It is interesting to note the wide disparity, so far as the allocations to power is concerned, between this proposed allocation and that approved by the Federal Power Commission recently for the Bonneville Dam.

Those constitute the facts underlying the charges to which you refer in the memorandum of Dr. H. A. Morgan and myself dated January 18, 1938.

MR. EARLY: Do you want to submit that volume in the record, Mr. Lilienthal?

THE PRESIDENT: It is not quite complete. We won't need to copy that unless it is desired by other people. I suggest you complete it, insert those items which have been left out, and file it with me as an exhibit to be available for future use if desired.

MR. A. E. MORGAN: Will the list of items in that be included in the testimony?

THE PRESIDENT: We will have the index copied and sent to Chairman Morgan and will give him, at the same time, a list of the items that go in.

MR. LILIENTHAL: I will send him the list, and a copy of the index.

THE PRESIDENT: Is that all?

MR. LILIENTHAL: Yes.

THE PRESIDENT: Chairman Morgan, I should like to know if you have any reply to make to the allegations that have been made by Mr. Lilienthal?

CHAIRMAN MORGAN: The statement he has made contains, involves striking and vital inaccuracies, misrepresentations, and omissions. I think that statement, and the large amount of matter included is a very clear illustration of the futility as a fact-finding process of such meeting as this was planned to be.

THE PRESIDENT: Of course that is a general statement that you have just made. Can you specify in any way -- give me a lead -- as to what was left out, as to how it is misrepresentative.

CHAIRMAN MORGAN: As I said in the first statement, for a long time I hoped for an opportunity to do that. I feel that that day is past, and I have nothing to add to my first statement.

THE PRESIDENT: Would you be ready to give me that, an explanation of this statement of yours, within a week?

CHAIRMAN MORGAN: I don't think I have anything to add to that first statement:

THE PRESIDENT: Would you be ready to give me that - an explanation of this statement of yours, within a week?

CHAIRMAN MORGAN: I have nothing to add to that first statement.

THE PRESIDENT: Could you do it in two weeks?

CHAIRMAN MORGAN: I have the same thing. I refer to my first statement.

THE PRESIDENT: In other words, doesn't it amount to this, that you decline to give any facts in support of the general allegation?

CHAIRMAN MORGAN: I think my first statement covers it.

THE PRESIDENT: I take judicial notice of the fact that Chairman Morgan has declined, definitely, to give any reply to any of the questions of fact that have been put.

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CHAIRMAN MORGAN: I have not declined to give replies -- only under certain circumstances.

THE PRESIDENT: Will you be ready to give the replies within any reasonable time?

CHAIRMAN MORGAN: If I can be assured of a free access to the --- I think I don't want to make any statement or make any commitment which would imply that any other method of inquiry should be postponed until I do something.

THE PRESIDENT: That is neither here nor there. I am not opposing any other inquiry, but I am, to a very great degree, as President, responsible for the conduct of the work of the T.V.A. I cannot delay indefinitely and I am asking you to make it possible for the work of the Authority to go along by clearing up certain general allegations that have been made by the presentation of certain specific facts.

CHAIRMAN MORGAN: Mr. President, the whole situation has developed in ways that I could not foresee, and I think, to answer your questions I will have to -- I would like to get a copy of your remarks and then give you a considered answer just as quickly as I can -- in a day or two. You are thinking in terms of a lawyer, with a lawyer's background -- Mr. Lilienthal is -- and I am thinking in terms of an engineer and Administrator.

THE PRESIDENT: As far as law goes, I have not been a lawyer for a great many years and I have forgotten more law than I ever learned.

CHAIRMAN MORGAN: I think I am fair in asking for a brief period to arrive at a judgment on that point.

THE PRESIDENT: I want to do everything I can to help along that line. As I have said, I do want to clear up factual matters. After they are cleared up, I am perfectly willing to go into questions of ultimate policy, but I am convinced that we have to clear up factual matters first and I want to give you every opportunity to do that. I am perfectly willing to make that a period of a few days, a week, or even two weeks, as long as I can get this factual matter cleared up.

CHAIRMAN MORGAN: What has been said here is multitudinous, and I find it difficult to arrive at a judgment on the spur of a moment. If I can have your words in the record and to read them over, I can answer them.

MR. LILIENTHAL: There is an opportunity here, aside from the complexities, of clearing up a grave injustice both to human beings and to the T.V.A. and I would like to renew my suggestion that you assist us in that respect, subject to your pleasure. In Dr. Morgan's Memorandum to Mr. Fly, he states that there were three engineers who came to him, separately, and indicated, in effect -- the entire memorandum is in the record -- that they were under pressure to testify in ways they could not conscientiously do. Mr. Fly has properly asked for the names of those engineers. The Board has formerly asked for the names of those engineers. Mr. O'Brien has asked for the names of those engineers. There is no complexity about such a question. There is no problem of studying the record in that connection. It seems to me essential and I hope that you will see fit to ask, as Chief Executive of this Country, what are the names of those three engineers.

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THE PRESIDENT: I am thinking not only in terms of these three engineers but of all the other engineers. I think in fairness to the whole engineering staff, every individual on the staff who is closely or remotely connected with this trial, in fairness to them, this matter which in a sense overhangs all of them should be cleared up. Couldn't you do that now?

CHAIRMAN MORGAN: I consider that matter very carefully. I have to consider the welfare of those engineers as well as other engineers and I think I need time for a considered reply to all that. It is not as simple as it seems.

THE PRESIDENT: Meanwhile, a great many people are suffering.

MR. LILIENTHAL: I hope there is an opportunity to check this record and use the statements of the engineers refuting this suggestion of dishonorable conduct on their part.

THE PRESIDENT: For the record, the next charge reads that it was not permissible for Arthur E. Morgan to cooperate with a utility executive in the preparation of a memorandum, the express purpose of which was to show that a particular decision of the Board was wrong and actuated by improper motives.

I think that the next charge, which is very similar, can be discussed at the same time. It is that it was not permissible for Arthur E. Morgan to collaborate with a former chief engineer of the Insull Utility System in the preparation of a detailed recommendation on a power pooling policy, which report proposed evasions and violations of the TVA Act; nor was it permissible, during the negotiations, for him to permit such report to be made available to the utilities.

MR LILIENTHAL: We will present those together as they are related. This really consists of three parts. That is, the charge relating to the power pooling matter.

First, Chairman Morgan collaborated without authority from the Board with the former Chief Engineer of the Middle West Utilities Company - the Insull Holding Company - in the preparation of the detailed recommendation of power pooling policy. Second, that the report proposed evasions and violations of the TVA Act. And third, that the report was made available during and in the course of the negotiations to the Utilities participating in the negotiation.

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The facts are these: You will recall, Mr. President, that in September of 1936 you invited representatives of the Government and the Commonwealth and Southern Corporation and others, to a conference with you on September 30th to discuss the possibility of transmission line pool. The invitation explicitly limited the conference to a discussion of the pooling transmission lines and it was so understood by all the government representatives except Chairman Morgan.

The Board took action to prepare for this conference and by a resolution entrusted to Dr. Martin G. Glaeser to whom I have previously referred, the responsibility for assembling such data as might be useful and for formulating recommendations.

The Board subsequently learned however that Chairman Morgan, with the assistance, over a period of almost ten days -- and I shall support that by documentary evidence - of an engineer named G. W. Hamilton. He was independently engaged in preparing a memorandum on the subject.

Now as to the Hamilton matter. In the first place, we raise no question whatever as to Mr. Hamilton's ability as an engineer nor as to his integrity nor as to his personal honesty. It doesn't matter. The fact about Mr. Hamilton is that he worked for Insull Companies since 1906, and in 1932, about the time of the collapse of that system was Vice-President and Chief Engineer for the Middle West Utilities Company. Earlier in the period of the TVA's history an application with respect to Mr. Hamilton's employment as a consultant or, I think, perhaps as a permanent employee, was rejected by the Board expressly because of concern not as to his technical ability but that his background might affect his judgment on policy questions. Later he was retained as a consultant, but to overcome this concern that policy questions would be influenced by a man of his background - and again without any reflection on him at all - his contract with the Authority, contrary to most of the Authority's standard contracts for consulting services, was narrowly limited to, and I quote: "Consulting and advisory services in connection with design and construction of switchyard and other distribution facilities to the Authority when and as requested by the Authority." And I should like to submit for the record a copy of that consultant's contract. (The contract is entitled "Tennessee Valley Authority Contract for Services as Temporary Consultant" - between George W. Hamilton of Chicago, Illinois, and the Tennessee Valley Authority, approved by the Board November 27, 1935). In practice the scope of his services was limited to these literal terms of the contract. For example, an informal proposal to the Board to use Mr. Hamilton as a consulting engineer and as a witness in the condemnation suit arising out of the Hiawassi Dam Project was rejected because of this but without reflection as to his abilities.

