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NOMINATION OF JAMES F. HOOPER III

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HEARINGS

BEFORE THE

COMMITTEE ON PUBLIC WORKS

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

THE NOMINATION OF

JAMES F. HOOPER III, TO BE A MEMBER OF THE BOARD
OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY



FEBRUARY 17 AND 18, 1976

SERIAL NO. 94-H32

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NOMINATION OF JAMES F. HOOPER III

TUESDAY, FEBRUARY 17, 1976

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C.

The committee met at 9:35 a.m., pursuant to call, in room 4200, Dirksen Senate Office Building, Hon. Jennings Randolph (chairman of the committee) presiding.

Present: Senators Randolph, Burdick, Culver, Baker, and Stafford.

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator RANDOLPH. Your chairman is appreciative of the meeting of the committee this morning from the standpoint of those members who have come to the opening of the hearings, Senator Baker, Senator Culver, and Senator Morgan.

Senator Eastland and Senator Stennis, we are especially delighted to welcome you to this hearing. The members of the Public Works Committee have an important responsibility in this nomination to consider James F. Hooper III, chosen by the President of the United States, to be a member of the Board of Directors of the Tennessee Valley Authority.

The Tennessee Valley Authority is a unique organization in the United States. It was created nearly 43 years ago and was given a mission encompassing agriculture, industrial development, navigation improvement, flood control, and, of course, electric power production.

Over the years, the TVA has become in effect the Nation's largest electric utility. The TVA has assets of more than \$7 billion. TVA employs more than 25,000 men and women and the TVA operates this huge complex in seven States.

The members of the committee conducted oversight hearings, as Senator Baker will recall very well, last spring on all phases of the operations of the Tennessee Valley Authority.

It is our intention that we schedule further inquiry this year to review the power policies of the Authority.

The size and diversity of the TVA are such that a director, man or woman, occupies an extremely important position.

The term "Board of Directors" in this instance may be misleading. The TVA Board is not merely a policy setting body which holds meetings from time to time. The three members of the board are

in fact the highest level management of the Authority. It is a full-time job.

The directors are responsible for the day-to-day operations and they normally meet more than once a week.

The committee members recognize that Mr. Hooper's nomination is controversial. There are witnesses who will be heard later who will oppose his confirmation. The members of this committee, I am sure, as does the chairman, come to the hearing open-minded.

There have been no promises, I am certain, by the members of this committee as to how they would or would not vote on the nomination.

During the next 2 days, we shall discuss with the witnesses, and with Mr. Hooper, the responsibilities of this position and the qualifications of the President's selection.

The scheduled witnesses represent a diversity of backgrounds and interests, and I believe that we will receive information which can help us to make an informed judgment on this vital matter.

Senator Baker, do you have comments?

Senator BAKER. I won't take but just a brief moment to give an opening statement and won't long delay our colleagues from Mississippi, who wish to speak on behalf of the nominee.

OPENING STATEMENT OF HON. HOWARD H. BAKER, JR., U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator BAKER. The Tennessee Valley Authority will be 43 years old in May of this year. During its four decades the basic mandate of TVA has been unchanged by Congress and has proven both the wisdom of its drafters in delineating its purpose and providing it the tools to respond to the needs of the Tennessee Valley and the Nation.

But now in its fifth decade TVA as a resource conservation and energy producing agency is confronted with a new and more difficult challenge than perhaps it has faced at any time in its history.

As the instrumentality that brought electric power to the people of Appalachia and the agricultural southeast, TVA has grown to be the largest electric power producer in the Nation. And in the next 10 years, the capacity of the TVA power system is projected to double its size; and the value of its power assets to triple.

The economies of scale have brought problems as well as benefits, and TVA is faced now with the task of assuring the economic benefit of its power production to the people and industry of the Valley who have come to rely so heavily upon it.

The rate charged for a kilowatt of residential power in the valley decreased for many years after the creation of the TVA. But since 1967 that rate has moved consistently higher until it has returned to a level commensurate with rates in the early fifties.

While rates in the valley remain substantially lower than the national average, an analysis of TVA's financial picture shows that inflationary pressures are at work which will require careful and diligent efforts on the part of TVA's management.

Operating expenses for TVA's power program, for instance, increased by 41 percent during the past year. Interest charges on TVA's long term debt increased by almost 25 percent in the same period.

It is easy to see why the consumers of TVA power, faced with spiraling electric rates, have taken so great an interest in the selection of a

new member for TVA's Board of Directors—for TVA's Board is its management body. All of the powers of the corporation are vested in the Board and the policies and programs which will determine TVA's performance in the difficult times ahead will be developed and overseen by this Board of Directors.

So, Mr. Chairman, it is with great concern and interest that I await the testimony of Mr. James F. Hooper this morning. He is nominated for a position that will place him for almost the next decade in pivotal control of a decisionmaking process vital to the welfare of my constituents.

I feel a great responsibility, as I am sure that he can appreciate, to scrutinize his qualifications. For the man in whom we place the power and trust of the office of Director of the Tennessee Valley Authority at this critical juncture in its history must be a man of uncommon ability. It is not an easy measure to live up to.

Mr. Chairman, when I first met Mr. Hooper almost 8 months ago shortly after his nomination was sent to the Senate, I assured him that he would receive fair treatment from the Public Works Committee.

In the months that followed, this committee has conducted a careful and extensive investigation of the nominee's background. In the conduct of that investigation, both you and I have taken great care that the information developed be used only for the execution of our committee's responsibilities in connection with this nomination.

We have determined, Mr. Chairman, in fairness to everyone, that the nominee appear before the Committee on Public Works to give his testimony and be examined and that the hearing not be conducted beforehand in the press.

I am pleased to be able to state as we begin these hearings that the committee and committee staff have diligently abided by the traditions of dignity and fairness which you have established during your chairmanship.

I know that the members of this committee will weigh the nominee's qualifications for the office to which he is nominated fairly and objectively on the basis of the testimony received today and tomorrow and in light of all of the information available to us.

We could do no less and I am sure that Mr. Hooper expects no more. Senator RANDOLPH. Thank you very much, Senator Baker.

I know that you have gone into this matter very thoroughly. You have made a very careful study of the information that has been supplied to us.

You come, as do all members of the committee, to listen to the testimony, to evaluate it and to make a decision.

Senator Eastland, would you open our hearing? Thank you very much for coming.

**STATEMENT OF HON. JAMES O. EASTLAND, U.S. SENATOR FROM
THE STATE OF MISSISSIPPI**

Senator EASTLAND. Thank you.

Mr. Chairman and members of the committee, I am pleased to join my colleague, Senator Stennis, in presenting to the committee

our fellow Mississippian, Mr. James Hooper, and in endorsing his nomination to the Board of Directors of the Tennessee Valley Authority.

The TVA area is historically an agricultural area. It suffered from soil erosion, recurring floods, poor transportation facilities, a lack of job opportunities, and, as a result, low per capita income.

TVA was created as a regional concept to treat these ills and develop and implement solutions. It has enjoyed success in the development of resources for navigation, industrial water supplies, and low-cost hydroelectric power generation. Its policies have emphasized industrialization and have paid off well for the investment. It is time now for agriculture to be more adequately considered in its programs.

During this century, we have witnessed the migration of millions of Americans from the farms to urban areas. The first generation moving to the cities was, for the most part, born and raised on the farms of this country.

Today, however, our urban population consists of second and third generation city dwellers. These people are not intimately familiar with the source of the food on their tables or the clothes on their backs. Living and working, as the majority of them do, in air-conditioned and heated buildings, they have only a marginal understanding of the problems created by severe weather for those who work the land.

It is my sincere belief that a majority of the citizens of this Nation today do not comprehend the economic disaster which can be visited upon the farmer, the source of their food, by the weather.

The people are not aware that the high cost of machinery and the rapidly escalating cost of production are reducing the farmer's chances in his yearly gamble with the land, the weather, and the economy. At this point, I am afraid that the people of this country do not understand that if the present trend continues, the production of food in this country could be seriously impaired, even as we seek to deal with a worldwide food shortage coupled with a population explosion.

With the exception of a few here in the Senate and a few in the House, the policymaking levels of government in this Nation are almost devoid of people with the hard, practical experience of farming.

Today, too many regulations and decisions about agriculture are being made by men and women without a farm background. These decisions are being handed down by people who cannot possibly understand the total problems of agriculture and who have little input from those whom they seek to regulate.

The Tennessee Valley Authority was created, not as just another giant utility, but with a wide ranging mandate to serve the people of the Tennessee Valley region, and of America, in numerous ways. Not the least of these is the mission assignment that TVA provide the resources for research and development of fertilizer.

Furthermore, the authority was commended to insure that the products and knowledge derived from research and development be made available to the farmer, and that the farmer be encouraged to utilize the knowledge to increase his productivity.

Mr. HOOPER has had 30 years of hard, practical experience in farming operations. It is my firm judgment that this experience gives

Mr. Hooper valuable insights into both the problems of agriculture and the problems of the people. The Board of Directors of the Tennessee Valley Authority needs the benefit of this experience and these insights in the trying times to come.

Mr. Hooper has demonstrated throughout his career an active interest in, and involvement with, the people in the areas of social and economic development. I believe that his background is such that we can expect from him balanced judgments directed toward meeting the needs of our citizens, and in carrying out the mandate of the Congress in establishing the Tennessee Valley Authority.

Mr. Chairman, I associate myself with Senator Stennis in respectfully urging action favorable to Mr. Hooper, and I would like to offer for the committee's consideration a list of outstanding organizations which support this nomination. Thank you very much.

I would like to say Mr. Chairman, that Mr. Hooper is ideally qualified to make an outstanding record on the Board of Directors of the Tennessee Valley Authority.

Senator RANDOLPH. Thank you very much, Senator Eastland, for your recommendation and endorsement of Mr. Hooper for this important position.

Are there any comments or questions from members?

Senator Stennis, we are delighted you are here, sir.

STATEMENT OF HON. JOHN C. STENNIS, U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator STENNIS. Mr. Chairman, I certainly thank you and the members of your committee. I have a prepared statement, Mr. Chairman. It is about seven pages. I ask unanimous consent, or whatever the procedure is, that that prepared statement be placed in the record and I will make some comments on some points.

Senator RANDOLPH. That will be done in accordance with your wish, Senator.

[The statement appears at p. 8.]

Senator STENNIS. Thank you, Mr. Chairman.

I am impressed and want to thank the chairman, as well as the other members, for their contributions, over the years they have been here, to TVA. I came early enough to be here as an ex officio member of the Appropriations Committee when TVA was a highly controversial issue.

We had to fight uphill all the way every time there were requests for funds for additional powerplants or any other improvement of any substance. I have been delighted that your committee approved the enabling act, you might say, to make it self-financing.

Now, for several years, I have been through TVA's budget because I happen to be chairman of the subcommittee that I was once on as an ex officio member. Therefore, I am familiar with its work.

Gentlemen, I think we need a balanced board of directors for the administration of this proven institution. It is involved in more than the making of electricity but in the electric power field it has been a reliable and responsible yardstick over the years. It has benefited every area of our Nation.

Going back through its early history, I remember when it was first proposed, during World War I—not World War II but World War I—as a fertilizer producing venture but mainly for the manufacture of ammunition.

It took a long time to get around to it, but that was one of the reasons advanced in the early part of the war. I remember when Henry Ford, Sr., made an offer for a 99-year lease that was blocked in some way, I think, in the Senate. TVA finally came to fruition in the depression and has had a far-reaching effect throughout the Nation.

As I say, I think it needs a balanced board. There are two members there now, one of long experience and another with some few years of experience. Mr. Hooper is a man with an agricultural background and also a business background. We had a man run for Governor for Mississippi once who was introduced by a friend who said, "We have often had lawyers as candidates for Governor, who were also farmers. This time we have a farmer candidate who is also a lawyer."

Senator RANDOLPH. Did he win?

Senator STENNIS. He won. My point now, of course, is that we have a businessman here who is also a farmer in the sense that he knows the problems of the farmers, the area of fertilizer research, and what it means, and related matters.

That still is a part of their function and a part of their activity. I know they are continuing to make these contributions to agriculture development. They are now developing, testing, and promoting the use of even better types, including the new sulfur-coated urea fertilizer with the slow release of its effect. That is just an illustration of how modern this effort is.

I have known Mr. Hooper. I was a former officeholder in the area he and I both come from. I have known him a long time. I can't remember exactly when I first knew him, but it goes back 20 to 25 years or more.

I have known him as a very active, vigorous, enterprising gentleman who took part in farm lands, dairy lands, and like matters. He is very public spirited and active in civic affairs.

I have known other members of his immediate family from Alabama. They were from Alabama originally. I have known Mrs. Hooper for many years and knew her father before her. I called up friends of mine in this area when this question of the nomination came up and talked to them, businessmen and others, and a close friend going back to my college days, who had been at Columbus in business when Mr. Hooper first came there.

They gave him what I had already understood to be a very strong recommendation.

I knew already, as I said, about his activities and his place in the community and some of the experiences that he had.

I recommended him to the President and recommend him here to you. He is plainspoken, and with his open life, I think with his background and experience he will make a real contribution to this three-member board where balance is needed. I don't recommend him because he is from Mississippi. TVA is a national institution. It

belongs to the Nation and it serves the Nation, as I have already pointed out.

I believe he would apply himself rigidly to the work and that he would make a real contribution and become a part of a going organization which we are really all proud of.

I thank you, sir, and all of you, for your attention.

Senator RANDOLPH. Thank you, Senator Stennis, for your recommendation and endorsement of Mr. Hooper.

Are there any questions?

[Senator Stennis' prepared statement follows:]

STATEMENT OF SENATOR JOHN C. STENNIS

BEFORE

COMMITTEE ON PUBLIC WORKS

ON

NOMINATION OF JAMES F. HOOPER, III

AS A MEMBER OF THE TVA BOARD OF DIRECTORS

Mr. Chairman, members of the Committee, I am indeed happy to appear before you and join with Senator Eastland in introducing Mr. James F. Hooper, III, of Columbus, Mississippi, and to make a brief statement in support of his nomination by the President to be a member of the Board of Directors of the Tennessee Valley Authority.

I do not have to tell you that the Tennessee Valley Authority is a very important agency. As you know, it was created by the Congress in 1933 in the interest of the national defense, for agricultural and industrial purposes, to improve navigation in the Tennessee River, to control the destructive flood waters in the Tennessee River and Mississippi River basins, and to generate and sell electric power. It has brought many benefits to

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the seven states in which portions of its system are located, particularly cheap electric power. It has been a very successful operation.

We all take pride in the fact that TVA has dedicated itself to the principle of seeking, finding, and maintaining a balanced approach to the unified conservation and development of the resources of the Tennessee Valley region as Congress directed. I remember a good deal of its early work, -- developing the Tennessee River; providing a low-cost supply of electric power to the region; chemical research and the introduction of experimental fertilizers useful in agriculture; forestry and agricultural programs; and the many other programs promoting the economic vitality of the Tennessee Valley region -- programs that also serve as a proving ground for progress by the Nation. This work is continuing today.

I have known Mr. Hooper for a number of years and feel that he is thoroughly qualified in all respects for the position for which the President has seen fit to nominate him. He has an educational background in Industrial Engineering, and is a successful businessman with wide experience in manufacturing, real estate operations, and farming.

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A significant portion of TVA's major activities involve water resources. The nominee is particularly well qualified in this field. He took an early interest in it and has had wide and varied experience in water resource management. In fact, he has been something of a pioneer. He was active in the formation of the original Tennessee-Tombigbee compact which led to the authorization by this Committee and the subsequent funding of the Tennessee-Tombigbee Waterway. He is a charter member of the Tombigbee Valley Authority and the Tombigbee Water Management Association. He was one of the founders and charter members of the Mississippi Rivers and Harbors Association and served as President and Chairman of the Board of that organization.

The Tennessee-Tombigbee Waterway will connect and interlock with the Tennessee Valley Authority systems when the Tennessee-Tombigbee is completed, and I know that Mr. Hooper's knowledge and experience in the water resource field will be helpful in coordinating navigation, industrial development, river port development, energy allocation, recreational development

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and flood control.

The region was largely agricultural when TVA first started, but its manufacturing and commercial activities have greatly increased over the years. It was just two or three years ago that, for the first time on record, new industrial projects announced for the region represented an investment of over a billion dollars. Other changes are evident. Green pastures, productive farms, and renewed forests have largely replaced eroded, worn out fields. While there are fewer people on farms, those there make better livings. The forest resource has continued to grow in quality and quantity and the forests themselves remain, not destroyed by the forest industry they support.

I believe that the importance and impact of TVA's fertilizer, agricultural, and forestry programs, both within the region and to our Nation and indeed the world, have not been fully recognized. Possibly, this is because of the attention, the enormous amount of money involved, and the focus, to a great extent, by the people and the media, on the electric power program. I want to say a few words about the fertilizer and

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agricultural programs.

I have pointed out that one of the purposes for which TVA was created was to promote agricultural development. It has been very active and successful in this area. In addition to the electrification of the Nation's farms, it pioneered in the research, development, production and use of fertilizers with a higher nitrogen content. It played an important role in the development of fertilizer using anhydrous ammonia as a source of nitrogen. This resulted in a great increase in agricultural productivity and in a significant increase in food and fiber crops throughout the country.

Food production is one of the things that the U. S. does best. With only 11 percent of the world's cultivated cropland and 0.4 percent of the world's agricultural population, the U. S. produces nearly 18 percent of the world's cereals and 70 percent of all world grain exports. These achievements are possible because of the wide spread use of commercial fertilizers and agricultural technology developed partly by TVA.

In the TVA region, the impact is greater. TVA's

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agricultural projects have helped increase the income and social well being of the people in the region. The TVA program to increase and improve production, marketing and management systems to farmers and agribusiness firms through research and development, demonstrations, education-type projects is well known to many of you. There are over 141,000 farms in the region and nearly all have benefited from the program. For the past several years, increased productivity has advanced in the value of Valley farm production by about \$34 million per year in terms of 1973 dollars. Farm sales now exceed \$1.5 billion and the effect on the region's economy is even greater since each dollar in farm sales generates about three additional dollars in the agribusiness sector.

TVA is continuing its contributions to agricultural development. It is now engaged in developing, testing and promoting the use of even better types of fertilizers, including a new sulphur coated urea fertilizer with a slow release. It is helping farmers to develop better farm management and it works continuously with the country's land grant colleges.

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As I have said, Mr. Hooper has a great deal of experience in farming and he will bring to the Board knowledge and practical experience in agricultural matters. I believe that this enhances his qualifications substantially and will be of great value to TVA, its Board of Directors and agricultural interests in general.

Let me add that, although TVA covers portions of seven states, Mississippi, Tennessee and Alabama are the major users of its power. It seems very appropriate to me that Mississippi should be represented on the Board.

Let me stress again, Mr. Chairman, that I believe that Mr. Hooper's varied and broad experience qualifies him uniquely and specially for this important post. I strongly recommended to President Ford that Mr. Hooper be nominated. I recommend just as strongly that this Committee act favorably on this nomination.

#

Senator STENNIS. May I call your attention to the fact that Congressman Jamie Whitten, of Mississippi, is here?

Senator RANDOLPH. We would be glad to accommodate Representative Whitten. Do you wish to come over and make a statement?

STATEMENTS OF HON. JAMIE L. WHITTEN, HON. DAVID R. BOWEN, HON. GILLESPIE V. (SONNY) MONTGOMERY, HON. THAD COCHRAN, AND HON. TRENT LOTT, REPRESENTATIVES IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. WHITTEN. We have a meeting of the Public Works Appropriations Committee beginning at 10 with the Chief of the Corps of Engineers there. For that reason, I appreciate your letting me speak in advance.

I would like to agree with the fine statements made by the Senators and those to be made by my congressional House colleagues in favor of Mr. Hooper. We are very proud of his record. We are very much interested in his confirmation.

Senator RANDOLPH. Thank you, Representative Whitten. I would like to ask you a question. How long have you known Mr. Hooper?

Mr. WHITTEN. About 12 or 14 years well, and before that I was acquainted with him. I can vouch for him in every way I have known him, and I know him well.

Senator RANDOLPH. I am sure your statement reflects your approval. I only want, while you are here, to have your statement that you know him.

Mr. WHITTEN. I have worked with the TVA since 1943, so I think that speaks for my interest in the work that it has done and my interest in its continuing the fine job that it has done.

Senator RANDOLPH. Thank you very much, Representative.

Do you have any questions?

Senator BAKER. No. We are just delighted the Congressman could be here and give his statement.

Mr. WHITTEN. Thank you.

Senator RANDOLPH. Any other questions?

Jamie, before you leave, you spoke about having something to do with the Tennessee Valley Authority as long ago as 1943. I voted for the Tennessee Valley Authority as a Member of the House of Representatives in 1933, so we both have a long interest in this.

Mr. WHITTEN. Mr. Chairman, you measured your fish first. I was the one who wrote the language to let them use the revenues 1 year when they couldn't get the appropriation and I wrote the language to pay one-fourth of the money back each 10 years to take advantage of the ups and downs of the water. So we have been in there together.

Senator RANDOLPH. Is the Authority solvent at the present time?

Mr. WHITTEN. If the country is, because it belongs to the country.

Senator RANDOLPH. Thank you.

We have with us three Representatives besides Representative Whitten—Representatives Lott, Bowen, and Cochran.

I am sure all members of our committee would want to accord to our colleagues of the House a courtesy in this matter. If they would wish to, please come forward and testify.

STATEMENT OF HON. DAVID BOWEN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. BOWEN. I am Congressman Bowen, from Mississippi. I have a statement I would like to leave with the committee, if I might.

Briefly, I would like to say that Jim Hooper is a constituent of mine. I have known him since 1972 when he was elected to the Congress. It has been his duty as a very prominent Republican leader in my State to oppose me politically.

Nonetheless, I am very enthusiastic about his nomination to this position and I would wholeheartedly concur with the President's recommendation to the Senate in that respect.

I do have a statement I would like to make a part of the record, if I might.

Senator RANDOLPH. Representative Bowen, as we have done with the statement of your colleague, Representative Whitten, your comments on this matter and the knowledge you have of Mr. Hooper will be included in the record.

Thank you very much, Mr. Bowen, for coming before us.
[Congressman Bowen's statement follows:]

STATEMENT OF CONGRESSMAN DAVID BOWEN
BEFORE THE SENATE PUBLIC WORKS COMMITTEE
IN SUPPORT OF THE NOMINATION OF JAMES F.
HOOPER AS A MEMBER OF THE BOARD OF DIRECTORS
OF THE TENNESSEE VALLEY AUTHORITY,
FEBRUARY 17, 1976

Mr. Chairman and Members of the Senate Public Works Committee, I appreciate the opportunity to make a statement in support of the nomination of a distinguished constituent of mine, James F. Hooper, as a member of the Board of Directors of the Tennessee Valley Authority. I have had the privilege of knowing Jim Hooper for several years. Although he is a prominent Republican leader in Mississippi, as is his wife, who is Republican National Committeewoman, and it has been his duty to oppose me, I am more than happy to give him my endorsement because I feel that he is well qualified for the position for which he has been nominated by the President.

Mr. Hooper's professional background in engineering, business, and agriculture, his expertise in the area of waterway resource development, and his lifelong public spirited commitment to the development of his community, commend him highly for this important post.

When Donald McBride retired from the TVA Board in May of last year, he said that the new director should be versed in natural resource development. I wholeheartedly concur in this view, and that is precisely the reason that I endorse Jim Hooper's nomination. His credentials in this field are

outstanding. He has held the position of Chairman of the Board, President and Vice President of the Mississippi Rivers and Harbors Association. He is a charter member of both the Tombigbee Valley Authority and the Tombigbee Water Management Authority. He has served on the Water Resources Advisory Committee of three Republican presidential candidates. He is thoroughly familiar with the entire Tennessee Valley area.

I feel that Mississippi deserves to have representation on the TVA Board of Directors. As you know, the other two directors are Tennesseans. The development of the Tennessee-Tombigbee Waterway, the major allocation of TVA power to Mississippi, and related industrial and agricultural development in Northeast Mississippi all point up the importance of appointing a Mississippian to the TVA Board.

The interdependence of the Tennessee-Tombigbee and the Tennessee Valley Authority systems calls for knowledgeable management to coordinate navigation, industrial and agricultural development, river port development, energy allocation, recreational development and flood control. Few people in the region have the knowledge and expertise in these areas that Jim Hooper possesses. He would in my judgment be in a unique position to make a significant contribution to the TVA Board.

I am confident that James F. Hooper would command the respect of both Democrats and Republicans in serving the best interests of the Tennessee Valley Authority and the people of the area. It is a pleasure for me to join with the other Members of the Mississippi Congressional delegation in endorsing Jim Hooper for appointment to the TVA Board.

Senator RANDOLPH. Representative Montgomery has joined his colleagues. Is it your desire, Representative, to place your statement in the record or remain with us during the hearings?

**STATEMENT OF HON. G. V. MONTGOMERY, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MISSISSIPPI**

Mr. MONTGOMERY. To place my statement in the record, Mr. Chairman, and just comment that he is certainly a good man and I totally support him from my congressional district. I live south of Jim, but he is outstanding and I would like to submit my statement for the record.

Senator RANDOLPH. In accordance with your desire, your statement will be included.

[The statement follows:]

Testimony of Rep. G. V. Montgomery, D-Miss.
Before Senate Committee on Public Works
Regarding Nomination of James F. Hooper
To TVA Board of Directors

Mr. Chairman. I appreciate you and members of the Committee allowing me this opportunity to speak on behalf of the nomination of James F. Hooper of Columbus, Mississippi, to the Board of Directors of the Tennessee Valley Authority.

I have known Mr. Hooper for several years and have always found him to be a person of outstanding abilities and a person who approaches each task assigned him with dedication and determination. I know he will continue to exhibit these traits once he assumes the important position of one of three directors of TVA.

As an example of the wide support Mr. Hooper enjoys in the State of Mississippi, I request permission to include at the conclusion of my testimony resolutions of support from the Rivers and Harbors Association of Mississippi, Mississippi Legislature and the East Mississippi Council. These unqualified statements of support and recommendation come from the people who have worked closely with Jim Hooper over the years. They know firsthand his abilities and his experiences in fields that are important to the future of the Tennessee Valley Authority.

(2)

Mr. Chairman. I urge you and the other Members of the Senate Public Works Committee to report favorably the nomination of James F. Hooper as a member of the Board of Directors of TVA.

MISSISSIPPI RIVERS AND HARBORS ASSOCIATION
IN ANNUAL MEETING ON OCTOBER 24, 1975
BILOXI, MISSISSIPPI

A RESOLUTION SUPPORTING JAMES F. HOOPER OF COLUMBUS, MISSISSIPPI FOR UNITED STATES SENATE APPROVAL OF HIS APPOINTMENT TO THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY.

WHEREAS, President Gerald R. Ford has appointed James F. Hooper to fill the vacancy on the three member Board of Directors of the Tennessee Valley Authority; and

WHEREAS, Honorable William L. Waller and Honorable William Winter, Governor and Lieutenant Governor of Mississippi and Senators James O. Eastland and John C. Stennis and Congressman Jamie L. Whitten, G. V. Montgomery, David R. Bowen, Thad Cochran and Trent Lott, composing the entire Mississippi delegation to the United States Congress, have recommended and officially endorsed James F. Hooper for this responsible position; and

WHEREAS, both houses of the legislature of the State of Mississippi have unanimously endorsed the appointment of Mr. Hooper; and

WHEREAS, the Tennessee-Tombigbee Waterway is presently under construction through Mississippi, and its integration and interlocking with the Tennessee Valley Authority Systems will require knowledgeable management to assist in the coordinating navigation, industrial development, river port development, energy allocation, recreational development and flood control between the two systems; and

WHEREAS, James F. Hooper was one of the founders of the Rivers and Harbors Association of Mississippi and served successive terms of Vice President, President, and Chairman of the Board and continued as a board member for many years in which offices he served with distinction; and

WHEREAS, through his able leadership and record of accomplishment in water resources development, he was thrust into the dominant role of leading the Mississippi Rivers and Harbors Association to successful management of our greatest natural resource - water;

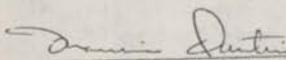
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF RIVERS AND HARBORS ASSOCIATION OF MISSISSIPPI, That we do hereby unanimously endorse the appointment of James F. Hooper by President Gerald Ford to membership on the Board of Directors of the Tennessee Valley Authority and urge his speedy approval by the United States Senate.

BE IT FURTHER RESOLVED That we commend the efforts of our Congressional Delegation and of our Governor and Lieutenant Governor in their support of James F. Hooper, and we urge that they continue in every way to advocate his membership on the Board of Directors of TVA.

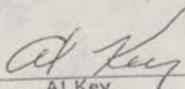
BE IT FURTHER RESOLVED That copies of this resolution be sent to the Honorable Gerald R. Ford, President of the United States, to the Honorable Jennings Randolph, Chairman of the Committee on Public Works of the United States Senate, to the Mississippi Delegation to the the United States Congress, to the Honorable William L. Waller, Governor of the State of Mississippi, to the Honorable William F. Winter, Lieutenant Governor of the State of Mississippi, and that copies be made available to the press.

PASSED AND ADOPTED THIS THE 24 DAY OF October, A.D., 19 75.

MISSISSIPPI RIVERS AND HARBORS ASSOCIATION



 Maurice Dantin
 Chairman of the Board



 Al Key
 President



SENATE CONCURRENT RESOLUTION NO. 597

A CONCURRENT RESOLUTION SUPPORTING JAMES F. HOOPER OF COLUMBUS, MISSISSIPPI, FOR APPOINTMENT TO THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY.

WHEREAS, President Gerald R. Ford will shortly make an appointment to fill a vacancy on the three member Board of Directors of the Tennessee Valley Authority; and

WHEREAS, Governor William L. Waller and Lieutenant Governor William F. Winter of the State of Mississippi have officially endorsed James F. Hooper of Columbus, Mississippi, for this responsible position; and

WHEREAS, Senators James O. Eastland and John C. Stennis and Congressmen Jamie L. Whitten, G. V. Montgomery, David R. Bowen, Thad Cochran and Trent Lott, composing the Mississippi delegation to the United States Congress, have also recommended and officially endorsed James F. Hooper for this appointment; and

WHEREAS, the State of Mississippi is second only to Tennessee as a customer of the Authority for electric power, fertilizer and other goods and services, and a citizen of this state should therefore serve on the Board; and

WHEREAS, the Tennessee-Tombigbee Waterway is presently under construction through Mississippi, and its integration and interlocking with the Tennessee Valley Authority systems will require knowledgeable management to coordinate navigation, industrial development, river port development, energy allocation, recreational development and flood control; and

WHEREAS, James F. Hooper is eminently qualified for a position on the Board of Directors of the Authority, being a former United States Air Force pilot and a graduate engineer with extensive business, manufacturing, real estate and farming experience; and

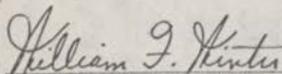
WHEREAS, he is a pioneer in water research and development being a charter member and past president of the Mississippi Rivers and Harbors Association and being a charter member of the Tombigbee Valley Authority and former vice-chairman of the Tombigbee River Valley Water Management District:

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MISSISSIPPI, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN, That we do hereby join the recommendation of our Congressional Delegation, Governor and Lieutenant Governor supporting James F. Hooper for appointment to the Board of Directors of the Tennessee Valley Authority.

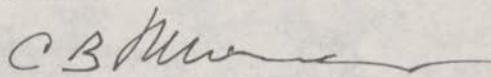
BE IT FURTHER RESOLVED, That we commend the efforts of our Congressional Delegation, Governor and Lieutenant Governor in their support of James F. Hooper and we urge that they continue in every way to advocate his appointment to the Board.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Honorable Gerald R. Ford, President of the United States, to the Mississippi Delegation to the United States Congress, to the Honorable William L. Waller, Governor of the State of Mississippi, to the Honorable William F. Winter, Lieutenant Governor of the State of Mississippi, and that copies be made available to the press.

ADOPTED BY THE SENATE
March 13, 1975


PRESIDENT OF THE SENATE

ADOPTED BY THE HOUSE OF REPRESENTATIVES
March 13, 1975


SPEAKER PRO TEMPORE
HOUSE OF REPRESENTATIVES



December 16, 1975

P. O. Box 1428
Columbus, Mississippi 39701
Telephone: 601-328-0222

Hon. Jennings Randolph
United States Senate
Washington, D. C.

Dear Senator:

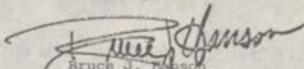
The 17 county East Mississippi Council, a grass roots civic-political organization of 1,600 members, representing nearly one fourth of the population of the State of Mississippi, wishes to go on record as commending to you the nomination of Mr. James Hooper as board member of the Tennessee Valley Authority.

At a regularly scheduled meeting, the Executive Committee authorized the Executive Director to "write a letter of commendation in behalf of Mr. Hooper, who is from the East Mississippi Council region, and who is a fellow Mississippian."

A copy of this letter will be transmitted to the President and to the Mississippi Congressional delegations.

We appreciate the opportunity to express our interest.

Sincerely,


Bruce J. Hanson
Executive Director

BJH/pp

Full Presidents

Sam Y. Wilcox - Aberdeen
Gill Lammiman - Meridian
James Egger - Columbus
Lewis Matney, Jr. - Starkville
Zella Smith - Meridian
James D. Bryan - West Point

Chairman of the Board

J. S. Swanson
Amory, MS
Vice Chairman of the Board
Lester Hogg, Jr.
Columbus, MS

President

L. A. Rasmussen
Meridian, MS

1st Vice President
Hugh Potts, Sr.
Kosciusko, MS

2nd Vice President
Lyle Stearns
Waynesboro, MS

3rd Vice President
Ed Sells
Aberdeen, MS

4th Vice President
Alton Leving
Phloxville, MS

Treasurer
Bill Burnett
Columbus, MS

Executive Committee
Charles Riser
Kosciusko, MS

C. B. Ray, Jr.
Aberdeen, MS

George Blevins
Grenada, MS

Kenny Gill
West Point, MS

Billy Cooper
Lumberton, MS

Wilson McCarty
Hickory, MS

Forrest Eaves
Spartan, MS

Tom Hagan
Meridian, MS

T. L. Phillips
Columbus, MS

D. Richard Halls
Amory, MS

Robert Leving
Phloxville, MS

O. Charles Propp
Cape Girardeau, MS

Ernest Park
Marion, MS

Charles McIlroy
Starkville, MS

Scout West
Waynesboro, MS

Bill Starnes
Humboldt, MS

James Balfour
Lumberton, MS

SWP
Bruce J. Hanson
Executive Director

Felix Farnham
Office Manager

Together We Can Do So Much

Senator RANDOLPH. We have two other Members who wish to sit with Mr. Hooper now, who are from the delegation. Would you desire to speak before we question Mr. Hooper?

**STATEMENT OF HON. TRENT LOTT, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MISSISSIPPI**

Mr. LOTT. I do, Mr. Chairman. I do have a subcommittee meeting too. I wanted to sit with him and present a very brief statement.

Senator RANDOLPH. Representative Lott, we are very happy to have your statement.

Mr. LOTT. Mr. Chairman, I feel very comfortable here at my first opportunity to appear at a confirmation hearing. I feel much more secure now that we have our two distinguished Senators from Mississippi sitting in front of us. It helped me as I want to present this statement.

It is a real pleasure to be here, Mr. Chairman, before you and Senator Baker and Senator Culver. Senator, you look the same, even though you made a little move since last year.

I represent the Fifth Congressional District of Mississippi, Mr. Chairman, which is the southernmost part of the State, down on the coast.

We don't unfortunately, benefit from TVA, but I am a native of north Mississippi and have heard all my life about the fine things that the Tennessee Valley Authority has done and has accomplished for the people in our area. We are all very proud of what it has done.

We know that today it becomes even more important not only just from the power standpoint but conservation, water resources, agriculture, and so many other areas.

I am fully cognizant of how important this particular hearing is, that we are selecting a new director. I have paid very close attention to the investigation proceedings in the hearing, and know it has been a very thorough one.

I feel that the results will reflect that we have a very fine qualified gentleman here in Mr. James F. Hooper.

Mr. Chairman, I am here today to emphatically place my name among those who have found James F. Hooper to be eminently qualified for a position with the Board of Directors of the Tennessee Valley Authority. I endorse his nomination and I strongly urge this committee, as well as the full U.S. Senate, to confirm him without further delay.

Jim Hooper, as those who know him will tell you, is a man with impeccable credentials in water resources management. He has served effectively as a charter member, president, and chairman of the Board of the Mississippi Rivers and Harbors Association.

He is a charter member of the Tombigbee Valley Authority. He is a charter member and vice chairman of the Tombigbee Water Management Authority. In short, he is well versed in those areas of interest for which the TVA was originally created.

What strikes me as even more important, however, are his credentials as an agriculturist. He is a farmer, a tree farmer. He knows full well what TVA can do and should do as far as reforestation is concerned. He knows what the TVA Act means when it calls for

agricultural and industrial development of the valley. And he knows, by virtue of his broad experience, what it means when it calls for improvement of navigability and for flood control.

Senator Stennis commented on a very important point, I thought. We do need a balanced board for TVA. We need people who understand the different aspects of what TVA can do and what it has done and can look to the future and has no particular preconceived notions of what problems there might exist for TVA but can only be looking to the future of what it should do in the future.

Members of this committee, Jim Hooper has worked all his adult life for the very goals outlined by the TVA Act. You know his credentials. You are familiar with his broad list of accomplishments. Jim Hooper is a good man. More importantly, he is a good man for the Tennessee Valley Authority.

Jim Hooper has the active support of his friends, his associates, his State, and his industry. I urge you to give him the support and approval of this committee and of the U.S. Senate.

I am very pleased to join his friends, associates, his State, the congressional delegation, and his industry in supporting his nomination. Thank you very much.

