that Mr. Estes' purpose in this was to force us to be competitive with this particular offer.

Again, as I recall, the offer was refused as it would be refused by any respectable and reputable manufacturer.

It didn't surprise us. It has happened before in other industries.

#### *Estes' Chiseling on Freight Equalization Allowance*

Another deceptive tactic engaged in by Billie Sol Estes involved attempts to obtain excessive allowances for freight equalization by misrepresenting the intended destination of ammonia picked up at Commercial Solvents' Sterlington, La., plant. W. W. Jackson described these attempts in the following testimony at subcommittee hearings:

Mr. FOUNTAIN. Mr. Jackson, I believe you wrote a memorandum at one time indicating that Mr. Estes was chiseling on freight, did you not?

Mr. JACKSON. Yes, sir. Several, not just one.

Mr. FOUNTAIN. Several?

Mr. JACKSON. Yes, sir. Are you asking a question about that?

Mr. FOUNTAIN. What were the circumstances, briefly?

Mr. JACKSON. Briefly he was in the propane and butane business, and had his own trucks in this service. Of course with his own trucks he had every right to pick up anhydrous ammonia f.o.b. our plant because this is our selling term, f.o.b., Sterlington, La. Under such arrangements we would allow him the freight to the final destination. This is fine and all right if the man is going to move it to that destination but I think you can readily see if the destination established is \$20 freight away and he only moves it \$5 freight away he has made himself a little advantage.

We stopped this practically immediately. We found out through some of the truckers that the anhydrous ammonia, and I think there were some solutions involved, too, did not go to the destination intended, and this presents not only a poor marketing practice but if it goes over the State line presents some further difficulties. This we couldn't tolerate. That is the substance very briefly.

One of the memorandums to which Jackson referred was written by Loy Everett, Solvents agricultural sales manager, to J. V. O'Leary, then general sales manager, on March 23, 1960. Everett gave this description of a telephone conversation with William Rainer, shipping order clerk at Solvents Sterlington ammonia plant:

In a phone conversation with Mr. Rainer today he pointed out two things which we shall need to watch on truck deliveries for the Estes account. He mentioned that Mr. Kennedy who is a resident of Louisiana and is promoting ammonia sales in our plant area for Mr. Estes phoned our plant for the purpose of contacting the Farmers Co. truckdriver to arrange for a Louisiana State inspection of the truck to enable Farmers Co. to make Louisiana deliveries of ammonia from our plant. Another point brought out was that an order for 20 transport loads sent in by Mr. Estes to be delivered by Lowell Transport Co, of Hereford, Tex., showed the delivery point for the 20 loads as Sunray, Tex. In each case the drivers have been asked by our plant personnel for the delivery point of the shipments made on this order. In each case the drivers have stated Hereford, Tex. The net difference to CSC is about \$4 less equalization on the tonnage shipped to Hereford and thus far our hand has not been called on equalizing against Sunray.

Mr. Rainer has been alerted to keep us posted on this subject.

### *Signs of Financial Problems*

While some of the questions which arose in the course of Billie Sol Estes' business relationship with Commercial Solvents in late 1959

and early 1960—whatever they might suggest concerning Estes' ethical standards—did not necessarily involve his financial stability or the soundness of his business operations, others did.

During 1959, according to testimony by William Leonhardt, Commercial Solvents made an attempt to check on the existence of ammonia tanks on which it held a chattel mortgage. In August 1959, William Leonhardt reported to the executive committee and the board of directors that Estes had refused to provide certified financial data and that his "unrecorded liabilities could be significant." In early 1960, Solvents requested copies of Estes' Federal income tax returns which were apparently not provided.

There are indications that Estes' sales of ammonia at sharply reduced prices were motivated to a considerable extent by need for quick cash. Estes did not sell fertilizer at prices below his cost on a continuous basis. His below-cost sales (which were called "fire sales" by some of those familiar with them) usually involved collecting cash in advance for ammonia to be delivered later. In testimony at Amarillo, Coleman McSpadden said that Billie Sol Estes usually argued in favor of higher prices at trade meetings; according to McSpadden

A. \* \* \* each meeting we would have a hard time settling on the price we would retail it at.

Sometimes it was 5½ cents.

Of course, at each meeting, we would start high and work down to where we thought maybe we might or could compete.

And at each time Mr. Estes was present, he would agree that it ought to be even higher than that.

Q. It ought to be higher?

A. Yes, sir; so we would settle on 5½, and he would suggest that it ought to be 6 cents, but he would finally agree that we were right, 5½ cents, or 5%.

In further testimony, McSpadden indicated that Estes often reduced ammonia prices after meetings because he needed money:

Q. How long would that last?

A. The meeting?

Q. No, the price.

A. Very seldom would we ever get back to our offices before we would find out that Billie Sol or some of his agents had called and started an immediate booking campaign at a much lower price, to raise money.

Q. When you say "immediate", do you mean that same day, or—

A. Sometimes the same hour.

Q. That the price would be broken?

A. Not that the price would be broken. They would need to raise some money, and he would issue orders to get out and book a given amount of ammonia from the farmers.

According to testimony at Amarillo by Harold Orr, an associate of Estes, Commercial Solvents representatives were aware that Estes sold ammonia below cost when he needed money. Orr described a

meeting which allegedly took place between Estes and representatives of Solvents in the Plainview Hilton Hotel in the fall of 1959 as follows:

On that occasion, they were all in a real good mood, and they were discussing the price structure in the Panhandle area.

At that time, anhydrous ammonia was running anywhere from 2 cents up, depending upon how Mr. Estes felt about the price.

They were just joking with one another and ribbing Mr. Estes, "You're a bad boy, to cut prices—when you need money, you cut it to 2 cents, and when you don't need money, you sell it for 6 cents."

#### *Sales Outside Texas*

Billie Sol Estes' desire to capture a large share of the Plains ammonia market was undoubtedly an important factor in his cut-price sales to farmers, along with his need for cash. However, the necessity to raise money in a hurry appears to be the only logical explanation for below-cost sales of ammonia by Estes far outside his own trade territory.