Notwithstanding Mr. Hamilton's background and the known practice of the Board in regard to that matter, Mr. Hamilton, it subsequently appears, was asked by the Chairman to collaborate with him in the preparation of his power pool memorandum and without advising the Board. Mr. Hamilton's voucher, which is required under our practice where travel is taken on while a consultant is in our service shows that he worked with Chairman Morgan continuously from September 22 until September 30, the day of the power pool conference in this office. I should like to submit that file. I will have it referred to tomorrow and submit that for the record. He worked for the Chairman, the travel voucher shows, in Knoxville, in New York City and in Washington. He gave this as the only work which he did during this period from September 22 till September 30. His travel voucher does not limit his work to technical phases but is couched in general terms: "On official business, working with Dr. Morgan in connection with power transmission pool" and similar remarks.

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and in that connection I should like to submit a memorandum from Chairman Morgan to Mr. Frank J. Carr, Comptroller of the Authority, dated March 3, and Mr. Carr's reply dated March 8. (These two memoranda relate to bill rendered by Mr. George W. Hamilton for consulting services.)

PRESIDENT ROOSEVELT: 1937?

MR. LILIENTHAL: 1937. The voucher was finally paid under the circumstances that I have previously related. Neither Chairman Morgan nor Mr. Hamilton have ever specified in writing the nature of the work performed by Mr. Hamilton with relation to the power pool memorandum. While the General Counsel, as I have said, approved this payment as to its legality, he did say expressly as he states, because he could not do otherwise than accept the Chairman's general statement that the services rendered were within the contract.

While Chairman Morgan was preparing in further support of the charges of unpermissable conduct -- while Chairman was preparing his memorandum Dr. Glaeser, to whom the Board had delegated this preliminary work of preparing the memorandum for the Board which was duly submitted to the Board through the Acting General Manager. Dr. Glaeser also supplied Chairman with a copy. Dr. Glaeser advised that he asked Dr. Morgan for a copy of the additional memorandum he was preparing as he had to put his own memorandum in final form. No copy was supplied Dr. Glaeser -- no copy was supplied to any one in the TVA until the morning of the conference with the government conferees and just before they gathered I was handed a mimeographed copy and was told it had not been supplied to me earlier because it had been completed and mimeographed the day before.

We have concluded and we charged that the preparation of this memorandum in collaboration with Mr. Hamilton under the circumstances is not permissable conduct for the Chairman of the Board of the TVA. We raise no question of personal honor or dishonesty on the part of either the Chairman or Mr. Hamilton in this connection. This charge refers to unpermissable conduct.

We have charged in our memorandum of January 18, Mr. President, that the memorandum prepared by Dr. Morgan and Mr. Hamilton proposed violations and evasions of the TVA Act and although that memorandum was supplied to you and is in your office for the purposes of this record, I should like to submit a copy of that memorandum here. (The memorandum relates to "proposed TVA and Commonwealth and Southern Corp. Power Transmission Pool by Arthur E. Morgan" -- September 28, 1936.)

PRESIDENT ROOSEVELT: That can be put with the exhibits but not copied unless requested.

MR. LILIENTHAL: Perhaps it is important to make a somewhat detailed analysis as to why we regard this as an evasion and violation of the Act, and perhaps I can begin and if you care to stop me --

PRESIDENT ROOSEVELT: I think if you could summarize it in two or three sentences.

CHAIRMAN MORGAN: It would suit me for it to be added to the record.

PRESIDENT ROOSEVELT: Have you got it in manuscript form?

MR. LILIENTHAL: Yes sir.

PRESIDENT ROOSEVELT: Suppose you summarize it in two or three sentences and then put the whole thing into the record. What in general were the alleged violations and evasions of the Act.

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MR. LILIENTHAL: The Tennessee Valley Authority Act gives an unequivocable preferential right to municipalities and other public agencies to purchase TVA power under certain specified policies and conditions. The proposal in this memorandum in our opinion and by reference to particular paragraphs, particularly paragraph No. 20, set up obstacles to the exercise of that preferential right which defeated the right. It is provided that where a municipality desires to purchase power from the pool, it may not purchase that power unless it has complied with certain conditions; first, that it shall acquire the existing private system; second, that there shall be established certain logical and normal areas or boundaries of distribution systems and these conditions are elaborated. Now, while the Authority may urge, as it does, and recommend acquisition, it has no power to compel acquisition as a condition to the sale of power. Then there is a second condition, that the Authority agree upon logical areas and boundaries of distribution systems and that the Authority shall sell its power to communities only in such areas. Now, there is nothing in the act --

PRESIDENT ROOSEVELT: You mean only in such areas that have been allocated to the TVA?

MR. Lilienthal: No, only in such areas that have been agreed upon between the TVA and power companies as being a proper distribution area. There is nothing in the Act which permits the Authority to attach as a condition of the sale that the municipality shall serve a certain area. The condition suggested would defeat the Act in another way, because if there were a number of municipalities and one declined to acquire its own distribution system and declined to participate in the distribution system then none of the municipalities in the area could obtain power which is contrary to the act. Furthermore, the price basis proposed in this memorandum sets out an effective bar to those provisions of the Act which give preference to municipalities in the purchase of power. The memorandum proposes that not only must a municipality, in order to have the privilege of purchasing power purchase the existing distribution system, but also it must pay "incidental costs or damages." That, as every one knows who is familiar with matters in the utility field, frequently amounts to as much as the physical cost of the property at its going value. TVA contracted to buy some property on August 9, 1934 from the Alabama Power Company. The Company testified before the State Commission that the incidental damages exceeded the purchase price of the properties themselves.

Another condition was that municipalities must reemploy existing competent personnel of utilities before they had the right to buy power. Our TVA policy has been to reemploy all qualified personnel and we believe in that policy. We recommend it to municipalities, but to set it up as a condition of violation of the Act. This is perhaps as serious as anything in support of this charge that this memorandum proposed evasions and violations of the Act. Section 30 of this memorandum, Mr. President, proposes as a key to the enforcement of pool administration that the pool contract set up the arrangement for the regulation of municipalities as to resale rates, et cetera, conform to principles agreed upon by TVA and the power companies. Here we have, as far as I know, the unprecedented suggestion that private agencies and power companies shall be given the power to participate in the regulation of rates of public agencies;

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in other words that private agencies which are not entrusted with the direction of their own affairs without public supervision are now to be given the authority over the public agencies themselves and our conclusion generally is if there is any occasion for elaborating on it we will be glad to supply it. Our charge that this memorandum, as a whole, provides a method for defeating the right of public agencies to support.

We have also charged the release or the making available in such a way that the memorandum was available to the Utilities of this pooling memorandum at the time of this conference. On September 29, the day before the conference with you, Sir, on September 30, the Washington office of the McGraw-Hill Publishing Company telephoned the Washington office of the Tennessee Valley Authority and stated that the New York office had copies of Chairman Morgan's power-pool memorandum and requested a copy for the local office. Do you recall the Mc-Graw Hill Publishing Company publishes Electrical World, which is the semi-official trade journal of the electric industry, and an editorial policy bitterly opposed to the Authority, as well as all of the Administration's projects related to power.

On October 1, the day after your conference, the New York Times at the close of a long discussion of the power-pool meeting setting forth certain points which were attributed to "spokesmen" for the President indicated that these defined the scope of the conference. The points made were paraphrased or directly quoted from the Chairman's mimeographed memorandum on pooling of September 28 which I have already observed appear to be at wide variance to the limitation you had placed upon the conference, namely, that it would be an exploration of the possibilities of transmission line pool. At a meeting at which Mr. Willkie and representatives of the Authority gathered to discuss a temporary extension of the contract, the so-called January 4 contract, Mr. Willkie displayed a copy of the memorandum. Chairman Morgan later explained that Mr. Willkie had secured the copy from a New York Times reporter. Upon publication of the New York Times account, Chairman Morgan wrote to you as follows:

"Washington, D.C.
October 1, 1936

"Dear Mr. President:

This morning's New York Times, in an article on yesterday's power pool conference, mentioned, without using my name, certain suggestions which appeared in a memorandum of mine on the proposed power pool, copy of which I sent to you on September 29. No copy of this memorandum was made available to the Times with my knowledge or consent, and if it was used without securing White House approval, it was very inappropriate and I sincerely regret it.

Sincerely yours,

Arthur M. Morgan."

Chairman Morgan did not explain how the New York Times secured its copies, nor did he charge any impropriety to the Times. The inference which we have drawn, and this is an inference, is that the Chairman made copies so generally available that they could readily be obtainable by interests adverse to the government without limitation as to use.

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We have also charged cooperation with a utility executive in the preparation of the memorandum which is a fifth of this series of charges as to conduct which we believe not permissible by the head of an administrative agency. That charge is that Chairman Morgan cooperated with a utility in the preparation of a memorandum, the express purpose of which was to show that a particular decision of the Board was wrong and improperly motivated. The incident to which this charge refers was collaboration between Chairman Morgan and Mr. Wendell L. Willkie in a memorandum attacking the Board for allegedly misrepresenting Mr. Willkie's position on an essential question of Board policy.