Senator RANDOLPH. Thank you very much, Representative Lott. Any questions by members?

Do you know the other two members of the board?

Mr. LOTT. I do not. I know their background and I have looked into what TVA has been doing recently. I do not know them personally.

Senator RANDOLPH. Presumably you made the statement that you want a balanced board, having the knowledge of their background?

Mr. LOTT. Just some general knowledge of their background.

Senator RANDOLPH. I see. Thank you very much, Representative Lott.

Representative Cochran.

STATEMENT OF HON. THAD COCHRAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. COCHRAN. Thank you, Mr. Chairman. I take pleasure in joining my colleagues from Mississippi, Mr. Chairman, in endorsing the nomination of Jim Hooper as a member of the Board of the TVA Authority. I, too, was born up in north Mississippi in Pontotoc County, and spent 20 of my early years there, and in Tippah County. These are areas that are served by TVA.

Although my congressional district is in the southwest part of Mississippi and we do not benefit from the power generation function of the Authority, I do have a very good overall knowledge of the work that TVA has done in Mississippi and the great benefits it has provided to our people. I am very interested in seeing a good qualified person be confirmed as a new member of this Board.

I have the honor, Mr. Chairman, of serving over on the House side as a member of the Public Works and Transportation Committee. During my very short tenure in the House I have become somewhat familiar with the problems of the Authority and the necessity of having a very competent Board to administer the work of that Authority.

I can say that in talking with friends of mine in the Columbus area who have known Jim Hooper longer than I have, I have never heard a word of criticism about his character or his ability as a businessman; I think this says a lot for him as a person. I have known him personally for about 4 years and, Mr. Chairman, I have found him to be a very open and candid person who seems quite intelligent.

I think he would acquit himself honorably and capably as a hard-working member of this board, and I commend him to the committee.

Thank you, Mr. Chairman, for giving me the opportunity to be here and say these few words.

Senator RANDOLPH. Thank you, very much, Representative Cochran.

Are there any questions?

How many members are in the House delegation from Mississippi?

Mr. COCHRAN. That is it, five, Mr. Chairman.

Senator RANDOLPH. I understood there were five, and all five have appeared here today. Representatives Whitten, Lott, Bowen, Cochran, and Montgomery. That is what you call a solid cadence. We are very appreciative of the testimony given by the members of the House delegation.

Thank you very much.

Mr. COCHRAN. Thank you, Mr. Chairman.

Senator RANDOLPH. Mr. Hooper, the members of the Committee on Public Works will hear your testimony at this time.

STATEMENT OF JAMES F. HOOPER III, ACCOMPANIED BY HUNTER M. GHOLSON, ATTORNEY

Mr. HOOPER. Thank you, Mr. Chairman. Would you prefer I read my statement and then have my witnesses later; or would you rather have them first? It might be best if I read my statement.

Senator RANDOLPH. Mr. Hooper, we realize that when you use the term "witnesses" that these are persons who will testify on your behalf, as have the two Senators and the members of the House delegation, the five Representatives from Mississippi.

It would seem to us a practical procedure for your statement—I presume the statement has been made available to those who might wish to read it, Mr. Hooper. Has that been done?

Mr. HOOPER. So far as I know, Senator.

Senator RANDOLPH. The statement has been circulated. So, in the matter of your giving the entire statement, without objection, we will include it in the record. Then you make such comment as you would desire upon the statement itself, focusing attention on points that you would want to bring to the attention of the members of the committee. You proceed as you desire, however.

Mr. HOOPER. All right, sir. The statement that I have made covers, as we know, a very wide subject. I have tried to condense it as best I could.

When the Tennessee Valley Authority was created in 1933, Congress spelled out the responsibilities and objectives. Congress stated that the Tennessee Valley Authority was created for the purposes of promotion of water navigation; control of floods in the Mississippi River and Tennessee River Basins; generation and distribution of electric power;

production and improvement of fertilizers for agriculture; and advancement of the physical, social, and economic development of the Tennessee Valley region. During the last 43 years the Authority has diligently sought to implement the objectives of Congress.

Seven hundred miles of locks, dams and reservoirs provide a 9-foot navigational channel through four States.

By controlling the flow of water through reservoirs and dams, the Authority has significantly reduced or eliminated the disastrous flood conditions in the Valley region. Under certain conditions the Authority can reduce the flood crest on the Mississippi River by approximately 2 feet.

The benefits of the Authority, therefore extend outside the immediate Tennessee Valley region to the people of southern Illinois, Missouri, Arkansas, Louisiana, and Mississippi.

Electric power is distributed over a large portion of a seven State area. Historically and in keeping with the mandate of Congress, the Authority has been able to provide power for domestic and rural use at the lowest possible rate.

Fertilizer production, research, and education, conducted at the Muscle Shoals facility has been made available to every State in the union through a unique contractual arrangement between the Authority and the agricultural colleges of land grant universities.

Today, most commercial fertilizer production directly incorporates the developments of the Tennessee Valley Authority. Thirty to forty percent of the increase in agricultural production in this country since 1933, is directly attributable to the increased use of fertilizers primarily developed by the Tennessee Valley Authority.

The advance in the physical, social, and economic development of the Tennessee Valley region during the past 43 years has been nothing short of dramatic. Certainly the significant increase in farm production and significant private capital investment in industry locating on the water system created by the Authority has been of primary importance.

Unfortunately, since the beginning of this decade, we have seen a combination of unemployment, inflation, and the energy crisis present us all with complicated problems. The solution to many of these problems will require a significant and, in some cases, painful adjustment on the part of the people, not only of the Tennessee Valley region, but of this country. The recent oil embargo brought home to us the finite nature of our natural resources and our dependence on low cost energy. The escalation of agricultural production expenses, particularly in the areas of fertilizer cost and availability, seriously impels our food production capacity. Water is one of our few renewable resources. However, it is certainly possible for the Tennessee Valley region to experience a water famine in the foreseeable future if this critical resource is not properly managed.

It would appear inevitable that more electric power will be required as a substitute for diminishing oil and gas reserves. The problem of what fuel will be used to supply the additional generation of electricity thus becomes paramount.

Many have said that the fast breeder or fusion process nuclear reactor is the obvious answer since the process does not use up finite resources. Would that the choice were that simple. Current estimates

range from 15 to 30 years before the fast breeder or fusion process reactor is commercially available in an acceptable condition.

The further use of conventional reactors is dependent upon the availability of low-cost high quality uranium. It seems to be generally accepted at this time that all proven reserves of high quality uranium at a reasonable price are committed to conventional reactors already under contract.

Unless and until additional reserves of low-cost high quality uranium are found and/or the fast breeder reactor becomes commercially available, we must rely upon our present known coal reserves to supply existing plants and for future expansion. Coal is not, however, an absolute or easy answer.

Our coal reserves, though enormous, are finite. Given the present known natural gas reserves, it is quite possible that the gasification of coal to produce nitrogen for agricultural use may become more important than the use of coal as a source of electricity.

Agriculture cannot supply our food and fiber needs without nitrogen fertilizer. As indicated, limited natural gas supplies may prohibit the use of gas as a feed stock for nitrogen.

The Tennessee Valley authority has a mandated responsibility to agriculture at least equal to the requirement to generate electricity. Because of the extreme importance of coal, I think it proper that the Authority take an aggressive position in all phases of coal development, including increased mining capacity, gasification for nitrogen, combustion efficiency, and desulfurization technology.

TVA should encourage the increased mining capacity of existing coal mines, giving due and proper consideration to all environmental factors.

The TVA water management system is, in my opinion, one of the better systems ever created. Beginning with rainfall, it makes the highest and best use of this renewable resource for transportation, generation of hydroelectric power and industrial use. Within a few short years, the Tennessee Valley water transportation system will be connected to the Tennessee-Tombigbee system thereby providing a much shorter route between the industrial and agricultural centers of the Midwest and the Gulf of Mexico.

It is inevitable that the entire system will provide the Tennessee Valley region with additional industry and the attendant job opportunities for the people of the area.

One aspect of water development and management is of particular concern to me. This is the problem of our underground aquifers. A 50-inch-plus annual rainfall in the Tennessee Valley area has made us as complacent about water as we once were about cheap oil.

The fact is that we have been withdrawing more water from our underground aquifers for industrial and domestic use than we have been returning. Consequently, water tables throughout the TVA mandate provides for reducing runoff by reforestation and land cover to reduce siltation and give better absorption of rainfall.

In Europe and some of the more arid portions of the United States, it is my understanding that significant progress had been made in accelerating rainfall use by canal absorption channels built adjacent to reservoirs and, in some instances, the installation of pumping stations to pump water back into the aquifers.

The growing industrial, municipal, and agricultural needs of the area dictate that the harvesting and underground storage of winter rains is imperative if we are to have ample supplies of water in the future. TVA should be able to follow its traditional role of demonstration and education in this area with good results.

We must not underestimate the benefit to our society of adequate food supplies and the importance of food exports to our humanitarian goals, foreign policy, and economic development. The productive capacity of this country is in jeopardy today.

In many areas the rate of production per acre resulting from present seed and fertilizer technology has peaked and is leveling off. Fortunately, many of our university laboratories are making real progress in genetics that holds promise of double and triple our present per-acre rate of production.

It is important to understand, however, that genetic improvement of seeds offers only a potential increase. Unless the proper nutrition is supplied to the genetically improved seed, the potential increase in production is lost.

The Tennessee Valley Authority, through its contracts and relations with colleges of agriculture throughout the Nation, has the ability to develop and maintain a coordinated research delivery system to insure that the nutritional needs of genetically improved food and fiber products is met. The Tennessee Valley Authority's sponsorship of experimentation by agricultural colleges and its relationship with county agricultural agents and others provides a direct link between the test tube and the farmer.

I would like to mention at this point one significant environmental problem with which the Tennessee Valley Authority should be able to deal directly. That is the problem of nitrogen pollution of our water system by agriculture. In my opinion, this represents a potential disaster and dictates that priority be given the development of a slow release form of nitrogen at the earliest possible date.

I share with each of you a genuine concern about our environment and the problems we are now facing. My concern arises from 30 years of personal experience with soil erosion, siltation, and the pollution of our water supply.

Until a few weeks ago, I had not had the opportunity, although I had read extensively about it, to view firsthand the strip mines in eastern Tennessee. I believe that I can state unequivocally that I am unalterably opposed to any strip mining unless it is accompanied by proper and effective land reclamation procedures.

I am pleased to state that the State of Mississippi has apparently recognized the problems encountered in other areas of our country and is presently moving to enact laws providing for proper safeguards prior to the wholesale introduction of strip mining into the State.

I believe that the four major areas which I have discussed energy, water, food, and the environment, are interlocking and interacting. It is my position that the Authority cannot allow itself to become preoccupied with one area at the expense of any other area.

I believe that we must renew our emphasis on research; that technology holds fantastic promises for the future. In making the decisions of today we must remain at all times cognizant of the potential effects those decisions may have on the future.

No magic wand exists. It is imperative that we keep our options open; continue our research in all areas and hope that breakthroughs can be achieved which will help alleviate some of our problems without creating more drastic problems.

TVA has a responsibility in the decisionmaking process to seek and balance the needs of society with the cost to society of resources used to meet those needs. The objective must be the wise use of human and natural resources to benefit the most people over the greatest period of time.

I was born, reared, and educated in the State of Alabama and have lived and farmed in the State of Mississippi since World War II. I have seen what electric power means to small communities and farms. I have seen the industrial development of our area and the jobs made available to the people by industry, both large and small, located because the Tennessee Valley Authority made sites and electric power available.

I think my personal love affair with the Tennessee Valley Authority began when I witnessed the dramatic effects of TVA developed fertilizer on demonstration farms. I have seen worn out and eroded acres reclaimed and made productive.

I have seen choice beef produced on grass pastures made possible by TVA technology. I have seen marginal lands produce trees. Through the help of the Tennessee Valley Authority, the enslaving bonds of the one-crop system in the South were broken.

When you consider the fact that today there is another nation that must plant 3 acres to each planted in this country; which must employ 10 people in agriculture to each 1 employed in this country; and which must still import food to feed all of its people, including its farmers; proper credit and support must be given to the magnificent job which the Tennessee Valley Authority and the American farmer have done.

Personally, I am distressed to think that any human being must go hungry. TVA has the ability to help unleash a new cornucopia of food that may eventually insure that no one is hungry.

TVA also has the ability, given the proper motivation and decisions, to insure that the energy needs of the people of the Tennessee Valley region are met and at the same time insure that the desecrations of the past are not repeated and the natural beauty of the environment is protected and preserved for the enjoyment of generations to come.

Senator RANDOLPH. That completes your statement, Mr. Hooper.

Mr. HOOPER. Yes, sir.

Senator RANDOLPH. We note the presence of Hunter Gholson.

Mr. GHOLSON. Thank you.

Senator RANDOLPH. You are an attorney appearing with Mr. Hooper?

Mr. GHOLSON. Yes, sir.

Senator RANDOLPH. We are delighted to have you at the witness table.

Mr. GHOLSON. Thank you.

[Biographical data of Mr. Hooper follows:

BIOGRAPHICAL DATA—JAMES F. HOOPER III

1. James Fullerton Hooper III was born September 3, 1915 in Selma, Alabama. He attended the public schools of Selma and graduated from Selma High School in 1933.

2. From 1935 through 1939 Hooper attended Auburn University in Auburn, Alabama where he majored in Industrial Engineering.

3. On October 8, 1941, Hooper entered the United States Army Air Corps. He earned his pilot wings and served until discharged on September 25, 1945.

His first major assignment was as a Squadron Commander with the Air Training Command at Columbus, Mississippi. While in the Air Training Command, he was an instructor pilot and check pilot for other instructor pilots. Also during the one and one-half years in Columbus, Hooper participated in the development of the original flight training manuals used by the Training Command for teaching both transition and instrument flying.

Hooper spent the next three and one-half years assigned to Research and Development at Wright-Patterson Field, Dayton, Ohio. He was assigned responsibility for and developed the protective headgear now worn by pilots and other aircrew members. Research and applied technology in the then new field of plastics was an integral part of the protective headgear project.

4. From September, 1945, to the present, Hooper has been actively and continuously engaged in the agricultural field including the ownership and operation of a 2500 acre farm in Lowndes County, Mississippi. His agricultural endeavors have included tree farming, beef cattle, dairy cattle and row crops. Farm operations were gradually concentrated on the dairy operation.

On December 31, 1974, the farm real estate was sold, however, dairy cattle, machinery and equipment were retained and the dairy operation continues.

5. From 1950-1957, Hooper was a partner in a canning plant located in Columbus, Mississippi. The business was incorporated late in 1957, as Columbus Canning Company, Inc., and in 1958 was sold to an investor group from Atlanta, Georgia.

6. From 1955 to the present, Hooper has marketed those portions of the original farm real estate that were unadaptable for agricultural use but were, because of wooded and rolling terrain, suited for homesites.

7. Since the early 1950's, Hooper has maintained an intense and active interest in water resource development and management. This interest developed because of water related problems personally experienced in farming endeavors, including floods, drought, diminishing water tables, internal drainage problems, siltation and erosion.

Working toward possible solutions to these problems led to active involvement in and with numerous organizations devoted to the efficient development and management of water resources. Hooper was one of the founders of the Mississippi Rivers and Harbors Association and has served this organization both as President and Board Member. He was a charter member of the Tombigbee Water Management District and was appointed to successive terms on the Board by Governors Coleman, Barnett and Johnson of Mississippi. He was appointed by Governor Coleman to the original Board of the Tombigbee Valley Authority (predecessor of the Tennessee-Tombigbee Waterway Development Authority) and was named a member of the Water Resource Advisory Boards for Republican presidential candidates in 1960, 1964 and 1968.

8. Hooper is married to the former Virginia Reid Fite of Columbus, Mississippi. They are the parents of three children: Mrs. Ralph E. Rood, a landscape architect and member of the American Society of Landscape Architects; Dr. James F. Hooper IV, a resident at the University of Kentucky Medical Center in Lexington, Kentucky; and P. F. Hooper, a farmer and agricultural student.

The Hooper's are members of St. Paul's Episcopal Church in Columbus, Mississippi. He is a Trustee of the Mississippi Kidney Foundation, former Board Member of the Lowndes County (Miss.) Farm Bureau, member of the Air Force Association and the Columbus-Lowndes Historical Association.

Senator RANDOLPH. Senator Stafford, thank you for joining us this morning for this hearing.

Mr. Hooper, the chairman feels that it is appropriate and fair in the questioning of the witness that we agree to a 10-minute period for each member. That would include not just our questions but the responses.

That will give an opportunity to members, other than the Chair, to occupy the time. I have always felt that that is a necessary procedure to be followed.

Mr. Hooper, I have familiarized myself with your statement. I, of course, can agree with you that our oil and our natural gas reserves are being depleted. I know that, of course, because of the situation in the State in which I live. I realize it full well because I worked in the oil and gas fields as a young man.

My father was an oil and gas producer. So when I talk to you about these subjects, I have a certain background which I hope will help us to understand these issues.

You said the problem of what fuel will be used to supply the additional generation of electricity is paramount. Of course, I concur with that statement.

You have also included this language: "We must rely upon our present known coal reserves to supply existing plants and for future expansion."

This statement, of course, is one that I can agree with very quickly, as a Senator from a State which is the second in coal production in the Nation.

As of June 1975, Mr. Hooper, according to the annual report of TVA, the generating capacity on the TVA system was 26,726,630 kilowatts. Additional generating capacity now under construction or planned would add another 21 million kilowatts over the next decade. However, the bulk of this additional capacity will be in nuclear powerplants.

Seven nuclear powerplants, if we are correctly informed through the report, will involve 15 generating units. These, as I have indicated, are under construction or are on the planning boards. Another eight combustion turbines or pump storage units are under construction.

I have stated these situations, based upon what you have indicated in your statement.

Mr. Hooper, would you agree that the present TVA construction schedule is pronuclear, that it does not rely on the abundant coal resources that exist within the TVA service area? Will you comment, please?

Mr. HOOPER. Senator, I have to agree with your statement, as far as I can determine. I have no intimate knowledge of this but as far as I know what you are saying is correct. I have read that it is pronuclear.

Senator RANDOLPH. Mr. Hooper, then I presume that you would be prepared to work toward a greater reliance on coal?

Mr. HOOPER. No question.

Senator RANDOLPH. On the generation of power in TVA. Is that correct?

Mr. HOOPER. It is inevitable, Mr. Chairman.

Senator RANDOLPH. Three powerplants involving eight generating units are yet to be approved by the Nuclear Regulatory Commission. Are you prepared to urge that these be coal-fired plants?

Mr. HOOPER. Senator, I would have to say that, from what I know of it at the present, I am not completely informed, but from what I see of it, this would have to be done. We move both nuclear and coal. From what I can determine, this is a dead-end situation in the nuclear at this point.

Certainly a breathing period has to be in here until we find out where we are going.

Senator RANDOLPH. The Chair would place in the record the generating capacity under construction of plants as of June 10, 1975.

This breakdown will indicate in detail what the chairman has referred to in the matter of powerplants. Without objection, we will include it.

[The material referred to follows:]

GENERATING CAPACITY UNDER CONSTRUCTION OR PLANNED, JUNE 30, 1975

	Units	Kilowatts	Scheduled commercial operation
Combustion turbines—Gallatin.....	4	325,200	1975
Browns Ferry nuclear unit 3.....	1	1,152,000	1976
Sequoyah nuclear.....	2	2,441,160	1977-78
Raccoon Mountain pumped storage.....	4	1,530,000	1978
Watts Bar nuclear.....	2	2,539,800	1978-79
Bellefonte nuclear.....	2	2,664,000	1980-81
Proposed Hartsville nuclear (scheduled work start, 1976) ¹	4	5,148,000	1981-83
Proposed Phipps Bend nuclear (scheduled work start, 1977) ¹	2	2,574,000	1983-84
Nuclear plant being considered for western area.....	2	2,814,000	1983-84
Total.....	23	21,188,160	

¹ Scheduled start of onsite work is subject to approval by the Nuclear Regulatory Commission.

Senator RANDOLPH. Mr. Hooper, you have stated in your prepared material, and I am quoting you directly—

It is generally accepted at this time that all proven reserves of high quality uranium at a reasonable price are committed to conventional reactors already under contract.

That is your statement. Additional reserves of low cost, high-quality uranium must be found. As you pointed out, and I quote—

The further use of conventional reactors is dependent upon the availability of low cost and high quality uranium.

That is the end of the quote.

Mr. Hooper, would you agree that there conceivably could be a shortage of low-cost, high-quality uranium in the future? Would this not jeopardize the economic viability of the nuclear plants which are now planned for the TVA?

Mr. HOOPER. Senator, as I understand it, it affects not only TVA but any other utility involved in the future use of nuclear because in the past, as I understand it, the balance between the high cost of capital was balanced off by low-cost fuel.

When your fuel starts rising, then you begin to approach a zero and possibly go past uneconomic, as far as coal is concerned.

Senator RANDOLPH. We will come back to these matters, perhaps later. Then there is the question of nuclear safety.

Mr. HOOPER. Nuclear safety?

Senator RANDOLPH. Yes, sir.

Mr. HOOPER. I have no positive problems with the operation of the plant itself. I am concerned about the reprocessing of the spent fuel. I have been unable to get any satisfactory position on that. As far as I understand it, this is a dead-end.

Senator RANDOLPH. Mr. Hooper, during fiscal year 1975, two of the three units at the Browns Ferry Nuclear Power Plant were taken out of service as the result of the fire that damaged electrical cables. I have

asked you about nuclear safety. It would be a concern to you, would it not?

Mr. HOOPER. Definitely.

Senator RANDOLPH. Would you advocate that the TVA slow down its construction program until pending safety and radioactive waste disposal problems are solved?

Mr. HOOPER. It would be premature for me to say exactly what I would or wouldn't do. I would certainly say I am very concerned and would want to examine it very carefully.

Senator RANDOLPH. I think that is a fair response at this point.

Mr. HOOPER. Yes.

Senator RANDOLPH. The Chair asks unanimous consent to place in the record at this point a statement which I issued on February 11 in reference to nuclear power and the unresolved safety and radioactive waste disposal problems that plagued, frankly, the continuance of a nuclear power program in the United States.

I may refer later to some parts of that statement. Without objection, I would place it in the record at this point.

[The statement referred to follows:]

WASHINGTON.—“Nuclear power, after 25 years, continues to be plagued by unresolved safety and radioactive waste disposal problems.” U.S. Senator Jennings Randolph declared here Wednesday.

The failure of the nuclear industry to find adequate solutions to these critical problems has led to the recent resignation of three General Electric engineers and a top official of the Federal Nuclear Regulatory Commission.

Randolph observed that the “safety of existing nuclear power facilities has been compromised by the industry’s pursuit of an ever-increasing number of plants.” On January 26, the Vermont Yankee Nuclear Power Corporation plant was ordered shut down following the failure of computer tests of the reactor’s safety system, Randolph noted.

Quoting from an earlier statement of March, 1975, the Senator added: “If our country is to become energy self-sufficient we cannot allow the advocates of nuclear energy to carry us down the road to disaster in the 1970’s and 80’s that they did in the 1950’s and 60’s.”

Commenting on the Federal Energy Research Program, Randolph also noted that the fiscal year 1977 budget “perpetuates the bias toward nuclear power and nuclear weapons development that has historically plagued Federal energy programs. It also fails to emphasize solutions to the problems of conventional fission reactors.” Instead, Randolph added, “the budget of the energy Research and Development Administration calls for significant expansion of breeder reactor research—a second generation technology—before the first system is proven environmentally sound.

“Our country’s positive energy future must depend on greater coal utilization rather than expanded nuclear research,” the Senator declared.

U.S. SENATOR JENNINGS RANDOLPH.

Senator RANDOLPH. Mr. Hooper, you stated that you are unalterably opposed to any strip mining unless it is accompanied by proper and effective land reclamation procedures.

I believe, Mr. Hooper, that the record will show that over the years the TVA has consistently opposed strong Federal legislation in surface mining reclamation. Do you support such legislation or are you prepared to advocate the use of TVA’s purchasing power to foster improved surface mine reclamation by your coal supplies?

Mr. HOOPER. Senator, as to however the problem is to be solved is another question, whether it should be a Federal law or whether it should be State laws or whether the company itself can enforce it.

The only thing I am saying is that you are spinning your wheels if

you, in using up one resource, are destroying another resource by the waste in your water system. Since it is unnecessary, it can be reclaimed, then I think it must be done.

Senator RANDOLPH. The chairman would agree with you in your statement that there must be effective land reclamation procedures. He understands at this time the comment you have made. Perhaps we will return to it at a later period in the questioning.

I have completed 10 minutes.

Senator Baker.

Senator BAKER. Thank you, Mr. Chairman.

Before I question you, I might say, Mr. Hooper, you are in a tough spot partly because the chairman and I disagree on most of what you just talked about. The chairman and I don't often disagree, but when we do so, we do so with gusto.

Let me quickly say at the outset that I don't think there is any way on God's earth that this country is going to meet its energy requirements in the future unless it relies on coal, gas, oil, nuclear, and every other energy source it can find.

I think it would be the height of folly if we discarded any of them. I have to tell you right now that you are caught up the middle at this point with the most fundamental of energy debates. That is, whether or not we go forward with nuclear or whether we depend on coal, the tradeoffs in each case are substantial.

For instance, if you don't go forward with nuclear, you are going to have greater reliance on coal. As that relates to economic concerns, does it mean you are going to have full reclamation of surface mining? I hope so. You don't have it now. Does it mean you are going to internalize the cost of producing coal? If so, what effect will that have on the price of a ton of coal?

What are you going to do about the sulfur that is emitted from the smokestack? What will that do to the cost of electricity?

Nuclear power is essentially known. It does not insult the environment in any way. It does not depend on fossil fuels. It does not discharge as much heat as a steamplant. It does not discharge any sulfur. It does not require surface mining of coal or the reclamation of coal or the prevention of acid limestone run off.

I will get around to asking you a question in a minute. I want to tell you you have to have all those things. I think it would be extremely unfortunate if we, by confirming you or recommending to the Senate that you be confirmed, set a policy that the TVA Board should set in their own deliberation and not embargo or exchange for this kind of information.

I am going to take you back over some of these questions and see what answers we get.

Let me ask you this. Wholly aside from the fundamental confrontation between nuclear power and coal, are you telling this committee that you would recommend that TVA discard and abandon its present plan for presently designed nuclear powerplants?

Mr. HOOPER. Senator, to answer you indirectly, and I will come around to directly, I have tried to point out the fact that there are problems in both areas of generation. I have pointed out and made specific note of some of the problems in the use of coal, such as the gasification and get anything to the sulfur extraction.

I am also quite aware, and have tried to point out, that there are big problems in the nuclear field. I can't agree with you more that we need both.

So far as stopping anything that is in construction, as I understand it, anything they have already contracted for has already contracted for the low cost, high quality uranium.

My concern is 10 years from now, where they are going to start up with higher costs of uranium.

Senator BAKER. That is not the question I asked you. I asked whether or not, as a member of the Board of Directors of TVA, you would vote in favor of discontinuing present plans for future construction of nuclear plants.

Mr. HOOPER. How far further?

Senator RANDOLPH. I am talking about the ones that are now planned.

Mr. HOOPER. The ones that are now planned and have uranium under contract?

Senator BAKER. No; that is not the question I put. I believe there are 10 altogether that are planned and that could be provided for I suppose under the additional bonding authority that we gave to TVA.

While you are conferring with counsel, let me hasten to say I think TVA ought to rely more on coal. I think it ought to fully take account of the coal potential for its future plants. The point I am asking you is for clarification of the answer I understood you to give to the chairman, that is, would you vote in favor of abandoning presently planned nuclear plants?

Mr. HOOPER. Senator Baker, my answer is this. I would have to know, I would want to know as an individual, regardless of whether I am on the board, whether or not they had the low cost, high quality uranium available for such a plant. I would also like to know more about the recycling of the fuel in the present reactors. That would determine my decision.

Senator BAKER. It is my understanding that TVA now has plans and we have provided funding that presumably would cover the completion or the construction of 17 presently planned or future nuclear generating units between 1976 and 1985.

Those are the ones I am talking about. As a member of the board, would you vote to discontinue those or would you vote to go forward with those; or do you know?

Mr. HOOPER. My answer is if I knew that they had low cost, high quality uranium available for those plants, then to go ahead with them. But that is a critical point to me, where the line crosses.

Senator BAKER. The chairman indicated that TVA had always been opposed to strong surface mine control legislation. I would gently and deferentially disagree with the chairman and point out that TVA endorsed the bill that the Congress passed and which President Ford vetoed. Clearly that was the first time that TVA, as far as I know, has done that. But they did support that.

Are you familiar with the bill that Senator Randolph and I helped pass in the Senate and the Congress and that President Ford vetoed? Are you familiar with its general terms?

Mr. HOOPER. Generally, yes, sir.

Senator BAKER. And that it generally provides that if you surface mine coal you have to essentially put the ground back the way you found it.

Mr. HOOPER. Yes.

Senator BAKER. Not exactly, but essentially to restore it to its former topographical form. That is the bill TVA supports and I support and the bill that President Ford vetoed. And I think the chairman supported it.

I believe the United Mine Workers supported it. I think that is right. What would be your position?

Mr. HOOPER. As far as the specifics of the bill, I am not familiar with it. But as you are stating it, the general statements you have made, I agree with you.

Senator BAKER. The TVA Board endorsed that proposal as passed by the Congress. Would you have disagreed with that proposal as you now understand it?

Mr. HOOPER. As I now understand it, no.

Senator BAKER. Mr. Chairman, my 10 minutes are up, but I am finished. I will come back.

Senator RANDOLPH. Howard, there are only two of us present right now. If you would wish to proceed, you do it. Then I will come back and gently but earnestly disagree.

Senator BAKER. Why don't you go ahead?

Senator RANDOLPH. Remember the bill to which you refer was one in which there were pluses and minuses. We attempted to try to present a bill which was balanced insofar as possible.

Presently, Mr. Hooper, there are no coal-fired electric powerplants under construction for operation between the present time and 1984. That is the reason I stressed what I did about the nuclear program. I don't believe that situation would lend itself to your making a statement, Mr. Hooper—I certainly would not—that there is a recognition of coal in the service area. Would you comment?

Mr. HOOPER. Are you asking me is there a recognition? Is that what you asked?

Senator RANDOLPH. Yes. I have given you the number of plants and what type plants they are, sir.

Mr. HOOPER. Senator, if I may say it this way, I think it is a mistake to limit this discussion to nuclear or coal. In my opinion, we are going to need all sources of energy. We must pursue them all.

There are a whole lot of them. Some of them are called esoteric things. I can see a definite place for solar energy.

Senator RANDOLPH. I do too.

Mr. HOOPER. If we are to sit here and discuss back and forth just these two, it will be a mistake.

Senator RANDOLPH. We will discuss more than that, Mr. Hooper.

Mr. HOOPER. I understand, but I am trying to put that perspective in. From what I have been able to determine, we could be in a serious condition as a nation from a complete lack of energy or inadequate energy. We must pursue every possible way we can.

Senator RANDOLPH. Of course that is true, Mr. Hooper. It is not the time for me to lecture on this subject. But I would remind you that in 1944 I coauthored the Synthetic Fuels Act with Senator Mahoney of Wyoming.

I recall very well what we did because we were attempting to find if it was feasible to have gasification, to have liquefaction, to use oil shale, to use coal as the base for motor fuel and also for aviation fuel.

With another young man I flew from Morgantown, W. Va., to National Airport here, 175 miles across mountainous territory in a single engine plane. That plane was fueled with aviation gasoline made from West Virginia coal. You see, we knew what this was all about a long time ago in this country.

We were attempting to find not the cost per unit, but to find out if we do it here. Why were we doing that? Because along the east coast and the New England waters the submarines were in action even then, cutting off, Senator Stennis, the petroleum supplies at that time in connection with World War II.

So it was a serious matter. The legislation passed. The projects went forward. The plants were established. The pilot programs were in-being. And, as so often happens in this country, when the U-boats went home, America went back to sleeping again, in reference to the energy problems that were to be magnified with the mobility of an America, which has been increasing through the years.

It was in the fifties that the program flattened out with no appropriations for the programs that were ready to move. We should have had a fuels and energy policy for the United States of America then, but instead the program died.

I came to the Senate of the United States in 1958. I remember very well, having been out of Congress over a period of 11 years and being unable as a legislator to pursue that which I had worked on. I did so and offered many, many items of legislation to bring into being a commission composed of the proponents of policies that would be carefully evaluated, including public members, Members of the Senate, Members of the House, appointments made by the President of the United States. We did not pass such legislation.

In 1961, after a failure in 1959 to have the Congress respond, I stood as a witness. I did not sit as you did because I felt very strongly about what I was saying.

I said "Each year that we delay the establishment of the fuels and energy policy for the United States of America, perhaps brings us 1 year nearer to disaster."

Those words were true; they continue to be true. Frankly, they are true today. We have not developed the dependence upon our own ability in this country to provide the fuels and the energy for this Nation and we have been at the mercy of those countries who could not only supply us but could also cease supplying us at any time.

All of this is a matter of record. The hearings are very replete throughout the years.

Then a little later we determined that, having failed in these earlier efforts, at least in the Senate of the United States we would try to call on the Commerce Committee on which Senator Baker serves. Other committees of the Senate joined with the Public Works Committee, the Interior and Insular Affairs Committee, and the Joint Committee on Atomic Energy and we would see what we could do to bring a body of energy legislation to the Senate and ultimately to the Congress, which might help us to do what we should have done before.

We act after the fact. It is more noticeable in this matter of energy than perhaps any other segment of our life.

I have talked too long on that subject. Ordinarily, I would not do so, but, in this instance, I am familiar with the subject matter about which I speak. I have worked on this subject for a long, long time. I am thoroughly in agreement with Senator Baker and others that, of course, we want to develop all the forces of energy and fuel in the United States of America which are possible and feasible to develop.

All that I have said, and I would repeat, is that we are attempting here, as you are being considered as a member of the Board, Mr. Hooper, to have you think of perhaps the varying viewpoints that will be expressed here in reference to what we are doing.

We are talking, Mr. Hooper, about supplying the electric power needs of TVA service areas, and we are talking about the next 10 and 15 years. All that I have to do is to look at the record and see what now is programmed. This means new powerplants, doesn't it?

Mr. HOOPER. Yes.

Senator RANDOLPH. And it means that TVA is building, according to its own annual report, nuclear powerplants. My question, a very proper question, one that I am not excited about but one that I am in dead earnest about: Are you prepared to work for a greater utilization of coal within the Tennessee Valley service area? It does not seem to me that TVA's present construction schedule is balanced.

It is unbalanced. It is pronuclear. I want a balanced schedule. That is what I have been asking and advocating.

Mr. HOOPER. Senator, if I may respond just a moment. I am quite aware of your comment of your record in trying to, if I may use the phrase, wave a red flag about an impending energy shortage. I have read the minutes of these hearings. I would like to suggest to you that maybe you can share my frustration in trying to wave a red flag about an impending agricultural crisis. You just don't get anywhere with it. You had a much stronger forum, of course.

I don't want to act after the fact in agriculture. That is my whole thrust of this.

Senator RANDOLPH. I noticed on television yesterday morning, two farmers from the drought-stricken areas of the Far West whose crops were completely obliterated. I listened to both those farmers talk.

I thought, what patience they have. One man was saying, "We have lost our crop this year. All that we can do is get ready and prepare, hopefully, for a crop next year." There is a certain patience about farming. I understood it again as I have before, in the comments made by those two farmers.

The doctor heals and the lawyer pleads and the miner gets precious leads, but this or that, what-e'er befalls, the farmer he feeds them all.

Russia doesn't know that today, with all of its planning, with 5-year programs one after the other. I shouldn't make this comment, but you have got to love the land. You must have a certain percentage of production to justify your working to please some commissar or some official. And then you go not one iota beyond that. You are working within just a plan.

People who love the land understand what it means to till it and to bring it into production.

Senator BAKER. Mr. Hooper.

Mr. HOOPER. Yes, sir.

Senator BAKER. One final word about the coal-nuclear confrontation. I am sure you understand that I am not trying to put you in a box. I really do believe that the country's best hope for energy independence is a reliance on nuclear power and coal for power generation. The Congress and the President have mandated that many electric plants which currently use gas and oil must convert to them.

There isn't the slightest doubt but that coal is going to be in great demand for many reasons. In my mind, there is no doubt that coal ought to be considered as a prime fuel in the future by TVA.

All I want to establish is, that if you are confirmed as a member of the Board of Directors of TVA, that you will take account of the facts as you find them and take that job without prejudice on the outcome. You have to tell me that or I am going to vote against you. You have to say one way or the other right now.

Mr. HOOPER. If I understand you, you are saying, do I have a preconceived position, and therefore against or for. What I would answer is that I must go into this thing with an open mind. I think that it has to be evaluated. I would have to have more detail before I would ever go into any commitment one way or the other, other than we need all the energy we can get from every direction.

Senator BAKER. And the remaining part I won't belabor anymore. That is whether or not you indicated to the chairman that you would recommend that you abandon present plans for nuclear construction.

I am opposed to that. I think it would be the height of folly to go backward. The fact that the Browns Ferry plant went offline cost the consumers untold millions of dollars in increased electric cost. That fire never involved a single aspect of the nuclear reactor.

If it had been a steam generating plant burning coal, it would have been the same fire. That is for another day and another debate.

Are you familiar with TVA's participation in the demonstration breeder reactor?

Mr. HOOPER. The fast breeder; yes, sir, reasonably.

Senator BAKER. Do you understand that TVA is one of the partners in that effort to build a demonstration plant along with Commonwealth Edison and a consortium of other private power companies?

Mr. HOOPER. Yes, sir.

Senator BAKER. What is your view on whether TVA should continue in that role as one of three partners?

Mr. HOOPER. Senator, I can't have any positive view because I don't know what their participation is. I don't know what the cost to TVA is or from whence the funds would be refunded.