There were numerous reports that Estes had sold ammonia to dealers for cash or traded it for something he needed. One example, which was confirmed by the subcommittee, was the sale of a carload of ammonia by Estes to the Continental Fertilizer Co., of Nevada, Iowa. A February 23, 1960, memorandum in Commercial Solvents' files indicated that a car of ammonia was being shipped to the Iowa firm for Estes' account. Continental Fertilizer Co. advised the subcommittee that it bought the carload (26 tons) of ammonia from Estes for \$75 per ton delivered to Nevada. Continental received the ammonia in March 1960, and paid Estes for it on the day it was delivered.

The day after Solvents was advised of the shipment to Continental, further shipments apparently planned by Estes to other Midwest destinations were at least temporarily halted. William Rainer, shipping clerk at Solvents' Sterlington ammonia plant, was instructed on February 24, 1960, not to ship five tank cars of ammonia for Estes' account "to Nebraska or Minnesota or whatever the Midwest State was".

Commercial Solvents concern about the manner in which Estes was disposing of ammonia may have been at least partly responsible for action taken by the company to obtain a chattel mortgage on his unsold ammonia inventory. During negotiations leading to the revised agreement in the fall of 1959, Estes had agreed to give Commercial Solvents a chattel mortgage covering ammonia shipped to him by the company which had not yet been sold. The promised mortgage was finally obtained by Commercial Solvents on February 17, 1960.

#### *Massey McConnell Leaves Commercial Solvents*

Documents in Commercial Solvents files indicate that some company officials were concerned about the relationship between Massey McConnell, Solvents district sales supervisor for agricultural chemicals, and Billie Sol Estes.

The following paragraph, contained in a January 22, 1960, memorandum from Loy Everett to J. V. O'Leary discussing the handling

of the Estes' account, indicates the existence of some friction between McConnell and the home office:

Massey McConnell phoned me from Sterlington Wednesday morning and carried on a very normal conversation without any reference to our conversation last week. I conclude that our predictions that he would not resign were correct.

A February 3, 1960, memorandum from Everett to O'Leary, with carbon copies to Wheeler, Leonhardt, and Jackson, suggested that McConnell might be cooperating with Estes in a "plot" to test whether Solvents would ship ammonia to destinations outside of Texas for Estes. The memorandum stated that:

Two cars of anhydrous ammonia which were ordered by Estes for shipment to Kansas were diverted to a Texas point. I am advised by Mr. Rainer that Mr. McConnell was in Pecos when it was decided that they would place an order on Sterlington simply to see if CSC would make a shipment outside of Texas.

Once the cars were shipped Mr. Estes contacted the railroad to divert the cars to Texas points as he did not have an order for Kansas shipment. Since the consignee was the Haskell County Grain Co., Sublette, Kans., the railroad would not divert the car without our consent. It was not until the railroad contacted Sterlington was it evident that this was strictly a plot to test CSC on out of Texas shipments. I understand Mr. McConnell has since acknowledged as much to Mr. Rainer.

In March 1960, McConnell's association with Commercial Solvents terminated. In December 1960, Estes sent McConnell a U.S. savings bond with a face value of \$500.

Loy Everett subsequently advised the subcommittee that the speculation concerning McConnell's resignation occurred because of a prior report that McConnell was going to leave Solvents to go into business for himself. Everett also stated that McConnell left Solvents voluntarily and was not asked to resign by the company.

#### *Misrepresentation of Ammonia Inventory*

Documents in Commercial Solvents files indicate that the company knew Billie Sol Estes was misrepresenting the amount of unsold ammonia he had in storage. On April 27, 1960, Loy Everett wrote a memorandum to J. V. O'Leary describing a field trip made by Everett to Plainview earlier in April. In the memorandum, Everett stated that Lester-Stone personnel in Plainview had told him on April 19 that "of the 52 points they do business in, all were dry of ammonia." However, Everett indicated in his memorandum that Estes had given him conflicting information on April 20. According to Everett:

Estes said that he had 12,000 to 14,000 tons of anhydrous ammonia but all in the wrong places and that it would cost \$26 per ton to relocate the ammonia. Since the Lester-Stone facilities were dry this would leave only Pecos and the Hereford area to have this large inventory. Since the Hereford area has been trucking from our Sterlington plant it does not seem reasonable that any would be left in Hereford so that



any inventories must be in the Pecos area. It is very doubtful if there is more than 1,000 to 2,000 tons maximum inventory even in Pecos. \* \* \*

Everett also learned in Plainview that Estes had collected cash for ammonia which had not been delivered and which Estes did not have. In his April 27 memorandum to O'Leary, Everett described an incident which took place during his visit to the Lester-Stone Co., as follows:

During my presence one large customer who had already paid for his ammonia and had a credit balance remaining of \$1,200 wanted 1 ton of ammonia. He did not seem to be disturbed when told they did not have it available and simply stated that he knew a dealer who had the ammonia and that he would obtain the balance due by Lester-Stone at a later date.

A memorandum sent by W. W. Jackson to Loy Everett on July 25, 1960, indicates that Commercial Solvents was still concerned at that time about the disposition of its ammonia. The memorandum contained the following instructions from Jackson to Everett:

Will you please try to determine, if possible, where the current anhydrous ammonia being shipped in the month of July is being used. I believe it reasonable to assume that because of the current high price of \$88 which will drop to \$84 on August 1, all of the anhydrous ammonia is being used in the field or being converted into cash.

It is important that we attempt to obtain additional information as to its destination. Please let us have as much information as possible on this subject.