The power pool negotiations to which I have referred were discontinued by you on January 25, 1937, for reasons stated in letters sent out at that time relating to the Gore injunction. However, at about the same time, it became necessary to consider negotiations for the renewal or extension of the January 4 contract which had been extended for three months from November 3, 1936, so that it would expire on February 3, 1937. I was formally designated by the Board to conduct negotiations for the Authority. In a letter I wrote to Mr. Willkie dated January 29, 1937, I made the following statement:

> "3. Your companies are not willing to contract for the sale and interchange of power from TVA unless that contract bars the Tennessee Valley Authority from selling power to any other agency in any part of the vast areas in the four states in which your companies carry on operations. In other words, as a condition of the purchase of any power, your position is that the Tennessee Valley Authority must give you a monopoly which would prevent it from selling power to municipalities, rural cooperatives or industries in any part of the states in which you operate".

These negotiations for the sale of power with no other factor involved had been carried on between the technical staffs of the TVA and the Commonwealth and Southern companies and they had reached an impasse because of the disagreement on this matter referred to in my letter, that is, the insistence of Mr. Willkie that our Authority should not sell power to municipal or other preferred customers -- preferred under the statute, so long as it sold power to Mr. Willkie's companies.

A final meeting with Mr. Willkie was held in Knoxville on February 2 in an effort to compose differences and reach some agreement.

THE PRESIDENT: February 2, 1937?

MR. LILIENTHAL: 1936.

THE PRESIDENT: 1937?

MR. LILIENTHAL: 1937, that is right, and reached some agreement by which the Authority could find a market for its surplus power without conditions which would result in a violation of the statute. At this meeting, which was a very lengthy one between Mr. Willkie, the General Counsel and members of the Board and staff, Chairman Morgan read to Mr. Willkie the passage which I have just read from my letter of January 29, and asked him if I had correctly interpreted Mr. Willkie's position. Mr. Willkie explained his position at great length over several hours and stated in his opinion it had not been correctly stated: But in the opinion of the Board and of the Board's counsel, Mr. Fly, who was also present, his explanation only reinforced the accuracy of the interpretation which had been placed upon it. Nevertheless, Chairman Morgan wrote a long memorandum to the Board immediately after the meeting, in which he charged that the Board had misrepresented Mr. Willkie's position.

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On February 24, 1937, Chairman Morgan, in a memorandum directed to me, revealed that he had collaborated with Mr. Willkie in his position. I want to make it perfectly clear I am not suggesting any impropriety on Mr. Willkie's part in that collaboration. After all, it is Mr. Willkie's job to support and defend the positions which he takes. The point I am making is that this is not permissible conduct on the part of the Chairman of the T.V.A.

I should like to submit for the record a memorandum of the Chairman of the Board:

> "After the meeting I read this memorandum to Mr. Willkie and asked him whether it accurately stated his position as presented to the Board. He confirmed the statement, sentence by sentence, as I read it to him, and said that I might make it public if I should see fit to do so."

It seems to me that the interpretation of the Board and the counsel of Mr. Willkie's position was clearly accurate. In a letter to me, dated February 1, Mr. Willkie stated:

> "We are willing to buy substantial quantities of power from the Government, provided the Government will agree not to sell power directly or indirectly which is to be used to compete with us in the territory where the power we purchase from the Government is necessarily distributed".

and on February 3, 1937, Mr. Willkie issued a newspaper statement, taking a similar position. The issue was essentially one of terminology. Mr. Willkie, while insisting upon a monopoly, obviously preferred using other terms, (and I do not criticize him for that), and sought to use words to which less public odium attached in order to discredit the Authority's position.

The negotiation for power contract which was to replace the contract which expired February 3, runs consecutively and no new power contract has been signed to this date. The Commonwealth-Southern subsidiaries are the natural market for the surplus power which the Authority will have.

THE PRESIDENT: Let me interject for all possible assistance to the record, the simple statement that I have on several occasions discussed this subject with Mr. Willkie, and there is no question that his demand has been for an exclusive contract within a given region. We have not used the word "monopoly" or similar words, but we have talked definitely about the exclusive right after a contract was signed to the use of the T.V.A. Power.

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I have called Mr. Willkie's attention to two simple facts in that regard: The first is the law, the Tennessee Valley Authority Act, which provides for preferential treatment for municipalities. In the second, I have called attention to the underlying form of Government under which we operate. Municipalities are chartered agents of sovereign states. The Federal Government does not give them their charters, the States do. Some states give to municipalities the right to establish and operate a restricted class of utilities such as sewer systems. Other states give to municipalities their right after popular vote to establish and operate municipal water works. Others give them the additional right to establish municipal electric light and power plants. I called Mr. Willkie's attention to the fact that no act of the Federal Government through an agent could limit or restrict, or harm that fundamental constitutional right of a state or its creature, the municipality, to establish electric light and power service if it so voted.

Mr. Willkie's apparent attitude was that these two fundamental objections could be got around some way by some form of contract for the exclusive use of T.V.A. power, and on that there has not been a meeting of the minds because I have felt compelled to leave it to the constitutional law under which the forty-eight states operate, and also the act, the T.V.A. passed by the Congress. I want that to go into the record to make it perfectly clear.

MR. LILIENTHAL: I have just a couple of sentences to conclude that, and that is that it seems to me that the refusal of the companies in the past to purchase power on any terms unless the Authority agrees to violate the provisions of this Act is attributable, we feel, on the basis of this record, in part at least, to the support which Chairman Morgan has given to Mr. Willkie in this controversy over this issue and is another instance of interference with Board action.

May I, before closing this record, offer certain documents, namely a memorandum to me by Chairman Morgan dated February 24, 1937, a letter from Mr. Willkie to me dated January 22, 1937 and my reply to him of January 29, 1937 and a memorandum to the Board of Directors of TVA from myself dated February 5, 1937.

THE PRESIDENT: We will accept them for the record.

Chairman Morgan, in regard to these two specific charges, both covered at the same time, is there anything you want to say about it?

CHAIRMAN ARTHUR MORGAN: I do not feel that I can say very much. They contain misstatements, misrepresentations and omissions in an extreme degree. One of them, the presenting of it in this case and at this time -- I am not indicating what anybody's motives are but it is what would be done if there were a very grave failure to meet public responsibility, as what would be done if there had been a very grave failure to meet responsibility to the public and there was an effort to minimize that failure and cover it up by bringing it in under favorable circumstances. On that point I could not speak on short notice; I would have to make a careful statement. It is the kind of action that would be taken by people who were aware of having gravely failed in public obligations and were trying to present a preliminary test in a favorable atmosphere.

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THE PRESIDENT: You do not want at this time to specify?

CHAIRMAN ARTHUR MORGAN: I must do that with care and the same is true with respect to the other one.

MR. LILIENTHAL: I simply want the record to show that that is nothing else but an additional charge against the Board.

THE PRESIDENT: In other words, a new charge of misrepresentation in setting up this record?

MR. LILIENTHAL: And in inferring a failure on our part to carry out a public duty.

CHAIRMAN ARTHUR MORGAN: I said that if it were done for that purpose, the same thing would be done. I do not say that it is done for that purpose at all. It requires a great deal of restraint on my part not to speak strongly for the moment. I think I should not.

THE PRESIDENT: There is one question I want to ask because it is related to the conference I held on the 30th of September, 1936. I know that you were in New York on the 28th all day and apparently on the morning of the 29th and, prior to the conference, you were there with Mr. Hamilton, as his travel request shows. I am marking the travel request in evidence.

(Travel request marked in evidence)

CHAIRMAN ARTHUR MORGAN: Yes.

THE PRESIDENT: I have to ask you, why did you go to New York for the final preparation of this memorandum?

CHAIRMAN ARTHUR MORGAN: I wanted some technical facts concerning transmission conditions and the possibilities. In your call on the Board for the power pooling conference you had mentioned a successful power pool in this country, that of Samuel Ferguson at Hartford, Connecticut. I had heard of him, Mr. Lilienthal spoke of him in good terms and I knew he was one of the very few utility executives in America who was friendly to the TVA and who had some information about power pools. In New York I met him and there were also one or two matters with reference to the policy phase of the situation that I wanted to ask Owen Young about, inasmuch as you were asking him in as a friend of the Administration. I spent possibly 30 minutes in the office of Owen Young and asked Samuel Ferguson to meet me there and I went over certain technical matters of power transmission with those two men.

Now, those were the only contacts I had in any way, shape or manner with any utility people in this connection with one single exception. I wanted to know how many miles of transmission line the Commonwealth & Southern Corporation had in the south and Mr. Hamilton, while I was present in the room, called up the Commonwealth & Southern office, asked for the statistical division and asked how many miles of transmission line they had in the southern states. He was given that figure by the statistical division. That was absolutely the only contact, direct or indirect, in any way that I had with any utility interests in that connection.

THE PRESIDENT: Do you know if Owen Young is connected in any way with the Commonwealth & Southern?