Senator BAKER. What is your idea? What do you think of the desirability of building a demonstration breeder reactor?

Mr. HOOPER. I would think it would be a great thing if it can be accomplished.

Senator BAKER. You can certainly build it.

Mr. HOOPER. What is that?

Senator BAKER. You can certainly build a demonstration breeder. Russia has already built two. France has built one and England. There is no doubt that it can be built. The question is, what do you

think of the concept effort of the private power and the Government combined.

Mr. HOOPER. I see nothing wrong with a partnership. I think it should be encouraged.

Senator BAKER. So your question is as to the desirability and the economic feasibility in the breeder reactor in the future as a prime power source for the United States. Is that what your reservation goes to?

Mr. HOOPER. I didn't understand the first part of the question.

Senator BAKER. Your reservation, that is, you can't say until you know the facts, that concern, that doubt goes to whether or not the breeder reactor will become a prime power source in the future, rather than a reservation as to whether we should build an experiment with a demonstration plant.

Mr. HOOPER. Yes.

Senator BAKER. We have a really tough time, Mr. Hooper, as you know, in the TVA region because of escalating power rates. It has reached extraordinary proportions in the stress and the difficulty that it has caused. By way of just a brief preface, TVA is in a unique responsibility position, because not only is it a giant utility—the largest not only in the country but in the world—but by its low residential rates over the years, TVA has effectively induced low-income people and elderly people to use electricity for space heating. Do you understand about that?

Mr. HOOPER. I am very aware of that.

Senator BAKER. It is the space heating load where the enormous seasonal increases in rates have hit. People who had power bills of \$20 and \$30 a month ago now have \$80 or \$100 bills because of space heating. More often than not, with low-income families and frequently with the elderly, if they used space heating, they did so because it was cheap to install space heating.

They frequently do not have adequate insulation, so in cold weather, with increased fuel costs, they get hit harder than anybody. Would you agree with me that some special attention must be given to that problem in recognition of TVA's special responsibility to low-income and elderly people in our service area?

Mr. HOOPER. Senator, I couldn't agree more. It is upsetting. As you say, you didn't benevolently do it, but we certainly encouraged people to get into this position.

Senator BAKER. We took great pride in the fact we could use low-cost TVA power to heat homes in our region, where they couldn't in other parts of the country, because of the low rates and low cost cost of installation. That was true and that was right, wasn't it?

Mr. HOOPER. I would answer it this way: certainly with a fixed income situation, this is a disaster.

I would also call your attention to the fact that that same person is paying two and three times as much for their food as they were years ago.

Senator BAKER. There is a bottom to every well. If you get a \$150 Social Security check or a \$200 check and your power bill is \$150 and your food bill has doubled also, it may well run past the bottom of that well.

What I am driving at is this: Would you, as a member of the board of TVA, engage actively in an effort to explore techniques for lowering the impact or lessening the impact of space heating costs to low-income and elderly families in the TVA area?

Mr. HOOPER. Senator, I start even farther back.

I think we ought to do everything we can to increase the efficiency of combustion in the area and the efficiency of transmission. Anything we want to reduce, we have to get the cost down.

As far as specifics, as insulation, it is ridiculous to be wasting this heat out into the air.

Senator BAKER. What would you do about it? How would you feel about a TVA program for low-cost loans to consumers to insulate their homes?

Mr. HOOPER. I have heard that proposed. I don't know enough of the details to take a position on it. It makes sense to get insulation in there to stop wasting the power.

Senator BAKER. Most times when you have a family on low or medium income who installs resistance heat, they did so because it was cheap and it is clearly not as efficient as other systems.

Do you see any merit in the possibility of exploring low-cost loans for improving home heating systems?

Mr. HOOPER. I think it is very important.

Senator BAKER. Do you think TVA ought to consider getting into that banking business; or do you think they ought to make recommendations to Congress in that respect; or both?

Mr. HOOPER. As to what the specifics are, all I am saying is, I think it must be done and we must do anything we can to relieve the situation. TVA has an even further interest because it has to do with their peak power load.

If they can reduce it, they are not only helping the individual but they are helping themselves. Is that a congressional function or a banking function? I don't know.

Senator BAKER. You recognize the problem?

Mr. HOOPER. Oh, certainly; it is a tremendous problem.

Senator BAKER. The statute requires that, to be a Director of the Tennessee Valley Authority, you must devote yourself as a full-time businessman to the business of the corporation. Would you do that?

Mr. HOOPER. Yes, sir.

Senator BAKER. And that all Directors must profess a belief in the feasibility and wisdom of the TVA Act. Can you now profess that fully?

Mr. HOOPER. There is no question.

Senator BAKER. And that the Director shall take up residence at or near the headquarters of TVA?

Mr. HOOPER. That is correct.

Senator BAKER. No Director shall have any financial interest in any public utility corporation engaged in the business of distributing and selling power to the public. Do you?

Mr. HOOPER. No; I do not.

Senator BAKER. No Director shall have any financial interest in any corporation engaged in the manufacture, selling, or distribution of fixed nitrogen or fertilizer or ingredients thereof.

Mr. HOOPER. I do not.

Senator BAKER. Or an enterprise that may be adversely affected by the success of TVA as a producer of fertilizer or power.

Mr. HOOPER. No.

Senator BAKER. I might add or of coal or nuclear power. You have no interest in either of those?

Mr. HOOPER. I have not—financial interest.

Senator BAKER. Mr. Hooper, the TVA Self-Financing Act was passed with the assistance of the chairman, who was instrumental in moving that legislation. It was passed in part through the efforts of my father who served in the Congress and represented the Second Congressional District of Tennessee in his lifetime for many years.

It was hailed and is now hailed as the device by which TVA became self-supporting and avoided the confrontation between public and private power interest in the Congress by becoming self-financing, by issuing bonds pledging the revenue, and that is still the law.

We recently increased TVA's bonding authority from \$5 billion to \$15 billion, which ought to build some sort of powerplants. The point of the matter is that TVA's debt to equity ratio is now about 65 percent debt and 35 percent equity—if you think of equity as the Government's contribution, other than the sale of bonds by the agency itself.

What is your view on how far the agency can go in its debt equity ratio, or whether there is any limit to how far the agency can go and still provide the services and perform the functions required by the act?

Mr. HOOPER. The only overall comment I can make to that, Senator, is that the debt ratio of the accumulated interest charges as they affect the cost of power are critical. I think that has to be kept under control. That is my feeling about it.

Senator BAKER. How are you going to do that? There is not much likelihood that the Congress is going to appropriate much money to build your steamplant, whether it is nuclear or coal fired. You are going to have to do it out of borrowed money or earnings. That gets you square up against the next dilemma, which is even grander than that between the chairman and I about nuclear power.

Senator RANDOLPH. I have to interrupt, Howard. I know it is not an either/or.

Senator BAKER. No; it isn't. You have to have both.

Senator RANDOLPH. We were talking about balanced energy production. I pointed up, of course, some of the very serious doubts that I have had, not just today but in the past, about nuclear power.

Senator Baker very properly responded about his belief in the program. I would stress, and I think Howard would concur with me, that we are talking about a balanced program for the future.

Senator BAKER. We are, indeed.

Mr. Hooper, that gets you up against the question of how far you can go in the development of nuclear capacity. Is it your feeling that you should provide the capacity for the electrical needs of the region, or that a viable alternative is to reduce the expansion of TVA's electrical generating capacity?

Mr. HOOPER. Senator, the word "viable" leaves a question in my mind. I would call it a very unfortunate situation if we had to reduce.

I would much prefer to meet the needs. On the other hand, if the cost is getting out of line to the point that it is really not usable, then you have to cut it back. I would hope, and I think we are all sitting around hoping, that some of these technological breakthroughs will solve this for us before we get to the crisis point.

I know the MHD program was magnificent: 50 percent increase per Btu from coal is an unbelievable advantage. If we get that in all of these things, we will get back in line. That is where it has to come from, better efficiency.

Senator BAKER. Let me put one final question which you can answer later. TVA was conceived of, as I guess, the first Federal regional development project—for the whole Tennessee River system—and given the responsibility to develop the valley in an integrated and useful and coherent way.

I confess sometimes I think that emphasis, that is coherence of a regional development, has shifted to the production of electricity and flood control. There are some other elements. I would like you to comment, if you care to a little later, on how you would revitalize the concept of a balanced regional development role of TVA as distinguished from being just the world's largest power generator.

Thank you, sir. You can do it now or wait.

Mr. HOOPER. I can answer it in a general way now. The words: interest, emphasis, priority—I think probably comes back to funding. As to as far as balancing up, you can't expect all of the investment being in power and expecting everything to balance up.

I think we are talking more about emphasis in terms of looking at the programs. I am speaking now primarily of agriculture, which is regional development. I understand that they are doing a good job in giving community advice on how to rehabilitate communities.

This is an area in which the main thing I am concerned about at the moment is the emphasis on agriculture, because it is a present emergency need.

Senator BAKER. You have a broad charter in the TVA Act. The reason I suggested you might want to think about it is because as you do, you realize that there is a whole range of opportunities that TVA could take advantage of for regional development that have never been undertaken.

Sometime before these hearings are over I would like you to think about that and see if you have any new ideas about how TVA could better serve that role as a coordinator of regional development.

Mr. HOOPER. One thing I am very high on, and it has been mentioned, is the recharging of our aquifers. The reason TVA can do this is that the difficulty of Columbus, Miss., putting its water plant in the ground, then Meridian is going to get the water.

So why would Columbus do it. You have to get each town doing this, and this is where you get a regional integrated situation.

Senator BAKER. Mr. Chairman, I think it might be well to point out that in deference to Mr. Hooper's position, the exchange we have had here, the nature of the questions that have been presented to him and his answers emphasizes the fact that TVA at this juncture in its history is at the crossroads of virtually every important domestic confrontation or issue before us.

Whether it is power production, conservation, environmental development, transportation, agriculture, the manufacturing industry, commerce, all of them are involved one way or the other in the mandate or in the actual activities of TVA.

So the appointment of a director of this agency has extraordinary importance, in that TVA is supposed to be a model on which we try new ideas and demonstrate to the rest of the country.

Senator RANDOLPH. That is true, Senator Baker. That certainly, in considerable part, is the reason for the questions that are being asked of Mr. Hooper at this time.

Mr. Hooper, we have the Clean Air Act on the books. We are now bringing amendments to that act to the Senate. We have the Environmental Protection Agency. We have the State air pollution control officers, and in all of these there is requirement of a constant emission limitation approach for the control of air pollution.

Available techniques for the control of sulfur dioxides are low sulfur coal, coal washing, and chemical scrubbers.

Senator Baker very properly included in his comment and the questioning the value of scrubbers. He didn't say that we were not developing scrubbers, that they were not now in use, but there was a question mark implied, and very properly so, as there are in many areas of how to develop that energy source without defiling, of course, the environment.

A major obstacle to a greater burning of coal, Mr. Hooper, has been a reluctance on the part of some utilities in our country to install stack gas scrubbers to meet these clean air standards.

TVA accounts for more than half the sulfur dioxide emissions in the southeast. Yet, TVA is in the process of installing only one scrubber unit.

Mr. Hooper, I think it is a fair statement for me to make that this is the situation. It is also fair for me to ask you if you are prepared to support the installation of scrubbers on all units identified by EPA as needing necessary scrubbers?

Mr. HOOPER. Senator, as I understand it, the one installation that you have described and is a joint testing by EPA and TVA to determine the efficiency of the type scrubber, they have at the same time set up a program of shutting down various coal plants if in fact an inversion occurs in that area and have on standby the low sulfur coal so that they cannot abuse the air during those certain bad weather conditions.

To answer your question, I would very much like to know the efficiency of that scrubber. I think possibly a lot of design technique will be learned. I would sincerely hate to go out and spend \$100 million and find out you are creating more of a problem in the disposal of the material you are using.

In other words, the limestone gets to be a problem. I have hear it can swamp us in polluted limestone. I would say I was very interested in this. I think this is the very approach for EPA and TVA to coordinate their efforts to determine, record everything, and from there determine what to do.

Senator RANDOLPH. At that point, I am going to go ask Mr. Grundy to state for the record, and if he doesn't have the information he can obtain it, in reference to what Senator Baker mentioned, the transfer

over, as it were, from oil and natural gas to coal for electric generating plants, the Federal Energy Administration has in effect ordered that transfer of how may units.

Mr. GRUNDY. I believe it is 74 electric powerplants that have the capability to burn coal, are in the process or being ordered to switch to coal.

Senator RANDOLPH. Mr. Hooper, you understand that in some instances this can be done without a scrubber. There are certain percentages of those utilities who can do it without installation of equipment.

Yet they have been reluctant to make this changeover. There are some in the transition era. There are some, of course, who need the highest techniques, whether it is scrubbers or whatnot to qualify, is that correct?

Mr. GRUNDY. That is correct, Senator. The majority of the plants require additional particulate controls, but it is understood on these plants that will be converting to coal, that the majority of them can meet the sulfur restrictions by use of the available fuel. They were purposely chosen that way.

Senator RANDOLPH. For the record, Mr. Grundy is the secretary of our Senate fuels and energy study which I mentioned.

Mr. Hooper, the Tennessee Valley Authority continues to advocate an alternate method of meeting ambient standards for sulfur dioxide around its coal-fired steam plants. This alternative control system uses a combination of tall stacks and meteorological forecasting to reduce emissions temporarily during unfavorable dispersion conditions with the use of low sulfur coal or a reduction in the generation of that power.

According to TVA's 1975 annual report, to which I made reference, over the last 6 years some \$60 million has been spent on tall stacks at the Kingston Shawnee Willow Creek steamplants.

Mr. Hooper, during that intermittent control technique, the various techniques for sulfur oxides are not permitted under Federal law. Are you prepared, as a proposed director of TVA, to support the use of continuous emission controls?

Mr. HOOPER. The continued use of emission controls?

Senator RANDOLPH. Yes.

Mr. HOOPER. Yes, sir.

Senator RANDOLPH. Continuous?

Mr. HOOPER. Rather than intermittent, that they are presently doing?

Senator RANDOLPH. Yes.

Mr. HOOPER. As I understand it, their understanding with EPA is based upon the results of their present testing. If based on that, then they would make the decision. That is my understanding. I don't know.

Senator RANDOLPH. The intermittent controls are not permitted by Federal law.

Mr. HOOPER. As I say, I don't have the detailed knowledge of it. My understanding was that they had, what do you call it, an intermediate period where they can test this and in the meantime go through the intermediate business until they find it out. I feel like a solution of this is in the desulfurization technique.

I am much more in favor of trying to get the sulfur out before you blow it up in the air than to worry about recapturing it.

Senator RANDOLPH. I think, Howard, the intermittent controls can be used only as long as the scrubbers are not installed. I believe that is correct.

Mr. HOOPER. Yes.

Senator BAKER. I think the real status of the situation is that you can use intermittent controls presently. It is sort of up in the air about how long TVA and other utilities can use intermittent controls before continuous control measures are required.

Senator RANDOLPH. That is correct.

Senator BAKER. That, of course, is before us now, Mr. Chairman, in the markup of the clean air amendments.

Senator RANDOLPH. Yes; Mr. Hooper, you have indicated that the Tennessee Valley Authority was created for the purposes of generation and the distribution of electric power in the advancement of the physical, social and economic development of the Tennessee Valley region.

I think that the TVA mandate, Mr. Hooper, is to advance the economy within the service area and within Appalachia. Do you consider the TVA's purchase of coal from outside this region to be consistent or inconsistent with the mandate that I have made reference to in this connection?

Mr. HOOPER. Senator, I am thoroughly confused but I am aware of what you said. I have tried to find answers, and I have no answers. I don't know why. It is certainly on the surface inconsistent. Why they are doing it, I don't know.

Senator RANDOLPH. Howard.

Senator BAKER. Thank you, Mr. Chairman.

Mr. Hooper, I think one of the prime considerations in passing on the qualifications of a nominee for the TVA Board ought to be his or her business experience what your business career has been to date?

Mr. HOOPER. I will back up and say it this way. When I was discharged from the service at the end of World War II, I had been engaged for about 3 years in advanced research in plastics. It was an infant industry. The opportunities for employment were in the big Eastern towns. I didn't want to raise my children in that area, so I went back deliberately to Mississippi.

I am prefacing my comments to you by stating it this way. I never sought a fortune in money. I am not a jet set person. I was more concerned with the quality of life for myself and my family.

Within that framework, I went back and helped and have been continuously farming for 30 years, 7 days in the week. On occasions, I have engaged in other businesses, but that has been my basic business and has remained my basic business.

I am glad to say that I educated my family and we live comfortably. In my thinking, I feel satisfied with my business career as it supplied my goals.

Senator BAKER. Mr. Hooper, the staff of the committee, in response to a request of the committee, and I think largely as a result of certain allegations made with respect to your business activities in newspapers, conducted a rather extensive field investigation, as you are aware.

In the course of that investigation, they compiled a report which was kept confidential for the use of the committee only, and which I believe you and your counsel had a chance to see.

Mr. HOOPER. Yes.

Senator BAKER. I am going to mention for you certain particular situations and ask you to describe for us your involvement with and relationship to those particular endeavors.

The first one is the Hooper Dairy Farm partnership. Would you describe that for us?

Mr. HOOPER. The Hooper Dairy Farm partnership?

Senator BAKER. Yes.

Mr. HOOPER. In 1965, I went in partnership with a man from Memphis, who had large and vast experience in farming operations. The thrust and idea of what we set out to do was to set up a factory-type dairy operation which would require tremendous sums of capital but it seemed to be the way to go in the future of dairying rather than the small isolated dairies.

We made a lot of progress in it until the period of 1969, in which Mr. Brooks—who was the partner and who in turn was involved in a number of businesses, scattered all over the South for the matter—a partner of his in an entirely different venture committed suicide. When he did, it made a tremendous demand on Mr. Brooks for their involvement in some other enterprises. This caused Mr. Brooks to first seek reorganization, which lasted about 8 or 9 months, and then finally take complete bankruptcy.

I was a very small side line of a very large situation.

Senator BAKER. Were you and Mr. Brooks equal partners?

Mr. HOOPER. What is that?

Senator BAKER. Were you and Mr. Brooks equal partners?

Mr. HOOPER. Yes, sir.

Senator BAKER. When you are speaking of the Hooper Dairy Farm, you and Mr. Brooks were the Hooper Dairy Farm partnership?

Mr. HOOPER. For that particular period, yes. Before it was mine, and since it was mine.

Senator BAKER. Did the Hooper Dairy Farm partnership go into bankruptcy?

Mr. HOOPER. No, sir.

Senator BAKER. Did it turn out to be a profitable or unprofitable operation?

Mr. HOOPER. The only way you can answer that, Senator, is we were involved in the startup period. And where we were in a very expensive operation leading toward a productive and profitable level at the time we got some call, due to this bankruptcy.

Senator BAKER. This is Brooks' bankruptcy, not yours?

Mr. HOOPER. That is right.

Senator BAKER. He was your partner in the Hooper Dairy Farm. Is that what caused the Hooper Dairy Farm to cease operations?

Mr. HOOPER. That is correct.

Senator BAKER. What did you contribute to the partnership, Mr. Hooper?

Mr. HOOPER. At the time that we went into the partnership, the balance sheet, as I recall, was \$350,000 in land, cattle and machinery. We worked out an agreement where he would contribute certain

amounts and I would contribute certain amounts and we would come up equal. This was changed as we went forward through the 4 years, but that is the basic partnership.

Senator BAKER. What finally came of the partnership?

Mr. HOOPER. The bankruptcy court examined my relation to Mr. Brooks as far as potential assets for his creditors and determined that there were none. I agreed to take over indebtednesses belonging specifically to the partnership in exchange for dissolving the partnership. We just washed it out and I took over and went ahead and operated it.

Senator BAKER. What loans did you take over?

Mr. HOOPER. The major loan was in the First Columbus National Bank.

Senator BAKER. These had been originated by the partnership and you assumed them in fact for abandonment of the trustees' claim against the partnership?

Mr. HOOPER. It was a combination of agreements. That is correct.

Senator BAKER. For the interest of time, I am going to run through these quickly and then come back to them for detail if necessary.

Would you also tell us a little about the Standard Union Life Insurance Co.?

Mr. HOOPER. Yes, sir. This was one of Mr. Brooks' properties. At one point one of the reasons, or the reason, he went into the insurance business was to use land as admitted reserves against which to write insurance.

At the time he went into it he proposed that I should put in land and he would issue me stock if the insurance commissioners accepted it.

They did not accept it as a reasonable reserve. The land was returned to me, and that is the beginning and end of my relationship with the Standard Union Life Insurance Co.

Senator BAKER. Were you an officer or director of that company?

Mr. HOOPER. I was an officer for about a 3- or 4-month period. As I understand it, it required three officers.

Senator BAKER. Were you involved in the management of the company?

Mr. HOOPER. No, sir, in no way.

Senator BAKER. Or the administration of its affairs?

Mr. HOOPER. None at all.

Senator BAKER. Was the company's license to do business in one or more States revoked at the time you were an officer?

Mr. HOOPER. The word "revoked" is not proper. The charter is in Alabama, or was in Alabama. A right to do business is an annual renewable by each State and you submit, as I understand it, the assets of the corporation on the 31st of December and they make a decision.

Then if they want to, they let you go ahead or not. You don't revoke. It is just failure to renew.

Senator BAKER. That is what I meant. Were you an officer or director at the time that the right to do business in one or more States was not renewed?

Mr. HOOPER. I was still an officer. Yes, sir, at the time the State of Tennessee notified the company, Mr. Brooks, that they would not

accept this property, we agreed he would return it to me. That was the end of it. Exactly when it was stopped, I don't know.

Senator BAKER. But the property, the real estate that you put up as a contribution to the capital of the company, I assume, was not accepted as a qualified reserve by the State of Tennessee. When that was not done, their right to do business in the State of Tennessee was not renewed and the company then reconveyed that real estate to you?

Mr. HOOPER. That is correct.

Senator BAKER. Did you go off the board then?

Mr. HOOPER. Yes.

Senator BAKER. What happened to the company?

Mr. HOOPER. At the time of Mr. Brooks filing for reorganization, in October of 1969 I believe, I had pledged the stock of that company on some venture of his in which he borrowed money from a bank in Little Rock, and the bank took over the company in satisfaction of their loan. That is my understanding of it. I didn't know anything about it.

Senator BAKER. Do you know whether the bank lost anything as a result of that loan? Did the bank collect on that loan?

Mr. HOOPER. I have no knowledge, sir.

Senator BAKER. You were not involved in that transaction?

Mr. HOOPER. No, sir.

Senator BAKER. Did that insurance company go into receivership or bankruptcy?

Mr. HOOPER. I don't know, Senator. My understanding is no, that it is still operating.

Senator BAKER. Tell us a little about Little River Farms, Inc.

Mr. HOOPER. It is in a very similar category as the insurance company. Again, it was one of the many properties that Mr. Brooks owned and operated.

Senator BAKER. Were you a partner in that operation also?

Mr. HOOPER. No, sir.

Senator BAKER. How were you involved with it?

Mr. HOOPER. It was a milk distribution store. We call it a milk jug store. You know, they sell milk direct. It was a property that had to do with some other people that Brooks was involved in, in a number of things. It is a complicated situation.

At any rate, he asked me to go look at it. I went with him and did. He bought it and, as much as I could, I tried to keep track. That is the word I used. He asked me to try to keep track of what was happening in the sense of talking or being available to the manager. And that I did. I would report to Mr. Brooks when they were passing through.

Senator BAKER. Were you an officer or director of that company?

Mr. HOOPER. Yes, sir. There was a period when I was a director.

Senator BAKER. But this also was a Brooks company?

Mr. HOOPER. That is correct.

Senator BAKER. What happened to it when Mr. Brooks went into bankruptcy?

Mr. HOOPER. An attempt was made to sell it. During the time when he was asking for reorganization and apparently they were going to give him permission, he was unable to sell it.

As I understand it, it finally went under, for taxes I believe. The court abandoned it.

Senator BAKER. Did you make or lose any money in that transaction?

Mr. HOOPER. In which one—Little River Farms?

Senator BAKER. Yes.

Mr. HOOPER. No, I did not. I neither made nor lost.

Senator BAKER. Were you involved in a loan to Little River Farms or did you assume some of their liabilities to a Marietta bank after the bankruptcy of Mr. Brooks?

Mr. HOOPER. No, sir.

Senator BAKER. Tell us briefly, if you will, about the Columbus Canning Co.

Mr. HOOPER. The Columbus Canning Co. was a company where three of us went together and started a business in Columbus right after World War II, in the early fifties, the purpose of which was to create another market for agricultural products where at that time there was nothing but a cotton situation and a lot of labor with no jobs

We struggled with it quite a while, trying to develop the acreage as well as the sales of vegetables because it offered a variety of incomes at various times during the year. As an off-season business, we got in the manufacture of pet food. This became a primary function of the company. It became very large.

In 1957, 5 years from the time we started, we incorporated it. In 1958, we sold it to some people from Atlanta, because the capital requirements were far beyond what we had ever envisioned getting into. We sold it in 1958. In the latter part of 1959, this particular group of people were involved in a number of other businesses.

It is my understanding that one of their other ventures put them in bad trouble and they simply shut the thing down and walked away from it.

Senator BAKER. Was Mr. Brooks involved in that?

Mr. HOOPER. No, sir; he had nothing to do with it.

Senator BAKER. Was the Standard Union Life Insurance Co. involved?

Mr. HOOPER. Sir?

Senator BAKER. Was the Standard Union Life Insurance involved in the affairs? Or did they acquire any of the assets of the Columbus Dairy Farm?

Mr. HOOPER. Oh, no, sir. In fact, that was 10 years before.

Senator BAKER. Are there other business relationships or undertakings of any major consequence that you have been involved in over the course of this period, Mr. Hooper?

Mr. HOOPER. No, sir; none.

Senator BAKER. I am sure we will have other questions about these at other times. Let me conclude my segment of questions, Mr. Chairman, by asking one general one.

Have you yourself ever been in bankruptcy?

Mr. HOOPER. No, sir.

Senator BAKER. Have you yourself ever been in receivership?

Mr. HOOPER. No, sir.

Senator BAKER. Or any other sort of solvency proceeding?

Mr. HOOPER. No, sir.

Senator BAKER. Have you ever had any land or claim filed against you by any government for unpaid taxes or obligations?

Mr. HOOPER. No, sir.

Senator BAKER. Have you ever been indicated or convicted in conjunction with any of your activities?

Mr. HOOPER. No, sir.

Senator BAKER. You have, however, been involved in the conveyance and reconveyance of property involved in a first partnership and then later incorporation in an insurance company that went into bankruptcy or receivership. This was the Brooks transaction and the Hooper Dairy Farms and the Standard Union Life Insurance Co.

You had property in those that went into bankruptcy?

Mr. HOOPER. No, it was Standard Union Life and was returned to me and later on, several months later, it was taken over by the bank.

Senator BAKER. Of course, at the time these transactions occurred, including the abandonment of the trustees' claim and the reconveyance of the property to you, the property itself would have been in the constructive jurisdiction or control of the court. It was reconveyed to you with the concurrence of the court, is that correct?

Mr. HOOPER. That is correct.

Senator BAKER. That is all I have, Mr. Chairman.

Senator RANDOLPH. Thank you, Senator Baker.

I have no further questions at this time, Mr. Hooper, to ask of you.

There are Dr. Bruce McCrone of Michigan State University; Gene Triggs of the Mississippi Chemical Corp.; Tol Thomas, Jr., of Mississippi, appearing on behalf of the Delta Council; Louis Wise the representative of the Electric Power Association for a four-county area in Mississippi; and David Murphree, of Mississippi State University. Those five witnesses have come to testify in your behalf.

Senator Baker and I have determined that we will recess and we will come back promptly at 5 minutes after 12. That will give us an opportunity to run to approximately 12:30 or 12:35. Then that will conclude the hearing for today.

Senator Stennis, do you have any comments?

Senator STENNIS. I thank you very much, Mr. Chairman. It was good to come before you. I thoroughly enjoyed hearing Mr. Hooper's testimony. I thought it was splendid and well put. It was in-depth consideration of these major policy matters. I thought it was responsive and good.

Senator RANDOLPH. Thank you, Senator.

We will be back at 5 after 12.

[Whereupon, at 11:49 a.m., the committee recessed, to reconvene at 12:10 p.m. the same day.]

AFTER RECESS

[The committee reconvened at 12:10 p.m., Senator Randolph, chairman of the committee, presiding.]

Senator RANDOLPH. The five gentlemen, your names haven't been called, but you form yourselves into a panel, please.

Mr. McCrone, identify yourself for the record and the position you hold and make your statement in reference to the subject matter.

STATEMENTS OF DR. BRUCE McCRONE, ASSISTANT DEAN, UNIVERSITY COLLEGE, MICHIGAN STATE UNIVERSITY, EAST LANSING, MICH.; GENE TRIGGS, ASSISTANT TO THE PRESIDENT, MISSISSIPPI CHEMICAL CORP., YAZOO CITY, MISS.; TOL THOMAS III, GREENWOOD, MISS., ON BEHALF OF THE DELTA COUNCIL; LOUIS WISE, GENERAL MANAGER, 4-COUNTY ELECTRIC POWER ASSOCIATION, COLUMBUS, MISS.; AND DAVID L. MURPHREE, PROFESSOR, DEPARTMENT OF AEROPHYSICS AND AEROSPACE ENGINEERING, MISSISSIPPI STATE UNIVERSITY, STARKEVILLE, MISS.

Dr. McCRONE. I am Dr. Bruce McCrone, assistant to the dean of the University College, Michigan State University. I am a personal friend of the nominee.

Senator RANDOLPH. Will you proceed, please?

Dr. McCRONE. I first made the acquaintance of James Hooper III in 1966 when I was teaching at Mississippi State College for Women and working as vice chairman of the Lowndes County, Columbus, Miss., Headstart program. Although I was working actively with the Young Democrats and Mr. Hooper backed the other political party we shared many mutual concerns about the problems facing the community. Jim Hooper and I did not always agree on solutions to problems, but I always found him honest and willing to discuss problems with an open mind. He has a deep love for his native region and a compassion for his fellow man.

When the later great Senator from Nebraska, George W. Norris first envisioned the concept of Federal water power regulation in the Tennessee Valley, he was also concerned about the development of nitrate fertilizer for agricultural production.

He believed that the Valley could become a model for social experimentation. Although many public officials of the day wanted to sell the Muscle Shoals power and nitrate plants that had produced explosives for the war effort, Norris wanted to put these resources to work for peace.

On May 25, 1928, his original bill passed the U.S. Congress, but it was vetoed by President Calvin Coolidge. On March 3, 1931, his bill again passed Congress only to be vetoed by President Herbert Hoover.

A broadened concept of the original Norris idea bore fruit on May 18, 1933, and the Tennessee Valley Authority was born. The Tennessee Valley Authority was authorized to construct dams and powerplants, sell electric power, sell nitrogen fertilizers and develop the economic and social well-being of the area. The Authority serves the power needs of seven States and a land area of 80,000 square miles.

I personally support the idea of one of the first directors, David E. Lilienthal, that the Tennessee Valley Authority is more than a regional program. It is an experimentation that has national as well as international implications.

The research and scholarly work generated by the Authority has tremendous implications for the ecological systems of the world.

If we are to develop and increase the world's food and fiber supply, fertilizer production, research, and education must be continued and expanded.

Although we at the Morrill Act, State Land-Grant Colleges and Universities are working to increase agricultural production through many sources, our contractual agreements with the Authority have made many of the breakthroughs possible.

The Authority's responsibility is not only to the region but to the Nation. Much of the research on alternative sources of power, water management, water pollution, water tables and agriculture at Michigan State University is directly related to the work of the Tennessee Valley Authority and the National Fertilizer Institute at Muscle Shoals, Ala.

The Institute serves scholars throughout the United States and many foreign national. Knowledge gained by university scholars is directly transferred to all the farmers in the various States through the cooperative extension service of the Land-Grant Colleges of Agriculture and in seminars held for farmers each year on the various campuses throughout the Nation. The Authority can and does act as a clearinghouse for the feedback of research data from the colleges and universities to scholars at other institutions and throughout the world.

The Tennessee Valley Authority which has the Nation's only large scale laboratory and experimental center for the development of fertilizer must use these facilities to actively participate in solving the environmental problem of nitrogen pollution of our rivers and streams.

This pollution of the environment is not only being caused by the use of fertilizer for agriculture, but also by homeowners who have increased their use of fertilizer on lawns and gardens. If the world is to implement the proposals put forth at the World Food Conference in Rome, we must have increases in fertilizer production on a world-wide scale.

With adequate stocks of fertilizer available we could increase agricultural production by as much as one-third. However, these increases in food and fiber production through the use of fertilizer and new genetic techniques must not come at the expense of our rivers and streams.

Given the nature of the world food crisis with widespread hunger and starvation, nations of the world will attempt to increase food and fiber production regardless of the long-term consequences.

We must develop these new techniques now. Our best hope is to develop fertilizers that can be released in time capsule form and not be affected by heavy rains causing rapid runoff.

Another area where I share a deep commitment with the nominee is on the problems caused by strip mining in the United States. Although there are many who believe that strip mining should be prevented by the Tennessee Valley Authority through the use of its purchasing power in contracts with coal mine owners.

We, however, must recognize that this is national problem and can only be resolved by the establishment of a sound national policy. The Authority through its research facilities and knowledge gained through years of work on reforestation must become a resource facilitator and develop new knowledge that will aid in wiping out the "shameful blight" already created by years of neglect.

Current research on soils and soil erosion whether created by man or nature offers hope for the restoration of the scarred land. Research on forestation, land cover, and the development of fruit trees by the Authority in recent months show hopeful signs for the future.

The creation of ponds, lakes, wildlife and recreation areas also show promise as a way to recreate the lands that have been stripped. Our research effort in this task must be given high priority by the Authority. Hopefully, we will have an adequate national policy in the future.

As plans are developed allowing mining of the needed coal, with safeguards built-in for restoration, the research work of the Authority in this area will be needed in establishing plans and guidelines.

It is unrealistic to expect the coal mine operators to be able to develop the staff and knowledge necessary for restoration. The staff of the Tennessee Valley Authority have the expertise along with the land-grant colleges and universities to create a staff of consultants who can work with the coal interests in developing individual plans for each area affected.

Finally, I would like to address myself to the problem of renewing the water tables of the various areas of the United States. We have over the past 20 years been creating a crisis in many regions of the Nation.

Florida, California, and parts of the Southwest are in serious difficulty. We are taking out more water than is being replaced by natural forces. In certain areas, we have overpopulated, overconcreted, and destroyed natural areas that replenish the water tables in all sections of the Nation.

I believe we have reached the point where we can no longer rely on nature alone to replace water tables at adequate levels. In my own areas of Michigan, many home wells have dried up because large city and commercial wells have reduced the water tables drastically.

We must find manmade ways to build up the water tables throughout the United States. Increased research is needed not only in how to clean up our rivers, streams, and lakes but on how to improve the state of our aquifers. Certainly, this Committee on Public Works must take a leadership role and the Tennessee Valley Authority must continue its leadership role in experimentation.

Mr. Hooper has been a personal friend for 10 years. I became involved in this hearing by giving a speech at one of the three great universities of Tennessee, and I found in the newspapers all kinds of articles saying that he was some sort of ecological nut.

Other articles said that he was a dishonest man. I volunteered to appear on his behalf because none of these charges were true. It would be easy for me, as a professor of ecology and a professor of political science, to, in effect, be an opponent to Mr. Hooper because it is fashionable to oppose Government institutions.

Unfortunately, I know Mr. Hooper and I think he would make an excellent addition to the directorship of TVA.

Senator BAKER. Mr. McCrone, we thank you very much. That will be a very useful statement and very helpful to this record.

The next witness is Mr. Gene Triggs. Mr. Triggs is assistant to the president of the Mississippi Chemical Corp., Yazoo City, Miss. Mr. Triggs, you may proceed with your statement in whatever way you wish.

STATEMENT OF GENE TRIGGS, EXECUTIVE ASSISTANT TO THE
PRESIDENT, MISSISSIPPI CHEMICAL CORP.

Mr. TRIGGS. Senator Baker, my name is Gene Triggs, from Mississippi Chemical Corp. One of my responsibilities is to serve as director of corporate planning and development. In this connection, I work closely with TVA and keep up with what they are doing.

I have a prepared statement. I would like to tell you briefly what it says and then touch on some of the highlights.

Senator BAKER. Without objection, Mr. Triggs, entire statement will be received and printed in the record. (See p. 62.)

You may proceed.

Mr. TRIGGS. Thank you very much. I want to tell you about my company so you will know how involved we are in fertilizer and relate the importance of fertilizer to agriculture and agriculture to world food needs, and also say just a little bit about what TVA is doing in the area of fertilizer research as background for our support of the nominee.

Mississippi Chemical Corp. was started some 27 years ago and is presently one of the largest, if not the largest—it is the largest in our area—fertilizer manufacturer in the South.

Last year we produced in excess of 2¼ million tons of fertilizer. We have some 22,000 farmer/owners who are located in eight Southern States. Senator, we do a little business in Tennessee but not a lot. It is mostly in Alabama, Arkansas, Louisiana, Texas, Missouri, Georgia, and Florida.

In addition to that, we have a potash facility, a potash mine out in New Mexico.

I don't think there is any doubt about the importance of agriculture and the importance of food production. We ought to be aware of the fact that at least one-third of the total food production of this country is attributable directly to the fertilizer that is used under the crops.

Fertilizer technology has made considerable progress in the past 25 years due primarily to the research being done by TVA's fertilizer research and development programs. I can attest to the fact that these programs have been and continue to be of substantial value to Mississippi Chemical Corp. and to virtually every other fertilizer producer in the United States.

We are currently operating under four separate TVA license agreements at our Pascagoula fertilizer complex. As you are probably aware, the TVA does grant these licenses on the patented processes at a nominal fee, which is used to cover the cost of the patent applications.