The subcommittee asked Commercial Solvents Corp. to supply it with the information it had developed concerning the ultimate destination of ammonia sold to Estes. In response to the subcommittee's request, Commercial Solvents confirmed that it had attempted to obtain information as to the ultimate destination of fertilizer sold to Estes. However, the company stated, "\* \* \* Very little information was obtained. CSC has records as to where it delivered fertilizer to Estes, but has no reliable information, and can give no estimates, as to where he actually used the fertilizer. \* \* \*"

#### \* ESTES DEFAULTS ON AGREEMENTS

##### *Controller Questions Estes Account*

During late 1959 and early 1960, as has been described previously, the officers of Commercial Solvents were understandably concerned about the Billie Sol Estes account. However, the company's records do not indicate that the board of directors, the executive committee, or the stockholders were notified of management's concern about Estes and the matters causing it. Minutes of the executive committee meetings refer to a discussion of the Estes account on September 15, 1959; the next mention of Estes occurs in the minutes of a meeting on June 21, 1960—more than 9 months later. Minutes of a board of directors meeting on November 23, 1959, refer to a discussion of the Estes account by Leonhardt and a favorable report by James McConnell on an inspection of the Estes operations; more than 5 months

subsequently elapsed before a further reference to the Estes account was made in minutes of a meeting on April 25, 1960.

Documents in Commercial Solvents files indicate that the company's audit committee—consisting of three of its directors—discussed the Estes account at a meeting with the Solvents outside auditing firm on February 3, 1960. However, the audit committee concluded that no action need be recommended concerning the Estes account.

The subcommittee asked Commercial Solvents to provide it with copies of any reports or documents in which its outside auditing firm, Arthur Young & Co., had questioned the amount of the Estes account, or the nature and validity of the security held for its payment. In response, Solvents advised the subcommittee that "The reviews initiated by the auditors of matters bearing on their examinations of the accounts of CSC were in no case covered by written memorandums or letters detailing the subjects to be discussed or commenting on such matters."

On April 20, 1960, Commercial Solvents controller, J. A. Uhl, sent a memorandum to William Leonhardt in which Uhl stated that Estes had defaulted on his agreements with Solvents and confirmed plans for a meeting with Leonhardt and W. C. Ings of Arthur Young & Co. (Solvents' outside auditing firm) on the next day. Uhl sent carbon copies of his memorandum to President Wheeler and Ings. The full text of the memorandum follows:

COMMERCIAL SOLVENTS CORPORATION,  
New York, April 20, 1960.

Memorandum to: Mr. W. S. Leonhardt, New York.

Subject: Billie Sol Estes.

We have from time to time reviewed together the status of the Billie Sol Estes account. We agreed at the close of the year 1959 that based on our experience to that date there was no basis for setting up a reserve in respect thereto. We agreed that before the end of the first quarter of 1960 we would again review this matter.

In view of the facts outlined below will you please let me have your opinion of the reserve, if any, required in respect of this account.

Billie Sol Estes has defaulted in respect of our agreements with him as follows:

1. Has not paid Note A-1 which was due February 28, 1960—

Principal amount.....	\$180,000
Plus interest.....	55,533
Total.....	235,533

2. Has refused to allow examination of his books and records by a representative of CSC as provided under Paragraph 4(c)(VIII) of the Revised Master Agreement.

3. Has refused to execute an Assignment of Accounts Receivable to CSC in respect of all his accounts receivable from the sale of fertilizers and has refused to execute a Notice of Assignment as provided in Paragraph 7(a) of the Revised Master Agreement.

4. Has defaulted in making the payment required under Paragraph 5(b) of the Amended Fertilizer Agreement effective November 1, 1959, which default at April 20, 1960, amounted to \$1,347,130 as follows:

Account Receivable at April 14, 1960-----	\$3, 266, 677
Additional shipments—April 14–17, 1960-----	25, 200
	<hr/>
	3, 291, 877
Less Credit for freight allowances—Credit Memorandum No. 667— April 19, 1960-----	16, 180
	<hr/>
	3, 275, 697
Note due February 28, 1960, unpaid at April 20, 1960, \$180,000 plus interest, \$55,533-----	235, 533
	<hr/>
Account Receivable at April 20, 1960-----	3, 511, 230
Under Paragraph 5(b) of Amended Fertilizer Agreement effective November 1, 1959, Estes is obligated to make cash payment so that aggregate amount owed CSC shall not exceed at any time, the aggregate of—	
(i) (A)-----	\$2, 500, 000, plus
(B) "then accrued CCC payables" which at April 20, 1960, are estimated to be-----	558, 000
	<hr/>
	3, 058, 000
or	
(ii) (A) amount owed CSC by Estes for fertilizers held by Estes unsold in inventory and which are subject to a valid, recorded chattel mortgage—latest inventory report at February 29, 1960, Estes showed inventory of 16,060 tons (inventory at April 20, 1960, probably substantially lower)-----	1, 606, 100, plus
(B) face amount of all outstanding accounts receivable from customers of Estes arising out of fertilizers purchased from CSC which are validly assigned to CSC (Estes has not made assignment)-----	0
(C) "then accrued CCC payables"-----	558, 000
	<hr/>
	2, 164, 100

Cash payment due at April 20, 1960  $(\$3,511,230 - \$2,164,100) = \$1,347,130$

5. Estes' refusal to allow us to review his books and records has prevented us from establishing the procedures outlined in Mr. J. H. Marshall's memorandum to you dated December 17, 1959. As suggested by Mr. Marshall "CSC's entire security interest in the grain elevator proceeds may be in jeopardy until and unless such procedures are instituted and conscientiously carried out."

The financial data made available is inadequate for me to form an opinion re the reserve, or if any is required on this account. As agreed with you, we will jointly review this matter with Mr. Ings on Thursday morning, April 21, 1960, in order to come to a conclusion in respect of our first-quarter accounts.

J. H. UHL, *Controller*.

JAU:dd.

cc: Mr. M. C. Wheeler; Mr. W. C. Ings, Arthur Young & Co.

#### *Report to Board of Directors*

On April 21, 1960, Uhl sent another memorandum to Leonhardt (with a carbon copy to President Wheeler) in which Uhl stated that "Following up our discussion of this morning, no reserve is being provided in the first-quarter 1960 accounts in respect of Billie Sol Estes."

Uhl noted in the memorandum that:

You have advised me that the board of directors has been informed from time to time of the status of this account.