CHAIRMAN MORGAN: I don't know that he is. You had invited him to come to the meeting here— not as a utility man — and I asked him —

THE PRESIDENT: I would not say that as a general allegation because it is a known fact that Mr. Owen Young's principal business is the supplying of electrical machinery of all types to utilities and to users of utilities.

CHAIRMAN ARTHUR MORGAN: He supplied a great deal to the TVA but I knew that he was a supporter and a friend of yours.

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THE PRESIDENT: Note that in the discussion of the charges by Dr. H. A. Morgan and Mr. Lilienthal we took up charges 1 and 2 and then numbers 4 and 5. We now go back to number 3. Dr. H. A. Morgan and Mr. Lilienthal, in charge number 3, alleged, "It is not permissible for the Chairman of the Board after Board action has been duly taken to fail and refuse to carry out explicit action taken by the Board. Please give me facts on specific instances, if any, that you had in mind in making this charge.

MR. LILIENTHAL: We regard the facts set out under charge number 2, that is the attacks upon the integrity and so forth, as supporting this charge but in addition and as an illustration of this charge and an illuminating illustration of the administrative difficulties under which we have been laboring, I should like to relate in particular certain formal Board action and direction to the Chairman of the Board taken by the Board on August 4 by unanimous vote.

THE PRESIDENT: August 4, what?

MR. LILIENTHAL: August 4, 1936, by unanimous vote.

DR. H. A. MORGAN: Not 1936, 1937.

MR. LILIENTHAL: No, 1936. The background of this alos relates to the policy, difference of opinion among the members of the Board brought to you from time to time for counsel on territorial restriction. The temporary territorial restriction clause in the so-called January 4 contract had failed of its purpose because of litigation, because of obstacles that had resulted in a waste of a great amount of power.

I had expressed grave doubts even on temporary basis of the legality of such a restriction, but this was during the period when all of us, as we should in collective judgments, were yielding our judgment in the interest of parliament, in unity.

But at the time of the completion of the Norris Dam and therefore at the imminent expiration of that contract, the negotiations for the renewal or the extension of that contract were pending. Now in the light of the demands for power which were being made at the time by public and cooperative agencies and after consulting counsel and restudying them and after consulting you and after repeated and extended Board discussions and helpful interchange of views extending as a matter of fact almost from the time of the first meeting of the Board, it was my conclusion that the sale of power to public agencies could no longer be barred on that basis and at a meeting on August 3, 1936 of all the members of the Board I proposed in substance that I be directed in these negotiations for a new contract to stand on the following policy, that in future contracts, the Authority will not agree to territorial restrictions on the sale of TVA power to public agencies.

That is a very compressed statement of the policy. I explained to the Board at that time that the issue from a time point of view was critical since in the negotiations for the renewal of the contract and for the sale of power Mr. Willkie, as I have said before, insisted on what seems to me a demand for territorial monopoly as a condition to power sales contracts. Other proposals were made but so far as policy was concerned that was the position. I asserted at the Board meeting that I assumed this was the Board's policy. It had been discussed many times that it was one of the matters discussed with you for your council and that I thought it had been discussed sufficiently. Chairman Morgan thought he wanted more time and in deference to that view the matter was not decided at that meeting but was brought up again on the following day, August 4, 1936. Chairman Morgan still felt the policy was not a correct one but joined with us in drafting a form of statement to that policy and that form was as I have quoted to you a moment ago. A vote was taken, the motion was carried, Chairman Morgan voting nay.

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I had conferences between the President and the Board in the spring of 1936. In anticipation of the expiration of the January 4 contract you had suggested that you might be of service to the Board where major questions of power policy arose on which there was a division among the Board and where that happened it might be helpful to have a discussion with you. This question of policy as to territorial restrictions was the oldest and most serious of questions upon which the members of the Board, almost from the first, had difficulty. Accordingly at this meeting of August 4, the Board unanimously agreed to telegraph the President - you were then at Hyde Park - requesting a conference on this "major policy concerning power". We discussed the form of the telegram and it was drafted jointly, Chairman Morgan doing the longhand work on yellow pad paper and we also discussed in detail the form of an explanatory letter which Chairman Morgan felt should accompany such telegram. Both of these - the letter was for the signature of the Chairman and the telegram for the signatures of the three members of the Board.

The letter stated - and I want to offer a copy to the record, it is a letter to you, Sir, of August 4: "Since there is a disagreement within the Board as to this policy, Mr. Lilienthal proposed that the Board request a meeting with you, and the following telegram was sent", and then it quotes the telegram, and that will appear in the exhibit. The meeting went on on other matters. Mr. Blanford who at that time, I believe, was the Coordinator, brought in from the Chairman's secretary copies of the telegram for Harcourt A. Morgan and myself for our files. The Chairman sent neither the telegram nor the letter as directed.

The meeting concluded at about eleven or eleven-thirty. The Chairman left Knoxville for Washington several hours later -- I think two-thirty or so. That day at six-forty the Chairman sent a telegram, a copy of which I will submit for the record, to the Acting General Manager asking that he tell the other members of the Board that after further consideration he decided not to send the telegram because he thought it would be "putting pressure on the President". The telegram from Chairman Morgan was sent by train. It arrived the next day. In a letter of explanation dated in Washington August 5 but postmarked in New York August 7, Chairman Morgan changed his explanation. He then said he had failed to send the telegram before leaving Knoxville through unintentional misunderstanding but "felt justified in acting on my more deliberate judgment in declining to sign my name to it". He gave as a new reason in this letter that it was unfair "to suddenly present to the Board matters of great importance and then to urge immediate action" and that the person who makes proposals may have carefully considered them "whereas to the members who have not heard the matter insistence upon mediation may be very embarrassing".

Mr. President, this memorandum seems to us very revealing of an administrative attitude which we have charged to be incompatible with the carrying forward of a great project of this kind. First it shows in our opinion that the Chairman believed he was not bound even by unanimous Board action when subsequently he changed his mind. Second that although the delay which gives him justification for refusing to send the telegram was attributed to misunderstanding, it is hard to see how there could be a misunderstanding on the part of a trained office staff since the exact form of the telegram and the exact form of the letter were agreed upon at the Board meeting and typed copies of the telegram were distributed before the Board adjourned, and third even though at the Chairman's request urgent negotiations were postponed with the utilities pending the conference, the Chairman felt it unnecessary to carry out the action which would permit calling for such transaction.

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The Chairman states surprise on a matter which had been a subject of continuous debate within the Board and of a number of conferences with the President virtually from the creation of the Authority. It will be noted that Chairman Morgan did not hesitate to use the name of the President in an effort to intimidate a majority of the Board from giving to the President for decision a controversy which had arisen in the Board and which the President had suggested should be submitted to him for counsel and discussion under such circumstances. I should like to submit in support of that as exhibits (which are identified for the record) copy of the letter drafted by the Board, mailed August 5; copy of the telegram which was not sent; copy of the Board's resolution authorizing me to enter into negotiations with utilities, but providing that the policy as to territorial restrictions would not be insisted upon until we had had an opportunity to discuss the matter with you; a telegram from Chairman Morgan to Mr. John B. Blandford indicating that the telegram was not being sent; a memorandum from Chairman Morgan to his fellow members on the board explaining why the telegram had not been sent; and a letter to the President dated August 5 from Dr. H. A. Morgan and myself written after we had learned that the telegram had not been sent; memorandum dated August 4 from me to the Board of Directors indicating a policy on territorial restriction.

MR. EARLY: All of these for the record have been summarized and the gist of them given. I don't think it is necessary to publish them or include them textually.

THE PRESIDENT: No. Chairman Morgan, is there anything that you want to say regarding that?

DR. ARTHUR E. MORGAN: Mr. President, that is a relatively simple case. If I could speak on that a minute without commiting myself as to policy on the rest of the hearing I should like to.

This meeting as it was called is characteristic in that a very vital matter was suddenly submitted to the Board without knowledge that it would come up at the meeting. I differed in policy, but there can be a great deal of stress in the meetings. This emergency now may have been thought of for months and we must get it off today. There is a common strategy as to bringing something in after long deliberation and rushing it through at that meeting when I haven't had any time to consider it.

Now, there as that telegram was prepared to be sent with my name on it -- my secretary, Miss Ruth McGee, at the time, worked in the outside office and she typed it, etc. There was more than one draft of it and at the earlier draft I had said to her: "I want to see this before it goes out." Then it had come in and gone out of the office and I think perhaps Mr. Blandford picked out the time, I can't recall, but I thought it had gone and Miss McGee and I were preparing to come to Washington on the train to do something. I did not know until we were on the train, we were talking things over and she asked me, "what about that telegram?" I said: "Oh, hasn't it gone?" She said: "No." I thought it had been sent until then and that is why it was not sent while I was in the office.

But after I had time to sit down after the heat of the meeting I felt more strongly than ever that it should not be sent because I believed it would, whether intentionally or not, put you on the spot. I thought it very definitely seemed to force you to a conclusion when you had certain matters under consideration where you naturally ought to have a little more time for that and, therefore, at the very next station we wired the Board.