The Mississippi Chemical Corp. recently added a mixed fertilizer plant which allowed our customers to use scarce and increasingly expensive fertilizer nutrients more efficiently.

TVA does research that no one industry could do or is equipped to do. On the other hand, by TVA working jointly with industry, a strong unbeatable team approach produces the results that will accrue to the benefit of everyone.

Senator Stennis mentioned earlier today about slow release of nitrogen. I have in my remarks the use of sulfur and formaldehyde coated urea as examples of the research being done by TVA. This will

result in greater efficiency and savings in that considerable plant food is lost for a loss to the farmer.

TVA has a patented process that they have developed that reduces greatly the amount of oil and natural gas that is required in the granulation of mixed fertilizer. Of course, this has resulted in lower cost nitrogen, the elimination of side dressing, which of course reduces an extra trip across the field.

TVA's Fertilizer Development Center at Muscle Shoals is a focal point for the exchange of information among producers throughout the country. TVA has assisted several companies, including our own, in the design of scrubbers for pollution control.

I could go on and on and list the various research projects that TVA is carrying on in connection with the fertilizer manufacturing process.

Let me summarize by giving what I think are the broad objectives of TVA, which we certainly endorse.

One. To decrease the consumption of energy in fertilizer processes.

Two. To conserve nonrenewable raw materials, which is extremely important.

Three. To develop technology that does not require natural gas and oil.

Four. To minimize pollution.

As the voice of agriculture becomes weaker, due to being fewer in number, when legislators and other leaders must listen to an increasingly urban constituency that often fails to realize the impact or the importance of the American farmer to the consumer, to our country's balance of payments, and to hungry people around the world, it becomes increasingly more important to have men in high places with a broad vision and understanding of the total problem.

We believe that such a man is James F. Hooper III. We strongly urge favorable consideration of his appointment to the Tennessee Valley Authority Board of Directors.

Senator BAKER. Thank you very much.

[Mr. Triggs' prepared statement follows:]



February 12, 1976

Honorable Jennings Randolph, Chairman
Public Works Committee
Dirksen Senate Office Building
Washington, D. C. 20515

Mr. Chairman:

My name is Gene Triggs. I am the Executive Assistant to the President of Mississippi Chemical Corporation and serve as Director of Corporate Planning and Development. It is my responsibility to keep appraised of new developments in agriculture and in the fertilizer industry. To do so I must work closely with TVA and keep up with what they are doing.

First, let me tell you a little about my company. Mississippi Chemical Corporation was organized as the world's first farmer-owned nitrogen fertilizer maker 27 years ago. The company has grown to be the South's largest fertilizer manufacturer. The vast majority of the fertilizer produced is sold to and used by Mississippi Chemical's 22,000 farm owners in the eight southern states of Mississippi, Alabama, Arkansas, Louisiana, Texas, Missouri, Georgia and Florida. Additional farmer-owners are located in the rich farming areas of the Midwest where the demand for MCC fertilizer is great. These areas

are easily served by barge from the Gulf of Mexico up the Mississippi, Ohio and Missouri Rivers. Mississippi Chemical's stockholder-farmers are the beneficiaries of an efficient fertilizer manufacturing program as evidenced by the fact that while maintaining reasonable prices, approximately \$250 million has been paid back to its customers during the past 27 years--the largest amount paid by any cooperative in the world.

There can be no doubt but that American agriculture has made unparalleled progress during the past 50 years. However, despite outstanding advances in agricultural technology and stepped-up fertilizer use, food production has failed to keep pace with world needs. The result is that nearly one billion people--one fourth of the world's population--are today undernourished. World population, growing at the average annual rate of two percent, increased during the last ten years by 700 million people or from 3.2 billion in 1964 to almost four billion last year. At the same growth rate over the next decade, world population will increase by about 855 million people, more than the total population of India today. And looking even further ahead, as noted by Secretary of State Henry A. Kissinger at the United Nations sponsored World Food Conference in Rome last November, world population "...is projected to double by the end of the century. It is clear that we must meet the food needs that this entails...we must act now and we must act together to regain control over our shared destiny. If we do not act boldly,

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disaster will result from a failure of will."

As the world's largest producer of grains, the United States must do all that it can to help increase urgently needed food supplies. The importance of greater use of chemical fertilizers in conjunction with other modern farming techniques is well-known. The rapid increase in fertilizer usage in the U.S. since World War II is amply documented. Today practically all corn acreage, 80% of all cotton acreage, and probably 66% of all wheat acreage is being fertilized. It is obvious that U.S. agriculture must carry a heavy share of the burden of world food production and that fertilizers are extremely important to this effort--accounting for at least one-third of the total production.

Fertilizer technology has made considerable progress in the past twenty-five or thirty years--much of it due to research carried on by TVA's fertilizer research and development programs. I can attest to the fact that these programs have been and continue to be of substantial value to Mississippi Chemical Corporation and virtually every other fertilizer producer in the United States. We are currently operating under four (4) separate TVA license agreements at our Pascagoula fertilizer complex. As you are probably aware, TVA grants these licenses to their patented processes for a very nominal fee which is designed to recover the patent application expenses.

Mississippi Chemical Corporation has recently added a liquid mixed fertilizer plant. This product will allow our customers to

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utilize scarce and increasingly expensive fertilizer nutrients more efficiently. This can become an important asset for conservation of energy and minerals as well as an aid in decreasing or helping eliminate our country's balance of payments deficit. A portion of this plant is covered under a TVA license. During its design we used data developed by TVA's Fundamental Research group. To our knowledge some of this data was not available from any other source.

Frequently our engineers visit with TVA personnel gathering information which will benefit our operations and farmer customers. Another trip is scheduled this week to discuss nitric acid and other developments.

TVA does research that no one industry could or is equipped to do. On the other hand, by industry working with TVA, sharing practical problems and experiences, a strong unbeatable team approach produces results that can accrue to the benefit of everyone. TVA's work on slow release nitrogen from using sulphur and formaldehyde coated urea are examples of important research being carried on at the present time. Considerable nitrogen is being lost through leaching and too rapid release--faster than the crop can use. If successful this could result in greater efficiency and plant food savings to the farmer.

TVA has patented a process which will greatly reduce the amount of oil or natural gas required in the granulation of mixed fertilizer.

They have pioneered in the development of high nitrogen grades of mixed fertilizer using urea. The savings here are threefold:

- (1) Lower cost nitrogen,

- (2) Elimination of necessity for side-dressing thus reducing a trip to the field and conserving energy, and
- (3) By obtaining a higher analysis the weight of fertilizers required is reduced, saving freight costs and the energy expended in transport.

TVA's Fertilizer Development Center at Muscle Shoals, Alabama is a focal point for the exchange of information among producers to the effect of improved efficiency for all.

TVA has assisted several companies in the design of scrubbers for pollution control, in the preparation of formulations that will minimize the amount of pollution, and in other ways to help manufacturers meet new pollution standards. The list of research projects is too long to mention here, but can be summarized in the overall mission--"to develop new and improved fertilizer products and processes in order to lower the cost of fertilizers and increase their effectiveness."

Allow me to summarize by giving the broad objectives of the current TVA program:

- (1) To decrease the consumption of energy in fertilizer processes,
- (2) To conserve non-renewable raw materials,
- (3) To develop technology that does not require natural gas and oil, and
- (4) To minimize pollution.

We at Mississippi Chemical Corporation support these objectives. As the voice of agriculture becomes weaker and weaker--due to being

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fewer in number--when legislators and other leaders must listen to an increasingly urban constituency that often fails to realize the impact or importance of the American farmer to the consumer, to our country's balance of payments, and to hungry people around the world, it becomes increasingly more important to have men in high places with a broad vision and understanding of the total problem. We believe that such a man is Mr. James F. Hooper, III and we strongly urge favorable consideration of his appointment to the Tennessee Valley Authority Board of Directors.

Thank you.

Yours truly,

Gene A. Triggs
Executive Assistant
to the President

GAT/pd

cc: Senator James O. Eastland
Senator John C. Stennis

Senator BAKER. The next witness is Mr. Tol Thomas III. Would you tell us for the record what the Delta Council is?

STATEMENT OF J. T. THOMAS III, REPRESENTING THE DELTA COUNCIL

Mr. THOMAS. Yes, sir. I have it in my statement.

Senator RANDOLPH. All right, sir.

Mr. THOMAS. So I won't ad lib.

My name is J. T. Thomas III. I am a farmer from Holmes County, Miss. I am a past president and a director of Delta Council and am now serving as chairman of the agricultural committee. Delta Council is an area economic development organization representing the 18 delta and part-delta counties of Mississippi.

This area, comprising approximately 5,500,000 acres of alluvial land, is one of the most productive agricultural areas of the world. Income from agriculture represents the principal source of livelihood for the almost one-half million people who live and do business in this section of Mississippi.

My purpose in appearing here today is to strongly endorse and urge the approval of the nomination of James F. Hooper III to the position of Director of the Tennessee Valley Authority.

I have personally known Mr. Hooper for many years and I believe him to be eminently qualified to serve as a Director of the Tennessee Valley Authority. Not only does he have training in the field of industrial engineering, he is also qualified by experience in agriculture and water resources development. Both of these fields are of vital importance to the entire area served by the Tennessee Valley Authority.

Income from agriculture is of overriding importance to Mississippi, as it is to other States located in the TVA service area. At one time, TVA was deeply involved in agriculture and its work in this field led to the use of anhydrous ammonia as a source of nitrogen for agriculture. This single development contributed tremendously to the welfare of farmers and consumers throughout the entire Nation.

Without neglecting other important activities of TVA, we feel sure that Mr. Hooper's knowledge of and interest in agriculture would contribute to a renewal of involvement in agriculture by TVA with emphasis on the reduction of nitrogen costs to farmers.

I would like to point out here that the cost of input items that are absolutely necessary for crop production have been escalating at a very rapid rate and that these higher production costs not only contribute to higher producer risks, but must either be passed on to the consumer or absorbed by the producer.

When passed on to the consumer, these higher costs are immediately reflected in the Cost of Living Index. When absorbed by the producer, these same costs must be subtracted from farm income.

Since farm profit margins are already very thin, any increases in production costs that cannot be passed on will jeopardize the ability of the farmer to produce the food, feed, and fiber that is essential to consumers.

My point here is that the renewed involvement of the Tennessee Valley Authority in the field of agriculture with emphasis on reducing

the cost of fertilizer is of great importance to the entire Nation. When you consider the fact that we will add nearly 100 million people to our population by the year 2000, the productive capacity of agriculture becomes of added importance to the Nation's welfare.

In conclusion, I wish to point out that Mr. Hooper's nomination has been strongly endorsed by the Governor of Mississippi, by the Lieutenant Governor, by all members of the Mississippi Legislature who unanimously passed a joint resolution supporting his nomination and by members of the Mississippi congressional delegation to the Congress of the United States. To these endorsements, we can add the strong support of the farmers of our area.

One other statement, Senator. Anhydrous ammonia has increased in the last 34 years and ammoniate nitrite has increased 181 percent. Therefore, as a farmer, we are concerned about this and we hope that TVA, with the direction and help of James Hooper, would simplify and aid us in this problem.

Thank you very much for giving me this opportunity to speak.

Senator RANDOLPH. Mr. Thomas, thank you very much for your statement.

The next witness is Mr. Lewis Wise.

STATEMENT OF LOUIS WISE, GENERAL MANAGER, 4-COUNTY ELECTRIC POWER ASSOCIATION

Mr. WISE. I want to thank you for allowing me to appear before you in endorsing Mr. Hooper, Mr. Chairman and Mr. Baker. If you would allow me to do so, I would like to file my statement for the record and then make a few extra remarks.

Senator RANDOLPH. That is agreeable, sir.

Mr. WISE. Gentlemen, I am Louis Wise, general manager of 4-County Electric Power Association, which is a misnomer, since we serve 26,500 members in 7 counties. I am also on the board of directors of the Tennessee Valley Public Power Association.

I am scheduled to take the vice presidency of TVPPA next month and the presidency next year. Through that organization, practically all distributors in the valley deal with the TVA Board.

I have been in this business since 1939 and, consequently, I have known personally every TVA director who has ever been confirmed by this committee, from Lilienthal and Drs. Morgan on through to the present ones.

I understand that Mr. Hooper, if confirmed, is scheduled to take Don McBride's place. He is the last one who retired.

Since I have dealt with these men, I know that Mr. Hooper can come up to the standards of any of them. He is capable. He is well qualified, he is honest and he is a hard worker. I have known Jim since the early forties in a personal and business way. I know nothing in my entire knowledge of Mr. Hooper which would detract from his being a good director for TVA.

One of the particular things that hurts TVA is their lack of responsiveness, at least that is what they are accused of—I think that is true—both to the Congress and to the constituency of the valley.

Jim's appointment to this board would certainly help alleviate that situation, because he certainly would make a responsive director.

Living in the valley, taking power from one of the distributors of TVA power and using it through his life-time practically, I am sure he would recognize the needs of the valley and certainly could be approached and be completely responsive.

Gentlemen, I have worked with Jim in water resources, as set out in my statement, in his dealings with the Mississippi Legislature, and his dealings with industry throughout my entire career with the 4-County Electric Power Association with TVA.

I find he is very capable in dealing with all of these groups. He has the unanimous endorsement of the North Mississippi Industrial Development Association. He has the unanimous endorsement of the Northeast Mississippi Public Power Association, which is comprised of all of the power distributors in Mississippi served by TVA and, as has been stated, all of the State and congressional officials.

The only thing I can add to what I have said is that I am confident that Mr. Hooper will make a great director for TVA. I urge the committee to ratify his nomination.

Senator RANDOLPH. Thank you very much, Mr. Wise.

Mr. WISE. Thank you.

[Mr. Wise's prepared statement follows:]

STATEMENT OF LOUIS WISE, GENERAL MANAGER
4-COUNTY ELECTRIC POWER ASSOCIATION
BEFORE THE SENATE COMMITTEE ON PUBLIC WORKS
IN SUPPORT OF THE NOMINATION OF JAMES F. HOOPER
TO THE TENNESSEE VALLEY AUTHORITY BOARD OF DIRECTORS
February 17, 1976

Mr. Chairman and Gentlemen of the Senate Committee on Public Works:

My name is Louis Wise. I am General Manager of 4-County Electric Power Association, with headquarters in Columbus, Mississippi. 4-County Electric Power Association is a rural electric power association financed by REA and CFC, and which obtains its power from the Tennessee Valley Authority. The Association, at the present time, serves TVA electricity to over 26,500 farms and small town families in a seven county area in northeast Mississippi. I am also speaking to you as a representative of the Northeast Mississippi Public Power Association whose members have unanimously endorsed Mr. Hooper for the important post of Director of the Tennessee Valley Authority.

I want to thank you for this opportunity of appearing before you and to make this statement on behalf of the nomination of Mr. Hooper. I have known him for many years, both in a business and personal way and I feel that in his record, as far as I know, there is nothing that would prevent him from doing an excellent job as a Director of TVA. Mr. Hooper first became associated in a business way with our Association and me, of course, as Manager, while his activities were in dairying and general farming and after that, and while he was still in the dairying and cattle business, while he was an owner of Columbus Canning Company which was also located on 4-County Electric Power Association's power lines. I can truthfully say that all of my dealings with him in connection with the service of electricity to his farms and other operations have been entirely satisfactory and I feel that the same good reputation in business would be of benefit to him in carrying out the work required of TVA Directors.

In connection with water resources ability and interest, I was privileged to work with Mr. Hooper along with many others in the organization of the Rivers and Harbors Association of Mississippi, an organization which was successfully launched.

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Mr. Hooper was a member of this organization's Board of Directors for many years and served as its President and Vice President during the early and difficult years. At the present time I am privileged to serve as Vice President of this Organization and consequently, I am in a position to know directly of the great contribution that Mr. Hooper made.

I would also like to introduce in this statement an excerpt from a letter that I wrote to the then Governor J. P. Coleman of Mississippi in answer to a request from Mr. Coleman for suggestions of nominees to the Tombigbee Valley Authority, which he was organizing. It was my pleasure to suggest James F. Hooper and I quote:

Jim worked actively against us in the first primary but voted with us during the second primary and, frankly, did nothing during the first primary that hurt. I believe that he will be with us from now on.

Jim has been Chairman of the Flood Control Committee of the Chamber of Commerce for several years and has actively worked with General Pick and others in trying to develop the river over the past six years. He is thoroughly familiar with what has gone on before in this work and shows a very keen interest in the development of the watershed. I believe that he and Birney could work out as an excellent team from this county and could and would act as a spear-head in this work. Incidentally, both Birney and Jim own their own businesses and will have plenty of time and I believe enough money of their own to do what they think necessary to promote the work of the Tombigbee Valley Authority. That fact counts quite a lot in my choice.

I also had the privilege of working with him on the Tombigbee Valley Authority and also with him when the Tombigbee River Valley Water Management District was organized and members of the Tombigbee Valley Authority were automatically made members of that group. Mr. Hooper was very active in working with the legislature and with our group in the passage of the necessary legislation creating the Tombigbee River Valley Water Management District. Mr. Hooper and his family are long time members of St. Paul Episcopal Church in Columbus and they all have enjoyed a fine reputation in the community. He has served in many capacities in civic life in Columbus and is

3-Louis Wise

well respected in every way. I believe that the majority of the people in Columbus or Lowndes County would unhesitatingly endorse his nomination to this important position.

Gentlemen, I want to urge you both as an individual and as a representative of the Power Distributors in the Mississippi District of the Tennessee Valley Authority to act favorably on the nomination of Mr. Hooper for Director of this great organization. We need a man who has lived in the area effected by the operation of this Organization and it is my personal opinion that Mr. Hooper will make a very fine Director and give credit to the Board of TVA. TVA must function as a ground roots organization for the benefit of the people of the valley and we feel that Mr. Hooper is well qualified to do just that.

Thank you for allowing me to appear before you.

Senator RANDOLPH. Dr. Murphree.

STATEMENT OF DR. DAVID L. MURPHREE, PROFESSOR, DEPARTMENT OF AEROPHYSICS AND AEROSPACE ENGINEERING, MISSISSIPPI STATE UNIVERSITY

Dr. MURPHREE. Mr. Chairman, I am testifying today not as a representative of any organization, but as a registered professional engineer actively engaged in research and development of magnetohydrodynamics (MHD), a new technology for the utilization of coal for electrical power generation.

Coal is our Nation's most abundant fossil fuel. MHD electrical power generation can provide a reliable and efficient coal-burning powerplant having one of the lowest possible impacts on the environment.

Such systems, which can burn high sulfur content coal, show promise of overall plant efficiencies in converting the coal's energy into electricity in excess of 60 percent, which would be 50 percent better than the most advanced steam turbine plants burning low-sulfur content coal. Also, air pollution is virtually eliminated with the MHD system. A division of MHD was recently created within the Energy Research and Development Administration (ERDA).

Mr. James Hooper has demonstrated an abundant enthusiasm for the development of MHD. We have had numerous discussions on MHD electrical power generation. Mr. Hooper recently visited Dr. John B. Dicks, Director of the Energy Conversion Division of the University of Tennessee Space Institute, to see firsthand a project sponsored by ERDA on the direct conversion of coal into electricity by the MHD process.

Although this is in the heart of the TVA region, and is also the only location in the world where MHD electrical power has been generated by burning coal, no present member of the TVA Board has visited the University of Tennessee Space Institute to observe the MHD technological process of electrical power production. Mr. Hooper is indeed eager to be aware of the current state of the art in MHD energy technology.

Mr. Hooper has also demonstrated an extreme interest in other advanced electrical power generation technologies. It is indeed encouraging to see, from both an engineering viewpoint and from the viewpoint of the public welfare regarding future electrical power requirements and protection of the environment, that the President's nominee to the TVA Board of Directors is so vitally interested in merging technology into the electrical utility operation of TVA.

Both Dr. Dicks and I have enjoyed our many discussions with Mr. Hooper related to the technical development and commercialization of MHD. It has been both pleasing and gratifying to us, as professional engineers, that Mr. Hooper has the ability to converse about and appreciate the complexities of such an advanced electrical power generation technology.

It has been my observation that Mr. Hooper has an open mind regarding various methods of electrical power generation and an appre-

ciation of both the present and the future overall energy situation. I support wholeheartedly the nomination of Mr. Hooper to the Board of Directors of the Tennessee Valley Authority.

Senator RANDOLPH. Thank you, Mr. Murphree.

Mr. Murphree, thanks for counseling with us and also Messrs. McCrone, Wise, Thomas, and Triggs. Your statements in full will be included as part of the printed record.

Are there any further comments any of you would have?

Thank you very much, gentlemen.

Senator Baker, you have a comment to make in reference to our procedure and to part of the record which has been presented to the committee today.

Senator BAKER. Mr. Chairman, thank you very much.

I indicated this morning, when we were examining Mr. Hooper on his business dealings, financial transactions over the years that I would treat with them generally and would want to return to those things later.

It seems to me, Mr. Chairman, and I frankly discussed this with Mr. Hooper and with his counsel, that everyone would be better served—the committee, the Senate, Mr. Hooper, and everybody else—if we simply printed the staff report now as a committee document for release, together with the formal reply that Mr. Hooper has already prepared to certain parts of it and which has been submitted to us, rather than going through a long laborious afternoon by handling it by question and answer. It is a very, very definitive work.

I believe, Mr. Hooper, you and your attorneys have been over it with the committee staff. It can be printed and available to the public by the first of the week, I am told. Rather than going over the thing in detail here, I would hope, Mr. Chairman, that if Mr. Hooper and his counsel would not object, we would simply order the staff report on Mr. Hooper's business transactions printed as an appendix to these hearings together with his reply to it.

Senator RANDOLPH. You have heard the statement of Senator Baker in reference to this matter. Do you, Mr. Hooper, or your attorney wish to make a comment?

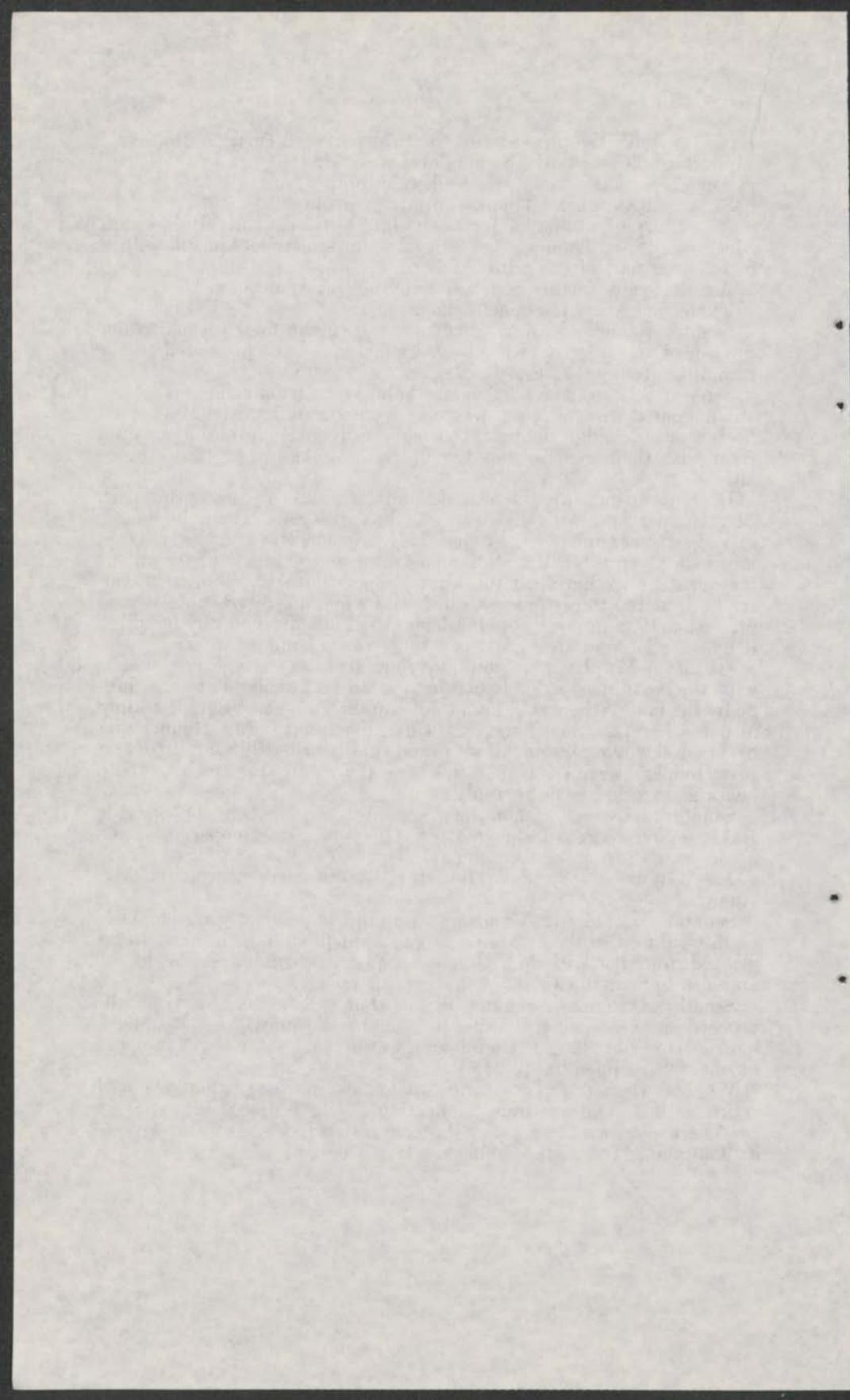
Mr. GHOLSON. We have no objection to that procedure, Mr. Chairman.

Senator BAKER. Mr. Chairman, I would hope that you, as chairman, would order the committee report which we have in draft to be printed, together with Mr. Hooper's reply as a committee document and also to be made a part of this hearing record.

Senator RANDOLPH. Senator Baker, that will be done and we will proceed as you outline, making it available as quickly as possible. I am not sure how long it would take to do that, but we will move it at once. (See appendix, p. 245.)

We will therefore recess until tomorrow morning when we will return at 9:30, and continue the hearing.

[Whereupon, at 12:38 p.m., the committee recessed, to reconvene at 9:30 a.m., Wednesday, February 18, 1976.]



COMMUNICATIONS SUPPORTING THE NOMINATION OF MR. HOOPER

UNITED STATES SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., September 9, 1975.

HON. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
United States Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I have received several letters supporting the nomination of Mr. James F. Hooper as the Director of the Tennessee Valley Authority.

Since it is not clear that copies of these letters were sent to your Committee, I am enclosing copies thereof so that they may be a part of the official files on this nomination.

With warm personal regards, I am
Sincerely,

JOHN C. STENNIS.

[Enclosures: (4) a/s.]

OWEN COOPER,
Yazoo City, Miss., September 4, 1975.

SENATOR JOHN C. STENNIS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: Thank you for the position taken in regard to the nomination of Jim Hooper to the TVA Board.

Jim will bring to the Board agricultural representation it sorely needed. TVA can contribute much more to agriculture in the future, but it can be done only with at least one person on the Board who is dedicated to this accomplishment.

Keep up the good fight.

Sincerely,

OWEN COOPER.

DELTA COUNCIL,
Stoneville, Miss., August 25, 1975.

Senator JOHN C. STENNIS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STENNIS: We understand that hearings before the Senate Public Works Committee will be held on Mr. James F. Hooper's nomination to the Tennessee Valley Authority Board sometime in September and we wanted to express our strong interest in Senate approval of Mr. Hooper's nomination.

I know Mr. Hooper personally and believe him to be eminently qualified for this position. Not only does he hold a degree in industrial engineering from Auburn University, he is also experienced in agriculture and we believe that it is very important for at least one of the TVA Board members to be agriculturally oriented.

As you know, the charter of the TVA places a great deal of emphasis on the agricultural nature of TVA activities and specifically in the field of fertilizers. At one time, the TVA was very active in this field and its work led to the use of anhydrous ammonia as a source of nitrogen for agriculture. In recent years, however, activities have been directed in other areas, primarily in electric power generation. While we do not suggest that this field is not of great importance, we believe that agriculture is also of major importance and that Mr. Hooper would make a great contribution in this field as well as in other areas of TVA activity.

I know that you have already contacted the President in support of Mr. Hooper's nomination. I wanted you to know, however, that agricultural interests in Mississippi are very much in accord with the actions that you have taken and we certainly hope that the Senate Public Works Committee will give prompt approval to his nomination.

With best personal regards,
Yours very truly,

B. F. SMITH, *Executive Vice President.*

PONTOTOC ELECTRIC POWER ASSOCIATION,
Pontotoc, Miss., July 14, 1975.

HON. JOHN C. STENNIS,
*U. S. Senate,
Dirksen Senate Office Building,
Washington, D.C.*

DEAR SENATOR STENNIS: We are forwarding herewith for your information, copy of a resolution adopted by the Board of Directors of Pontotoc Electric Power Association on July 9th, 1975.

Your interest in this matter is greatly appreciated.
Yours very truly,

J. C. SNEED, Jr., *Manager,
Pontotoc Electric Power Association.*

Whereas, the President of the United States has recommended the appointment of James F. Hooper as a director of the Tennessee Valley Authority and confirmation of this appointment is pending before the United States Senate; and

Whereas, James F. Hooper has lived in Alabama and Mississippi a good part of his life, thus being familiar with the problems and prospects of the region served by the Tennessee Valley Authority; and

Whereas, Mr. Hooper has been active in Water Resources Development and has worked hard to bring about progress together with sound ecological planning; and

Whereas, Mr. Hooper possesses an outstanding record in military and civilian pursuits;

Now, therefore, be it *resolved*, That the Board of Directors of this Corporation strongly recommends the confirmation of James F. Hooper as a Director of the Tennessee Valley Authority.

Unanimously adopted this the 9th day of July, 1975.

I certify that the above is a true and correct copy of a resolution adopted by the Board of Directors of Pontotoc Electric Power Association on the 9th day of July, 1975.

C. P. JOHNSTON, *Secretary.*

MIKE P. STURDIVANT PLANTATION,
Glendora, Miss., September 1, 1975.

Senator JOHN C. STENNIS,
Washington, D.C.

DEAR SENATOR STENNIS: I have studied the background of Mr. James F. Hooper III and have had the pleasure of meeting him personally. I would like to add my personal endorsement to that of many farmers in this area who would seek agricultural representation on the TVA Board.

I would appreciate anything you can do to help Mr. Hooper secure this appointment.

With kindest regards,

MIKE P. STURDIVANT.

THE CAPITOL,
Jackson, Miss., February 13, 1976.

HON. JENNINGS RANDOLPH,
*Chairman, Committee on Public Works,
U. S. Senate, Washington, D.C.*

DEAR SENATOR RANDOLPH: It is with pleasure that I recommend favorable consideration by the Committee for confirmation of Mr. Jim Hooper as a member of the Tennessee Valley Authority.

Mr. Hooper of Columbus, Mississippi, resides in the TVA area and is privy to the problems and possibilities of TVA. Since TVA is proceeding with plans for constructing a nuclear powered electric generating plant in our State, it is felt that confirmation of Mr. Hooper is highly desirable.

In conducting a unified program of resource conservation, development and use, the Board of Directors of the Authority should not all be residents of the same State. Mr. Hooper is qualified to serve in a manner that will bring credit to the Authority.

Sincerely,

CLIFF FINCH, *Governor.*

J. ASHTON GREENE & ASSOCIATES ENTERPRISES INC.,
Pass Christian, Miss., February 13, 1976.

HON. JENNINGS RANDOLPH,
HON. HOWARD BAKER,
HON. MEMBERS, SENATE PUBLIC WORKS COMMITTEE,
U.S. Senate,
Washington, D.C.

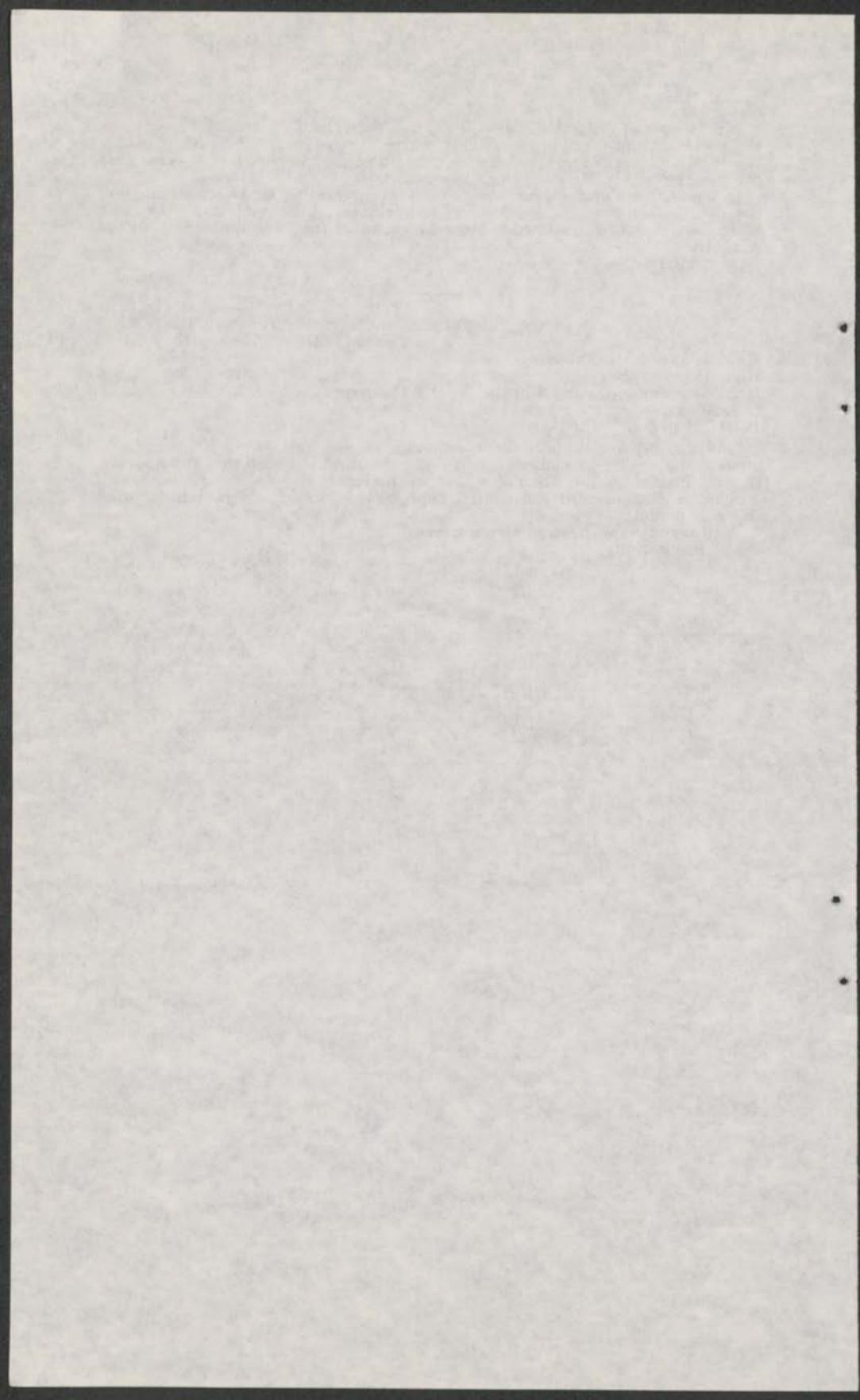
GENTLEMEN: We support the nomination of the Hon. James Hooper of Columbus Miss. to be a member of the TVA, and earnestly request that you approve this nomination both in Committee and on the Floor.

Senators Stennis and Eastland, I have been informed, are both in favor of this nomination.

With very best wishes and high regards.

Respectfully,

J. ASHTON GREEN.



NOMINATION OF JAMES F. HOOPER III

WEDNESDAY, FEBRUARY 18, 1976

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C.

The committee met at 9:40 a.m., pursuant to recess, in room 4200, Dirksen Senate Office Building, Hon. Jennings Randolph (chairman of the committee) presiding.

Present: Senators Randolph, Gravel, Bentsen, Burdick, Baker, Stafford, and Domenici.

Senator RANDOLPH. The hearing of the Public Works Committee, which began yesterday on the nomination of James F. Hooper III, of Mississippi, to be a member of the Board of Directors of the Tennessee Valley Authority, continues in its second day.

We are very happy to have with us the Honorable Bill Brock, a U.S. Senator from Tennessee, as the first witness this morning. Thank you, Bill, for coming.

STATEMENT OF HON. WILLIAM E. BROCK III, U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator BROCK. Thank you, Mr. Chairman. I appreciate the opportunity to appear today. I will try to be brief and succinct but cover matters as carefully as I can because it is an important matter. If I have one purpose, it is to convince—I know the chairman knows the area as well as his ranking member does—every member of this committee to understand the awesome significance of TVA to our area, just how terribly important it is, and how the decisions of the TVA affect the lives of the people of the valley.

Senator RANDOLPH. Bill, your colleague and my colleagues were even talking about coal yesterday in reference to the Tennessee Valley Authority and some other forms of energy.

Senator BROCK. I understand that.

Senator BAKER. We agreed that we were both right.

Senator RANDOLPH. Yes.

Senator BROCK. Whatever you said, I am with you. I did hear about that conversation and I appreciate it very much because that is the kind of dilemma we face. It is a very difficult problem.

Senator BAKER. Incidentally, in that respect, if I can interrupt my colleague from Tennessee, there is an editorial in one of the daily newspapers in Washington on this energy subject that sort of relates the fact that you and I both were making yesterday, Mr. Chairman, that there are no good choices in this field, that we are going to have to avail ourselves of every opportunity we have if we have any expectation of meeting this problem.

Senator RANDOLPH. Thank you, Howard. That certainly is correct.