Uhl closed the memorandum with the following statement:

I recommend that the status of the account be reported to the board on April 25, specifically, covering the facts detailed in my memorandum to you dated April 20, 1960.

On April 22, 1960, Billie Sol Estes arrived in New York City, where he remained until April 25 for meetings with Wheeler and Leonhardt. Uhl was not asked to participate in the meetings with Estes.

Minutes of the board of directors meeting on April 25, 1960, contain the following reference to the Estes account:

Billie Sol Estes—status of indebtedness.

Mr. Leonhardt reported in regard to the present status of the indebtedness of Mr. Billie Sol Estes for anhydrous ammonia ammonia-ammonium nitrate solutions, and solid ammonium nitrate purchased by him from the corporation. He stated that Mr. Estes had failed to pay his note in amount of \$180,000 which was due on February 28, 1960, plus interest in amount of \$55,000, but that Mr. Estes stated he would make a payment of \$110,000 during the week of April 25 and would make a further payment of \$125,000 in June, and that Mr. Estes had agreed to assign to the corporation notes payable to him in amount of about \$300,000. Mr. Leonhardt also stated that the present open account indebtedness of Mr. Estes to the corporation was approximately \$3,300,000; that accrued receivables to date from Commodity Credit Corporation for the storage of grain, assigned to this corporation by Mr. Estes, amounted to \$600,000 and that, over a period of a year, the grain storage earnings from Commodity Credit Corporation would amount to \$3,100,000. He further stated that the various chattel mortgages held by the corporation on properties, equipment, and inventories owned by Mr. Estes have a present estimated value of \$4,500,000.

The matter was discussed by the board and it was the consensus of the directors present that the arrangement with Mr. Estes should be continued, and that negotiations should also be continued with Mr. Estes to obtain the additional collateral promised in order to keep the credit limit within the \$2,500,000 authorized.

Uhl was not present at the April 25, 1960, board meeting, and the minutes do not indicate that his April 20, 1960, memorandum was read to the directors.

Uhl had been an employee of Commercial Solvents for more than 20 years. His association with the company was terminated almost immediately after the April 25 board meeting.

#### *Submission of Dubious Notes*

Billie Sol Estes did not keep the promise made to Leonhardt to pay \$110,000 the week of April 25 to apply against a note payment due February 28, nor did he make the additional payment of \$125,000 promised in June. Minutes of meetings of Commercial Solvents executive committee and its board of directors do not indicate that Estes' failure to keep his promise was ever called to their attention by management.

Estes had also promised to assign to Solvents notes payable to him in the amount of approximately \$300,000. On May 9, 1960, F. J. Burg, assistant treasurer of Commercial Solvents, wrote the following letter to inform Estes that the notes were not being credited to his account:

We acknowledge receipt of the following notes endorsed by you: Note of J. W. Harris dated May 3, 1960, for \$109,626—maturing May 3, 1961; and Gerron S. Wheeler dated May 3, 1960, for \$111,850—maturing May 3, 1961. We also acknowledge receipt of note of Eddie R. Hutto dated May 3, 1960, for \$93,724—maturing May 3, 1961. This note *has not* been endorsed by you.

All three notes are interest bearing at the rate of 5 percent per annum *from date of maturity* and we will hold them, but no actual reduction of your account can be made until that time. However, should we decide to discount these notes, we would of course credit your account in the event such notes were discounted without recourse to Commercial Solvents Corp.

We will continue to invoice you monthly for the interest charges on unpaid items in your account beyond 30 days.

One of the note signers, Gerron S. Wheeler, although ostensibly an independent fertilizer dealer, actually was a salaried employee of Billie Sol Estes. In testimony at Amarillo, Harold Orr, an associate of Estes, gave the following account of the manner in which Estes had obtained signatures on notes from Harris, Wheeler, and Hutto in 1960:

\* \* \* Mr. Estes was in our office, and he called Mr. Ed Hutto with Three-way Chemical Co. at Bovina, Tex., and asked Ed to come up to his office, and I believe Mr. J. W. Harris, his partner, accompanied him.

Q. Now, Mr. Orr, if you don't know, let's don't state anything that you don't know.

A. Well, I know Ed Hutto was there, and he came up to my office and Billie Sol pulled out one of these blank promissory notes and asked Ed to sign it. Ed said, "Good gosh, Bill, what for?" And he said, "Well, you don't need to worry, I am just going to fill in the date and it is going to be signed over to Commercial Solvents."

Q. How much amount?

A. There was no amount put on the note, so he signed it in blank.

At the same time he pulled out these other notes to show Ed and Mutt Wheeler had signed one with Wheeler Fertilizer Co., and there was some signed by other various people of his.

As Estes put it, "These people all owe me money"—none of them owed him any money, but—"they owe me money and these promissory notes will be endorsed over by me to Commercial Solvents as extra collateral."

*Guarantee by Superior Manufacturing Co.*

On June 2 and 3, 1960, Billie Sol Estes was in New York City for meetings with Leonhardt, Jackson, and Everett.



On June 15, 1960, according to testimony of Harold Orr at Amarillo, a meeting was held at the Hilton Hotel in Plainview, Tex., not long after Orr, Coleman McSpadden, and Ruel Alexander had purchased Superior Manufacturing Co. (The circumstances under which Superior was acquired are described later in this report.) Orr described what took place as follows:

\* \* \* Mr. Estes flopped out three promissory notes that were made out to Commercial Solvents for \$900,000 each, and he wanted Superior Manufacturing Co. to guarantee the notes.

In other words, we signed under Billie Sol Estes' name. Billie Sol signed, and there was a place for Superior Manufacturing Co., Harold E. Orr and R. W. Alexander, to sign. We told Bill if that stuff ever hit Dun & Bradstreet, we would be ruined, and he said, "You don't worry about that."

He said, "I have got one fellow with Commercial Solvents in their office there that knows more about me than you do." And he evidently did.