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We discussed, my secretary and I, how the Board would be most apt to get this at once because they had indicated they were leaving the office. We said it would be most likely to get to them if we sent it to the Coordinator -- similar now to the General Manager. We sent the telegram to the Coordinator in which I said to our Board that I did not want my name on that telegram.

Now, that degree of reconsideration of a decision made under pressure seemed to me not to be beyond the decencies and proprieties of a board to try and work things out.

And as to the letter itself, that was drafted and instead of putting it in the mail it was brought here, it was delivered to you here in the White House. So that I think I have stated very clearly the sequence of events. I thought the telegram was sent. I had had a chance to think over it a little bit. I felt on deliberation it would be unwise for my name to be on that. I immediately wired the Board and told them the facts, so that if they wanted to act they could. My motive was to keep you from being put on the spot.

I think it was a proper action on my part, even if I had been pressed into it to vote for a thing and wish an hour afterwards that I hadn't.

MR. LILIENTHAL: Mr. President, may I respond to that only in this way, that in a letter Chairman Morgan sent to Senator Norris on August 13, 1936, he states a different reason than the one that has been now suggested and the one suggested in his memorandum to us.

(The letter referred to was dated Knoxville, Tennessee, August 13, 1936, and addressed to Honorable George W. Norris, United States Senator, Waupaca, Wisconsin)

MR. LILIENTHAL: I may say that this is not violating any confidence, because Chairman Morgan said, "You may use your own judgment in showing or quoting this letter to Mr. Lilienthal".

In Chairman Morgan's letter to Senator Norris, he refers to the memorandum to the Board. He states in this letter that he had received a personal letter from the President requesting him to see the President shortly after the first of August to discuss power policy. Chairman Morgan stated in this letter that, "for the President to receive this telegram, sent by all the Directors, might seem to be a reply to his letter to me which it was not. I therefore felt that in fairness to him an explanatory letter should reach him first".

In this letter to Senator Norris, Chairman Morgan does not refer to any of the earlier reasons he had given for not sending the telegram except the circumstance of delay that rested entirely on this new reason. It ought to be noted, too, incidentally, that in that letter to Senator Norris, Chairman Morgan referred to the memorandum to the Board dated August 5, in which he sets out his span for not following the Board's directions, which memorandum was dated August 5 but postmarked August 7, as the "Memorandum I wrote to the Board on August 7", I pointed out, incidentally, that it appears that Chairman Morgan either misdated his memorandum or he held the memorandum of explanation to the Board of this extraordinary incident two additional days after it was written. I submit the letter. (This letter is identified on this page.)

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CHAIRMAN MORGAN: As to that, there is absolutely no conflict between those statements. There is no conflict there.

PRESIDENT ROOSEVELT: There is one other matter which is a bit general. I don't know whether Dr. H. A. Morgan and Mr. Lilienthal want to say anything about it. In reading the document to me of January 18, 1938, they make other less specific but nevertheless fairly clear charges on which I want whatever other facts you had in mind.

You imply in the document of January 18, that Chairman Morgan is actuated by "The doctrine of rule or ruin", and "personal considerations". Those again are pretty general statements. Do you wish to say anything about those two?

MR. LILIENTHAL: It seems to me, Mr. President, that that, as well as the charge that has been made of a conspiracy between his fellow members of the Board ought to be gone into. The whole record from May, 1936, subsequent to that, we believe, if analyzed, supports that conclusion.

DR. H. A. MORGAN: I have a memorandum which deals somewhat with the answer. This answer of the Chairman on collusion and conspiracy, charges which I think may clarify in a measure the statement on which you requested explanation or further facts. I say that so far as I have personally been concerned, and so far as I have been able to interpret Mr. Lilienthal's position, that we have always been ready and eager to cooperate with the Chairman and to work in harmony together. As stated in our memorandum to you, Mr. President, on January 18, we have always been ready and anxious to cooperate with the Board and to work together in harmony with each other and with the Chairman and as we said in that memorandum, prior to May, 1936, it was possible for us to work in this way. There were, of course, differences of opinion on matters of policy from time to time but this was only natural and was to be expected in any democratic organization. The harmony in the Board during all that period is attested by the facts that all actions taken up to May 1936 were, by unanimous votes. I called attention to that in a previous statement. Not a single dissent was recorded in the minutes of the Board.

CHAIRMAN MORGAN: I should like to make just one general statement inasmuch as this is all going to the Press. The difficulties I have encountered began within a few weeks after the organization of the TVA and they were very critical, and they continued through the years. The fact that for three years there was not a dissent in the vote of the Authority, that there was apparent harmony, represents three long, painful, trying years and forbearance and patience, because I thought that another solution would come out, and that I could wait and wait and wait and do my best during that time. There is just one other remark as this comes to a close: All these charges are having circulation, and if I have time to answer them, the answer should have the same opportunity for distribution.

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THE PRESIDENT: In that connection there are two matters that I should like to put into the record because they are matters relating to specific things that might come up. The first is a memorandum from Secretary Early to me on the sixth of August, 1936. It reads as follows: "Secretary Early to remind the President of the letters he has received from Dr. Arthur Morgan. To tell the President that Arthur Morgan is most anxious for a conference with him here or in Washington."

This was written, I take it, at Hyde Park.

MR. EARLY: Yes, it must have been.

THE PRESIDENT: (continuing to read): "That Dr. Arthur Morgan would like to see him for a few minutes alone before the other members of TVA are brought into the Conference. Dr. Arthur Morgan says that at a recent meeting of TVA the Board voted on certain power policies. Dr. Arthur Morgan opposed the action by the Board but was voted down. He thinks it very important that the President see the Board and have a talk on power policy. Dr. Morgan wants the President to be assured that he is going along, will make no trouble, and that the reports to the contrary need not be of any concern or cause any apprehension whatever to the President."

That was shortly before the resolution vote of the fourth of August. It was two days after that.

CHAIRMAN MORGAN: In 1936?

THE PRESIDENT: Yes.

CHAIRMAN MORGAN: I would like to interpose there that at the time of Mr. Lilienthal's reappointment it was the Presidential period and any disturbance before election might have been serious and there had been a rumor from somewhere that I was going to break over the traces, and I wanted to assure the President that during that time I was not going to.

THE PRESIDENT: The other matter that should appear somewhere in the record is the fact that beginning on May 18, 1936, I received a recommendation in regard to reorganization of the TVA from Chairman Morgan.

As I understand the prior facts, when the Authority was first set up, as a matter of immediate and temporary convenience, it was decided that there should be a temporary division of the preliminary work; that Chairman Morgan was to undertake the engineering and the preliminary work looking towards the completion of existing dams and the building of new dams; that Dr. H. A. Morgan should undertake the revamping and the putting on its feet of the fertilizer experiments at Muscle Shoals and everything having to do with the soil erosion and of things through fertilizers, and that Mr. Lilienthal, in general, was to work on the problem of the transmission and distribution of potential power, both existing power at the Wilson Dam and future power at the new dams that were being planned.

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That temporary allocation of duties worked on the whole, considering that it was a brand new organization, carrying out new policies. It worked well for the first two years.

During the winter of 1935-36 -- I think my dates are right -- there was friction in regard to personnel and I talked with all three members, both collectively and individually in regard to improving the combined work, especially in personnel, of the three major activities. The result was that in May, on May 18, 1936, Chairman Morgan proposed in a letter to me certain steps for the reorganization of the TVA. This letter is available at any time. It is very short. He recommended three steps, first for the appointment of a general manager to have responsibility and authority to administer the TVA program and that the functions of the Board should be to formulate and to adopt policies and general plans. He recommended in this same first recommendation that only unanimous action by the TVA Directors be effective in the adoption of policies. He stated that he wished to nominate a man for general manager.

The second recommendation related to a consolidation under the general manager of the engineering staffs and the functions of both the Engineering and Construction Division and the Power Division.

The third recommendation was for the appointment of a board of consultants to develop policy plan and program for power. Chairman Morgan said, "I wish to nominate the members of that consulting board to be approved by the Board of Directors of the TVA."

During that summer of 1936, and the Autumn, many discussions were held in regard to reorganization. I felt that the problem of reorganization ought to be primarily one to be determined by the Board itself, that it was not a matter which should be loaded onto the President for a decision. One of the duties of the Board itself was to set up its own organization.