Senator BRUCK. On August 20, 1975, I wrote President Ford requesting that Mr. Hooper's nomination to the Board of Directors of the Tennessee Valley Authority be withdrawn. My request was based on one fact—I had seen nothing to indicate that Mr. Hooper had the necessary experience or professional qualifications to help set policy for the largest utility in the Nation. Today, I am here to request that this committee reject Mr. Hooper's nomination for the same reason.

The Tennessee Valley Authority has a tremendous impact on all Tennesseans. Unfortunately, its recent impact on the consumers of electric power has been disastrous. TVA has been killing the consumer through rapid and inexplicable increases in the price of electricity.

Let me share with you an example that was brought to my attention. A 68-year-old woman from middle Tennessee is living on her social security payments alone. Like thousands of other elderly, she has a total monthly income of around \$300. Her electric bills were averaging \$68 a month, almost 25 percent of her total income. This alone is cause for alarm.

Last month her electric bill jumped from \$68 to \$160. This is over 50 percent of her total income for electricity expenses! This is more than an unfortunate situation—this is a disaster. It is a disaster that has been visited on every home, on every farm, and in every business across the Tennessee Valley.

It is a disaster that has been inflicted by one organization; 97 percent of all electricity consumed in Tennessee is produced by the Tennessee Valley Authority. Thus, the decisions made in the TVA board room in Knoxville reverberate across my State and the surrounding States.

The people of Tennessee and the Tennessee Valley cannot continue to carry this heavy burden. For 30 years TVA has tried to convince our citizens to go all electric. To a large extent they have succeeded, as they succeeded in providing our valley with unique service at a realistic cost—until now.

Now, an all-electric home carries a different promise to people of low incomes. Already, power rates are consuming more of their disposable income than at any time since the early fifties. This must be changed.

The disastrous increase in electricity rates has had other consequences. Public trust in TVA is at an alltime low. Once considered a friend of the valley, public opinion polls indicate that TVA is no longer considered an agency working for the people. This tragic loss of confidence has permeated our entire society, and parallels the cynicism we have seen attack other Government agencies.

Although, I might add, parenthetically, in most of those cases, as the case in Tennessee, the decline is not wanted because most agencies and this particular agency, labor diligently to serve as best they can.

Thus, the next Board member will help guide the Tennessee Valley Authority through what all of us realize will be a difficult time for energy related concerns—particularly for this one which has suffered such a devastating erosion of confidence.

In the next few years, TVA will make crucial decisions on a whole host of energy, environmental, and consumer matters. What should the future role of nuclear power be in meeting the energy needs of the Tennessee Valley? How would the desire for cheap energy be

balanced with the equally strong desire for a safe and healthy environment? What can TVA do to arrest the rapid increases in electric power rates that have occurred in the last several years?

In addition to these many decisions, the Tennessee Valley Authority must make decisions concerning many other aspects of its management role of the resources of my State. TVA provides flood control, waste management, energy research and development, car pooling projects, fertilizer research, mineral programs, rural fire assistance, health service demonstration projects, forestry research, fisheries and waterfowl wetlands maintenance and development programs, strip mining reclamation projects, and recreational facility operations.

As this list implies, TVA is big business. And the TVA is big. It has total assets of \$6.6 billion which would rank it among the top 15 companies on the Fortune 500 list. In 1975 this quasi-government corporation had operating revenues of \$1.2 billion. These revenues came from 2.5 million customers, making TVA the Nation's largest power producer. It is staggering to consider the impact this organization has on the day-to-day lives of every Tennessean.

In addition to the size and complexity of TVA management alone, the new director faces a unique situation. As the committee knows, the current two Board members are divided on many fundamental policy issues. Thus, the nomination takes on added significance, for whoever assumes the third directorship will immediately be in the position to cast the deciding vote on many crucial issues. The new director will represent the swing vote, thus the many burdens outlined above will fall squarely on his shoulders.

Since Mr. Hooper's name was sent to the Senate, I have examined his record very carefully. I have been unable to find anything in Mr. Hooper's record to convince me that he is the right man for this difficult job. As I said earlier, I appear here today in opposition to his nomination. I shall do everything in my power to see that his nomination is rejected.

This is not a pleasant task, and I find myself in a very uncomfortable role. But, TVA has reached the crucial stage in its development as an organization and its service to our people. Ever-increasing power rates have undermined its strong support among citizens of the valley, its environmental policies are late in maturing, and its responsiveness to consumers is unsatisfactory.

Yesterday the committee heard Mr. Hooper defer on a number of questions posed by Chairman Randolph and Senator Baker. This is no time for on-the-job training. We must have a director capable of assuming the job and acting carefully and decisively at once. James Hooper is not the person.

And, Mr. Chairman, as much as I dislike it, I must also call the committee's attention to the serious charges about the nominee's judgment in a series of private business ventures. Questions have been raised that cannot be ignored. I see no evidence that Mr. Hooper is guilty of illegal conduct. But, the facts assembled do raise serious questions on judgment, and on these grounds alone I believe it is sufficient to ask the President for a new nominee.

In sum and substance, after reviewing extensively the nominee's business record, I can find no record of success in any instance. Some of the witnesses to follow me will, I gather, elaborate in some detail on the various enterprises of Mr. Hooper.

Yesterday, the committee also briefly considered Mr. Hooper's business background for the record. Let us again review some of these dealings. The Hooper Dairy Farm partnership of Columbus, Miss., which Hooper operated from 1965-69 with Everette Hope Brooks of Memphis never made a profit.

Standard Union Life Insurance Co., of Greenville, Ala., was a small struggling firm which Hooper served as vice president and director. The firm was suspended from doing business in some States while Hooper was an officer, notable Tennessee and Georgia.

Questions have been raised as to whether or not the Hooper Dairy Farm was, in fact, an asset of Standard Union Life Insurance Co., The bankruptcy referee ultimately did accept the return of the property to Mr. Hooper.

But, I respectfully suggest the committee consider that the real reason for the return of the property was that Mr. Brooks' half interest had never been defined. Even more damaging, the property was so burdened by additional mortgages as to have no real value, regardless of the definition of ownership.

Little River Farms, an Atlanta dairy processing plant with several Georgia retail outlets, was another Hooper venture. Mr. Hooper was a director and stockholder of this financially strapped company which later went broke. Serious questions have been raised in the staff report about the transfer of funds between this company and other firms with which Mr. Hooper was involved.

Other records placed before me show that a canning company operated by Mr. Hooper went broke twice. Also, a low-cost housing project backed by the Farmers Home Administration and under Mr. Hooper's guidance, got into financial trouble.

Let me just repeat the statement I made earlier. In sum and substance, after reviewing the nominee's business record, I can find no record of success. And yet this is a terribly large business that he will be managing.

I do not wish to dwell on such topics, Mr. Chairman. But because Mr. Hooper lacks any positive prior experience in the field of public utilities, management, environmental concerns, engineering, conservation, or sophisticated conservation pricing techniques, the matter of his judgment becomes paramount. These questions which have been raised cannot be ignored.

In summary, the Tennessee Valley Authority now faces the most difficult period in its history. Its traditional mandate to provide electric power at the lowest possible cost is seriously questioned in this time of environmental and conservation concerns.

Recent rate increases have undermined TVA's traditional support among consumer groups and done irreparable damage to people all across the valley. Nowhere is the trade off between our energy and environmental goals more sharply drawn than in the generation of electric power.

TVA's decisions in this area, because of its special position in the electric utility industry, have an impact that extends far beyond the boundaries of my State.

The next member of the Board must be someone who possesses a unique combination of experience, competence, and broad perspective in judgment. Therefore, I urge this committee in the strongest

possible terms to reject Mr. Hooper's nomination. The people of Tennessee and the people of the Tennessee Valley deserve more than a good man. They demand the best and most qualified man or woman available. I will be grateful for your efforts to see that this person is found and placed on the TVA Board of Directors.

I thank you so much for giving me the opportunity to testify today.

Senator RANDOLPH. Thank you very much, Senator Brock.

When did you interest yourself in this subject matter, Senator?

Senator BROCK. Mr. Chairman, in this particular nomination I interested myself in the fall of 1974, some 6 or 8 months before the retirement of the then-director, Mr. McBride. On that particular occasion, I contacted the Presidential Personnel Office and told them that the vacancy would occur in May of 1975. I urged their early and very precise attention to the matter because of its importance to Tennessee, and that they begin then a search for the most qualified possible person.

Senator RANDOLPH. Did the White House assure you that that would be the procedure it would follow?

Senator BROCK. It did, but it was not followed.

Senator RANDOLPH. You have continued your concern, your interest, and your attention in the nomination of a person to serve on the Board until your appearance today, is that correct?

Senator BROCK. For about a year and a half now, sir; yes, sir.

Senator RANDOLPH. Did you, Senator, recommend one or more persons for such position?

Senator BROCK. I sent a number of résumés to the White House for their consideration. I felt it might be somewhat presumptuous for me to try to single out one, because I thought a number were qualified. I felt that I would like the President to bring in some outside perspective and to use his best judgment. I did try to see that the President had before him every person who had expressed an interest and who had the qualifications I thought were essential to this job. I recommended no one person.

Senator RANDOLPH. I hope this is a proper question. I think it is, Senator.

Do you have knowledge of other Senators in the Tennessee Valley Authority region who recommended or suggested or discussed with the administration possible names to fill this position?

Senator BROCK. I have knowledge, personal knowledge, of several Senators who have done this; yes, sir.

Senator RANDOLPH. Thank you.

Senator Baker.

Senator BAKER. Mr. Chairman, thank you very much.

Senator Brock, would you agree with me that the TVA is truly an important national asset and not a regional or State of Tennessee asset?

Senator BROCK. I couldn't agree more.

Senator BAKER. And that in many ways its future ought to be well before it and not behind it, and that the importance attaching to this nomination is more than ordinary?

Senator BROCK. That is my whole point, Senator. I appreciate your saying it more clearly than I did.

Senator BAKER. I didn't say it more clearly. I just said it differently. But it really is a matter of extraordinary importance to us in the Tennessee area. I think, as well, it is of extraordinary importance to the country.

Senator BROCK. I agree with you.

Senator BAKER. That is the sense I got from your statement of today. I respect you for it. I have not expressed an opinion on this nominee. I have both publicly and privately withheld any recommendation in that respect, in part because of my concern for my position as ranking minority member of this committee which has to make the initial recommendation, and in part because I wanted to hear how these matters develop.

There will be a whole range of issues before the Board of TVA, of course, in the years ahead. You have identified many of them. One of them, of course, has to do with rates, with the cost of electricity and fuel systems, conservation practices, and the like.

I am not going to burden this record with further interchange with you on how well or not well this nominee might serve in that respect.

Let me ask you this one general question. Does the fact that Mr. Hooper is from Mississippi, and is not from Tennessee or was not recommended by you to the President of the United States, have anything to do with your evaluation of his existence in this respect?

Senator BROCK. None whatsoever. As a matter of fact, several of the persons whose names I did suggest for White House consideration and whose qualifications were adequate were from outside my State.

As a matter of fact, most of the people I supported for the President were not from the State of Tennessee. I did feel we had two or three qualified from Tennessee and I thought very strongly that the location should have nothing whatsoever to do with the nominee, that his ability, his integrity, his qualifications, professional competence, his background and experience, his dedication to the consumer and conservation are the things that should determine the nominee.

Senator BAKER. I haven't said this in public before but I have said it privately, but I think it might serve this record well:

At this particular time we have many Tennesseans and there are many people no doubt in the seven State TVA area who could serve with distinction on the Board, but I personally feel that the agency and the area might be well served by drawing its expertise from outside the TVA service area.

That does not prejudice the qualifications of this nominee, but rather is meant to be a statement of agreement with the point you just made.

Senator BROCK. Thank you.

Senator BAKER. Mr. Chairman, I have no further questions.

Senator RANDOLPH. Senator Bentsen.

Senator BENTSEN. Mr. Chairman, at the request of the distinguished junior Senator from Tennessee, I have called another hearing which starts at the present moment and I have to go to chair that. I welcome him over there when he leaves here. I am very interested in this nomination.

Senator RANDOLPH. It gives me opportunity for 30 seconds to say that the modus operandi of the Senate leaves much to be desired.

Senator BROCK. I couldn't agree more.

Senator RANDOLPH. Some day we will realize, and I keep playing the same old record, that we should have legislative days and committee days and they won't be intertwined.

Senator BAKER. And we will have office hours too.

Senator BROCK. I agree and link arms with you on that issue. We shall prevail one of these days.

Senator BAKER. Serious, Mr. Chairman, I think you are not only right, but you are probably the first one to make a major issue out of it. Unless we do that, sooner or later the legislative process is going to bog down and stop because it is impossible to keep a schedule that each of us get every day with three committees to attend and the Senate.

Senator RANDOLPH. Forgive me for interjecting this.

Senator Domenici?

Senator DOMENICI. Thank you, Mr. Chairman.

Before I ask a few questions of Senator Brock, might I ask Senator Baker in your last remark with reference to the national significance of TVA and your comment that perhaps it would be in order to take someone out of the area, do you mean outside of the seven-State area that it serves? Is that what I understand?

Senator BAKER. I don't presume to speak for anybody except Tennessee, and I say that with great peril to my political future. I am saying the President ought to feel free to consider people not only outside Tennessee but outside the seven-State area because TVA is in fact a national asset.

I want to hedge it quickly by saying there are lots of folks who could do a good job from Tennessee, but maybe we ought to look a little broader.

Senator BROCK. We say that with some assurance, Senator, because we have never had anybody come to Tennessee who didn't become a better Tennessean. They just fall in love with the State, it is so beautiful.

Senator DOMENICI. Let me make one other comment, this one addressed to you, Senator Baker. As a member of the committee, I appreciate the way you have handled this nominee and your position to this point because, although you will obviously be called upon to vote here soon, we serve with you and since you are from Tennessee, which is one of the States affected, I have to vote and I am pleased that you are coming to the hearings without having taken a strong position and with what I consider to be a very excellent approach to the problem of letting us do some judgment judging on our own without having our ranking member already having made up his mind personally.

I don't know how I am going to vote, but I consider the responsibility a very great and difficult one. I am both on my own judgment, and to some extent, on your thinking also. I am pleased that you have not seen fit to render the hearings rather useless with reference to your position by already taking one.

Senator Brock, just a couple of questions. I understand now emphatically that your opposition to this nominee is not because he is from Mississippi. Is that correct?

Senator BROCK. I almost wish he was from any place else because I have so many friends there and I have such respect for those who are

my colleagues and my friends from the House. It is a terribly, terribly difficult position for me to be in.

I am not opposed to Mr. Hooper as a man. I just want someone qualified.

Senator DOMENICI. I know, you have answered that. For myself, I must tell you that a number of people have indicated that is wherein the opposition comes. I want to make sure you have answered my question emphatically so that when I am asked I can say that the junior Senator from Tennessee is not promoting a Tennessean for this job over someone from Mississippi. Is that correct?

Senator BROCK. That is an absolute statement of fact.

Senator DOMENICI. With reference to the nominee's business experience, as one goes through your statement, you have indicated that he has not had any serious success and thus perhaps lacks business judgment. Am I properly summarizing your position to this point?

Senator BROCK. Yes.

Senator DOMENICI. Let me ask you, Senator Brock, with reference to his numerous business ventures, you do not contend that he is guilty of malfeasance, chicanery, or any kind of discretion in that job that indicates anything other than perhaps bad judgment or lack of competence in making business decisions. Is that correct?

Senator BROCK. That is correct. I will state further in his defense that, in reading extensively on this matter, the deposition he made in the bankruptcy proceeding, for example, I came away with the feeling that Mr. Hooper may have been abused by some who were very sharp in their practices. I know how that can happen.

Senator DOMENICI. Senator Brock, as I review some of those, it appears to me that when one states his involvement and/or rank on a piece of paper, it might indicate—because there are high-sounding titles like a director or vice president or vice chairman—that some of those titles might indicate that he is really one who could make all decisions, while as a matter of fact in many of those instances he was part of a collective decisionmaking process and it certainly might not have been the one conclusive as to their success or failure. Is that not correct in many of the ventures?

Senator BROCK. That is correct.

Senator DOMENICI. One last question. You make a point in your statement that he has been rather indecisive in answering some specific questions regarding the TVA and, I assumed tied into that, the part of your statement whether you indicate that he doesn't have the kind of specific experience with reference to running this kind of utility and related enterprise.

I am somewhat disturbed, and I don't ask this question facetiously. I would like you to give me your version. I think if we had someone who was, be he from outside the region or be he in it, that that person would be burdened by an equal kind of problem, in that there would be those saying he has already made up his mind, he already knows all the answers, he is already experienced in the field and if he wasn't on the right side of what those people thought, he would be chastised for that.

Well, this Senator feels that that is not what we need at this particular point in time. From what I have read, I think we need sound judgment and a total open mind with reference to wherein the TVA

is going. I am having some trouble understanding how one could be openminded and yet have those qualifications you imply he ought to have an opportunity to have.

Would you care to comment on that?

Senator BROCK. Yes; I would very much so.

In the conclusion of my statement I say, "The next member must be someone who possesses a unique combination of experience, confidence, and a broad perspective in judgment."

I do not say he has to be an engineer. That was the qualification for the first 20 years of TVA's Board.

Senator DOMENICI. To be a what?

Senator BROCK. An engineer. We have a good engineer on the Board. We have a very bright young man who was head of the Tennessee Department of Conservation, who brings with him that commitment and concern.

I am looking for a person who has breadth and who has great and demonstrated qualities of judgment.

Senator, I couldn't agree more with you. The one person I don't want is someone who is so delighted by his background and experience that he is wearing blinders like a horse and he can't see, he has no field of vision, he has no sense of perspective because these problems are not simple of solution. There is no right solution. There is no perfect answer.

The Senator from West Virginia knows full well in choosing between various energy supplies—strip mining, and gasification of coal—and then the competition between the nuclear and fast breeder. We are deeply involved in that in TVA as opposed to the liquid metal or the water-cooled reactors.

You don't have to have somebody who is an expert in that kind of technology. You can hire that kind of technician. The person you need is the man who can stand back and see the forest and not get hung up on the trees.

If anybody can show me in here where this individual, as fine as he may be and with the fine support that he has, has demonstrated that judgment, I don't know where it is. I can't find it in there. It is that that I criticize, not the lack of professional experience or engineering experience, the only single academic qualification. That is not what bothers me.

What bothers me is that a nice person who seems to have been taken advantage of by others and with some fairly sharp practices, who has made a number of errors in judgment and who has yet to have a real success that would warrant me to say, well, maybe he had a couple of bad experiences but his judgment finally came to the front and he has shown what he has. I cannot find it in this regard.

Senator DOMENICI. I have one last question, Mr. Chairman. I, too, am scheduled to be at two other meetings.

I regret that I ask you this question, Senator Brock, but I am going to anyway. In the early part of your statement you seem to have a genuine concern about the people of your State with reference to increased utility rates. You have gone to great lengths in your statement indicating what a disaster that has been and you cite some examples.

You don't expect a nominee to come before us for confirmation and go before the people of the Tennessee Valley indicating he can solve that problem and lower the rates; on the other side, that perhaps the Board he is joining has not done the right job and therefore the rates have been increased disproportionately or improperly, do you?

Senator BROCK. Senator, I do. And I do not in a sense that somebody is going to come before us and say, "Hey, I have a magic wand. I can solve all of these problems." None of us have that. But I expect somebody to express some concern about it.

Mr. Hooper testified yesterday before this committee, and he made one fine statement. It was a good statement. I agreed with virtually everything he said in it until he got to the questions. And it demonstrated strip-mining reclamation, soil conservation, things that I very much believe in is within TVA's competence and jurisdiction.

But he didn't spend a whole lot of time talking about rates. You can't imagine, Senator, unless you live in Tennessee, the frustration of people of our State right now. When they have a problem and have a complaint to make, where do they go? Senator Baker and I and the Congressmen have no control over TVA. Neither does anyone else in the Federal Government. If they have a complaint, they have no place to go.

We couldn't even get open Board meetings down there until I introduced legislation about a year ago. I finally got the Board meetings opened up and then we found out most of the decisions were being made before the Board meeting so they weren't really that open anyway. You can't imagine the frustration of the people in Tennessee when TVA said, "We have an energy crisis. We want all you good folks in Tennessee with all these electric homes to cut down your thermostats and cut off the lights and use less air-conditioning and less heat."

Our people did. We had a tremendous conservation program right in my hometown. So what happens? Within 30 days after we had the conservation program going in full swing, TVA comes out and says, "Our revenues have fallen off so we are going to have to increase the power charged per kilowatt-hour because we are getting less money."

The people said, "What you are doing is penalizing us for being conservative for reducing our use of electricity. Somebody is wrong about that."

Why in the dickens can't we have a pricing policy that motivates conservation instead of consumption?

We can. Where was the testimony directed in that area? I don't see it. I don't hear it. And yet that is fundamental insofar as the people of Tennessee are concerned. They want somebody to come on that Board who is going to open it up. They want someone who will listen. They want somebody who will take a new point of view and try a few things. TVA was a yardstick. It was proposed as one for the Nation. Where is it now? Why isn't it being used as a yardstick to test alternative pricing mechanisms, new techniques of conservation and environmental protection? It can be. Well, let's get a Board member who will think in those terms.

Senator DOMENICI. I can appreciate your answer and I genuinely believe I understand your concern and the kind of person you would like to be on the Board. I appreciate your frankness.

Thank you, Mr. Chairman.

Senator RANDOLPH. Thank you, Senator Domenici.

Senator Brock, you spoke of the Tennessee Valley Authority as a yardstick. There is a feeling that I have had from time to time—as one who voted for the original TVA legislation in 1933—that the TVA was not a yardstick so much anymore but a walking stick.

By that I mean that we were bringing into being a unique institution in government and that it was to work the will of the people in a certain area covering a number of States.

Then there was the feeling within the Tennessee Valley Authority hierarchy that we move into other States.

Would you think that there might be a possible invasion of TVA into the public utilities that were operated through our private industry system?

Senator BROCK. Yes. They began to encroach on territories outside of their jurisdiction; yes, sir.

Senator RANDOLPH. I think the hearings would indicate that that was being done. I will not use this occasion, of course, to go back over that situation. But it did exist and we questioned very, very often as to just what TVA was, how far it was to go, the mission that had been spelled out in the original legislation, and of course the changes made as we moved along.

You would feel, then, that TVA is unique, not a private entity in the industrial sense of our country, and has a very important role to continue to perform. In no way should TVA move into other areas of the country where, frankly, if you will begin to study the utility rates, they are not much different from one part of the country to the other.

There are many forces at work which cause increased rates, not only for electricity but for natural gas, across-the-board.

The increased rates, due to many, many factors, are really astounding. The American family today is hard pressed often to meet the costs of just the heating of homes. Businesses are up against it many times in the operation of the machines to manufacture products that move to the markets. This is a very big problem and a great concern of yours, I am sure, as it is and should be of the members not only of this committee but the Congress of the United States.

You would feel then that mission of TVA is not nationwide. Is that correct?

Senator BROCK. Absolutely. They have enough to say grace over at the right end of the valley, Senator. They don't need to mess with anything else. I hope they will concentrate there and do a better job where they belong.

Senator RANDOLPH. Thank you, Senator, for coming and witnessing before the committee.

Senator BROCK. Thank you so much.

[Applause.]

Senator RANDOLPH. In the Senate itself, the presiding officer would admonish those in the audience not to express by applause, or by the opposite of applause, approval or disapproval of what a witness is saying. However, this chairman is a very flexible person to a point.

Senator BAKER. It depends on which point.

Senator RANDOLPH. To a point. Let us continue to hear the witnesses. If we want to congratulate them, move quickly out into the corridor and shake both hands. You know what I mean.

All right. Let's have now a panel of witnesses. I think it would be a proper way to hear Mr. Gibson, Mr. Williams, Mrs. Morgan, Mr. Brandt, and Mrs. Whitehead.

Presumably, Mr. Gibson, because you are listed first, we would begin with you.

STATEMENTS OF JONATHAN GIBSON, TENNESSEE ENVIRONMENTAL COUNCIL; JOHN PHILIP WILLIAMS, EAST TENNESSEE RESEARCH CORP.; SHIRLEY MORGAN, JACKSBORO, TENN.; ROBERT S. BRANDT, ON BEHALF OF TENNESSEE CHAPTER, SIERRA CLUB; AND CORRINE WHITEHEAD, BENTON, KY., ON BEHALF OF THE BETWEEN THE RIVERS COMMITTEE

Mr. GIBSON. Mr. Chairman, I might explain. I am Jonathan Gibson. I am speaking jointly today with Mr. John Williams, on my right, whose testimony will follow my own. If I might, I will introduce the other panel members with whom I am personally acquainted but who are appearing here on their own.

Bob Brandt is next to Mr. Williams; then Miss Shirley Morgan and finally Miss Corrine Whitehead. We will be speaking in this order: myself, Mr. Williams, Mrs. Whitehead, Mrs. Morgan, and finally Mr. Brandt, if that is satisfactory to you, sir.

Senator RANDOLPH. Yes, it is entirely satisfactory to the committee.

Mr. GIBSON. Sir, I hope the committee will feel free to ask any questions of us at any time in our testimony.

Senator RANDOLPH. Yes, we will keep flexible. We might even interrupt while you are making a statement. We might wait until all five of you have concluded. We will see how it develops.

Mr. Gibson, if you will identify yourself, the organization for which you appear, and make what preliminary statements you think you could make so that the members of the committee would understand exactly who is speaking and for the group that you represent.

Mr. GIBSON. Thank you. I am Jonathan Gibson, representing the Tennessee Environmental Council, which is a statewide conservation organization based in Nashville, Tenn.

I am speaking jointly today with Mr. John Philip Williams of the East Tennessee Research Corp., whose testimony will follow my own. We and our organizations believe that the appointment of James F. Hooper to the Board of Directors of the Tennessee Valley Authority would be a disaster for TVA, the Tennessee Valley, and the nation.

We want to set forth the reasons for our opposition to Mr. Hooper's confirmation. I have appended to my statement a list of 14 organizations with a membership of over 3,000 individuals which have approved our testimony today, and they would like for the record to show their endorsement.

As the committee knows, the Tennessee Environmental Council participated with a number of other Tennessee Valley consumer, environmental, and labor groups in presenting testimony we hope was useful at the TVA oversight hearings last May.

However, I want to state at the outset that we have not come here today to debate the pros and cons of particular TVA programs or policies. Nor do we base our opposition to Mr. Hooper's appointment on the difference between his views and ours on nuclear power or strip mine reclamation or water resource projects.

Indeed, we don't know what Mr. Hooper's views are on the issues facing TVA. We don't feel this committee obtained satisfactory answers from Mr. Hooper yesterday. But it is not Mr. Hooper's point of view which is our primary concern.

Instead, we are concerned, and deeply concerned, about the future of the Tennessee Valley Authority as an institution of immense regional and national significance. We wish to speak about the qualifications required of the person appointed to TVA's Board of Directors at this critical point in its history.

In Tennessee TVA has a greater impact on the State's environment than any other single institution, including State government.

More than 99 percent of our population is served with electric power generated by TVA. In return, approximately 63 percent of TVA's power revenues are derived from Tennessee consumers. Twenty-three of TVA's 33 major dams and 8 of its 12 steam plants are in Tennessee. Four of the seven nuclear powerplants designed to meet TVA's nuclear generating capacity over the next decade will be located in our State.

Yet the Tennessee Valley Authority is not a concern merely of Tennesseans or of Senators and Congressmen from the Tennessee Valley. TVA's policies exert an influence far beyond the boundaries of its seven-State region. TVA is the Nation's largest supplier of electric power. It is the country's largest purchaser of coal, and the greatest user of strip mined coal as well. It is planning the utility industry's largest nuclear generating capacity. As a consequence, the practices of TVA provide a national yardstick for the management of energy supply and demand.

As a public agency with vast experience and technical resources, TVA can and should serve as a model for reconciling energy production with environmental protection. With the availability and cost of energy of nationwide concern and independence in energy resources a matter of national policy, the appointment of a new director to the board of the country's largest electric utility will have consequences of clear and resounding national significance.

Because of its unique status as a Federal Corporation, TVA is a largely autonomous institution. As President Roosevelt observed in his message in 1933 asking Congress to create the TVA, it is "a corporation clothed with the power of government but possessed of the flexibility and initiative of a private enterprise."

The three-member Board of Directors makes virtually all decisions regarding the Authority's policies and programs. Because of the power vested in the TVA Board and because of the far-reaching implications of its decisions, the appointment of TVA's next director is of exceptional importance.

The character of TVA is a reflection of the character and the vision of its directors. The individual confirmed by the Senate will assume one-third of the responsibility for charting TVA's course for the next 9 years.

At present, TVA's two directors are divided on several matters of major policy confronting the agency. The vote of the third director may well determine TVA's future course on a number of critical and controversial issues. In evaluating Mr. Hooper's nomination, this committee must consider the variety and gravity of the questions which it will be his responsibility to decide.

Of the \$10 billion increase in TVA's bond ceiling approved by this committee, how will the new director vote in regard to issuance of bonds and disposition of their revenues? How will he insure that TVA's rates remain at reasonable levels, levels which include the social and environmental costs of producing power and which encourage energy conservation in line with national energy goals? What will be his stance concerning TVA's nuclear power program, particularly in the light of reliability questions raised at Brown's Ferry and demand justification vigorously disputed at licensing hearings for the Hartsville plant?

What will be the new Director's position with regard to amendments recently proposed to the TVA Act? Three such amendments have been introduced by Senator Bill Brock of Tennessee, whose testimony this morning we appreciate very much.

These would require by law that TVA Board meetings be open to the public, establish a Citizen Review Commission for TVA, and mandate a joint energy conservation study with FEA. Commendable though these proposals may be, there is no reason that reforms should have to be forced on TVA from outside. Will the new Board member have the vision and initiative to keep TVA responsive and to make such changes when the time for changes has come?

How will the appointee view TVA's responsibilities for air pollution control at its coal-fired steam plants? Mr. Hooper told the committee yesterday that he had reserved judgment on this question until the results were in from scrubber demonstrations at Widow's Creek. This clearly missed the point that the use of intermittent controls is prohibited by law, a law written by this committee and further strengthened in recent clean air amendments.

The question then, is, will TVA's new Board member advocate policies consistent with the spirit of environmental protection laws, or will he continue TVA's claim of immunity from pollution control standards with which it doesn't agree?

Now that the Authority no longer contemplates buying the Peabody Coal Co., what alternatives will the Director recommend to assure long-term availability of coal? Will this be eastern or western coal, high sulfur or low sulfur, deep mined or strip mined, and what price will TVA pay for coal supplies?

How will the next Director respond to a citizens' suit and a Department of the Interior request contending that, under the Endangered Species Act of 1973, TVA must preserve the habitat of the snail darter, even if this means halting the Tellico project on the Little Tennessee River?

These are not questions for the Public Works Committee to decide, at least not in a daily managerial sense. They are decisions for the

TVA Board of Directors. If he joins that Board, Mr. Hooper must answer all these questions and many more. The issue before the committee today is simply whether Mr. Hooper is qualified to make public policy decisions such as these. The unanimous sentiment of the organizations which Mr. Williams and I represent is most emphatically that he is not. And these sentiments are shared by virtually every businessman, power distributor, and friend of TVA with whom we have spoken about this nomination.

What standard, then, what criteria of talent and competence should this committee apply in judging a nominee to the TVA Board? Let me set the record straight on what we, in the Tennessee Valley, think that we and the Nation deserve. And let the record show that we intend for the same rigorous qualifications and standards to apply not only to Mr. Hooper but also to any successive nominee to the vacancy which now exists.

As the committee knows, the TVA Act itself is rather unspecific in the attributes required of a TVA Director.

As the committee also knows, the TVA Act was written in 1933, and only two members of the 94th Congress were Members of the body at that time—the distinguished chairman of this committee and the Honorable Representative Wright Patman of Texas.

The social, economic, and environmental conditions of the Tennessee Valley and the Nation have changed considerably since 1933, and much more is required of a Director today than is literally set forth by the TVA Act.

We believe that the next Director of TVA must possess six indispensable qualifications:

1. He must have the professional background, either through education or experience, to deal competently with the technical issues of energy development, supply, and conservation.

2. He must possess proven managerial ability to administer the largest electric utility and regional development agency in the United States, with total assets of \$5½ billion and a budget in 1975 of over \$1 billion.

3. He must have a demonstrated commitment to resource conservation and environmental protection together with an understanding of the legal, scientific, and economic issues involved in pursuing these objectives.

4. He must possess the capacity for asking the right questions, for exercising independent judgment, and for making difficult decisions. He must be able to communicate both with TVA's supporters and with TVA's critics, and to accept constructive recommendations from both quarters. He must be able to defend and explain TVA's actions where necessary and to advocate innovation and reform where appropriate.

5. The Director must be free of any financial association which might give rise to conflict of interest or bias of perspective.

6. Finally and perhaps most important, the next TVA Director must be an individual of high integrity and unquestionable personal rectitude, a person whose leadership of this unique institution will prove a credit to the region and to the Nation.

Our organizations and numerous others urged the President to seek a nominee of these credentials long before Mr. Hooper's name was pro-

posed. Regional and national newspapers have articulated the need for appointment of a qualified individual.

I am appending a number of these editorials to my statement and ask that they be included in the record.

Senator RANDOLPH. Without objection. (The statement appears at p. 105; the editorial appears at p. 129).

Mr. GIBSON. Yet, remarkably, these entreaties went unheeded. Senator George Norris' high hopes for a nonpolitical TVA have been abandoned; clearly partisan motivations have prevailed in selection of the present nominee. Our disappointment and displeasure at Mr. Hooper's nomination were in no way mollified by the knowledge that several qualified and highly recommended individuals were passed over by the White House in favor of a candidate whose sole distinction appears to be his popularity with party leaders in Mississippi.

In contrast to the many individuals of recognized and extraordinary qualifications who might have been before this committee today, James Hooper meets virtually none of the criteria set forth above.

He has no known expertise in the critical field of energy supply. He possesses not even the administrative competence to manage his personal business affairs, all of which have ended in either bankruptcy, financial loss, or civil litigation. His record gives no indication of familiarity with or advocacy of the ethic of environmental protection, particularly in terms of the complex issue of air and water pollution control.

Mr. Hooper has said that while he doesn't have a knowledge of the many technical issue confronting TVA, he retains an open mind on these issues. At the same time, he has already stated:

I know of no other Republican, with a chance for White House appointment, who, conscientiously, as I can, could stick in there and uphold Red Wagner's hand. (Nashville Tennessean, June 22, 1975).

Mr. Hooper seems to have cast his allegiance before understanding the technical choices. When he himself has come under criticism, he has responded in vindictive and intemperate fashion. Such behavior hardly reflects the intellectual independence and open-mindedness we seek in a TVA Director.

Finally, the information which has come to light on Mr. Hooper's financial dealings and business associations raises serious and disturbing questions about his personal judgment and principles.

This might be a point, Mr. Chairman, where I could interject some response to Mr. Hooper's contentions about the qualifications he would bring to the TVA board. He claimed yesterday what TVA needs is a Director with an agricultural background. By no means do we intend to belittle TVA's role in agricultural development nor to suggest that more shouldn't be done in this area.

But let's look at the statistics for a moment. If we look at TVA's annual report, we find that in 1975 the Authority spent \$961 million on its power program. Some \$35 million was spent on nonpower programs. Of this sum, only \$1.8 million was spent on agricultural development.

Thus the amount spent on agricultural programs is only 0.2 percent of the amount allocated to TVA's power program.

Further, in reviewing the agenda for eight of the nine TVA Board meetings held between August 14, 1975, and February 12 of this year, we find that the TVA Directors considered a total of 292 items, only 9 of which, or 3 percent, were related to agricultural programs.

Thus our contention is that the background which Mr. Hooper would bring to the Board, with the agricultural interest which he has, simply won't be highly relevant to the major policy and budgetary decisions confronting TVA.

These are the reasons we have all along argued against Mr. Hooper's appointment to the TVA Board. In the 8-long months since his nomination, there has emerged yet one more reason, a reason which is the most compelling of all for his rejection. The reason has to do with the fact that TVA is at a critical and extremely controversial juncture in its history.

Controversy is not something new to TVA. But the storm which is brewing now and the winds of public disaffection which are already blowing challenge the very purpose and credibility of the institution.

I am confident that positive changes and creative solutions will emerge, but the issues are serious ones and are far larger than the personalities of the three men who sit on TVA's Board of Directors.

We can recall the bitter struggle which led to President Roosevelt's removal of Arthur Morgan from the TVA Board and to a joint congressional investigation of TVA. It would indeed be tragic if again, as in 1938, the energies and best efforts of the people of the region, and perhaps of this committee, were to be diverted from the substantive issues by a continuing dispute over the character and competence of TVA's leadership.

Yet, this is precisely what Mr. Hooper would bring to the TVA Board—continuing personal controversy, further grievances to TVA's critics, diminished respect among TVA's friends.

Our public institutions, and especially TVA, need the faith and confidence of the public. Mr. Hooper apparently fails to understand this fact. He seems not to realize that the prolonged controversy over his reputation will severely damage—and has already damaged—TVA.

He has not thought highly enough of TVA to withdraw himself from the nomination, with all the opportunities he has been given, and to spare the institution this loss of confidence. This is the most severe of all indictments against Mr. Hooper and the most fundamental of reasons why this committee should find him unfit to become a TVA Director.

When Mr. Hooper's nomination was first announced, we in the Tennessee Valley were appalled and offended by the low esteem held for our region and for the Tennessee Valley Authority.

We applauded this committee's decision to postpone hearings to permit a full investigation of Mr. Hooper's background. The long delay of these proceedings has in no way diminished our total and unalterable opposition to Mr. Hooper's nomination; the passage of time has not, and will not, reconcile us to having Mr. Hooper as a Director of TVA.

However, we are acutely conscious that the Authority is facing important decisions with less than full leadership. We must put this nomination behind us and allow TVA to get on with the business ahead.