But he said, "This will never be recorded, no portion will ever be recorded," and it wasn't. He said, "You never need to worry about it. Don't ever worry about it."

\* \* \* \* \*

Q. What was the necessity of those deals?

A. We asked him that, too. He stated that Commercial Solvents' board of directors occasionally would look at his deal and demand extra collateral.

And he said, "This is the way I give him extra collateral."

And he said, "This is all it takes to hush them up."

A promissory note for \$900,000 dated June 24, 1960, was given to Commercial Solvents by Estes. Payment was guaranteed by Superior Manufacturing Co. and the note was secured by a chattel mortgage on 1,046 ammonia tanks on trailers; 210 more tanks were added to the security by a chattel mortgage dated July 7, 1960.

#### *Misleading Reports by Wheeler and Leonhardt*

Minutes of a board of directors meeting on June 27, 1960, reflect the following report by President Wheeler:

The president then reported that the notes and accounts receivable, less accrued Commodity Credit Corporation receipts, due from Mr. Billie Sol Estes, which aggregated \$3,900,000 on March 31, 1960, had been reduced to \$3,400,000 at May 31, 1960, and that it was anticipated that the indebtedness would be reduced to \$3,200,000 by June 30, 1960.

The subcommittee's investigation—which included a specific request to Commercial Solvents for this information—did not disclose any factual basis either for President Wheeler's reassuring report to the board of directors concerning reduction of Billie Sol Estes' account or for a similar report previously made to the executive committee by Vice President Leonhardt. During April and May 1960, the subcommittee's investigation indicated, net storage payments by CCC to Solvents for Estes' account were less than \$10,000; ammonia deliveries during the same months totaled more than

\$400,000. Consequently, Wheeler's report should have indicated an increase in the Estes account, rather than a half-million-dollar reduction. Minutes of the board of directors meetings reflect no further reference to the Estes account until December 18, 1961. (A resolution adopted at a meeting on February 27, 1961, authorized construction of an ammonia storage facility at Hereford but did not mention Estes.)

Commercial Solvents' management apparently made an overly optimistic report on Billie Sol Estes' payment record on at least one occasion to an outside credit reference agency. A report on Billie Sol Estes issued by the Tarnell Co. of New York on October 28, 1960, listed four credit references, including Commercial Solvents. Two of the companies reporting indicated that Estes had been placed on a cash basis following collection troubles; another indicated that further credit had been refused because Estes was 1 to 2 years slow in paying. Commercial Solvents, however, apparently had furnished a report indicating that Estes paid the company promptly.

#### *Submission of Additional Notes*

On July 14, 1960, Billie Sol Estes and A. B. Foster, Estes' general manager, met in New York with Leonhardt, Jackson, and Everett.

Some time later, Solvents received three more notes payable to Estes and endorsed by him to Solvents. Each of the notes was dated July 15, 1960, and was due on July 16, 1961. The notes bore the same signatures as those received in May, and were in the following amounts:

Gerron S. Wheeler	\$255,680
J. W. Harris	83,750
Eddie R. Hutto	72,970

#### *Personal Transactions Involving Leonhardt and Estes*

A personal transaction involving Leonhardt and Estes occurred at approximately the same time the \$900,000 note guaranteed by Superior was given to Solvents. Leonhardt described the matter at subcommittee hearings as follows:

Mr. SMITH. Mr. Leonhardt, did he bestow gifts upon you, too?

Mr. LEONHARDT. I have received several gifts from Mr. Estes, and I have also given him a few.

I would like to say at this time that there was one transaction that somebody might consider of some value: I did not at the time, I can tell you this. I think it was in May of 1960 I bought a small interest in an oil and gas well from Mr. Estes, and I think I paid him \$20 for it. It was the same as a sweepstakes ticket to me. It was very speculative; it had no value. As a matter of fact, I didn't even have the deed recorded. It might be available someplace in Texas; I'm not too sure.

I gave the interest to my son. I think it was about a year later he started receiving some royalty payment from the Gulf Oil Co. I think they started out in the range of over a hundred dollars a month and they are now down to about \$20 a month. This turned out, a year later, to have some value.

This is the extent of the gifts that I received.

Mr. SMITH. You are reasonably sure that at the time \$20 was the value?

Mr. LEONHARDT. I thought it was too much at the time, I can tell you that. Mr. Estes was a very talkative fellow. He threw things around quite a bit. This was one that I got.

Mr. SMITH. These hundred-dollar payments started how long ago?

Mr. LEONHARDT. A year later, I think in June 1961.

Further inquiry by the subcommittee disclosed that Estes had transferred a  $\frac{3}{4}$  interest in oil, gas, and minerals in a tract of land in Reeves County to W. S. Leonhardt, Jr., by means of a deed dated June 25, 1960, and acknowledged before a notary by Estes on June 30, 1960. Consideration was stated as \$10.

Payments made to W. S. Leonhardt, Jr., by the Gulf Oil Co. totaled \$1,560.52, and consisted of compensatory royalties because of an offset well rather than payment for production on the designated tract itself. The first payment of \$668.97 was not made until May 25, 1961; however, it covered royalties for the period from June 1960 through March 1961.

The subcommittee asked the Gulf Oil Corp. when owners of interests in the land concerned first learned or had reason to believe they would receive payments and received the following answer:

The owners of interests in the above half section first learned, or had reason to believe, that they would receive compensatory royalties in June of 1960. They were advised of this fact by the request for them to execute amendments to their leases allowing for payment of compensatory royalties. These owners were formally notified by letters from Gulf Oil Corp. on November 7, 1960, that compensatory royalties would be paid [on a retroactive basis covering production for a period] commencing June 1, 1960.

Under further questioning, Leonhardt described another incident involving Estes:

Mr. SMITH. Mr. Leonhardt, was that the extent of the gifts that you received?

Mr. LEONHARDT. That I received?

Mr. SMITH. Yes.

Mr. LEONHARDT. No; there was another gift that I received.

Mr. SMITH. What was it?

Mr. LEONHARDT. The first question was what I accepted, I believe.