However, things did not improve and finally, after consulting with different members of the Board, I appointed a personal committee to go to the Tennessee Valley, study the problem at first hand and make a report to me. They were appointed on April 3, 1937. They consisted of Asst. Secy. of Commerce, Ernest G. Draper, Rear Admiral A. L. Parsons, of the Civil Engineer Corps of the U. S. Navy, and Mr. Herbert Emmerich, Deputy Governor of the Farm Credit Administration, all of them experienced in the setting up and perfecting of organizational work. They had the assistance of Mr. John M. Gaus, another experienced man, who acted as consultant to the committee. They went to the Tennessee Valley; they looked over the physical problems and the personnel problems. They reported to me on the 14th of May stating that they had a great deal of helpful cooperation from the members of the Board and Staff of the Tennessee Valley Authority. Their report, 29 pages long, is available, but at this time I want only to refer to one or two portions of the report, relating to the form of organization or the work of the Tennessee Valley Authority under the existing law. In regard to the Board of Directors they found the following:

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"Granting the possible need for division of administrative function among Board members in the nascent period of the Authority, the time is past when this form of organization can continue effectively. It is essential that the members of the Board discontinue operating as three independent administrators and proceed to operate only by Board action as a Board. The Board members should undertake no individual administrative action. They should refrain from directing the operations of any of the departments or of any of the personnel. They should divest themselves of all supervision of all specific activities or projects. In Board meetings they should not have different spheres of interest. Reports should be made by the management to the Board as a whole, not to individual members of the Board. Instructions should be transmitted to the management by the Board and not by individual directors. All of the members of the Board should be interested in and take time to study all of the important angles of the operations of the Authority.

THE PRESIDENT: "They should be relieved of management functions and should be free to devote themselves as a Board to planning and policy management. Negotiations with outside interests should not be conducted by Board members but should be conducted either by the entire Board or delegated to members of its staff. Public statements in planning commitments on the part of the Authority by individual directors shall not be made unless specifically authorized by the Board as such."

Later on the report says "that for all other purposes, that is outside of legal advice, the Board's contact with the management should be through a general manager."

Without going into further details it was largely, I think, as a result of this report that the Board did appoint a general manager and he is now functioning so far as its personnel goes, so far as the avoidance of the duplication of work goes, through this general manager. In other words, I take it that the greater part of the recommendations of this Board of three which I called to give me a report, have been carried out. Is that substantially true?

DR. MORGAN: At your suggestion prior to the appointment of this Board, our Board organized an acting General Manager -- and I think that was very helpful to this Board because that had been in operation coming out of the old coordinator's job. Our Board prior to the time you had asked this acting General Manager to give a statement to the Board on organizing -- the remarkable thing is that those few statements are almost parallel which was given your member and the Acting General Manager of the Board.

THE PRESIDENT: If there is nothing further I want to make one very short final statement. I have now heard the charges and countercharges of the TVA Board. I have endeavored to give each side the opportunity of answering the complaints of the other side. Frankly, I am disappointed that Chairman Morgan has not answered by giving any factual answers to the questions which I have put, but I hope that in the course of the next week Chairman Morgan will realize that it is of the utmost importance to the continuation of the work that he should reply to very simple factual questions.

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He should have every opportunity so to do. And, therefore, if it is agreeable to him and to the other two members, who also may want to present additional facts, I will set a resumption of this hearing for a week from today, Friday morning, at eleven o'clock, and if you care to appear in person at that time it will be entirely agreeable to me. If you prefer to submit any factual report in writing without appearing, use your own judgment.

But again I want to make it clear that what we have discussed today relates to general charges and I have been seeking to get specific justification for these general charges. We cannot in the public interest allow them to remain on the record merely as general charges, and so a week from today I hope that you will either come personally or submit to me such other or further definite factual evidence, not of opinions, but of fact and fact only, as relate to the subjects that we have talked of today. When that time comes of course it will be my duty to determine what further action is necessary in the public interest. I do call your attention to this fact, that the Board, the Tennessee Valley Authority, is about to resume very important negotiations with private utility interests, negotiations that inevitably will be difficult and delicate. In my judgment, the public interest cannot further be jeopardized by internal dissension and I can only reiterate that it is the duty of every member of the Board to consider at Board meetings impersonally and objectively the important problems and policies of the Tennessee Valley Authority and not to obstruct the carrying out of decisions reached by a majority of the Board. And I must say quite frankly that any of you who cannot do that owe it to the public of the United States not to remain on the Board. I think that covers everything.

MR. LILIENTHAL: Except one thing, Mr. President. Dr. Harcourt A. Morgan and myself have been charged with dishonesty and corruption and that charge has been so interpreted through the country. We stand charged as dishonest and corrupt public servants throughout this whole country, and a staff of almost fourteen thousand splendid men and women are under that cloud. We have had no facts to support charges which certainly must have had facts before they were made. I am sure you appreciate that in addition to our official concern about this matter that after all we have a very deep personal concern and jealousy about our honor and the tax upon our honor.

THE PRESIDENT: I appreciate fully that situation but at the same time I must lean over backwards not to railroad any hearing through where one of the members being heard has stated that there are some things which he would like to have time to consider.

DR. ARTHUR E. MORGAN: That isn't exactly what I asked. I said that my relationship to your request for information was something that I needed to have time to consider. And, incidentally, about how long before this transcript would be available?

THE PRESIDENT: I think tonight.

MR. EARLY: We will have it ready, Sir, I think within the hour. Not all of these documents, however, will be given textually. Identifications will appear in the record but not the text.

DR. ARTHUR E. MORGAN: But the list of documents?

MR. EARLY: Yes.

THE PRESIDENT: And if you want any of those that are listed and which are not actually in the record itself they will be available to you in Mr. Early's office, so if it is convenient to you, Mr. Early will send a complete copy -- it is getting late now -- to each one of you, to the hotel.

MR. EARLY: Mr. President, it would take the office a week to copy that entirely.

THE PRESIDENT: I mean a copy of the hearing.

MR. EARLY: I can get those to you tonight if you would like them.

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MR. ARTHUR MORGAN: Mr. President, before I go I would like to make this statement:

I personally want to thank the President for the fine consideration he has shown us.

(The conference was adjourned at six o'clock, P.M., to reconvene Friday, March 18, at eleven o'clock, A.M.)

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March 11, 1938

STENOGRAPHIC TRANSCRIPT OF THE CONFERENCE HELD TODAY IN THE PRESIDENT'S OFFICE

Present: The President
Chairman Arthur E. Morgan
Vice-Chairman Harcourt Morgan
Director Lilienthal

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THE PRESIDENT: This is an opening statement by the President. This conference is for the purpose of giving a hearing on grave charges which members of the Board of the Tennessee Valley Authority have directed at each other. As Chief Executive, I cannot ignore charges of this character concerning an executive agency of the government. I have a responsibility to determine whether or not the facts bear them out and thereupon to take such action as may seem appropriate.

I have the right to assume that, in accordance with the Act creating the TVA, every member of the Board believes in the feasibility and wisdom of the Act and I am asking you whether that is correct. The law requires it. Is that correct?

A. E. MORGAN: I certainly do.

HARCOURT MORGAN: Yes.

MR. LILIENTHAL: Yes.

THE PRESIDENT: Secondly, I think I have a right to assume that every member of the Board entered on his duties prepared to do his part to cooperate with his fellow-members to make the Act work.

A. E. MORGAN: Yes.

HARCOURT MORGAN: Yes.

MR. LILIENTHAL: Yes.

THE PRESIDENT: And, finally, I think I have the right to assume that every member of the Board is prepared to recognize that a certain amount of team-work is necessary to make the Act work. Am I right on that?

MR. A. E. MORGAN: Certainly.

MR. HARCOURT MORGAN: Yes.

MR. LILIENTHAL: Yes.

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THE PRESIDENT: But there are persons and powerful interests in this country that profess to disbelieve in the feasibility and wisdom of the Act. There are persons and powerful interests that are quick to sieze on the simplest act or slightest word of members of the Board to discredit the Administration of the Act. Upon dissension and personal recrimination among members of the TVA have unfortunately reached a point where the successful administration of the Act is imperiled. No one who professes a belief in the feasibility and wisdom of the Act can view such a situation without the gravest concern.

Let me set forth certain principles of public administration: effective administration requires action. The action of a Board must be determined by a majority of its members. That is true in the case of all governmental agencies, whether they be of an executive nature, such as this Board, or of a quasi-judicial nature, such as the Interstate Commerce Commission, the Federal Trade Commission, and many others. A minority has, in all of these governmental agencies, executive and judicial, the right to record its dissent publicly, if the minority desires, after action is taken. It has a right, by fair persuasion, to seek to obtain the adoption of a different course of action. But neither a majority nor a minority has a right to make public display of personal, internal differences to the point where effective administration of the law under which they are acting is jeopardized.

I have reluctantly become convinced that the work of the TVA Board is now being impeded and that the real issues of public policy which may exist among its members are now being obscured by personal recriminations. It is intolerable to the people of the United States that issues of fundamental public policy should be confused with issues of personal integrity or misconduct. It is intolerable that either majority or minority members of an administrative board should cast doubt upon the honesty, the good faith or the personal integrity of their colleagues, or should charge any of their colleagues with improperly obstructing the carrying out of the board's decisions unless they are prepared to support such charges by good and sufficient evidence. If there be no such evidence then there should be either a definite end to such personal attacks and aspersions or else resignation from the Board.

I have called this hearing to investigate charges of dishonesty, bad faith and misconduct. I am not concerned at this hearing with the pros and cons of any particular policy that the TVA Board has or has not adopted. This is not an inquiry to determine a national power policy, a national conservation policy, a national flood control policy, or any other straight matter of policy. It is an inquiry into charges of personal and official misconduct.