We have done everything possible to persuade the President to withdraw Mr. Hooper's name and submit a nominee with abilities commensurate to the post. We have called on our Senators and Congressmen to

ask the President to withdraw the nomination. We have asked top officials in FEA, EPA, and the Council on Environmental Quality to urge the President to look again for a professionally qualified appointment.

We have done everything but come to Washington and beg Mr. Ford to give us the right person for the job. And why? Because we wanted to spare the President, and this committee, and not least of all Mr. Hooper, the embarrassment and the waste of time and resources required for confirmation hearings on a nominee so sadly deficient in qualifications.

It gives us no pleasure to implore this committee to reject a nominee of the President as totally unsuited for a position of public trust. Our concern for TVA leaves us no choice. We urge the committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Senator RANDOLPH. Thank you.

Mr. Gibson, do you know Mr. Hooper personally?

Mr. GIBSON. I have never met Mr. Hooper personally; no, sir.

Senator RANDOLPH. Have you corresponded with him personally?

Mr. GIBSON. No, sir.

Senator RANDOLPH. You have never asked his viewpoint or opinion by letter or in any other way on the matters that you have discussed with the committee?

Mr. GIBSON. I have seen a memorandum which Mr. Hooper wrote himself in response to some allegations which were made which will be detailed later. That is my only correspondence or communication.

Senator RANDOLPH. Does the Environmental Council in your State take a vote among your members as to the position which was stated by you as you come to the committee today?

Mr. GIBSON. This position today was endorsed by our executive committee which operates in the interim between board meetings. This is the formal manner of authorizing a statement by the council.

Senator RANDOLPH. You will understand that I am not inquiring improperly. I am trying, as we do with all witnesses, to identify the witness with the organization that he represents.

Mr. GIBSON. Yes, sir.

Senator RANDOLPH. What is the membership of your council in Tennessee?

Mr. GIBSON. The council is an association of organizations essentially.

Senator RANDOLPH. Organizations?

Mr. GIBSON. There are some 34 organizations which are members of the council, and something over 50 individual members.

I might add, Mr. Chairman, that the endorsements which I spoke of earlier are endorsements of some members of our council and other organizations which are not members. I do have that in writing from their various organizations as formal actions of their groups, and that will be submitted for the record. (See p. 115.)

Senator RANDOLPH. Of course, we will wish you to use the record to give us whatever information is necessary in connection with the council, as you feel the council's views are reflected in your statement today.

How long has the council been active in this matter, from the beginning when there was no one even mentioned by name—Mr. Hooper or someone else?

Have you tried to be active with this situation in calling to the attention of people the need for a new dimension or a new outlook or, as you have said here on page 7 of your statement, speaking of the person to fill this position, "He must be able to defend and explain TVA's actions, where necessary, and to advocate innovation and reform where appropriate."

The reason I have followed this line of questioning is because you, Mr. Gibson, have indicated the place of Tennessee and all the Tennessee Valley Authority development from the standpoint of the impoundments of water, and so forth, in the impact upon Tennessee.

Mr. GIBSON. Yes, sir.

Senator RANDOLPH. Has your council been active or have you expressed yourself about the Tennessee Valley Authority and what apparently you believe a direction is or is not good in which it is or has been going. You said so in this statement. I want to know, have you been doing that over a period of time?

Mr. GIBSON. Yes, we have. We have been actively involved in corresponding with TVA directly and with public officials on matters concerning the authority's activities. Our organization is presently sponsoring a series of regional symposia on TVA and the Environment, in which we are looking at all these energy questions and resource management issues. This is designed as a form of public education to acquaint the citizens of the region with some of the critical issues facing TVA and allow them to make up their own minds.

I might add that our organization has been actively interested in this nomination since long before Mr. Hooper's nomination was suggested, as I said, and did correspond with the White House in May, listing the qualifications which have been set forth before you today as the prerequisites for the nomination.

Senator RANDOLPH. I thank you. I know that will be helpful to the members of the committee as we evaluate your testimony.

You spoke here: "to advocate innovation and reform where appropriate." I was remembering a part of the quotation from Abraham Lincoln when he said, "The dogmas of the quiet past are inadequate to the stormy present." You are thinking about that a little, aren't you, as you speak here?

Mr. GIBSON. I hope that the next director, whoever he may be, will have your recollection of that quotation.

Senator RANDOLPH. Senator Baker?

Senator BAKER. That is a pretty good sized bill for the next one. I will look forward to that.

Mr. Gibson, you mentioned what you thought a director ought to be. Let me speak in a little more general terms just for a second about TVA's role as distinguished from the director's role, not that it is directly relevant to our consideration of a nominee for the Board but because I would like to have your opinion and this is a good forum for it.

Mr. GIBSON. Certainly.

Senator BAKER. The chairman is right, of course. TVA has come through a period of relative tranquillity since the stormy times in its

early development. I think I am right, that its future ought to be well before it and not behind it. But I didn't elaborate on what I thought TVA's future ought to be. Right now give me some vignette of what you think TVA's role ought to be in the future.

Mr. GIBSON. As I have stressed in the testimony, TVA's role is largely one now of an electric utility. I think this is an area where it can show an incredible amount of leadership to the Nation. We have here a system serving over 2.4 million customers.

Senator BAKER. You think it ought to be essentially that of a utility? It is the largest utility in the world. I suppose it is inevitable that is going to be its major role. But it troubles me a little that that certainly isn't what it was conceived of initially, to be a major utility.

Mr. GIBSON. It has achieved many other purposes. What I am suggesting is that in TVA we have the potential for very, very rapid adjustments, for experimentation with some concepts like Senator Brock was suggesting, energy conservation measures.

What could we do, for example, with a revolving loan fund set up to finance heat pumps and insulation? What could we do with some peak-load pricing techniques with changing the inverted rate structures for example. TVA is experimenting, as you know, in Chattanooga with just that. But these are not systemwide approaches.

I think that is one of our organization's basic complaints with the authority, that these are really cosmetic and we haven't really talked in the large about energy conservation as a way of life. It has been voluntary. It has been induced through publications and through press releases if it has been induced at all.

But we haven't seen any financial incentives to encourage this. FEA has some very exciting ideas in that field. Why FEA and TVA aren't working closer to implement these, I don't know. I remember Mr. Robert Seamans in Knoxville in October. He was asked a question with regard to the National Plan for Energy Research Development.

The question was: "What is TVA's role? How do you view TVA as part of the national energy program, and why wasn't TVA mentioned in the ERDA report?" He referred to a solar system in Oak Ridge and said the omission was an oversight. In my opinion, it was a very grievous oversight. I don't mean to belittle the other roles of resource management, but that is where we are as a Nation. TVA is way behind the times and we are facing some critical energy shortages.

Senator BAKER. What about its regional development role? Do you see in the next 20 years substantial function of TVA in that respect?

Mr. GIBSON. I think it is going to have to go in a different direction, Senator. I assume that it will maintain that role. That role of course could be performed by local governments if TVA weren't doing it. It could be performed by another kind of organization, like the Appalachian Regional Commission, if TVA weren't doing it.

But let's assume TVA will continue to do it. Look at a different kind of industrial promotion in the valley. Take the waterfront industries for which TVA takes primary credit. If you do a simple division there, you find that a number of jobs created per dollar of plant investment is only one-half of the national average.

When you talk about furthering the economic growth of the valley, shouldn't you be looking at labor intensive industries perhaps, rather

than the large heavy power user, the chemical plants, for example, which turn out a lot of value added products but don't employ many people?

This is another way TVA could go. I personally would like to see them move in that direction as another brand, you might say, of regional development.

Senator BAKER. What new functions would you visualize for TVA?

Mr. GIBSON. One, not necessarily a new function so much as a new attitude, I would like to see is greater responsiveness and greater work with some of the State agencies in Nashville and in other State capitals.

Before the State legislature are many measures having to do with resource development and energy. I think TVA could bring to bear its expertise in working more closely with legislators themselves and with Government officials in drafting legislation designed to further the concept of partnership in solving some of the region's problems. In Tennessee we have had a hard time talking to one another, State officials and TVA.

Senator BAKER. Let me ask you two questions and let me weight the impact of them first by telling you they may not be what they appear to be. That is, I am not implying any attitude or point of view to you, nor am I inferring any with the statements you already made. But I think the record might be well served with these two questions.

By and large, do you think the Tennessee Valley area has been better off by reason of TVA or worse off over the last 40 years?

Mr. GIBSON. Better off.

Senator BAKER. Substantially?

Mr. GIBSON. Substantially.

Senator BAKER. So it has been a success?

Mr. GIBSON. I think undoubtedly it has been a success.

Senator BAKER. And you think it will continue to succeed in the future?

Mr. GIBSON. I am not optimistic, Senator, not unless it changes.

Senator BAKER. That gets me to the second question. If you were able to order and determine the destiny of TVA on your own, which none of us, of course, are, what would you do with it? Would you sell it? Would you keep it? How would you change it? What would you do?

Mr. GIBSON. Senator, these are very appropriate questions for a nominee for the directorship.

Senator BAKER. They are precisely what we are talking about. I guess that is really what we finally get down to.

Mr. GIBSON. It is what we get down to really. What does TVA's management want to do with it?

Senator BAKER. What does the country want to do?

Mr. GIBSON. What does the country ultimately want to do? I have some personal ideas. I think that perhaps we could look a little further at a greater role for the consumers in the management of TVA's affairs. I don't simply mean by inserting a public participation clause, as in the Water Pollution Control Amendments, in the TVA Act, although it wouldn't hurt to charge it formally with public participation responsibilities. The Citizen Review Committee has been suggested. That, I think, may have some drawbacks.

One alternative that is being talked about in the valley, with increasing frequency, I think is turning TVA back over to the consumers, a cooperative at large, as it were. I am not sure I like that idea. These are the kinds of things we are hearing down there, because these are some of the problems that have occurred.

Also, Senator, if I might add, it might be that we have accomplished a great number of TVA's functions in terms of flood control and navigation and that perhaps we should remandate the TVA. Perhaps we should more closely delineate what its responsibilities for the future are, in terms of water resource projects, particularly.

Senator BAKER. TVA was formed in the thirties, of course, and as you are well aware, it was created on the suggestion of Senator Norris and President Roosevelt to be an extraordinarily autonomous, public corporation. It is really unique in the American political experience, in that it is responsible to no one.

It has a charter which gives it autonomy over a large portion of our daily lives and our economic and social welfare.

We have created, in addition to that, a precedent that deters "political involvement" in TVA's affairs. There have been huge presidential debates about that. To reinforce the idea that TVA was on its own, a three-man Board of Directors implied a three-man Board of Administrators. You put them down there to run this and we built a wall around them and said you are on your own. I really do think that has worked remarkably well.

Turning it back over to local groups, or more consumer participation on a Citizens Advisory Council, maybe the right thing to do but it is very much at variance with the original idea of a strong centralized autonomous TVA.

So what you are talking about is a fundamental change in the nature of the concept of the Valley Authority if those things were to be undertaken.

Mr. GIBSON. That is correct, Senator. I think that a lot of people want some fundamental changes. I would prefer to see these changes. I think this is the thrust of my testimony.

I can envision some of the testimony that will follow coming from a Board of Directors which asks, as you ask, what is required 20 years from now, and which begins to suggest those changes and make those changes and urge those changes upon this committee and the Congress rather than people outside having to say, look, wake up, here is what is needed and here is where we are going.

Senator BAKER. What I am about to say next is a little reckless for a politician, and I ought not to say it at all, but I am going to.

One of the principal reasons TVA has the image problem that you describe is because it has lost its innovative spirit. Frankly, I would like to see us find new roads and new challenges and new opportunities for TVA. I am not sure though, in order to do that that we have to put TVA back into the mainstream of everyday political affairs or turn it over to the consumers or make it a giant cooperative or sell it to private enterprise.

I think TVA in the present format can be restructured, revitalized and redirected so that it once more is the useful resource management

project that it once was. The fact that it also happens to be the largest power producer in the world ought to create an opportunity to demonstrate new techniques in conservation, environmental technology and the like.

Mr. GIBSON. Is TVA not like any other agency or institution? It is a reflection of its leadership.

Senator BAKER. I think it ought to remain unique, in my own personal view. I thank you very much, sir. We no doubt will have a chance to discuss this over time. I value your opinion.

Mr. GIBSON. Thank you, sir.

Senator RANDOLPH. Thank you.

Senator STAFFORD, do you have questions or comments?

Senator STAFFORD. Thank you, Mr. Chairman.

I just have one or two questions. I am sorry, Mr. Gibson, that I wasn't able to be here during your formal testimony. We in the Senate all suffer from too many subcommittee assignments. I have fallen victim to that this morning.

Could I ask you briefly how you perceive the future of TVA in terms of the sources of its energy? Do you perceive it in terms of becoming basically a nuclear generated system or a coal generated system or a combination of nuclear and coal generation?

Mr. GIBSON. Senator Stafford, I think—

Senator BAKER. Can I interrupt a second? I can't resist the temptation to point out that since 1934 we have come to the place where, when the power options are put, the only one omitted is hydro-electric power. And that is what TVA was built for in the first instance.

Senator STAFFORD. I would be glad to include that.

Senator BAKER. TVA has dammed up every river it can find, so there is not much left to do in that area.

Senator STAFFORD. That is why I didn't include it.

Mr. GIBSON. I think we suggested in some remarks that it is not an either-or question. Clearly, we have to exert ourselves in every technology and with greatest rapidity. In the Nashville area, for example, there is a controversy over the Hartsville powerplant, a very big plant which is far from being over.

There is a great deal of concern about the safety aspects and about the economics, more and more about the economics, of nuclear power. While we wouldn't make the suggestion the three plants which are on line and designed now, although not under construction, should be abandoned, I have to think that perhaps their construction date could be put off by serious conservation measures.

What can we do? The State of Tennessee contended at the Nuclear Regulatory Commission's hearings on the Hartsville plant that there are nonstructural alternatives to supplying energy. The State made a very creditable presentation at those hearings. I think the authority should be exploring these avenues, although not necessarily to get us out of the nuclear technology field. We have problems with coal as we do with nuclear, clearly.

I think that a presentation that was made in the Hartsville hearings suggested that we could put the construction date back a little bit so we can see, for example, how well the various systems function when

Brown's Ferry goes back on line and if we have any more problems there than anywhere else. This will give us a little more breathing space before we go on to nuclear technology. We think we are probably going to have to go to it.

Senator BAKER. I didn't intend my last remarks as criticism of your description of TVA, Senator Stafford. I think you may have misunderstood me. Just before you got here, this witness and I had had a free-flowing and philosophical discussion about the history of TVA and your statement happened to fit into that thought stream. My comments were no reflection on your question. I apologize, if they appeared to be.

Senator STAFFORD. None is needed. And I didn't take it that way. I was trying to learn really what this witness perceived to be the future of generation of electricity in TVA.

Mr. GIBSON. I hope I haven't hedged too much on you.

Senator STAFFORD. I have to ask you, Mr. Gibson, are you and the people you are speaking for today inherently opposed to generation of electricity through nuclear power?

Mr. GIBSON. We are not inherently opposed; no, sir.

Senator STAFFORD. You are not inherently opposed?

Mr. GIBSON. No, sir.

Senator STAFFORD. How do you perceive Mr. Hooper in terms of his outlook for the future of TVA in terms of coal versus nuclear versus a combination of the three?

Mr. GIBSON. Senator, I am extremely confused by Mr. Hooper's outlook. I wish I knew. The questions that were asked yesterday were asked on precisely this point. First of all, we seemed to get an answer that he would abandon nuclear technology, even those plants that are under design now, and go all coal.

Then we seemed to get an answer that, no, everything under the Sun was needed, including the Sun, and that he would go with the nuclear powerplants. I believe this was if we could be assured that a low-cost supply of cheap uranium was assured. I don't know what the time frame there was, whether it was the initial placement of uranium in the cores, or whether it was the supplies that are going to be needed for replenishment, or what. I don't know Mr. Hooper's views on this.

Senator STAFFORD. Thank you. Thank you, Mr. Chairman.

Senator RANDOLPH. Thank you, very much, Senator Stafford.

You reared the ugly head of nuclear energy again. I shall just let it bow its head and not discuss it.

Thank you very much, Mr. Gibson, for your testimony.

Mr. GIBSON. Thank you, Mr. Chairman.

Senator RANDOLPH. I am sure it will be carefully reviewed by all members of the committee. There is no need for me to explain why other members are not here. They are in other committee meetings, or subcommittee meetings. I had the same problem. Senator Baker has had the same problem.

We have committed ourselves to being here for all the testimony because we feel we have a responsibility. For that reason, we have been present.

[Mr. Gibson's prepared statement and the endorsements and editorials referred to during the testimony follow.]

HEARINGS ON THE NOMINATION OF JAMES F. HOOPER
TO THE BOARD OF DIRECTORS OF TVATESTIMONY OF JONATHAN GIBSON
TENNESSEE ENVIRONMENTAL COUNCIL
FEBRUARY 18, 1976

The Tennessee Environmental Council is a statewide association of conservation organizations based in Nashville, Tennessee. I am speaking jointly today with Mr. John Philip Williams of the East Tennessee Research Corporation, whose testimony will follow my own. We and our organizations believe that the appointment of James F. Hooper to the Board of Directors of the Tennessee Valley Authority would be a disaster for TVA, the Tennessee Valley, and the nation. We want to set forth the reasons for our total and unalterable opposition to Mr. Hooper's confirmation. I have appended to my statement a list of organizations which have approved our testimony today, and they would like for the record to show their endorsement.

As the Committee knows, the Tennessee Environmental Council participated with a number of other Tennessee Valley consumer, environmental, and labor groups in presenting testimony we hope was useful at the TVA oversight hearings last May. However, I want to state at the outset that we have not come here today to debate the pros and cons of particular TVA programs or policies. Nor do we base our opposition to Mr. Hooper's appointment on the difference between his views and ours on nuclear power or stripmine reclamation or water resource projects. Indeed, we don't know what Mr. Hooper's views are on the issues facing TVA. We hope the Committee can find out, but it is not Mr. Hooper's point of view which is our primary concern.

Instead, we are concerned - and deeply concerned - about the future of the Tennessee Valley Authority as an institution of immense regional and national significance. We wish to speak about the qualifications required of the person

appointed to TVA's Board of Directors at this critical point in its history. We think it is appropriate that conservation organizations should be testifying on the matter of TVA's leadership, because TVA was founded first and foremost as a conservation organization. The Authority's broad mandate grew out of the conservation movement of the early 1900's, out of the concern of Gifford Pinchot and Teddy Roosevelt for protection of the nation's natural resources. TVA was charged with navigation and flood control, reforestation, agricultural and industrial development, and even national defense. TVA's founders had the concept of a totally new kind of agency which would plan and manage the resources of an entire river basin. And the vision of these men has been fulfilled.

In Tennessee, for example, TVA has a greater impact on the state's environment than any other single institution, including state government. No other state depends for its very economic livelihood upon TVA as Tennessee does. Nor does any other state contribute as much to TVA's self-supporting power program. More than 99% of our population is served with electric power generated by TVA. In return, approximately 63% of TVA's power revenues are derived from Tennessee consumers through municipal distributors and rural cooperatives, and through direct sales to industries and federal facilities located in Tennessee. Twenty-three of TVA's 33 major dams and eight of its 12 steam plants are in Tennessee. Four of the seven nuclear power plants designed to meet TVA's nuclear generating capacity over the next decade will be located in our state.

Yet the Tennessee Valley Authority is not a concern merely of Tennesseans or of Senators and Congressmen from the Tennessee Valley. TVA's policies exert an influence far beyond the boundaries of its seven-state region. TVA is the nation's largest supplier of electric power. It is the country's largest purchaser of coal, and the greatest user of stripmined coal as well. It is planning the utility industry's largest nuclear generating capacity. As a consequence, the practices of TVA provide a national yardstick for the management of energy supply and demand.

As a public agency with its vast experience and technical resources, TVA can and should serve as a model for reconciling energy production with environmental protection. With the availability and cost of energy of nationwide concern and independence in energy resources a matter of national policy, the appointment of a new Director to the Board of the country's largest electric utility will have consequences of clear and resounding national significance.

Because of its unique status as a federal corporation, TVA is a largely autonomous institution. As President Roosevelt observed in his message asking Congress to create the TVA, it is "a corporation clothed with the power of government but possessed of the flexibility and initiative of a private enterprise." TVA has neither to receive formal authorization from Congress for its public works projects nor to justify its electric rates to any regulatory body. Yet TVA has a Congressional appropriation for the current fiscal year of \$100 million. Its power program is completely self-supporting, with system revenues in fiscal 1975 of \$1.2 billion and a statutory bond ceiling of \$15 billion for system expansion. TVA employs over 25,000 persons who are covered by its own civil service system. Its own legal staff defends its practice in the courts. It is subject to no internal requirements for public participation. In short, the three-member Board of Directors makes virtually all decisions regarding the Authority's policies and programs. Because of the power vested in the TVA Board and because of the far-reaching implications of its decisions, the appointment of TVA's next director is of exceptional importance.

The character of TVA is a reflection of the character and the vision of the Directors who provide its leadership. The individual confirmed by the Senate will assume one-third of the responsibility for charting TVA's course for the next nine years. At present, TVA's two Directors are divided on several matters of policy confronting the agency. The vote of the third Director may well determine

TVA's future direction on a number of critical and controversial issues. In evaluating Mr. Hooper's nomination, this Committee must consider the variety and gravity of the questions which it will be his responsibility to decide.

Of the \$10 billion increase in TVA's bond ceiling approved by this Committee, how will the new Director vote in regard to issuance of bonds and disposition of their revenues? How will he insure that TVA's rates remain at reasonable levels, levels which include the social and environmental costs of producing power and which encourage energy conservation in line with national energy goals? What will be his stance concerning TVA's nuclear power program, particularly in the light of reliability questions raised at Brown's Ferry and demand justification vigorously disputed at licensing hearings for the Hartsville plant? What will be TVA's position on other nuclear issues, including the breeder reactor at Oak Ridge; long-term contracts for uranium exploration and mining in Wyoming, New Mexico, and South Dakota; and the Nuclear Regulatory Commission's proposal for a nuclear energy park just south of TVA's Land Between the Lakes recreation area?

What will be the new Director's position with regard to amendments recently proposed to the TVA Act? Three such amendments have been introduced by Senator Bill Brock of Tennessee. These would require by law that TVA Board meetings be open to the public, establish a Citizens' Review Commission for TVA, and mandate a joint energy conservation study with FEA. Commendable though these proposals may be, there is no reason that reforms should have to be forced on TVA from outside. Will the new Board member have the vision and initiative to keep TVA responsive and to make such changes when the time for changes has come?

How will the appointee view TVA's responsibilities for air pollution control at its coal-fired steam plants? Officials of the Environmental Protection Agency have left no doubt they believe that under the Clean Air Act written by this Committee TVA must install scrubbers for control of sulfur dioxide emissions. TVA

officials have stated just as loudly that they have no intention of installing these devices. The Supreme Court has recently heard arguments by the State of Kentucky that TVA must obtain permits under its EPA-approved air pollution control program. Alabama has sued TVA for \$11 million in damages for continued violation of air quality standards at its Widow's Creek steam plant. Will TVA's new Board member advocate policies consistent with the spirit of environmental protection laws, or will he continue TVA's claim of immunity from pollution control standards with which it doesn't agree?

Now that the Authority no longer contemplates buying the Peabody Coal Company, what alternatives will the Director recommend to assure long-term availability of coal? Will this be eastern or western coal, high-sulfur or low-sulfur, deepmined or stripmined, and what price will TVA pay for coal supplies? How will the next Director respond to a citizens' suit and a Department of the Interior request contending that, under the Endangered Species Act of 1973, TVA must preserve the habitat of the snail darter, even if this means halting the Tellico project on the Little Tennessee River?

These are not questions for the Public Works Committee to decide. They are decisions for the TVA Board of Directors. If he joins that Board, Mr. Hooper must answer all these questions and many more. The issue before the Committee today is simply whether Mr. Hooper is qualified to make public policy decisions such as these. For reasons which we shall enumerate, the unanimous sentiment of the organizations which Mr. Williams and I represent is most emphatically that he is not. And these sentiments are shared by virtually every businessman, power distributor, and friend of TVA with whom we have spoken about this nomination.

What standard, then, what criteria of talent and competence should this Committee apply in judging a nominee to the TVA Board? Let me set the record straight on what we in the Tennessee Valley think that we and the nation deserve. And let the record show that we intend for the same rigorous standards to apply not only to Mr. Hooper but also to any successive nominee to the vacancy which now exists or may occur.

As the Committee knows, the TVA Act itself is rather unspecific in the attributes required of a TVA Director. According to Section 2, "all members of the Board shall be persons who profess a belief in the feasibility and wisdom of this Act." In addition, no Director may have "any interest in any business that may be adversely affected by the success of the Corporation as a producer of concentrated fertilizers or as a producer of electric power." As the Committee also knows, the TVA Act was written in 1933, and only two members of the 94th Congress were members of the body at that time - the distinguished chairman of this Committee and the Honorable Representative Wright Patman of Texas. The social, economic, and environmental conditions of the Tennessee Valley and the nation have changed considerably since 1933, and much more is required of a Director today than is literally set forth by the TVA Act. One has only to recall men of the calibre of Lilienthal, Morgan, and Clapp to perceive the Presidential appointments which recognized this fact and to realize the high standards to which this nomination should conform.

We therefore believe that the next Director of TVA must possess six indispensable qualifications:

1. He must have the professional background - either through education or experience - to deal competently with the technical issues of energy development, supply, and conservation.
2. He must possess proven managerial ability to administer the largest electric utility and regional development agency in the United States, with a total assets of \$5½ billion and a budget in 1975 of over \$1 billion.
3. He must have a demonstrated commitment to resource conservation and environmental protection together with an understanding of the legal, scientific, and economic issues involved in pursuing these objectives.
4. He must possess the capacity for asking the right questions, for exercising independent judgment, and for making difficult decisions. He must be able to communicate both with TVA's supporters and with TVA's critics,

and to accept constructive recommendations from both quarters. He must be able to defend and explain TVA's actions where necessary and to advocate innovation and reform where appropriate.

5. The Director must be free of any financial association which might give rise to conflict of interest or bias of perspective.

6. Finally and perhaps most important, the next TVA Director must be an individual of high integrity and unquestionable personal rectitude. He or she must be a person in whose hands the residents of the Tennessee Valley can with confidence place the affairs of TVA, a person whose leadership of this unique institution will prove a credit to the region and to the nation.

Our organizations and numerous others urged the President to seek a nominee of these credentials long before Mr. Hooper's name was proposed. Regional and national newspapers have articulated the need for appointment of a qualified individual. I am appending a number of these editorials to my statement and ask that they be included in the record. Yet, remarkably, these entreaties went unheeded. Senator George Norris' high hopes for a non-political TVA have been abandoned; clearly partisan motivations have prevailed in selection of the present nominee. Our disappointment and displeasure at Mr. Hooper's nomination were in no way mollified by the knowledge that several qualified and highly recommended individuals were passed over by the White House in favor of a candidate whose sole distinction appears to be his popularity with party leaders in Mississippi.

In contrast to the many individuals of recognized and extraordinary qualifications who might have been before this Committee today, James Hooper meets virtually none of the criteria set forth above. He has no known expertise in the critical field of energy supply. He possesses not even the administrative competence to manage his personal business affairs, all of which have ended in either bankruptcy, financial loss, or civil litigation. His record gives no indication of familiarity with or advocacy of the ethic of environmental protection. Mr. Hooper has said that while he doesn't have a knowledge of the many technical

issues confronting TVA, he retains an "open mind" on these issues. At the same time, he has already stated, "I know of no other Republican, with a chance for White House appointment, who, conscientiously, as I can, could stick in there and uphold Red Wagner's hand," (Nashville Tennessean, June 22, 1975). Mr. Hooper seems to have cast his allegiance before understanding the choices. When he himself has come under criticism, he has responded in vindictive and intemperate fashion. Such behavior hardly reflects the intellectual independence and open-mindedness we seek in a TVA Director. Finally, the information which has come to light on Mr. Hooper's financial dealings and business associations raises serious and disturbing questions about his personal judgment and principles.

These are the reasons we have all along argued against Mr. Hooper's appointment to the TVA Board. In the eight long months since his nomination, there has emerged yet one more reason, a reason which is the most compelling of all for his rejection. The reason has to do with the fact that TVA is at a critical and extremely controversial juncture in its history. Controversy is not something new to TVA. Indeed the agency was born in the throes of the Muscle Shoals debate; it weathered a decade of arguments against public power; it survived the Dixon-Yeates controversy in the Fifties. But the storm which is brewing now and the winds of public disaffection which are already blowing challenge the very purpose and credibility of the institution.

I am confident that positive changes and creative solutions will emerge from the present controversy, but the issues are serious ones and are far larger than the personalities of the three men who sit on TVA's Board of Directors. We can recall the bitter struggle which led to President Roosevelt's removal of Arthur Morgan from the TVA Board and to a joint Congressional investigation of TVA. It would indeed be tragic if again - as in 1938 - the energies and best efforts of the people of the region - and perhaps of this Committee - were to be diverted from the substantive issues by a continuing dispute over the character and competence of TVA's leadership. Yet this is precisely what Mr. Hooper would

bring to the TVA Board - continuing personal controversy, further grievances to TVA's critics, diminished respect among TVA's friends.

Our public institutions, and especially TVA, need the faith and confidence of the people whose lives are affected by these institutions. Mr. Hooper apparently fails to understand this fact. He seems not to realize that the prolonged controversy over his reputation will severely damage - and has already damaged - TVA. He has not thought highly enough of TVA to withdraw himself from the nomination - with all the opportunities he has been given - and to spare the institution this loss of confidence. This is the most severe of all indictments against Mr. Hooper and the most fundamental of reasons why this Committee should find him unfit to become a TVA Director.

When Mr. Hooper's nomination was first announced, we in the Tennessee Valley were appalled and offended by the low esteem held for our region and for the Tennessee Valley Authority. We applauded the Committee's decision to postpone hearings to permit a full investigation of Mr. Hooper's background. The long delay of these proceedings has in no way diminished our total and unalterable opposition to Mr. Hooper's nomination; the passage of time has not - and will not - reconcile us to having Mr. Hooper as a director of TVA. However, we are acutely conscious that the Authority is facing important decisions with less than full leadership. We must put this nomination behind us and allow TVA to get on with the business ahead.

To this end we have done everything possible to persuade the President to withdraw Mr. Hooper's name and submit a nominee with abilities commensurate to the post. We have tried every approach to the White House which private citizens could employ. We have called on our Senators and Congressmen to ask the President to withdraw the nomination. We have asked top officials in FEA, EPA, and the Council on Environmental Quality to urge the President to look again for a professionally qualified appointment. We have done everything but come to Washington and beg Mr. Ford to give us the right person for the job. And why?

Because we wanted to spare the President, and this Committee, and not least of all Mr. Hooper the embarrassment and the waste of time and resources required for confirmation hearings on a nominee so sadly deficient in qualifications.

It gives us no pleasure to implore this Committee to reject a nominee of the President as totally unsuited for a position of public trust. Our concern for TVA leaves us no choice. We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Tenn. Valley Section
American Camping Assoc

Number of members: 100

Mailing address: % Miss Louise Davis
3501 Amanda Ave
Nashville, Tn. 37215

Signed by: Louise Davis

Position: TEC Rep. Date: 2/15/76

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Citizens League To Protect The Surface Rights, Inc.

Number of members: 100

Mailing address: % Joe T. Begley
Blackey, Ky 41804

Signed by: J T Begley

Position: Counsel for Date: 10 FEB 76
Citizens League

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: CLEAN

Number of members: 35

Mailing address: P.O. Box 103
Starkville MS 39759

Signed by: Glenn Linn

Position: Chairman Date: February 11, 1976

Unfortunately the members of this organization have not had the opportunity to read

~~The undersigned organization~~ endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

BUT - We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Environmental Action Council of Memphis

Number of members: Average monthly newsletters - 300.

Mailing address: P. O. Box 4526, Memphis, Tennessee 38104

Signed by: Mrs. Sara D. Hines

Position: Secretary Date: Feb. 15, 1976

At request of President Joseph D. Haas

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Georgia Power Project

Number of members: approx. 500-600 statewide

Mailing address: c/o Col. H. Ed Martin Jr. 1000 Candler Bldg. Atl.
Atlanta, Georgia 30303

Signed by: Neill Herring *Neill Herring*

Position: Vice-President Date: 9 Feb 76

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Kentucky Lake Environmental & Recreational Association

Number of members: 300

Mailing address: P.O. Box 236
Pau, Tenn. 38342

Signed by: Jabray H. Gibson

Position: Director Date: 3-13-76

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Save Our Cumberland Mountains Soc.

Number of members: 600

Mailing address: P.O. Box 457
Jackson, Tennessee 37757

Signed by: Charles L. Whifery

Position: Staff Date: Feb 15, 1976

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization:

Tennessee Citizens for Wilderness Planning

Number of members:

800

Mailing address:

103 Tabor Rd, Oak Ridge, Tn. 37830

Signed by:

Donald Todd

Position:

President

Date: Feb. 10, 1976

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Tennessee Friends of the Earth

Number of members: 200

Mailing address: Box 12489
Nashville, Tn. 37212

Signed by: William M. Shobe, Chairman

Position: _____ Date: Feb. 11, 1976

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Tennessee Scenic Rivers Association

Number of members: 850

Mailing address: P.O. Box 3104, Nashville, Tennessee 37219

Signed by:  Dick Creswell

Position: President Date: February 12, 1976

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Vanderbilt Environment Group

Number of members: 25

Mailing address: Box 2946, Station B
Vanderbilt University

Signed by: Nashville, TN 37235
Detina H. Ault

Position: President Date: February 24, 1976

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization:

Vanderbilt Environmental Law Society

Number of members:

15
c/o

Mailing address:

Vanderbilt Law School
Nashville, Tennessee 37240

Signed by:

William D. Spangler Jr.

Position:

Society Representative to
the Tennessee Environmental Council Date: February 13, 1976

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization:

West Kentucky Farmers

Number of members:

200

Mailing address:

Meril RR#7 Ky

Signed by:

A. B. Puckett

Position:

RepresentativeDate: 2/10/76

The undersigned organization endorses the testimony of Jonathan Gibson of the Tennessee Environmental Council and John P. Williams of the East Tennessee Research Corporation presented at hearings of the Senate Public Works Committee on the nomination of James F. Hooper to the Board of Directors of TVA, February 18, 1976.

We urge the Committee to recommend against confirmation of Mr. Hooper. We ask the U.S. Senate to reject his nomination. We request President Ford to give us an appointment worthy of the national significance of TVA.

Name of organization: Tenn. Chapter of The Wildlife Society

Number of members: ? 76

Mailing address: Rt. 6,
Lawrenceburg, Tenn. 38467

Signed by: C. A. McConnell

Position: Environmentl Coordinator Date: Feb 17, 1976

THE TENNESSEAN

SILLIMAN EVANS SR. (Publisher, 1937-1955)

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JOHN SEIGENTHALER, Publisher

LLOYD ARMOUR, Executive Editor

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EUGENE WYATT

Associate Editor

RUTH BENNETT

Secretary

Page 4-B

Sunday, July 20, 1975

Mr. Hooper Not The Man For TVA Directorship

MR. JAMES F. Hooper is not the right person to become a TVA director and President Ford should withdraw his nomination.

Not only has Mr. Hooper failed to exhibit a single qualifying trait for the job, but his background is replete with evidence of his lack of qualifications.

This is not because of his business failures, which have now become well known. Competent men occasionally run into a streak of bad luck and suffer temporary business reverses.

But Mr. Hooper's failures are characterized by a dismal consistency and a pattern of manipulation and wheeler-dealing which raise danger signals against putting this type person on the TVA board.

Some indication of Mr. Hooper's unfitness for the TVA board is to be found in the bankruptcy court record of Mr. Hooper's business partner, Mr. Everett Hope Brooks.

The record is an almost impenetrable swamp of questionable business practices such as check-swapping and the frequent transfer of funds between accounts. The sworn testimony smacks — in the terminology of Watergate — of "money laundering."

Mr. Hooper and Mr. Brooks were partners in a business enterprise, Mr. Hooper's dairy in Columbus, Miss., where the TVA nominee lives. They were business associates in a small insurance company then based in Alabama and a now bankrupt dairy processing concern in Atlanta, which they acquired for \$5,000 from a man who had just bought it for \$100 — along with its \$385,000 in debts.

The man from whom they bought the Atlanta firm — Mr. Henry L. McMahan, who stayed on as manager of the dairy processing operation, Little River Farms — testified that when he needed money to carry on the operations of Little River Farms he would telephone Mr. Hooper. Later he would get checks from Mr. Brooks. He said that some of the checks would be made out to him personally and that he was instructed by Mr. Brooks to deposit the money in his personal account and then write "back to back" checks on his account and deposit the money in the account of Little River Farms.

Mr. McMahan testified that in all he received \$133,000 from Mr. Brooks, of which \$54,000 was drawn from the insurance company, Standard Union Life. Mr. Brooks was president of Standard Union and Mr. Hooper was a fellow director in both Standard Union and Little River Farms.

Mr. McMahan said the money was handled in that way "for reasons unknown." Mr. Hooper says he only did what Mr. Brooks suggested that he do.

Standard Union was in financial trouble at the time. So was the dairy processing plant. Mr. Brooks went bankrupt a few months after the purchase of Little River Farms.

In December, 1968, less than a year before Mr. Brooks went bankrupt, Mr. Hooper's 1400-acre farm at Columbus, then held in partnership with Mr. Brooks, was transferred to Standard Union Life for \$10 "and other considerations."

On August 19, 1969, the Standard Union board of directors — consisting of Mr. Brooks, Mr. Hooper and Mr. Brooks's wife — voted to convey the Mississippi farm back to Mr. Hooper.