At Christmastime, 1960, I received at my home three \$1,000 Government bonds. They were sent by registered mail from Mr. Estes. I wrote Mr. Estes a very nice note, thanked him, that I could not accept such a gift, and I put it in an envelope and my secretary mailed it back, registered mail.

Mr. SMITH. This was at Christmastime, 1960?

Mr. LEONHARDT. 1960, yes, sir, that I returned them. I said I could not accept a gift of such value.

Mr. SMITH. Did you write a cover letter for that?

Mr. LEONHARDT. It was a personal note; yes.

Mr. SMITH. You didn't keep a copy of that?

Mr. LEONHARDT. No; I did not. But my secretary has records on this, if you would like to check it. \* \* \*

The subcommittee's investigation disclosed that three \$1,000 denomination U.S. savings bonds made out to W. S. Leonhardt were cashed for the purchase price of \$750 each at the First National Bank of Pecos on May 4, 1961. Leonhardt's name was endorsed on the bonds, but the signature did not appear to be in his handwriting. An investigation conducted by the Treasury Department at the subcommittee's request did not succeed in ascertaining the identity of the person cashing the bonds.

#### FORGED NOTES AND NONEXISTENT TANKS

##### *Warning of Tank Deals*

In their testimony before the subcommittee, Commercial Solvents' officers indicated they had no knowledge of Estes' illegal tank deals until around the time he was arrested. President Wheeler took this position even more emphatically in a letter to Commercial Solvents' stockholders on May 24, 1962, in which Wheeler stated:

The board of directors, the executive committee and the management of the company were kept fully and constantly informed regarding Mr. Estes' account with us. At no time did we have any reason to question the soundness of CSC's relationship with him. And at no time did any basis exist for terminating his credit or for suspending sales to Mr. Estes.

The charges of fraud and other allegations which have been made against Mr. Estes came as a shock to the management and to the board of your company. We had no knowledge or indication of any wrongdoing on his part.

In testimony at Amarillo, Harold Orr stated that Billie Sol Estes had told him on many occasions prior to March 1962 that "the Commercial Solvents people knew the tanks were not in existence." In a number of instances, the subcommittee investigated statements reportedly made by Estes and found that there was either no reliable evidence whatever to prove the statement was true or that there was convincing evidence to establish its falsity.

In this case, however, the subcommittee found that a Commercial Solvents employee had sent a report to the New York office about the tank deals more than a year before Estes' arrest. The warning was sent by A. W. Kinnard III, who replaced Massey McConnell as sales supervisor for the southern sales district. It was sent in a memorandum to Loy Everett on January 23, 1961, after Kinnard had made a trip to west Texas during which he talked to W. G. Nelson, an official of Southwestern Fertilizer & Chemical Co., of El Paso, and other persons who were not identified. In the memorandum, Kinnard stated:

\* \* \* information I gathered both here and elsewhere, is that Estes has been borrowing money on nonexistent ammonia storage tanks. I saw a photostatic copy of a listing

showing capacities and locations of these tanks. This information is being gathered by interested parties for the purpose of taking Mr. Estes into court.

*Handling of Kinnard Memorandum*

According to notations on it, the Kinnard memorandum was received by Everett on January 26 and copies were ordered sent to Jackson and Leonhardt. In an affidavit submitted to the subcommittee, Everett stated:

That to his knowledge the only investigation made by Commercial Solvents Corp. to determine the disposition by Estes of ammonia delivered in the first quarter of 1962 was made by representatives of the controller's department of Commercial Solvents Corp. and that he does not have accurate knowledge of the results of this investigation.

That he had received a memorandum dated January 23, 1961, from a Mr. A. W. Kinnard which contained in part a statement to the effect that Estes had been borrowing money on nonexistent ammonia storage tanks; that he does not recall having discussed this memorandum with anyone prior to the arrest of Mr. Estes.

That he has no recollection of having informed anyone concerning the said memorandum or its contents but that he must have done so since the records of Commercial Solvents Corp. indicate that he sent copies of this memorandum to Mr. W. W. Jackson and Mr. W. S. Leonhardt.

William Leonhardt stated in an affidavit provided to the subcommittee:

That he is familiar with a memorandum dated January 23, 1961, from A. W. Kinnard III to L. A. Everett; that he understands that, in a search of CSC's files under the direction of counsel for CSC, after Estes' arrest, a photocopy of that memorandum was found in the "Estes" file maintained by his (Leonhardt's) secretary; that said photocopy was not initialed by him, and that it is his general practice to initial documents which he has read before they are filed; that he has no recollection of ever having received either that memorandum or said photocopy thereof, or discussing the memorandum or the information which it contained with anyone, prior to Estes' arrest; that he has no recollection of ever seeing the original of the memorandum; and that the first time he can recall seeing said photocopy was when it was brought to his attention by counsel after Estes' arrest.

Vice President Jackson said in a sworn statement that he had no recollection of ever having received the memorandum or a copy of it or discussing it or the information it contained with anyone prior to Estes' arrest. President Wheeler also provided a sworn statement denying any knowledge of the memorandum prior to Estes' arrest.

Commercial Solvents stated in a letter to the subcommittee that no follow-up action was taken with respect to the tank information in the Kinnard memorandum.



*Other Adverse Information*

In addition to the report concerning nonexistent tanks, the Kinnard memorandum of January 23, 1961, contained other adverse information about Estes' operations. In the memorandum, Kinnard stated:

Before making this trip I had anticipated receiving a few complaints concerning our west Texas customer, Mr. Billie Sol Estes, but I received far more than expected. I came home very much enlightened as to the feelings these people have for Mr. Estes and for CSC.

This visit was with Mr. W. G. Nelson, vice president, secretary-treasurer (of Southwest Fertilizer & Chemical Co. of El Paso), an old friend who has always spoken to me "straight from the shoulder," and he certainly had a lot on his mind concerning our company; none too complimentary, I might add, but all good naturedly because of our long friendship.