As President I have special concern in the charges that have been made and that reflect not simply upon the judgment but upon the personal integrity and official conduct of members of the Board and the management of government property. The TVA Act authorizes the President to investigate and gives him a method of investigating, when he may deem proper, the management of any property owned by the government in the Tennessee Valley basin to determine whether or not Government has been injured or deprived of any of its rights.

Chairman Morgan has publicly charged that Dr. H.A. Morgan and Mr. Lilienthal have been guilty of dishonesty and impropriety in the conduct of their respective offices. Dr. H. A. Morgan and Mr. Lilienthal in turn have advised me that Chairman Morgan has been guilty of actions which are not permissible in the conduct of his office.

I shall give each of you gentlemen an opportunity to present the facts if any upon which such charges are predicated and I want to make it very clear that this hearing is for the purpose of securing facts, and only facts.

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There are two points which I should like to emphasize before I call upon you gentlemen to speak. First, I am not now taking up any charges relating to mere disagreements or personal differences over details of administration. At this time I am interested only in the grave charges of dishonesty, impropriety and unpermissible conduct that have been made, and I shall ask you gentlemen to confine yourselves to the facts supporting these charges. A second caution which is necessary is that I am not interested in opinions, rumors, suspicions or speculations. Charges as serious as these unless made recklessly and irresponsibly must have been made with the supporting facts clearly in mind. It is those facts and only those facts which I want. And at this time I want your oral statements of the facts. If there are supporting documents, you may also submit them and they will be made a part of the record. But again I must insist that in submitting any documents you confine yourselves in the documents to basic facts on which the charges were predicated.

I had hoped that the bitter personal feeling among the members of the TVA would prove to be only the temporary result of honest differences of opinion or policy and that with the passage of time the members of the Board even when they could not agree would come to respect each others opinions and cooperate as is their duty in administration of the Act. I did not act when complaints were made to me as early as January 1937. One of these complaints was made by a responsible government official not connected with the TVA. The complaints were that the Chairman of the Board had made a speech in Chicago and had published an article in the New York Times which could be taken as personal attack upon his fellow Board members. At that time in January 1937 I repeated my counsel to all of the members of the Board individually to make every effort to compose their differences and not to permit the enemies of the TVA to make capital out of them. But I censure none of you.

Things went along until the end of August 1937. The end of August or beginning of September a complaint was made to me by H. A. Morgan and David Lilienthal that an article by Chairman Morgan and published in the September issue of the Atlantic Monthly directly and by implication was an attack on the honesty and integrity of the Board of the Tennessee Valley Authority.

I have not got the Chicago speech.

Exhibit 1. The New York Times, Sunday, January 17, 1937 by Chairman Morgan.

Exhibit 2. Atlantic Monthly, September, 1937. Public Ownership of Power, by Chairman Morgan.

Following the publication of the Atlantic Monthly article, I received a letter from Dr. H. A. Morgan calling my attention to the article and sending me a copy of a resolution, adopted by the majority of the Board, which I am putting into the record as Exhibit 3.

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TENNESSEE VALLEY AUTHORITY
Knoxville, Tennessee

WHEREAS, Arthur E. Morgan, Chairman of the Board of Directors of the Tennessee Valley Authority, in an article entitled "Public Ownership of Power", appearing in the September issue of the Atlantic Monthly, has impugned the integrity of the Tennessee Valley Authority and the honesty and motives of its Board of Directors; and

WHEREAS, It is recognized that each member of the Board has the duty to express his opinion upon every question presented for action, and the privilege of expressing his dissent when his views do not prevail, nevertheless attacks, such as those in the article referred to, on the honesty and motives of associates who hold contrary views, are inappropriate to the discussion of public affairs, handicap administration, and are alien to the best traditions of public service; and

WHEREAS, A due regard for the responsibility of administering this project precludes the Authority from answering attacks of this character in the forum which Dr. Morgan has chosen; therefore, lest the Authority's silence be interpreted as acquiescence in the use of the aforesaid methods,

BE IT RESOLVED, That the Tennessee Valley Authority hereby disavows such methods in the discussion of its problems as injurious to the project and to the public interest.

On September 3, I wrote to Chairman Morgan, informing him of the complaint which had been made by virtue of the resolution of the majority of the Board, and in my letter suggested to him, "That there is a very definite obligation on you either to withdraw what your colleagues believe to be an impugning of their integrity or that you present whatever specific facts you have, if any, to justify your statements."

Exhibit 4:

Aboard the USS POTOMAC
September 3, 1937

My dear Arthur:

I have received from Dr. Harcourt A. Morgan a copy of the resolution passed by a majority of the Tennessee Valley Authority, stating that your article in the Atlantic Monthly of September has impugned the integrity of the Tennessee Valley Authority and the honesty and motives of its Board of Directors and resolving that the Tennessee Valley Authority disavows such methods in the discussion of its problems as injurious to the project and to the public interest.

Naturally, I am concerned by this and do not think that the matter can properly rest where it is. May I suggest, therefore, that there is a very definite obligation on you either to withdraw what your colleagues believe to be an impugning of their integrity or that you present whatever specific facts you may have, if any, to justify your statements.

After all, no great constructive work can be carried out if those in charge of the administration of the work feel that their integrity and motives have been challenged by a fellow member. I know that you will agree with me in this.

Very sincerely yours,

FRANKLIN D. ROOSEVELT

Dr. Arthur E. Morgan, Chairman,
Board of Directors,
Tennessee Valley Authority,
Knoxville, Tennessee.

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EXHIBIT 5

Tennessee Valley Authority
Knoxville, Tennessee
August 31, 1937

The President
Hyde Park
New York

My dear Mr. President:

You may not be familiar with the series of articles and public statements, a list of which I append, through which the Chairman of the Board of the Authority has cast suspicion on the good faith of the conduct of the Board in administering the power program of the Authority.

Mr. Lilienthal and I have believed that in the interest of harmony and good administration, a public reply to those charges would be unwise, and injurious to the administration of this project. An article in the September Atlantic Monthly, however, so seriously impugns the integrity of unnamed "public men" and the Board of the Authority, that it seemed essential to take official notice in the records of the Board.

The attached resolution has therefore been adopted at today's Board meeting. No public statement has been made by the Board, but in order that you may be advised we are sending you a copy of the resolution.

This article might not have given the Board quite so much concern if it had not been published so shortly before the trial of the 17-utility suit against TVA before Judge Gore and two other judges yet to be chosen. Dr Morgan's charges have not escaped the notice of our opponents in this litigation in which the very existence of TVA and other projects is at stake. This is illustrated by the comments of Mr. Wendell L. Willkie upon Dr. Morgan's article, appearing in the same issue of the Atlantic. Mr. Willkie says:

> "Dr. Morgan, a public official, questions the honesty of other public officials. If he is correct that state regulation has failed through corrupt public officials, then he doubly warns us against the adoption of public ownership, where the opportunities for corruption by public officials would be greatly multiplied.
>
> " . . . . .
>
> "Dr. Morgan is the only government official of standing who has had the courage to state that 'in the operation of public "yardstick" systems there should be no hidden subsidies.' He of course would not say this if he were not conscious that such exist. Unfortunately, he has not carried the decision in the councils of those who control government power policy or the TVA."

Our attorneys are concerned that these attacks on the motives of the Board may prove damaging in this critical litigation which comes to trial in a few weeks.

Respectfully submitted,

HARCOURT A. MORGAN

Aboard the USS POTOMAC
September 3, 1937

Dear Dr. Morgan:

I have received your letter of August thirty-first and have written to Dr. Arthur Morgan and enclose a copy of my letter to him.

I am asking Mr. McIntyre to arrange for me to see Dr. Arthur Morgan in Washington when I return about the fifteenth or sixteenth of this month.

Very sincerely yours,

FRANKLIN D. ROOSEVELT

Dr. Harcourt A. Morgan,
Board of Directors,
Tennessee Valley Authority,
Knoxville, Tennessee.

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Exhibit 6:

TENNESSEE VALLEY AUTHORITY
Knoxville, Tennessee
September 7, 1937

Dear Mr. President:

This acknowledges your letter of September 3 with enclosure of copy of your letter to Dr. Arthur E. Morgan, Chairman.

I note your recognition of the serious consequences of such a situation upon the Board's administrative responsibility.

Sincerely yours,

Harcourt A. Morgan

The President
The White House
Washington, D. C.

- - - -

About two weeks later Chairman Morgan came to see me, and if I correctly understood him, he advised me orally that it had not been his intention to impugn the motives or the good faith of his fellow-directors. Although I thought that the Atlantic Monthly article might fairly be taken as an attack on the personal integrity of Chairman Morgan's fellow board members I accepted what I understood to be his statement that no such attack on their integrity was intended. So much for the year 1937.

Recently, however, (the President here handed a document to Chairman Morgan and asked him to look it over).

Coming now, to 1938, very recently Chairman Morgan has issued statements which seem, from a normal interpretation of English words, to assail the honor, the integrity, and the motives of his fellow-Directors.