That Mississippi farm was a "conduit"

for a strange pattern of financial manipulation with Mr. Brooks depositing more than \$500,000 over a period of years from a variety of sources — including \$100,000 from Standard Union Life.

Mr. Hooper, in his deposition in the bankruptcy case, was unclear about the meaning of these unusual business arrangements.

He acknowledged that his farm's account was a "conduit" that Mr. Brooks used for financial dealings.

He said he put money into the account of the farm at Mr. Brooks's instruction and took it out the same way. "Boom, boom! In and out," he testified as he told how, on one occasion, he turned \$65,000 over to Little River Farms.

Although testimony showed that he held a third of the stock in Little River, Mr. Hooper testified that he held stock only "for about 10 minutes" and denied at one point that he knew the "definition" of stockholder.

Mr. Hooper says there was nothing "wrong" in anything he did. He has not been charged, indicted or convicted of any criminal conduct.

But is this the man who should play a major role in the administration of a federal agency which holds \$5 billion in assets, does a gross volume of \$1 billion a year and handles \$400 million in purchases? Obviously not. It is hard to believe President Ford knew of Mr. Hooper's background when he nominated him to the TVA board.

This newspaper, which began its investigation of Mr. Hooper's background several weeks ago, still has not been able to piece together the full story of all Mr. Hooper's business arrangements. *The Tennessean* is seeking to acquire access to documents now on file in federal court in Memphis and is looking into other records in Alabama, Georgia, Mississippi and Arkansas. But enough of a pattern is clear to lead *The Tennessean* to oppose Mr. Hooper as a TVA director.

TVA is facing one of the most trying periods in its history and it needs people of stature and proven ability at its helm.

TVA's consumers don't want to have their electric power rates set and other important policy decisions made by a person of Mr. Hooper's demonstrated ability in financial sleight-of-hand.

The Senate Public Works Committee, which has delayed confirmation hearings on Mr. Hooper's nomination, should go through the nominee's record with a critical eye.

Sen. Howard Baker, R-Tenn., a member of the committee, has expressed a keen interest in finding out about Mr. Hooper's business practices as reflected by the bankruptcy court record. It is hoped that Senator Baker will use his prestige to have the committee staff probe all of Mr. Hooper's background and will use his skill in cross examination to help elicit all of the facts.

Hopefully the FBI, which was supposed to look into Mr. Hooper's record before the White House nominated him, will do a better job of providing a full record to President Ford.

If the President then persists in pushing Mr. Hooper instead of withdrawing the nomination, it will be obvious that political considerations in this administration transcend all else in the selection of TVA board members.

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Secretary

August 27, 1975

New Name For TVA Post

PRESIDENT Ford's ill-considered nomination of Mr. James F. Hooper of Columbus, Miss., to be a TVA board member continues to draw mounting opposition, even from some who would be expected to look for reasons to side with the President.

Sen. William E. Brock, R-Tenn., an uncompromising conservative who has never held much sympathy for the TVA concept, is among the latest to choke on the Hooper appointment and to note the nominee's singular lack of qualifications for the post.

"As far as I know, Mr. Hooper seems to be a very nice man," Senator Brock said last weekend. "But I studied his record carefully and I just can't find a single field where he has qualifications that recommend him for what is really a crisis situation in the operation and management of an agency like TVA."

Senator Brock said he was prepared to make a one-man effort, if necessary, to prevent Mr. Hooper's confirmation. "Our people need a new man on the TVA board whose background experience and special abilities are such as to give the people hope something will be done to pull TVA's cost of producing power down," he said.

Mr. Brock's rejection of Mr. Hooper is not an indication that the Tennessee senator has had any basic change of view

toward TVA, or public power, or other progressive government policies which many Tennesseans regard as vital to their welfare.

However, it is an indication that persons of all political persuasion — with the exception of Mr. Ford and the congressional delegation from Mr. Hooper's home state — are of one mind in judging the Columbus dairyman to be unfit for a TVA board post.

Anyone Senator Brock would approve of for the TVA job might not be acceptable to a majority of those who want to see TVA progress and fulfill its original mission to serve as a yardstick for the cost of electric power production. But that would be a disagreement based on differing political philosophies. When it comes to recognizing Mr. Hooper's lack of qualifications, it is easy for almost everyone to agree.

Senator Brock said he hoped it would not become necessary for him to lead an effort to block Mr. Hooper's confirmation. This is the hope throughout the valley. Mr. Ford should withdraw Mr. Hooper's nomination and name another, more qualified person for the TVA post.

The President will not find a nominee who will be supported by everyone. But he should at least be able to find a person of satisfactory qualifications who would not be opposed by everyone except his political backers.

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Thursday, September 11, 1975

Mr. Ford Should Withdraw Mr. Hooper's Nomination

THE WASHINGTON Post is the latest newspaper challenging the qualifications of Mr. James F. Hooper to serve as the new director of the Tennessee Valley Authority.

The liberal national newspaper, located in the nation's capital, joins publications within the Tennessee Valley to say that there are very real reasons why Mr. Hooper should not be named to the three-member TVA directorate.

Conservative U. S. Sen. William Brock, the Tennessee Republican who usually supports President Ford, has said he will lead the fight against Mr. Hooper, who was picked by the President to be a TVA director. *The Tennessean* was on record early editorially opposing Mr. Hooper. This newspaper published a series of articles discussing Mr. Hooper's past business activities and found this record did not commend him to the job for which he was nominated by the President.

Mr. Hooper has served as an official of business enterprises whose accounts were used — by his own term — as a "conduit" to transfer funds. There are documents and testimony to indicate that he was a central figure in a check-swapping operation in which money went from one concern he served as a director to another on whose board he served.

In some of his own past testimony Mr. Hooper's role as a director was clouded by his uncertainty as to whether he was on the company's board at a given time.

Mr. Hooper's posture has been not to talk with newsmen about his past business

affairs — despite the fact that he wants to be named to the board of a federal agency that controls a multi-billion dollar operation.

To be as kind as possible about it, Mr. Hooper has nothing in his past to indicate that he is up to that sort of an assignment. And various elements of his background argue against his appointment. Considering his record as a director in private enterprises it is not surprising that opposition to his appointment now has reached the nation's capital.

Reports are that Mr. Hooper wants to appear before the Senate committee considering his nomination and "clear his name." Since he has not been accused of illegal or unlawful activity, that is hardly necessary. But surely he should have the right to offer whatever testimony and documents there might be to cast his nomination in the most favorable light.

That, however, will not change the fact that President Ford should never have called upon a Mississippi dairy farmer of Mr. Hooper's standing to take on a monumental task that touches in a real way the enormous energy needs of this nation.

Whether or not Mr. Hooper appears before the Senate committee to testify in his own behalf, the President, in the interest of TVA, should withdraw Mr. Hooper's name from consideration at the earliest practical moment and name a TVA director who is committed to public power needs and conservation programs that will lead the country in a time of acute energy shortages.

THE TENNESSEAN

September 14, 1975

Common Concern For TVA

THE TENNESSEE congressional delegation's almost solid opposition to Mr. James F. Hooper as a TVA board member is an encouraging sign of agreement on the seriousness of the problems facing electric power consumers in the valley.

Members of Congress of widely divergent political philosophies are practically unanimous in their opinion that Mr. Hooper could contribute nothing to the solution of the problems.

Sen. William E. Brock, III, a conservative Republican, has expressed the view that Mr. Hooper lacks qualifications and has said he would lead a floor fight against the Mississippi Republican's confirmation to the TVA post if that becomes necessary.

Rep. James H. Quillen, Republican from the First District, has said Mr. Hooper's nomination has led to so much criticism that he feels the Mississippian's appointment "would not be in the best interests of TVA..." Both Senator Brock and Representative Quillen have called on President Ford to withdraw Mr. Hooper's nomination.

The state's other Republican senator, Mr. Howard Baker Jr., has not committed himself publicly on the issue because he is the ranking Republican on the Public Works Committee which will hold confirmation hearings on Mr. Hooper's nomination. It is understandable that the sena-

tor would want to keep an open mind on the question until the hearings have been conducted.

Another Republican congressman, Rep. John J. Duncan of Knoxville, has opposed Mr. Hooper's nomination, as have Democrats Joe L. Evins, Ed Jones and Marilyn Lloyd. Other than Senator Baker, Rep. Robin L. Beard, Republican, and Harold Ford, Democrat, are the only members of the delegation who have not announced their positions.

Although there is a wide variety of political opinion represented in the delegation, including differences with respect to the merits of public versus private power, there is near-unanimous agreement on the need to strengthen TVA and protect it from being undermined by mediocre board members.

This reflects a concern for the people of the valley and their economic well being. Although there may be wide disagreement among the delegation members about what policies TVA should follow, there seems to be no disagreement that the valley deserves the best qualified persons possible on the TVA board making decisions that affect the pocketbook of every power user in the state.

It is too bad that TVA and its customers get this kind of positive representation from some in Congress only in a period of energy crisis. It is the kind the valley could use more of at all times.

THE TENNESSEAN

October 14, 1975

Playing Politics With TVA

SPEAKING IN Knoxville last week, President Ford said he will let his nomination of Mr. James F. Hooper to the board of the Tennessee Valley Authority take its course in the Senate. However, it must be asked if the hearings of the Senate Public Works Committee, scheduled for late this month, serve any useful purpose or whether they simply delay the filling of the board's third seat, now vacant for almost five months.

Investigations by this newspaper and others have cast serious doubts about the quality of service which Mr. Hooper, a Mississippi businessman, could render to the TVA. His past business activities do not commend him for the post. They indicate he was a central figure in one check-swapping operation, and that other businesses with which he was associated were used as a "conduit" — his own term — to transfer funds.

In addition to editorial opposition from this newspaper, Mr. Hooper faces numerous congressional adversaries, including Sen. William E. Brock, R-Tenn. Senator Brock, uncompromising in his conservatism and almost unswervingly loyal to President Ford, said, "But I studied his (Mr. Hooper's) record carefully and I just can't find a single field where he has qualifications that recommend him for what is really a crisis situation in the operation and management of an agency like TVA."

That is the crucial point. TVA is facing a crisis: Former supporters are now asking if the agency has joined the ranks of the big, private utilities and is gouging the public. This is a most serious charge against an agency established to serve the public and to be a "yardstick" to measure the cost of producing energy.

The third seat must be filled by a man who can argue the public interest and assure the people that they are being served well by the agency. Mr. Hooper is not such a man; since publication of facts about his past, Mr. Hooper has avoided reporters.

Perhaps, he believes he can answer his critics during the Senate hearings. However, the President indicates he has doubts about his nominee's success with the committee. In Knoxville the President said he has a back-up list ready, but thought it premature to discuss it until the Senate acted.

A Republican source told a reporter that the administration's "game plan" is to let the nomination die in committee. Such a maneuver will let the President go back to Mississippi Republicans with clean hands.

That may be good politics and it may be the best that TVA can expect from a Republican administration, but it should be a source of outrage to the voters of the Tennessee Valley region.

THE TENNESSEAN

Page 4-B

Sunday, November 30, 1975

Mr. Hooper's Nomination Should Not Be Revived

THE NOMINATION of Mr. James F. Hooper III, Columbus, Miss., dairyman and businessman, to be a TVA board member will die with the expiration of this session of Congress.

President Ford could re-submit the nomination in January, but he would be wise not to do so. The appointment is clearly in trouble in the Senate and the chances are good that confirmation will be denied.

The Senate Public Works Committee has had the nomination since June 12 but has taken no action. Hearings were finally set for Dec. 8-9. But two of Mr. Hooper's strongest supporters, Senators James Eastland and John Stennis, Mississippi Democrats, have asked that the hearings be postponed until after the first of the year, and the committee has complied.

The senators said the reason they wanted a delay was that the two-day hearings would not provide sufficient time for the discussion. However, their request was interpreted by some as meaning that the Mississippi senators had given up on Mr. Hooper's nomination.

But Mr. Hooper maintains his nomination is very much alive and says he will not ask the President to remove his name from consideration for the TVA post.

This is unfortunate, for any attempt to force the nomination through is bound to lead to a lengthy confirmation battle which can only be a detriment to TVA.

Perhaps no board nomination in the history of TVA has been as controversial as Mr. Hooper's. The nominee's lack of qualifications for a TVA board seat has

drawn opposition from both sides of the political fence.

Even Sen. William Brock, R-Tenn., who would be expected to support Mr. Ford, has balked at Mr. Hooper's nomination. Senator Brock said he had studied the nominee's record carefully "and I just can't find a single field where he has qualifications that recommend him for what is really a crisis situation in the operation and management of an agency like TVA."

The nomination should not be revived after the first of the year. Too much time and money have already been spent in trying to put Mr. Hooper on the TVA board. The Senate Public Works Committee disclosed recently that the cost of its investigation of Mr. Hooper's business dealings had pushed the committee over its budget for the current fiscal year and made it necessary to request an additional \$20,000 to get through the rest of the year. The committee said it needed \$16,000 of the money to pay the General Accounting Office for personnel "borrowed" for the Hooper investigation.

It is not known what the Senate committee investigators found out about Mr. Hooper's business dealings. But it seems possible that Senators Eastland and Stennis had some indication of what it was when they asked that the confirmation hearings be postponed past the date when the nomination would automatically expire.

The best interests of everyone — TVA and its customers, the Ford administration and Mr. Hooper himself — would be better served if the nomination were permitted to remain expired.

THE TENNESSEAN

Page 4-B

Sunday, February 15, 1976

Mr. Hooper's Nomination Should Not Be Approved

THE SENATE Public Works Committee will begin hearings this week on the nomination of Mr. James F. Hooper to the Tennessee Valley Authority's board of directors. It should reject the appointee.

Perhaps no board nomination in the history of the TVA has been as controversial as Mr. Hooper's. His lack of qualifications for the TVA post has drawn opposition from both political parties, from citizens, from publications in the Valley, and from *The Washington Post*.

Sen. William Brock has expressed the view that Mr. Hooper lacks qualifications. The senator said he had studied the nominee's record carefully "and I just can't find a single field where he has qualifications that recommend him for what is really a crisis situation in the operation and management of an agency like TVA."

The state's other Republican senator, Sen. Howard Baker, has declined to commit himself publicly because he is the ranking GOP member of the committee which will hold confirmation hearings on Mr. Hooper.

Rep. James H. Quillen, Republican from the First District, has said Mr. Hooper's nomination has led to so much criticism that he feels the appointment "would not be in the best interests of TVA."

Another Republican, Rep. John Duncan of Knoxville, has opposed the nomination, along with Democratic Reps. Joe L. Ewins, Ed Jones and Marilyn Lloyd.

This newspaper was on record early in opposing Mr. Hooper editorially. It had examined closely Mr. Hooper's

past business activities and in a series of articles, dealt with that record.

It can be said that there is a wide variety of political opinion represented in the combined opposition to Mr. Hooper. There is a variance of philosophical outlook even for the TVA and its policies. But there is broad agreement among the opposition that the Tennessee Valley and the TVA vitally need the most highly qualified person available on the board.

The TVA's role in resources, flood control, and the generation of electrical power for the region, including its entry into nuclear power generating plants, makes it mandatory that its top leadership be exceptional and well-qualified to make decisions that affect the pocketbooks, the quality of life and the public safety of residents in the Valley.

It is hoped that members of the committee considering Mr. Hooper take these vital factors into account when the hearings get under way.

The committee has, or should have, before it the results of its own expensive investigation. It was disclosed last fall that the probe of Mr. Hooper's business dealings had pushed the committee over its budget.

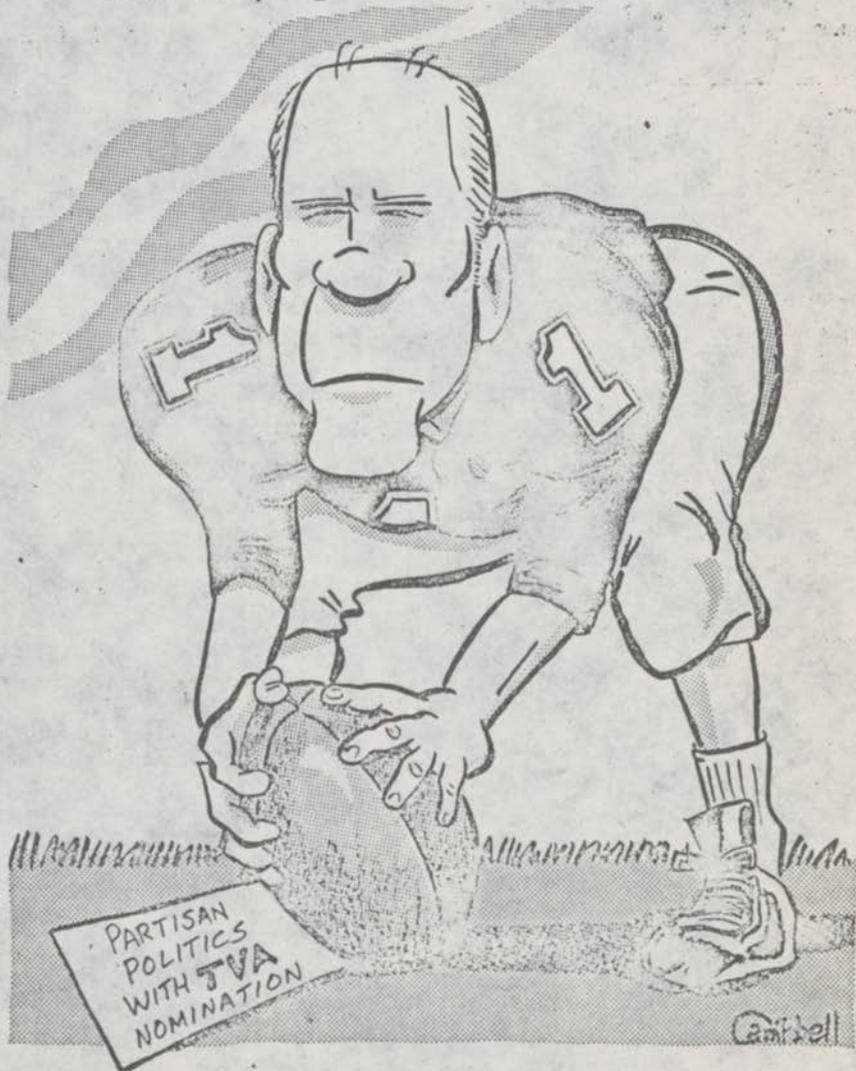
It still isn't publicly known what the committee investigators found out about Mr. Hooper and his business dealings, but presumably they found many of the things this newspaper found. A weighing of the record should lead the committee to the same conclusions that this newspaper reached:

Mr. Hooper is not qualified to serve on the board of the TVA, and his nomination should be rejected.

THE TENNESSEAN

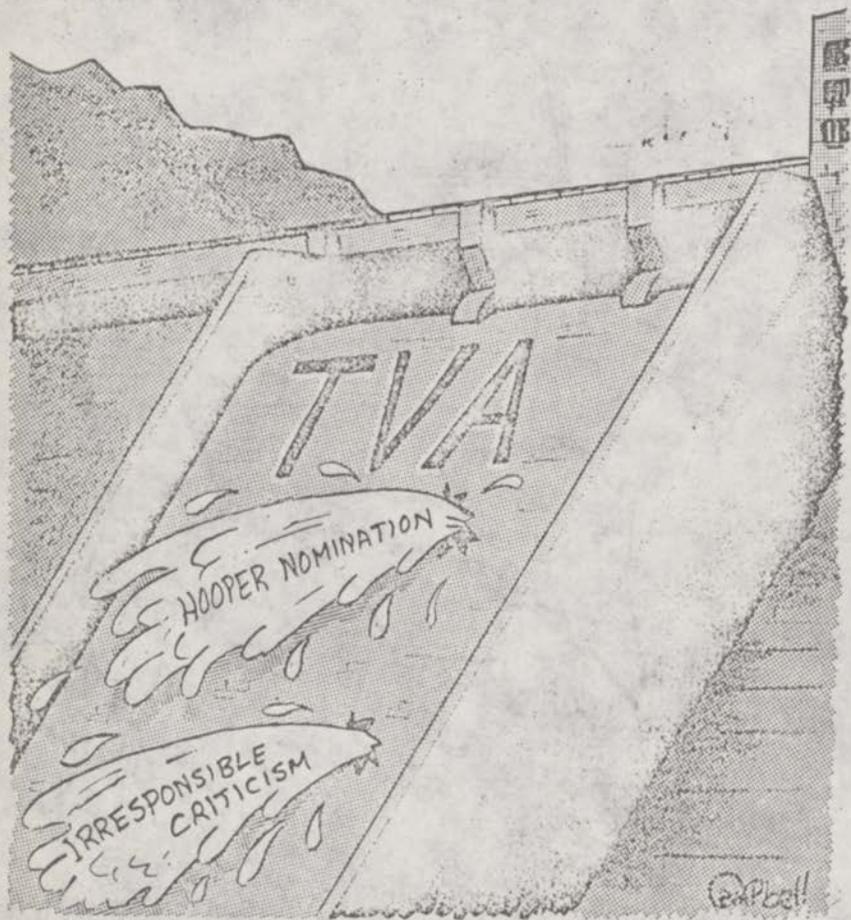
May 30, 1975

Still Playing Without A Helmet



THE TENNESSEAN

September 10, 1975



ESTABLISHED 1869

The Chattanooga Times

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*Treasurer*NORMAN BRADLEY
*Editor*JOHN N. POPHAM
*Managing Editor*RAY HOWE
Editorial Production

PAGE B 6

SUNDAY, MARCH 16, 1975.

The TVA Directorship

With the nine-year-term of Don McBride as a TVA director ending in May, interest is mounting on President Ford's possible selection for the post. Mr. McBride, a midwestern reclamation engineer prior to his appointment in 1966, has said that at 71 years of age he is not a candidate for another term.

Already various groups are recommending names of possible nominees. Mississippians have suggested James F. Hooper, a Republican businessman from the northeast area of the state served by TVA. Alabamans are not united behind any one person. Among those whose hats have been thrown into the ring are Maynard Layman, a Decatur, Ala., newspaperman; Charles R. Mitchell, who has been Sen. James Allen's executive secretary; and Thomas L. Longshore of Birmingham, an official of the Alabama Power Co.

Members of the Tennessee legislative delegation have not come up with a recommendation, although we feel sure they will.

There are no hard and fast requirements for membership on the board as to residence or experience, nor should there be. Citizens of the region have an un-

derstandable belief that someone familiar with its problems and its people may serve more capably than a nominee with the same qualifications from some other section.

The TVA act does say specifically, however, that "all members of the board shall be persons who profess a belief in the feasibility and wisdom" of the statute. This was obviously written in to prevent the choice of someone bent on dismantling the TVA or warping its concept of unified development for the Valley.

We add the hope that in this era of energy crisis someone with wide experience in the field of power production be considered. The name of Carroll V. Kroeger, until recently head of Tennessee's energy office, suggests itself in this regard. He has had worldwide experience in power development, particularly in the use of natural gas, and he has more than a nodding acquaintance with nuclear energy.

The appointment is for Mr. Ford to make. He has innumerable individuals to consider on whose qualifications we have no way to pass judgment. Since the appointment is of such great importance to the Valley, however, we do trust that the best available talent is drawn on to help direct the Authority's affairs.

<p>ESTABLISHED 1869</p> <p>The Chattanooga Times</p> <p>ADOLPH S. OCHS, <i>Publisher, 1878-1935</i></p> <p><i>Published Every Day in the Year by The Times Printing Company</i></p>	<p>RUTH S. HOLMBERG <i>Publisher</i></p> <p>A. WILLIAM HOLMBERG <i>President and General Manager</i></p> <p>HARVEY D. MEDEARIS <i>Treasurer</i></p> <p>•</p> <p>NORMAN BRADLEY <i>Editor</i></p> <p>•</p> <p>JOHN N. POPHAM <i>Managing Editor</i></p> <p>RAY HOWE <i>Editorial Production</i></p>
PAGE 12	TUESDAY, NOVEMBER 25, 1975.

The TVA Appointment

Senate hearings on the confirmation of James F. Hooper III as a director of the Tennessee Valley Authority have been put off until sometime next year. The prolonged delay may signal the desire to give Mr. Hooper a graceful way to bow out. However, he has said he has no intention of asking that his name be withdrawn by the White House.

Donald McBride's term as a director expired last May. President Ford appointed Mr. Hooper, a Mississippi Republican, to the post, subject to Senate approval. Within a short time, sharp opposition developed to the nomination. Questions were raised as to some of his business dealings, his knowledge and understanding of the TVA's programs, and his attitude on environmental protection.

Months went by before the Senate would even set a date for the hearings, finally scheduled for early December. The request for further delay came from Mississippi's two Democratic senators who had supported the nomination. It is

enough to encourage a belief that their interest in his confirmation is dwindling.

Mr. Hooper would do well under the circumstances to withdraw, and the Administration — already under fire for other appointments — would do well to encourage him. The authority directorate has been at less than full strength too long already.

Should the opportunity for appointment be recreated, we hope that geographical considerations will be buried under more important elements. We understand that a resident of the TVA service area might have a better knowledge of Valley problems early on in his tenure, but his experience and knowledgeability in the types of programs TVA engages in would be far more important in the long run, whether he is from Mississippi or Maine, Tennessee or Texas.

We hope Mr. Ford will have another opportunity to nominate a TVA director; we also hope he puts real qualifications at the top of the list of requirements for his choice.

Making TVA more accountable

IT APPEARS that at long last the Tennessee Valley Authority, which has come under increasing criticism from consumer and environmental groups for its energy policies, will be put under the congressional microscope.

The Senate Public Works Committee has scheduled five days of hearings, beginning April 30, with the focus of testimony expected to bear on the federal power agency's \$1 billion bid to buy Peabody Coal Company. But the three-member TVA board and its staff surely will face close scrutiny on a number of other vital public issues, such as the agency's proposal to strip mine parts of the Daniel Boone National Forest in Eastern Kentucky and its rock-ribbed opposition to proven air pollution control techniques.

Equally important, however, will be President Ford's choice to fill the vacancy that will be created May 18 when the term of board member Don McBride expires. So far, reports that an Alabama newspaperman and a Mississippi businessman have the inside track for the nine-year, \$38,000 post aren't encouraging news that consumer and environmental interests will be adequately represented.

The United Mine Workers offer the intriguing suggestion of appointing Whitesburg, Ky., newspaperman Tom Gish, editor of *The Mountain Eagle*. For an agency that only this year abandoned secret meetings, the prospect of adding to the board a harsh TVA critic and defender of openness in the conduct of the public's business must surely cause the Nashville bureaucracy to tremble.

But one has to wonder if editor Gish wouldn't better serve the public interest, particularly that of the citizens of Appalachia who must live with the results of TVA-nourished strip mining, if he remained on the outside looking in, rather than becoming part of the bureaucracy that he so effectively watches over. Fortunately, some of the other nominations include people with similar environmental credentials plus professional expertise—among them Dr. Charles Whittle, a Centre College physicist currently on leave to the Institute of Energy Analysis at Oak Ridge, Tenn.

President Ford also might look seriously at the proposal by Tennessee's governor to expand the size of the TVA board to seven as a step toward providing more divergence of opinion on TVA policies. This would be especially useful if the four additional members were, as Governor Ray Blanton suggests, named by the governors of his state, Kentucky, Alabama and Mississippi—the four main service regions for TVA. This expansion, plus the appointment to Mr. McBride's seat of someone with environmental credentials, could go a long way toward making the federal power agency more responsive to the public it serves.

Louisville Courier Journal

April 7, 1975

Ford should drop nominee

PRESIDENT FORD should spare himself further political embarrassment and withdraw his nomination of Mississippian James Hooper for a seat on the board of directors of the Tennessee Valley Authority.

The Senate Public Works Committee has indefinitely postponed hearings on Mr. Hooper's nomination, pending an investigation into the financial background of this Republican loyalist and promoter of bankrupt businesses.

The investigation doubtless was prompted by *The Nashville Tennessean*, which traced Mr. Hooper's background through court bank-

ruptcy records. What emerged is the portrait of a wheeler-dealer who diverted funds from an ailing Alabama insurance company, of which he was a director, to a financially troubled Atlanta dairy, in which Mr. Hooper also had an interest. According to *The Tennessean*, funds were channeled from the insurance company to the dairy through Mr. Hooper's Mississippi farm operation by means of an intricate check-swapping scheme.

Mr. Hooper has denied any illegality. But even if it turns out that he has been only an innocent participant in a string of financial failures (he also operated a pet-food company that went broke), is this the kind of man who should be spending the taxpayers' money as a \$38,000-a-year director of the TVA?

Surely not. Given TVA's influential role in national energy planning, this nine-year vacancy on the three-member governing body demands someone with a broad background in energy affairs, industrial management and conservation. As Kentucky Senator Huddleston has said, "we need excellence, not mediocrity," in this job. Nothing in Mr. Hooper's background suggests that he comes close to meeting the Senator's first qualification.

Louisville Courier Journal

Louisville Courier Journal June 30, 1975

Senate should reject nominee

AS SENATOR JACKSON argued on the floor of the Senate earlier this month, a president of the United States should have the widest possible latitude in selecting whomever he wants for his closest advisers and members of his Cabinet. But the rules change when it comes to filling long-term (even lifetime) vacancies in the courts and the multitude of federal agencies and commissions.

The case Senator Jackson was discussing was the nomination of former Wyoming Governor Stanley Hathaway to be Secretary of the Interior. While environmentalists properly raised questions about his views on energy and conservation, no one seemed to doubt the nominee's integrity or his ability to administer a major federal agency. On the theory that a president is entitled to surround himself with associates of his choice unless they are provably awful, Mr. Hathaway was confirmed and how holds office. Who knows, he might even turn out to be another Walter Hickel.

But latitude is not license. This is what makes the nomination of Mississippi Republican loyalist James F. Hooper III to the Tennessee Valley Authority board of directors, like that of brewer Adolph Coors to the Corporation for Public Broadcasting, a different situation. Most of Mr. Ford's appointments have been at least good, and some of them exemplary. But the Hooper and Coors appointments are transparent attempts, lacking any other rational justification, to shore up the President's stock with the ultraconservative

wing of the GOP.

Why else would Mr. Ford appoint the promoter of a failed dairy, a failed pet food factory and a defunct insurance company to a nine-year term on such an important energy-policy post as the TVA board of directors? As the *Nashville Tennessean* has observed, Mr. Hooper's career, though also marked by hard work for a number of civic causes and the Republican Party, makes him a questionable candidate for this important post.

Above all there is nothing in Mr. Hooper's record to suggest that he possesses qualifications in energy matters, industrial management or environmental protection. Yet he would be one of only three directors voting on such questions as TVA's commitment to nuclear power, its plans to strip parts of the Daniel Boone National Forest for coal, and its refusal to cooperate with the Environmental Protection Agency in installing stack-gas scrubbers on its steam-generating plants.

Given the current deadlock on most of these questions between the other two members of the TVA board, this appointment becomes even more crucial. The environmental groups that oppose Mr. Hooper's confirmation would prefer a nominee who'd help make this bureaucracy more responsive to consumers and conservation. But one needn't share that view to insist that a presidential appointee at least be qualified to vote intelligently on the policies of one of the nation's largest energy producers and users.

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Opinion

TVA deserves a better deal

INCREDIBLE as it may seem, the nomination of James Hooper, the spectacularly unsuccessful businessman chosen by President Ford for the board of the Tennessee Valley Authority, is still alive if not well in the United States Senate.

Mr. Hooper's unfitness for the \$39,000 post as one of the three full-time directors who actively oversee TVA was demonstrated so fully last year that it is stretching a point to call it controversial. The nominee presented no qualifications in either the fields of energy or conservation, plus a tangled business record as a promoter of a failed dairy, a failed pet food company and a defunct insurance company. His sole qualification appeared to be as a Republican loyalist who might improve the President's standing with the conservative wing of the party.

Mr. Hooper apparently failed even at that. The appointment was one that even Senator William Brock, the conservative Tennessee Republican, couldn't swallow. In the normal course of events, the nomination would have died at year's end, since the Senate failed to act on it.

The nomination stayed alive, however, when a resolution carrying it into the new year was passed by unanimous consent. Senator Brock reportedly passed up the opportunity to block the resolution for fear that the President would place Mr. Hooper on the board on an acting basis, as he is entitled to do. This could have put the appointment for the nine-year term in the hands of a new president, possibly a Democrat, if Mr. Ford is not continued in office.

As this sort of politicking has continued, the post has lain vacant since mid-May, when Don

McBride retired. Left on the board are Chairman Aubrey Wagner and William Jenkins, who sometimes disagree on vital issues, such as TVA policy on expanding nuclear generating capacity. The original intent of Congress was that such major decisions would be made by a full, three-member board.

Indeed, there is considerable question today in Congress and in TVA's seven-state service area whether even the three-man board is sufficiently responsive and responsible to the public interest. Senator Brock and Senator Wendell Ford have offered separate proposals for broadening public representation in TVA matters, and both plans deserve careful consideration.

Meanwhile, President Ford will be acting less than responsibly if he does not quickly withdraw the Hooper nomination and send the Senate the name of a man with proper credentials to help guide TVA. If political considerations must be the guide, there surely are Republicans with better qualifications.

The Montgomery Advertiser

July 21, 1975

Hooper May Destroy TVA

EXTENSIVE and intimate research has revealed that President Ford's choice for director of the Tennessee Valley Authority is a man, who somehow managed to adhere to the letter of the law if not its spirit.

Tuesday the Senate will be able to ask James F. Hooper first-hand about his peculiar twistings through the financial world and the wreckage of bankrupt businesses and business partner suicides behind him (two of his three partners killed themselves in the past decade).

Among the more blatant of the Columbus, Miss., businessman's moves was a sudden transfer of \$154,000 from a failing Greenville, Ala., insurance company to a set of dairy farms out of the state between 1969 and 1972. All three businesses flopped miserably, and Hooper was sued — unsuccessfully — by the stockholders.

Equally important is the fact that Hooper has never displayed an interest in any utility or energy activities at all, much less TVA. He pointedly refused to discuss what he might do as director of TVA and at one point flatly stated he could not discuss any of the major issues facing TVA because he was "unfamiliar with the questions involved."

Hooper's nomination comes at one of the most crucial times in the history of TVA. Within the next 6 years — the period of Hooper's term if he survives the Senate hearing — the gigantic concern will have to re-evaluate many of its policies — including its ambition to be the nuclear showcase of the nation.

Also within the next 3 years, TVA will have to maintain service to 5,000,000 consumers in seven states, including Alabama where 21 per cent of TVA's electricity is generated.

Not only does Hooper have questionable managerial abilities and experience for such a massive job,

but he comes from a state — Mississippi — that produces not one kilowatt of power for TVA.

Indeed, as we have stated before, Hooper's only qualification seems to be his political ties. His wife is the current Republican national committeewoman for Mississippi, and he has the backing of the entire Mississippi congressional delegation.

Ford, now officially and actively campaigning for the 1976 term as President, must see Mississippi as a possible GOP state in Wallace country.

But politics is a poor justification for an appointment to something as serious as TVA. Already TVA has botched its fuel purchasing policy severely enough to consider buying out a coal company and becoming an illegal vertical monopoly.

In addition, with energy generation at the crisis level, TVA, if it remains solvent, an occurrence that now appears doubtful, could be the testing ground for radically new energy ideas. Something private utilities are hesitant to do.

Hooper should not be placed in such a situation with such dubious qualifications.

Whoever is installed will become the critical swing-voter between the bureaucratic expansionist, Aubrey J. Wagner, and the more conservative and cautious William Jenkins. Placed between those two extreme positions, the next director will to a very real extent be able to personally control the direction of TVA into the 1980s, a time that Ford himself admits may determine whether this nation's energy system stands or falls.

Nationally and regionally, tomorrow's hearing will have important consequences. There are more qualified men, by miles, than Hooper.

It would be a grievous mistake for the Senate to go along with President Ford on this appointment.

The Washington Post

June 2, 1975

Help Wanted at the TVA

THE COUNTRY'S largest power company, the Tennessee Valley Authority, is up against all of the troubles that now beset utilities. But since the TVA is also a federal agency, its public responsibilities are broader than other utilities. Particularly in balancing the tradition of cheap electricity against the new imperatives of environmental protection, the TVA is confronted by decisions of nationwide importance. Two weeks ago, one seat fell vacant on the authority's three-man board of directors. The character of the next appointment will be crucial to future TVA policy. It is a presidential appointment, but unfortunately neither Mr. Ford nor his staff shows any appreciation of the influence that it will carry. They seem to be treating it as a mere matter of routine patronage.

The TVA unwillingly illustrates the growing division in this country between the old-line consumers' movement, which defines the public interest as the cheapest possible price for power, and a new concern for conservation. The TVA is the nation's largest consumer of coal, and half of that coal is strip-mined. To keep the price low, the authority has apparently cut corners in the reclamation standards that it enforces in its strip-mining contracts. Which is more important, low rates or reclamation? In a country that is prosperous but increasingly crowded, protecting the land is worth the price. But the TVA is still clinging to the rule that it brought out of the Depression: cheap power at any cost.

A similar question arises from the guerrilla warfare that the TVA has been conducting against the clean air standards being imposed by another arm of the federal government, the Environmental Protection Agency. The EPA thinks that public health standards require expensive scrubbing equipment to cleanse generating plants' exhaust gases. Again, the cost of this protection would show up in the consumer's electric bills. The TVA is fighting the scrubber requirement.

Another issue, for the country as well as for the TVA, is reliance on nuclear power. The TVA has vast plans for nuclear development, and those plants are under vehement challenge in the communities where the plants are to be built. It would be reasonable to expect the Ford administration to use the TVA as a model for the country's power industry. But the TVA has been steadfastly inclined to a narrow and local view of its job, and it seems to be almost entirely insulated from the larger purposes of the government as they are evolving here in Washington.