Listed below in numerical order is a condensed version of Bill Nelson's statements to me concerning Mr. Estes:

(1) Estes swapped John Chase, Port Fertilizer & Chemical Co., Los Fresnos, Tex., CSC ammonia for Phillips sulfate and triple. Chase got ammonia for \$20 under market price.

(2) Estes swapped Mathieson dealer in Pecos CSC ammonia for urea and Mathieson products.

(3) Estes swapped CSC ammonia for one Cadillac and three pickup trucks in Nebraska.

(4) Everyone betting even money Estes will break CSC.

(5) Nelson can sell nothing with CSC name in area for anything like his cost, because Estes undersells or swaps for so little.

(6) Nelson knows Estes well—in 1954 Estes told him if he ever got into a large company for as much as \$1 million, he would be set for life.

*Below-Cost Sales and Unpaid Bills*

In May 1961, Loy Everett advised his superiors at Commercial Solvents that he had heard reports Estes was selling ammonia below cost to raise money needed for storage expansion. A May 11, 1961, memorandum from Everett to Maynard Wheeler, with copies to Jackson and Leonhardt, contained the following paragraph:

It is reported that Mr. Estes reduced his retail price to the farmer from \$110 per ton to \$90 per ton on Monday of this week. This, of course, is below Estes' cost of the material without adding charges for handling. This price has been quoted on the basis of cash with order and delivery any time between now and the end of December. Rumors are that Mr. Estes needs \$500,000 quickly to finance additional grain storage and that on his first day he obtained \$200,000 through this practice. I am told that at least three competitors have met this situation as they are not willing for Mr. Estes to obtain all the cash business. Supposedly, this situation is being met on one-half day intervals so that competition can be withdrawn on one-half day notice.

One day later, on May 12, 1961, A. W. Kinnard sent a report to the home office describing the apparent existence of a substantial unpaid debt from Billie Sol Estes to International Minerals & Chemicals. The report was contained in a memorandum from Kinnard to Everett which was marked "Personal and Confidential" and stated:

While in I.M. & C.'s Texarkana office on May 9 I was in the position of being able to read a memo on Mr. Burn's desk.

The memo was on interoffice paper and addressed to a Mr. H. C. Brumlow with a copy to Mr. Burns. I could not determine who sent the memo. It was headed "Prior year's receivables as of April 30, 1961." The body listed about 10 names and amounts. The name and amount that headed the list was—"Billie Sol Estes—\$52,443.20."

The memo asked for the above mentioned to be checked on and the writer given monthly reports.

This is for your information.

Written notations on the memorandum indicated that it had been examined by Jackson and Leonhardt, as well as Everett.

#### *Unusual Handling of Endorsed Notes*

May 3 and July 16, 1961, were the due dates of notes with a total face value of more than half a million dollars which were payable to Estes and had been endorsed by him a year before to Commercial Solvents. These notes bore the signatures of Gerron S. Wheeler, J. W. Harris, and Eddie R. Hutto.

October 1, 1961, was the due date for two additional notes payable to Estes, signed "H. E. Wilson" and "Troy Burson," which had been endorsed by Estes to Solvents in September 1960. The face amounts of these two notes totaled more than three-quarters of a million dollars. None of the notes were paid on the due date or at any subsequent date, and the subcommittee found no indication that Commercial Solvents made any attempt to collect on them.

In a letter to the subcommittee, Commercial Solvents gave the following description of its handling of the notes:

During 1960 and 1961, at various times, Estes gave us, as additional collateral, promissory notes of various farmers and dealers, for the most part made payable to Estes and endorsed by him in blank. These were returned to Estes in, we believe, September 1961. With one exception, we can find no correspondence covering either their delivery to us or their return to Estes; delivery and return were mostly done by hand. The one exception is a letter dated May 9, 1960, from Burg to Estes, a copy of which is enclosed, acknowledging receipt of three notes. Since all these notes were held as collateral only, and were not given us in payment of Estes' debt, we made no attempt to collect on them. No direct check was made with their makers by either us or our auditors.

F. J. Burg, assistant treasurer of Solvents, told the subcommittee that Leonhardt only, and not Burg, had responsibility for Estes' credit and security. Burg stated that he knew very little about the security arrangements with Estes, except that from time to time he was given documents to hold in his custody. Burg said he was given some

"farmers' paper" by Leonhardt to hold as custodian, but that he never attempted to appraise the value of such paper as security and did not know its ultimate disposition.

When asked by the subcommittee to identify the makers of the "farmers' paper" at one time held by Commercial Solvents as security for Estes' indebtedness, the company furnished a list of 10 notes. Eight of the notes were those described above; six of these eight notes bore the names of E. R. Hutto, J. W. Harris, and G. S. Wheeler (two each), and the other two were listed in the names of Troy Burson and H. E. Wilson. Two other notes dated September 13, 1961, and due September 13, 1962, were listed in the names of W. R. Winters and E. J. Carpenter. The total face amount of all 10 notes was slightly more than \$2 million.

Despite Commercial Solvents expressed belief that the notes had been returned to Estes in September 1961, a memorandum submitted to CSC's board of directors on December 18, 1961, listed the following item as security for payment of Estes' account:

Dealers and customers promissory notes—Various with face value up to \$2 million.

Testimony concerning the manner in which Estes obtained the Hutto, Harris, and Wheeler notes appears in the preceding section of this report. Both Burson and Wilson subsequently denied signing or having any knowledge of the notes bearing their names which were submitted to Commercial Solvents by Estes. The Winters and Carpenter notes are discussed below.

#### *Submission of More Forged Notes*

By August 1961, Billie Sol Estes' indebtedness to Commercial Solvents had reached a peak of more than \$6 million. However, according to its own statement, Commercial Solvents had made no attempt to collect more than half a million dollars in notes endorsed to the company by Estes which matured in May and July 1961.

Even though the due dates on paper it already held had passed without action, Solvents continued to request additional paper. On August 11, 1961, F. J. Burg, assistant treasurer of Solvents, sent a telegram to Estes asking when the company could expect "additional paper discussed with Mr. Leonhardt." On August 15, Estes advised " \* \* \* we are working on this at this time and will forward it to you in the very near future."