Now, Chairman Morgan, you are -- I do not have to tell you -- an old friend of mine. I do not want you to misunderstand. You are a man of deep conviction, intense feeling, and fine purposes. I know that in Executive positions all right thinking people have to be constantly on the alert under pressures and strains in order not to suspect the motives of those who resolve on a course of action with which one profoundly disagrees. Even insofar as you have made charges of dishonesty and bad faith against your fellow-Directors, I do not want to silence you; on the contrary, I want now to investigate those charges. Differences of opinion may be composed but charges reflecting on the personal integrity of your fellow-Directors cannot be compounded. Such charges cannot be allowed to rest in innuendo. They must be made specifically. In other words, the time has come when, on your charges, it is necessary that I ask you to produce what is called a bill of ~~petitions~~. particulars

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THE PRESIDENT: In these questions I shall first give to Chairman Morgan an opportunity to state facts supporting the charges he has made. As I finish with each charge I shall give the other directors an opportunity to reply. When Chairman Morgan has finished all of his charges I shall then follow the same procedure with Dr. Harcourt Morgan and Mr. Lilienthal with respect to the charges that they have made, giving Chairman Morgan an opportunity in the same way to answer each of them.

Coming now to the specific charges that have been made by Chairman Morgan. Specifically in the last two weeks Chairman Morgan has made charges of dishonesty and impropriety in unmistakable terms. I refer in particular to three releases that Chairman Morgan has recently given to the Press. Two of them were released on March 3, 1938. The first was entitled "A statement by Arthur E. Morgan, Chairman of the TVA in reply to public statements by Dr. Harcourt Morgan and Mr. David E. Lilienthal and by Senator George L. Berry, concerning the chairman's testimony in the Berry Marble case".

The second release was a summary of that statement, different somewhat in form but not in substance. Although the heading on each of these statements related to the Berry marble claim, the statements themselves cover a much broader range.

The third statement released on March 7, 1938 made to be the text of a letter addressed to Representative Maverick on February 14, 1938, giving Chairman Morgan's general views on the situation in the TVA Board.

These documents are lengthy. I don't know if I have them all. The first two appear in the New York Times of March 5, 1938 and the letter to Representative Maverick in the New York Times of March 7, 1938.

First I will take up the so-called Berry marble claims. I asked Chairman Morgan since a large part of these recent statements have been devoted to the handling of the so-called Berry-Marble claims, I shall ask you first of all to give me the facts on the basis on which you make your statements.

In the letter to Congressman Maverick, which you made public, you said: "The Berry marble claims, in my opinion, are an effort at a deliberate bare-faced steal. The other two directors had the same facts that I did. For a year and a half I tried to work it out in confidence in the Board, and without publicity, and only spoke out at the last minute. The public and the Congress did not know the extent to which that was improperly."

The gist of your complaint also appears to be contained in your Berry Claims statement that: "the real difficulty has been in the effort to secure honest openess, decency and fairness in government. The Berry marble case, as I have said, is an instance of this difficulty."

You say that the difficulty is in securing "honesty", and you charge your colleagues thereby with dishonesty and malfeasance. I must, therefore, ask you what evidence of dishonesty or malfeasance on the part of your colleagues have you in regard to the so-called Berry marble case.

ARTHUR E. MORGAN: During a long period, I have repeatedly but unsuccessfully endeavored to secure the PRESIDENT'S adequate consideration of grave conditions within the TVA. The most recent occasion was last fall at the meeting mentioned by the President concerning the Atlantic Monthly article when I personally presented to the President a draft of the letter and which I asked him to send to the TVA Board. This letter requested the Board to make available to me the data and assistance necessary for me to make a report to the President concerning the conditions I had criticised. The President did not grant that request and made no alternative suggestions. I am of the opinion that this meeting is not, and in the nature of the case cannot be, an effective or useful fact finding occasion.

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THE PRESIDENT: Wait a minute. I don't want opinions. I have asked you a question about the Berry marble case, and I want you to confine your answers not to opinions but to facts.

MR. ARTHUR E. MORGAN: I wish to complete my statement, which will take about a minute longer.

THE PRESIDENT: I don't want you in any statements to talk about opinions. I want you to confine yourself to facts.

MR. ARTHUR E. MORGAN: I am giving my reasons for not answering you directly and I think I must do it.

THE PRESIDENT: Are you planning to answer the direct question?

MR. ARTHUR E. MORGAN: My statement will indicate whether I am or not. I am of the opinion that this meeting is not, and in the nature of the case cannot be, an effective or useful fact finding occasion. To properly substantiate the charges is not the work of a morning. Since the Congress has now taken up the matter --

THE PRESIDENT: Have you any reason to believe this will be confined to a morning?

MR. ARTHUR E. MORGAN: Since the Congress has now taken --

THE PRESIDENT: Have you any reason to believe that this hearing will be confined to a morning?

MR. ARTHUR E. MORGAN: I should like to complete my statement, if I may, without interruption. Since the Congress has now taken up the matter, I believe that any report by me should, in the terms of the TVA Act, be filed with the President and with the Congress. It is my studied judgment that the President, the Congress and the people of this country are entitled to accurate information and appraisal of the program, policies, administration and activities of the Authority. Such information and appraisal can best be obtained and made available to the people, to Congress and to the President by a Congressional Committee which will make an impartial, comprehensive and complete investigation of the Authority's affairs.

THE PRESIDENT: Chairman Morgan, I, of course, have already stated that this hearing is not a hearing on the policies that are being carried out or were intended to be carried out under the TVA Act. Certain charges have been made by you against the majority of the Board and by the majority of the Board against you. Those charges on your part relate to malfeasance in office -- . . . . . Charges made by the majority of the Board do not charge you with malfeasance in office but they charge you with failure to cooperate in the carrying out of decisions by the majority of the Board. To repeat, the object of this hearing is to ask you to substantiate your charges and to ask the majority of the Board to substantiate their charges. There are certain specific allegations made by you; there are specific allegations made by the majority. Those allegations are now the subject of this hearing. I want the facts from all three of you on which those allegations were made. In this particular question which I have asked you and to which you have not yet responded, the subject is the so-called Berry marble claims. I repeat that you have said, "The real difficulty has been in the effort to secure honesty, openness, decency and fairness in government. The Berry marble case, as I have said, is an instance of this difficulty." I must, therefore, ask you what facts of dishonesty in the Berry marble case on the part of your colleagues have you to substantiate the charges of dishonesty.

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A. E. MORGAN: The statement I have just made I think is adequate to express my position at this meeting.

THE PRESIDENT: Was the quotation which I have just read intended to be a charge of dishonesty or was it merely a disagreement with the way the claim was handled by the majority of the Board?

A. E. MORGAN: I have the same answer to that as to the last question.

THE PRESIDENT: In other words, you decline to answer that question. It is a perfectly straight question.

A. E. MORGAN: I have given a perfectly straight answer.

THE PRESIDENT: Do you intend, by this answer, to repeat charges which have been interpreted as charges of dishonesty?

A. E. MORGAN: I think the answer speaks for itself.

THE PRESIDENT: I note that the first effort to obtain facts in regard to a charge of dishonesty has not been replied to by Chairman Morgan. I now ask Dr. Harcourt Morgan and and Mr. Lilienthal, have you any facts in answer to the charges of dishonesty on your part relating to the so-called Berry case?

HARCOURT MORGAN: The bottom of this entire situation is the difference in attitude between the majority of the Board and the Chairman regarding conciliation agreements.

A. E. MORGAN: Is this in answer — (interrupted)

THE PRESIDENT: To my question relating to the Berry claims.

A. E. MORGAN: I understood we were going to be confined to the facts. Is this an argument?

THE PRESIDENT: You are going to get to that part now?

HARCOURT MORGAN: Yes, sir. Prior to the eve of the condemnation trial there was no member of the Board who had any evidence of bad faith.

THE PRESIDENT: Wait a minute, Dr. Morgan. Evidence of bad faith on the part of the claimants?

HARCOURT MORGAN: On the part of the claimants, yes. There was nothing except rumor and suspicion. The Chairman proposed, in effect, that we proceed on a presumption of bad faith. The history of these conciliation agreements is that a claim, a mineral claim, such as Berry's always involve negotiation before a condemnation is resorted to. TVA has a regular routine in appraising the value of farm land to be acquired. Appraisers are sent out, their estimates are reviewed and then if the price thus determined is not accepted, condemnation proceedings are instituted. But, when we have claims for minerals or any other special situations, this simple farm land procedure is not feasible and negotiations for settlement are common. This is natural in view of the numerous, complicated technical factors which go to make the value of mineral claims. Major Berry and his associates made claims for allegedly valuable marble which ran into millions and they claimed to have experts who would so testify. The Board's Staff and consulting geologists were of the opinion that the marble had no substantial commercial value, and the Board was convinced of this.

With opposing experts having a part, and the usual uncertainty of any lawsuit, the risk of a large award against the Authority seemed substantial. In addition, the conduct of condemnation proceedings was bound to be costly, as this case has in fact proved.

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