On August 17, Burg again sent another telegram to Estes which was answered on August 21 by Estes' assurance that " \* \* \* you may expect to receive these notes not later than September 10." Subsequently, Solvents received two additional notes for \$266,000 each, payable to Estes and endorsed to Solvents. One note bore the name of W. R. Winters as promissor and the other E. J. Carpenter; both notes were dated September 13, 1961.

W. R. Winters subsequently told the subcommittee that:

I did not sign a note for \$266,000 payable to Commercial Solvents. The only knowledge I have of this is that Mr. Cathers with Internal Revenue Service, Pecos, said that he had noticed this listed in an audit prepared for Harry Moore, receiver for Estes' estate. Mr. Cathers said there was one for approximately the same amount with Eddie Carpenter. Mr. Carpenter had no knowledge of this either. Both of these apparently are forgeries.

## REJECTED PROPOSALS

*Proposed Anhydrous Ammonia Facilities*

On a number of occasions during the 4 years he dealt with Commercial Solvents, Billie Sol Estes tried to interest the company in proposals involving construction of ammonia storage or production facilities in west Texas. One such incident is described in a memorandum written by Loy Everett to J. V. O'Leary, then general sales manager for Solvents, on April 27, 1960, after a visit by Everett to Pecos. In his memorandum, Everett stated:

I saw a letter \* \* \* from the Lummus Co. dated April 14, headquarters 385 Madison Avenue, New York, N.Y., branch office at Houston, Tex., wherein they were giving preliminary figures on an anhydrous ammonia plant equipped to produce 200 tons a day. On the basis of a loan of \$10 million at 5½ percent interest and of a gas cost of 20 cents, the figures projected a payout in 4.6 years. They projected a cash-flow ratio to loan of 2.36 with the return on investment of 12.5 percent and a profit after 52 percent taxes per year of \$1,250,000. These calculations, however, were based on the plant operating at 66,700 tons per year with a value of \$88 per ton f.o.b. plant with no allowance for freight equalization and tank car cost. Also no allowance was made to carry inventories and accounts receivable. \* \* \*

Everett summarized Estes' proposal and his evaluation of it as follows:

\* \* \* Mr. Estes states that he can obtain the money at 5 percent interest and would like to go in with CSC to build a plant in west Texas. His first two initials adequately express my opinion of such a venture.

In a letter to the subcommittee, Commercial Solvents described further proposals by Estes during 1961 as follows:

In early 1961, he proposed that CSC build a new 20,000-ton storage facility for his use in west Texas. CSC explored this proposal, and on February 23, 1961, the Board approved a request for capital appropriation for \$520,000 to construct a 5,000-ton ammonia storage facility in Texas. The officers of CSC eventually decided, however, not to proceed with this project, although Estes continued to push for construction of the tank through May 1961.

In May 1961, Estes proposed that CSC immediately commence construction of an ammonia plant in Plainview to be owned by CSC, or by CSC 50-50 with Estes; Estes would guarantee to purchase the output until the plant was "paid out."

In June 1961, A. B. Foster sent Leonhardt a proposal for a corporation to be jointly owned by CSC and Estes which would own and operate grain elevators, an ammonia plant and fertilizer distribution facilities. On August 3, Leonhardt wrote Estes to ask for additional information; he said the proposal was receiving serious consideration.

Commercial Solvents ultimately did not accept any of Estes' proposals for construction of ammonia storage or production facilities in west Texas. One factor influencing Solvents decision may have been the fact that facilities being constructed by Grace Chemical Co. at Big Spring and the Shamrock Oil & Gas Co. at Dumas were expected to be producing ammonia by early 1962. The Grace plant was expected to have an annual production capacity of 85,000 tons and the Shamrock plant 50,000 tons.

#### *Threatened and Actual Sales Negotiations*

On several occasions during Billie Sol Estes' business relationship with Commercial Solvents, Estes either threatened to sell or negotiated for sale of his fertilizer distribution business to one of Solvents' competitors.

One report of a contact between Estes and the Grace Chemical Co. occurred as early as December 1959. W. W. Jackson, vice president of Commercial Solvents, made the following comment in a file memorandum written on December 9:

Apparently Grace Chemical has given Billie Sol Estes a suggested offer covering anhydrous ammonia as follows:

1. Grace will provide a \$3 handling credit for all out-bound freight. A 5-percent sales discount will also be provided; 6 percent interest on money he owes will be charged.
2. Estes is to pay freight collect on equalized freight for the first year.
3. Estes is to pay \$20 per ton back to Grace in cash. The balance can be invested in grain, cotton, or ammonia storage. Grace will take a second mortgage behind CSC, but CSC account cannot exceed \$5 million.
4. One-half of the ammonia requirements are to be for Grace.

Testimony by Douglas Lewsader, pilot of Billie Sol Estes' airplane, indicated that Estes made trips to Bartlesville, Okla., March 10 and May 26, 1960. Bartlesville is the location of the home office of the Phillips Petroleum Co., which has an ammonia plant at Etter, Tex.

In a letter to President Wheeler on September 20, 1960, James McConnell had warned of risks Solvents was taking in the Estes account, including one "that Billie may some day become unmanageable." In his testimony before the subcommittee, McConnell explained this comment as follows:

Mr. FOUNTAIN. Would you care to comment on that letter?

Mr. McCONNELL. Yes. The use of the word "unmanageable" was the fact that Billie was constantly talking to or said he was talking with other suppliers who seemed to feel they would like to get a chance at the account, too.

That was one of the big question marks always in this account, whether he would stay with us or not.

During the latter part of 1961, Estes was actively discussing with Grace Chemical Co. and with Phillips Petroleum Co. proposals which would have involved transferring all or most of Estes' ammonia business from Solvent to Grace or Phillips. Commercial Solvents told the subcommittee in a letter that "CSC had learned of these negotiations and considered them a real threat to the continuation of its business with Estes."