The authority is currently run mainly by the highly experienced chairman of its board, Aubrey J. Wagner. Until mid-May he had the support of a second director, Don McBride, but Mr. McBride's term has expired. The third member, a young Tennessee Republican named William L. Jenkins, has challenged Mr. Wagner on many of the TVA's traditional positions and the question now is the nomination of the director who will cast the swing vote. Since it is a nine-year term, this nomination will cast a long shadow. Two requirements seem obvious. The incoming director needs to understand the technology of large electric utilities, for all of the value judgments here have to begin with a sure grasp of the engineering requirements. Second, he needs a clear sense of the national implications of the choices that the TVA now is called upon to make.

The White House has not yet nominated a candidate, but the signs suggest that it is moving in precisely the wrong direction. The White House reportedly has under consideration a man whose sole qualification is the warm support of the Mississippi Republican Party and whose previous experience in the power industry is zero. Before Mr. Ford lets this nomination go further, he might want to ask himself whether there isn't a bit more at stake than providing public employment for one Mississippi Republican.

FRIDAY, SEPTEMBER 5, 1975

The Washington Post

AN INDEPENDENT NEWSPAPER

The President and the TVA

PRESIDENT FORD justly takes pride in the quality of most of his appointments over the past year. But he has made a serious mistake in his choice to fill the crucial third seat on the divided board of the Tennessee Valley Authority. Rather than barreling stubbornly ahead, he would be wiser to withdraw the nomination before Senate hearings become necessary.

His nominee, James F. Hooper III, is a businessman with no previous experience in the power industry. He has no background in the technology of electric generation, or the economics of energy, or any of the urgent issues of environmental policy that the TVA must soon begin to answer. Mr. Hooper's chief asset in seeking this highly influential position is evidently his wife, the Republican National Committeewoman from Mississippi.

The TVA is coming into a very difficult time, in which weak leadership would prove intolerably expensive to the region it serves. As the authority has grown in size and self-confidence over the years, it has become—like many another federal agency—increasingly set in its ways. It clings tenaciously to the principle of maximum production of power at the minimum price to the buyer. But slowly, throughout the middle South, there has come a realization that this single-minded concentration on low rates is exacting an intolerable cost in pollution of many kinds. The authority's encouragement of strip-mining is the most spectacular example, but hardly the only one. The dimensions of this cost were explored at some length last spring by the Senate Public Works Committee, in a series of oversight hearings on the TVA's practices and their effects on the surrounding countryside. Those hearings developed the standards by which that committee will inevitably judge the qualifications of the next TVA director.

The TVA is currently run mainly by the strong-willed and highly experienced chairman of its board, Aubrey J. Wagner. The present policies of the authority are largely Mr. Wagner's. Recently the second member of the board, William L. Jenkins, has begun to challenge him on a broad range of questions. This division means

that the third director will hold the swing vote. The TVA's example will have an impact on energy choices nationwide, as the whole country struggles to reconcile the new imperatives of conservation with the old demand for cheap power. The rising congressional opposition to Mr. Hooper is not merely partisan or regional. Sen. William E. Brock, a conservative Republican from Tennessee, has announced that he will oppose confirmation on grounds that Mr. Hooper is plainly unqualified.

Unfortunately, there is more to the matter than a simple lack of administrative experience on the nominee's part. Reports published earlier this summer—chiefly in the Nashville Tennessean—raised broad questions about Mr. Hooper's judgment and sense of propriety in a series of private business ventures. As a result of these reports, the Public Works Committee postponed the confirmation hearings, originally scheduled for July, and began an investigation that will run for several more weeks.

Mr. Hooper is apparently insisting on going through with the hearings, on grounds that he is entitled to an opportunity to clear his name. But if that is his purpose, his friends owe him a warning that he has chosen the wrong forum. The prudence and the legality of his business operations will not be the main issue before the committee. It will be interested in his past record only as an indication of those qualities of character and mind that would enable the nominee to represent the American people on the board of the nation's largest power company. It is possible for a man to be completely honest and yet emerge from a hearing of this nature without enhancing his reputation for competent management.

If Mr. Hooper is well advised, he will now ask the President to withdraw his name. If he does not, the President would serve everyone's interest best by revoking it himself. The TVA has had a great history, and there are a good many people in the Senate who are determined not to let it degenerate into mediocrity and political back-scratching.

New York Times April 9, 1975

T.V.A., a National Asset

President Ford is soon to choose a nominee to fill a vacancy on the three-member board which governs the Tennessee Valley Authority. It is one of the more important appointments that a President makes because of the length of the term—nine years—and because of the continuing importance of the T.V.A.

Since its creation in 1933, the T.V.A. has grown to become one of the largest utilities complexes and the largest purchaser of coal in the nation. The Authority is soon to decide whether it should buy the Peabody Coal Company, the world's biggest coal producer. The policies set by T.V.A. concerning the development of nuclear power and the purchase of strip-mined coal have wide influence throughout the utility industry.

Under these circumstances, it might seem logical that the President would try to find a figure of outstanding experience and reputation who could consider the many difficult issues of energy production and environmental protection with sensitivity and wisdom, a figure comparable to David Lilienthal and Gordon Clapp, who served the T.V.A. in an earlier period.

Unfortunately, however, the backstage maneuvering over this appointment has turned into a parochial squabble involving the Senators from Alabama, Tennessee and Mississippi. The qualifications of most of the candidates being discussed are as undistinguished as the reasons for proposing them are narrow. One leading candidate, for example, is the husband of the G.O.P. National Committeewoman from Mississippi, where local Republicans are said to be clamoring for White House "recognition."

This appointment is too important and for too long a term for President Ford to treat it as a purely regional matter, much less a political payoff. This misplaced regionalism has already triumphed in the President's nomination of former Gov. Stanley K. Hathaway of Wyoming to be Secretary of the Interior. A recurring theme in comment on the Hathaway nomination was that it restored the Interior post to the Far West after the retirement of outgoing Secretary Rogers C. B. Morton of Maryland.

It is worth recalling that the greatest Secretary of the Interior in recent decades was not a Westerner but a Chicago lawyer named Harold L. Ickes. Similarly, the Tennessee Valley Authority was the inspired creation not of a Southerner but of George Norris of Nebraska and Franklin D. Roosevelt of New York. Neither the Interior Department nor the T.V.A. belongs to any region. Both belong to the nation and deserve to be led by the most talented persons that the President can recruit.

Senator RANDOLPH. Mr. Williams?

**STATEMENT OF JOHN PHILIP WILLIAMS, EAST TENNESSEE
RESEARCH CORP.**

Mr. WILLIAMS. Thank you, Mr. Chairman, I appreciate the opportunity to be here today. My full name is John Philip Williams. I am a lifelong resident of Tennessee. I presently live in Jacksboro, Tenn., about 35 miles north of Knoxville.

Senator RANDOLPH. Would east Tennessee include, let's say, Kingsport?

Mr. WILLIAMS. Kingsport would be further east.

Senator RANDOLPH. Further east?

Mr. WILLIAMS. Right.

Senator BAKER. Jacksboro, Mr. Chairman, is best located as being 22 miles east of Huntsville. It is the center of the known universe and also my hometown.

Senator RANDOLPH. I remember, I spoke in the mountains of east Tennessee. You have mountains there, do you not?

Mr. WILLIAMS. Very much so.

Senator RANDOLPH. This was such a long time ago that I should not remember it or even recall it. I went in by a narrow trail road. That is what was operative at that time. It was operative but not on a long time schedule because I arrived an hour and 40 minutes late. I was to address a meeting and I remember a person who met me and grabbed me. We rushed up the hillside into the auditorium.

I attempted to take my seat, but I barely touched it because he moved the podium and he said, "Ladies and gentlemen, the train pulled in with a jerk." It was an unusual introduction but it was one that got me off on the right foot.

So I do remember your area very well. I have traveled throughout it. What you discuss here today as Tennessee and as the area embraced by the Tennessee Valley Authority, I know just as I know the valleys and mountains of West Virginia.

Mr. WILLIAMS. I think in many respects our area is similar to West Virginia, Senator.

Senator RANDOLPH. Yes, that is true. When you are here talking about the Tennessee Valley Authority, I commend you for coming before the committee as I would commend anyone coming before the committee and testifying on this important subject matter, regardless of the person who had been nominated by the President for the position. Because I feel that the impact of the Tennessee Valley Authority, its yesteryears, its present, yes—but you are thinking in terms of the future of this unique, significant and substantial development. Proceed.

Mr. WILLIAMS. I am a staff attorney with the East Tennessee Research Corp., which is a nonprofit organization that does research on social, economic, and environmental issues of importance to community organizations in the Tennessee Valley and provides counsel and technical assistance to these organizations upon their request. Some of our research and technical assistance to these organizations is on issues involving the Tennessee Valley Authority (TVA).

In early 1975, several months before the expiration of Donald McBride's term on the TVA Board of Directors, our organization prepared some short research papers describing the TVA Board of Directors, the way that its members are selected, and some brief background sketches on several men who were being mentioned in the press as the leading candidates for Mr. McBride's seat on the Board.

Subsequently, when it was widely reported in the press that the President was planning to nominate James F. Hooper for the position, our research focused more closely on Mr. Hooper. At the same time that our organization was researching Mr. Hooper's background, other Tennessee environmental organizations and several leading Tennessee Valley newspapers began a similar research effort.

The facts that we are presenting to this committee about Mr. Hooper's background and qualifications are based almost entirely on the independent research done by our organization and some of the other groups which have endorsed the testimony of Mr. Gibson and myself.

We compiled these facts because we wanted the public to know what kind of men are running the TVA, and we are offering it to this committee because it is highly relevant to the primary issue before this committee—whether or not the committee should recommend confirmation of Mr. Hooper to the TVA Board.

We are frankly very perplexed at the President's nomination of Mr. Hooper to the TVA Board. We have found absolutely nothing in his background or business experience which qualifies him for this complex and demanding job.

TVA is the Nation's largest electric utility, but Mr. Hooper has held no job which is even tangentially related to the energy or utility fields. TVA has over 25,000 employees and a cash flow of over \$1 billion a year, making it the equivalent of the Nation's largest private corporations; yet Mr. Hooper's only business experience has been in several small businesses with a handful of employees and a cash flow of no more than several hundred thousand dollars a year.

Being a member of the TVA Board, as has been said previously in these hearings, is like being one of the top three officers of a large private utility company such as Duke Power Co., American Electric Power Co., or other similar utility companies.

We cannot imagine that a private power company would elevate a man with Mr. Hooper's lack of experience to such a high position in the company overnight. It is just not sound business practice to elevate a persons with no experience in a business to a high decision-making position which requires specialized expertise and management skills in that business.

Similarly, it would not be sound business practice to name to the TVA Board a man with Mr. Hooper's lack of experience in utilities and large business organizations.

Even more distressing to us than his lack of experience, however, is his apparent failure in even the small businesses with which he has been associated. His business career is a tangled skein of unpaid company debts, mortgages, lawsuits, and business failures.

Let me describe for this committee some of the facts about Mr. Hooper's business ventures, to illustrate why we believe that he will be unable to handle the responsibilities of a TVA directorship. I am

not presenting these facts to injure or embarrass Mr. Hooper in any way, but solely because these facts are relevant to whether he is qualified for the TVA Board position:

One: It has been widely reported in the press that Mr. Hooper was a dogfood manufacturer. Several Dun & Bradstreet reports—copies of which are attached to my testimony—describe Mr. Hooper's dogfood company, which was known as Columbus Canning Co.

According to a Dun & Bradstreet summary dated October 14, 1958, Mr. Hooper provided substantially all the initial capital to start this corporation in 1946, and served as company president. According to the Dun & Bradstreet report, the company was discontinued in 1949 "due to unprofitable operations."

In the early 1950's, Mr. Hooper started up the dogfood company again as a partnership, with Mr. Hooper serving as managing partner. According to the same Dun & Bradstreet summary dated October 14, 1958, the company "operated at a struggle" during the 1950's.

According to the summary, the company's capital became tied up in fixed assets, the gross return on sales was never adequate, and the payments to suppliers were slow, "extremely so in many instances."

In 1957 the company was incorporated, and Mr. Hooper became president. In 1958 Mr. Hooper persuaded some Atlanta investors to contribute additional capital to the corporation. According to the Dun & Bradstreet report dated October 14, 1958, Mr. Hooper still owned 51 percent of the stock on October 1, 1958.

Subsequently, as he testified yesterday, the Atlanta investors apparently bought controlling interest in the company, though, as he did not testify yesterday, they retained Mr. Hooper as the president of the company.

In the first 6 months of 1959, the company attempted to expand its business, but instead it went broke. In January 1959, Mr. Hooper mortgaged all the physical plant and property of the company.

In August 1959, this mortgage was foreclosed on. According to a supplemental Dun & Bradstreet report dated August 18, 1959:

Current efforts to interview President James F. Hooper have been unsuccessful. Efforts to develop information relative to the remaining assets and liabilities of the company have not been fruitful. However, it is known that the mortgage which was foreclosed covered land, buildings, machinery, equipment, office furniture, fixtures, trucks and trailers of the company, and all were sold August 15.

It is unlikely that there are any assets left to speak of in the corporation. Liabilities have been estimated in some quarters to range between \$200,000 and \$500,000. Apparently, there have been no provisions made for these liabilities.

It is a matter of public record in the Circuit Clerk's office in Lowndes County, Miss. (vol. 4, p. 26) that many of Columbus Canning Co.'s creditors reduced their claims to judgments against the company, which according to these court records have not been satisfied.

The Lowndes County Chancery Clerk's records reveal several Federal tax liens against Columbus Canning Co. which were never discharged.

Two: As Mr. Hooper testified yesterday, his primary business since the 1950's has been his dairy farm near Columbus, Miss., which is located on an approximately 1,400-acre tract of land that he inherited from his wife's father. Most of this land was recently sold by Mr. Hooper to the Weyerhaeuser Co.

It appears that Mr. Hooper's dairy farm has never been a profitable business. To obtain funds for his dairy business, Mr. Hooper mortgaged the 1,400-acre tract to the Prudential Insurance Co. of America in October 1964 for \$155,000.

The land remained mortgaged until he sold it in 1975 to the Weyerhaeuser Co., which agreed to assume the mortgage to Prudential and to pay off the principal and interest on that debt.

In 1965, Mr. Hooper formed a partnership with Everette Hope Brooks, Jr., of Memphis, to operate the dairy business. In 1966, Mr. Hooper conveyed to Mr. Brooks an undivided one-half interest in the 1,400-acre farm real estate.

Mr. Brooks also invested several hundred thousand dollars in their dairy farm partnership account over the next 4 years, but he got no return on his investment. Because of this and other business reverses, Mr. Brooks filed for bankruptcy in October 1969 (in the matter of Everette H. Brooks, No. BK-69-2453, W. D. Tenn.).

In December 1968, Mr. Hooper and Mr. Brooks conveyed their undivided one-half interests in the 1,400-acre farm real estate to Standard Union Life Insurance Co., a company that Mr. Brooks owned.

When the Insurance Commissioners of Tennessee and Georgia ruled in 1969 that Standard Union had acquired too much real estate as admitted assets, the three-person board of directors of Standard Union (which consisted of Mr. Hooper, Mr. Brooks, and Mrs. Brooks) voted to convey the whole interest in the land back to Mr. Hooper for no consideration in August 1969, just 2 months before Mr. Brooks filed for bankruptcy.

The Trustee in Bankruptcy in Mr. Brooks' case, Roy W. Hendrix, Jr., did not attempt to claim any of this property as part of Mr. Brooks' assets because he found the property to be so overburdened by the Prudential mortgage and other indebtedness that it constituted burdensome property, although he did tell the Referee in Bankruptcy that he thought the transfer from Standard Union to Mr. Hooper was in his opinion a voidable preference made to avoid having the land included among Mr. Brooks' assets at the time Mr. Brooks filed for bankruptcy.

In 1970, Mr. Hooper had the property put in his wife's name, for some reason which is not clear to us.

According to a sworn petition and accounting filed by Mr. Hooper in 1971 in the *Brooks* bankruptcy proceedings (a copy of which is attached to my testimony), the net deficit of their dairy farm partnership in 1969 was \$536,144.34, including debts to the two partners.

All the assets and property of the dairy farm were encumbered by a security agreement and financing statement with the First Columbus National Bank, of Columbus, Miss.; the debt owed to the bank was \$152,664, which exceeded the value of the dairy farm's entire assets by more than \$30,000 at that time, according to Mr. Hooper's own sworn statement.

When Mr. Hooper's deposition was taken in 1971 during the Brooks bankruptcy proceedings, Mr. Hooper was asked if the dairy farm partnership had ever made a profit; his reply was, "No, sir" (page 63 of his deposition in that case).

During this same deposition, Mr. Hooper was asked what his net worth was; his reply was, "I would have to say zero." (page 80 of his deposition in that case).

Three: Mr. Hooper was involved with Mr. Brooks in other business ventures as well. In 1968, Mr. Brooks bought all the stock of Standard Union Life Insurance Co. Mr. Brooks served as president of this company for about 9 months, and his wife was secretary-treasurer. They named Mr. Hooper vice president. The three of them constituted the company's board of directors. This company was an Alabama corporation, authorized to write insurance in Alabama, Arkansas, Georgia, Mississippi, and Tennessee.

In December 1968, Mr. Hooper and Mr. Brooks conveyed their undivided one-half interests in the Mississippi dairy farm property to Standard Union. Mr. Brooks also conveyed other real estate he owned to this life insurance company.

In early 1969, however, the Insurance Commissioners of Tennessee and Georgia ruled that the company had far too much real estate as admitted assets, and required the company to divest itself of much of this real estate.

In compliance with this requirement, the three-person board of Standard Union voted to convey the 1,400-acre dairy farm land back to Mr. Hooper for no consideration, even though the land had belonged to Mr. Hooper and Mr. Brooks jointly before they conveyed it to the insurance company.

It is not clear why Mr. Hooper and Mr Brooks thought they could convey so much real estate to a life insurance company, when the laws of Tennessee, Georgia, and other States clearly limit strictly the percentage of a company's admitted assets which may be real estate.

After the conveyance of several tracts of real estate to Standard Union by Mr. Brooks and Mr. Hooper, real estate constituted over 70 percent of the admitted assets of the company.

Tennessee law allows only 10 percent of the admitted assets of a company to be real estate, unless the Commissioner of Insurance in his discretion waives this requirement.

Standard Union also made some very unwise business decisions in handling its corporate funds. According to exhibit 13 in the *Brooks* bankruptcy case, Standard Union loaned over \$50,000 of its corporate funds to Little River Farms, Inc., a Georgia dairy processing company which was owned by Mr. Brooks, Mr. Hooper, and one other man, and which was more than \$300,000 in debt at the time the loans were made. These loans were never repaid to Standard Union.

Some of the checks for these loans were made out to Henry McMaham, president of Little River Farms, rather than to the corporation, in an apparent attempt to frustrate the creditors of Little River Farms.

Mr. Brooks also transferred \$100,000 of the insurance company's corporate funds to the Hooper-Brooks dairy farm partnership account in the summer of 1969, again according to Mr. Hooper's sworn petition and accounting in the *Brooks* bankruptcy case.

Since the insurance company was not paying the dairy farm for any product or service, this transfer of \$100,000 would logically have been either a gift, a loan, or an investment; it is not clear which it was.

In his deposition in the *Brooks* bankruptcy case, Mr. Hooper testi-

fied that the dairy farm partnership account was sometimes used as a "conduit" through which funds were transferred on to other companies or other persons by Mr. Hooper and Mr. Brooks.

Perhaps this latter characterization best explains why the insurance company funds were transferred to the dairy farm account. If this explanation is true, it does not comport with good accounting principles or with good business practice.

Mr. Hooper's tenure on the board of directors of Standard Union Life Insurance Co. ended in the latter half of 1969, when Mr. Brooks pledged the stock of the company as collateral for a loan from a Little Rock, Ark. bank. When Mr. Brooks failed to pay back the loan the bank foreclosed on the loan, took control of Standard Union, and appointed a new board of directors.

Four. Mr. Hooper and Mr. Brooks were also involved in another business venture, which was probably the worst failure of all their joint business endeavors.

In early 1969, Mr. Brooks put up \$5,000 to buy all 250,000 shares of stock in Little River Farms Inc., a dairy processing company with a plant near Atlanta, Ga. He bought the stock from Henry L. McMahan, who had bought all 250,000 shares the month before for \$100. The stock sold cheaply because the company was over \$300,000 in debt at that time.

Mr. Hooper's role with Little River Farms seems to have been to manage Mr. Brooks' investment in this company. I think he testified to that effect yesterday.

Mr. Hooper served on the board of directors of the company and was issued one-third of the company's stock. In his deposition in the *Brooks* bankruptcy case, he testified that he made many trips to Georgia during 1969 to help direct the company's business (page 19 of his deposition).

Henry McMahan, who served as president of Little River Farms during Mr. Hooper's association with the company, testified in his deposition in the *Brooks* bankruptcy case that, whenever he needed more money invested in the business, he would call Mr. Hooper, who in turn would call Mr. Brooks.

Mr. Hooper and Mr. Brooks decided which account to transfer the money from. They loaned to or invested in Little River Farms over \$20,000 from the dairy farm partnership account in 1969, according to Mr. Hooper's sworn petition and accounting in the bankruptcy case.

And as mentioned previously, they also loaned or invested over \$50,000 of Standard Union Life Insurance Co.'s corporate funds in Little River Farms in 1969. Mr. Brooks also invested a great deal of his own money in the company, and they borrowed money from a Georgia bank to invest in the company. In all, they invested almost \$250,000 in Little River Farms in 1969.

Mr. Hooper and Mr. Brooks became convinced, apparently, after 6 months that they had made a bad investment and that they could not pull the company out from its state of insolvency. So in the summer of 1969, Mr. Hooper turned their stock certificates over to a man named William Brickey, who was at that time convicted of mail fraud, for which he spent 2 years in the Federal penitentiary. Mr. Brickey promised that he would sell the Little River Farms

stock to some investors, but he was never able to find any buyers. So he eventually returned the stock certificates to the company.

During most of 1969 and the first quarter of 1970, the company failed to pay its employee withholding and social security taxes. The Internal Revenue Service (IRS) made demand on the company for the payment of over \$70,000 in taxes, and because the company did not pay these taxes, the IRS padlocked the company's doors on April 5, 1970. On May 10, 1970, the IRS sold the company's assets for a little over \$20,000.

One measure of the extent of Mr. Hooper's involvement in this business is the fact that he personally guaranteed a debt of Little River Farms to Sealright Co., a milk container supplier based in Kansas City.

When Little River Farms went broke, Sealright turned to Mr. Hooper for payment of the company's debt of about \$19,000. Mr. Hooper's attorneys, arguing that Mr. Hooper was in grave financial straits, persuaded Sealright to accept a settlement of around \$8,000 for this debt.

Another measure of the extent of Mr. Hooper's involvement in this business is the fact that the company bought a motor home for him to live in during his trips to Georgia. Unfortunately, the company was unable to meet the payments on the motor home.

The inexplicable thing about Mr. Hooper's involvement with Little River Farms is why it ever happened. In his deposition in the *Brooks* bankruptcy case, Mr. Hooper testified that he and Mr. Brooks were looking for another outlet to sell their milk to. But they never sold any milk to Little River Farms for processing. Their plans apparently did not work out as they had hoped, but it seems that a little more foresight would have cautioned them against such a poor investment.

Many of these facts about Mr. Hooper's businesses have been widely reported in the press, and most are a matter of public record. In our opinion, they lead to only one possible conclusion: Mr. Hooper is not qualified to be a member of the TVA Board of Directors.

Throughout his business career, he has demonstrated poor business judgment in the management of his business affairs and in his selection of business associates. How can this committee possibly approve the appointment of a man who cannot manage his own business affairs to a position where he will have to manage the affairs of the Nation's largest electric utility?

Apparently many people have drawn the same conclusion about Mr. Hooper. A wide variety of interests are represented among the opponents of this nomination here today. The nomination has also received bipartisan political opposition. As reported in the press, the following Members of Congress have publicly opposed this nomination: Senator William Brock, Senator Walter Huddleston, Senator Wendell Ford, Representative James Quillen, Representative John Duncan, Representative Joe Evins, Representative Marilyn Lloyd, Representative Ed Jones, and Representative Clifford Allen. Governor Ray Blanton of Tennessee has also publicly opposed the nomination.

Also, several leading newspapers have editorially opposed this nomination, including the *New York Times*, the *Washington Post*,

the Louisville Courier-Journal, the Nashville Tennessean, the Chattanooga Times, the Oak Ridger, the Montgomery Advertiser, and others. These editorials are attached to Mr. Gibson's testimony.

We have been told by some people that a Presidential nominee must have been involved in criminal activity before a Senate committee will recommend against his confirmation. We believe that involvement in criminal activity is the wrong standard against which to measure a Presidential nominee.

In addition to having avoided criminal activity, a Presidential nominee ought surely to have some basic, rudimentary qualifications for the position to which he is being appointed. A Senate committee should not recommend Senate confirmation of a Presidential nominee who is totally unqualified for a job, just because he has managed to avoid criminal activity all his life.

We are encouraged to note that Senate committees have in recent years been giving very careful scrutiny to Presidential nominees and have recommended against confirmation of several of them. In 1973 the Senate voted against the confirmation of Robert Morris to the Federal Power Commission.

In 1974, the Senate Commerce Committee refused to act on the nominations of David Kingsley to the Federal Power Commission and Luther Holcomb to the Federal Communications Commission; both these names were finally withdrawn by the White House.

In recent months the Senate Commerce Committee has rejected the nominations of Joseph Coors to the Public Broadcasting Corporation and Isabel Burgess to the National Transportation Safety Board, and the Senate Banking Committee rejected the nomination of Ben Blackburn to be Chairman of the Federal Home Loan Bank Board.

These Senate committees have apparently set a higher standard against which to measure Presidential nominees than was applied by the Senate in past years. We view this development as a very healthy one, and we believe that it will result in the appointment of better qualified persons to important government positions.

We are asking this committee to follow the example of these other Senate committees and reject the nomination of James Hooper to the TVA Board on the ground that he is totally unqualified for the position.

In doing so, this committee would be telling the President that the TVA is an important national agency deserving of highly qualified board members. If the committee does not take this step, we are afraid that TVA will be viewed as a mediocre, second-rate organization rather than as a national leader in the energy and environmental fields.

It is our understanding that the committee staff has made a very thorough investigation of Mr. Hooper's background and has prepared a lengthy staff analysis for the use of committee members, and, as was announced yesterday, will soon be made public.

If any members of this committee are not convinced by our presentation today, we urge you to study the staff analysis and draw your own conclusions about Mr. Hooper's qualifications for the TVA Board.

If this committee is inclined to recommend confirmation of Mr. Hooper, we ask that the staff analysis be made public, so that other

Members of the Senate and members of the general public will have a chance to examine the analysis before the final vote on confirmation.

In summary, we have presented the reasons that we think Mr. Hooper is not qualified for this important TVA post, and we urge this committee to reject his nomination.

[Attachments to Mr. Williams' statement follows:]

COLUMBUS CANNING CO., INC., MANUFACTURER OF DOG FOOD, COLUMBUS, MISS

James F. Hooper, President
Erwin E. Rockwell, Vice President
Heida Humphries, Secretary and Treasurer

Started: 1950 (See history).

Payments: Slow to 100 days (See payments).

SUMMARY

The company has operated at a struggle in recent years. Debt has accumulated, net working capital has been inadequate and payments slow.

In mid-1958 a partial change in financial control took place. The principals report that additional capital is to be placed into the business (some of which is already in) to be used to liquidate or substantially reduce trade debt. Then, a sizable expansion program is planned which is expected to at least double the annual volume.

HISTORY

This corporation was organized under Mississippi laws Nov. 25, 1957 with 1,000,000 shares of \$1 par value common stock. The corporation succeeded a business started by James F. Hooper and W. Pratt Thomas in 1950. Hooper subscribed to 50,000 shares, Thomas to 50,000 shares and W. O. Garrard 50,000 shares.

In mid-1958 it is reported that there was a partial change in financial control of the business. On Oct. 1, 1958 President James F. Hooper said that he now controls 51 percent of the outstanding capital stock and Vice President E. E. Rockwell 49 percent of the outstanding capital stock of this business. Hooper added that Rockwell represented certain investors, and the re-arrangement of outstanding capital stock took place about as follows: That Thomas and Garrard disposed of their 100,000 share of stock in this business to the "new investors", and then the stock was re-distributed as indicated.

During this interview with Hooper, and in earlier interviews with E. E. Rockwell, it was said that additional capital was coming into the business in the form of capital stock heretofore unsubscribed to. Hooper and Rockwell reported that, to begin with, at least \$150,000 additional stock would be sold to the present investors, with the money being utilized to liquidate or substantially reduce trade debt.

Hooper, married, born Selma, Alabama about 1917, graduated from the Alabama Polytechnic Institute, Auburn, Alabama with an engineering degree in 1937. While attending college he was a member of a musical band known as the Auburn Knights. He became the owner of that band after receiving his degree, and was thus engaged until 1941, in addition to acting as a booking agent for the Music Corporation of America. Hooper served in the U.S. Army from 1941 until 1945. In January, 1946 he was instrumental in organizing, and furnished substantially all of the capital for Columbus Canning Co., Inc., to manufacture dog food. That business was organized Jan. 15, 1946 with \$7,500 authorized and paid in capital. Hooper was its president until it was discontinued in 1949 due to unprofitable operations. Meanwhile, after his marriage to the daughter of a local physician, Hooper became interested in cattle raising locally. He devoted his time to that activity until he and Thomas started the predecessor of this corporation. He has active charge of management.

Rockwell, married, born in Alabama in 1926, attended Southern Watchmaking Institute, Birmingham, Alabama from 1947 to 1951. During this period he was employed by Kay Jewelers, Birmingham, in 1950 and 1951. He was employed at Gadsden, Alabama by Lee's Jewelers from 1951 to 1952, and was a jeweler for Center Watch & Diamond Company, New York City from 1952 to 1954. Since 1954

he has been employed by Rodes Optical Company in Atlanta, Georgia, having served as General Manager for that business for the past year.

Mrs. Humphries performs secretarial duties; she is not a stockholder nor director.

Vice President Rockwell is said to represent the interests of at least two Atlanta, Georgia business men as investors in Columbus Canning Co., Inc. A brief summary of the antecedents and connections of these individuals are as follows:

Charles Gilsten, married, born New York City in 1903, is a long time resident of Atlanta, Georgia where his principal business interests are situated. He is president of Monarch Wine Company of Georgia (Inc); Georgia Grain & Elevator Company, Inc.; and Molasses Industries, Inc., all Atlanta, Georgia. He also controls Seaboard Brokerage Company, Atlanta, a dormant corporation which formerly handled New York and California Wines and Champagnes; is vice president of Boland, Inc., a concern now dormant but formerly active in the building construction lines; and is president and principal of Gillstar Corporation, Atlanta, a concern active as a holding company for business property in Atlanta. Monarch Wine Company of Georgia dates from 1936; Molasses Industries, Inc., from 1957; and Georgia Grain & Elevator Company from 1955. Financial information has been declined on each company.

Victor C. Rasmussen, married, born 1911 in Nebraska, was employed from 1937 to 1939 by Consolidated Air Lines, Chicago, Illinois. In 1939 he organized Aero-Bank Plan, now inactive. That business, owned individually by Rasmussen, offered finance services for aircraft purchases, and road insurance relative to aircraft. In December, 1943 he organized Aviation Associates, chartered 1951 with Rasmussen as President and Treasurer. That business originally offered research consultation services as well as sales and public relations for aircraft manufacturers. He sold his interest in the Fall of 1952. Meanwhile, he was treasurer of American Farm Industries, Inc., farm equipment distributors, but also sold his interest there. He is reported to be a director of Pan Coastal Life Insurance Company, Mobile, Alabama; a partner in Gunn & Rasmussen, a rental housing project at Moultrie, Georgia; president and treasurer of Hercules Building Corporation. Details have been declined on all of these businesses. Currently, Rasmussen is prominently associated with Charles Gilsten as a principal in Molasses Industries, Inc., and Georgia Grain & Elevator Company, Inc.

OPERATION-LOCATION

Manufactures dog food (SIC #2042) which is marketed under the brand names of "Jet" and "Bonus"; also does packaging for private labels. Sales are through brokers throughout Southeastern and Southwestern states to grocery chains. Approximately 25 employees. The plant is a one-story frame and concrete block building measuring 75 by 120 feet; there is a 50 by 60 foot frame cattle barn; and a 20 by 30 foot frame office building located on leased land in a rural area approximately 3¼ miles west of Columbus on Gilmore Road.

FINANCIAL INFORMATION

President James F. Hooper was interviewed October 1, 1958; Vice President E. E. Rockwell was interviewed August 6, and August 26, 1958. In the August 6, 1958 interview Rockwell said that a firm of certified public accountants would prepare a complete financial report on Columbus Canning Co., Inc. and that that report would be made available when completed. Subsequently, both Rockwell and Hooper said that they could not furnish figures, nor could they make any definite promise about submitting figures on this company at any early date.

Almost from the beginning this company has operated at a struggle, especially so in recent years. Invested capital of \$150,000 soon became tied up in fixed assets. Sales developed fairly well, but the gross return on sales was never adequate. As the result, debt accumulated, net working capital became insufficient for needs and payments to suppliers slow, extremely so in many instances.

On August 6, 1958 Vice President Rockwell said that Charles Gilsten and/or some associates had purchased the controlling interest of Columbus Canning Co., Inc., explaining that W. Pratt Thomas and W. O. Garrard had sold their two-thirds (combined) interest in the company. Subsequently, Hooper reported that in this capital stock re-arrangement he came into control of 51 percent and Rockwell 49 percent, explaining that Rockwell represented the interests of the new investors.

It was stated during these interviews with Hooper and Rockwell that the company plans an expanded sales program, with cooperative television, radio and newspaper advertising to be conducted with the cost shared between Columbus Canning Co., and its chain store customers. This program will offer customers one free can for each three cans of dog food purchased in some instances, and in others (where new territories are being opened up) one for one. Such intensive advertising is expected to double or triple the current \$1,200,000 annual volume in a very short time. In this respect, it was reported that the plant now has a capacity for producing four cases of dog food per minute, and with the demands of this expanded sales program the company will operate on a three-shift daily basis within three months. The company, according to Rockwell, was already selling in markets in New Orleans, Mobile, Atlanta, Memphis, Houston and the Carolinas; that the State of Florida is being opened up, with the produce now being offered in stores in Miami, Orlando, Tampa and Jacksonville. Additional emphasis will be placed on expansion of the Houston, Texas market. In addition, both Rockwell and Hooper reported that the company expects to package dog food for other manufacturers under their labels, which will further expand the volume transacted. In the subsequent October 1, 1958 interview President Hooper said that sales were already running 40 percent above normal, and on the present basis that the first twelve months' operations under the new program should return a gross volume of some \$2,000,000.

In addition to acquiring the capital stock owned in the company by Thomas and Garrard, Rockwell reported that the new investors plan to add new capital to the business of some \$150,000. He said that this would be done by purchasing authorized but previously unissued capital stock (the company has \$1,000,000 in authorized capital stock and only \$150,000 was outstanding at mid-1958). He said he could not amplify this information any further at this time.

Meanwhile, in outside quarters it was learned that at Mid-1958 this company had a tangible net worth composed of \$150,000 in outstanding capital stock, \$150,000 in outstanding preferred stock and an earned surplus account of \$18,000. Principal of company assets was some \$140,000 invested in copyrights, labels and such; and a \$150,000 note receivable due from the sale of preferred stock, collectible \$5,000 monthly for twelve months with a balloon note covering the balance. Thus, some \$290,000 of the \$318,000 tangible net worth is of an intangible nature, composed of the copyrights and labels and the receivables on the sale of preferred stock. At the same time current debt reportedly approximated \$175,000, and there were additional deferred liabilities of near \$30,000.

On February 15, 1958 Columbus Canning Co., gave a chattel mortgage to the Merchants & Farmers Bank, Columbus, Mississippi, for \$5,000 due in 24 installments of \$208 each beginning March 15, 1958, secured by two International trucks and four trailmobiles. This note bears 8 percent interest.

On July 7, 1958, this company filed a Notice of Intention to assign one or more accounts receivable to the Commercial Credit Corporation.

On July 18, 1958 Columbus Canning Co., Inc., gave a "Deed of Trust" (a mortgage) to Leonard M. Bernes, Trustee for the use of Tintin, Inc., a corporation in Atlanta, Ga., for \$30,000 evidenced by one promissory note due on demand at 8 percent. This mortgage carried a provision for possible future advances from Tintin, Inc., to Columbus Canning Company, Inc. not to exceed \$500,000. This mortgage carried as security land on which Columbus Canning Co., Inc. plant is located, some 68.5 acres; all machinery and equipment situated on this property; nine units of cargo trucks and trailers; a Plymouth sedan and five trucks; all personal property acquired within 12 months of the date of this instrument; and all labels, trade marks, trade names, registrations and rights to same, including "Jet", "Bonus" and "Columbus Canning Company".

On August 6, 1958, E. E. Rockwell said that he could not furnish any details relative to this latter instrument, except to say that it was his impression that the mortgage represented some sort of short-term financing arranged before he and his associates entered the picture. Investigation in Atlanta, Georgia finds that Tintin, Inc. was incorporated in Fulton County, Georgia July 14, 1958, four days prior to the execution of this mortgage. The company has 100 shares of common stock, without par, and 1,000 shares of preferred at \$100 par authorized; minimum beginning capital is \$200. Its incorporators were B. John Franklin, A. W. Smith and A. L. Martin, not further identified.

On September 16, 1958, Columbus Canning Co., gave a chattel mortgage to Waters Truck & Tractor Company for \$14,335, secured by truck and allied equipment.

On September 12, 1958 Columbus Canning Company gave a chattel mortgage to Hyster Sales & Service, Inc., \$1,853 due in 18 installments of \$102 each beginning October 5, 1958.

On August 12, 1958 there was a notice of assignment or intention to assign one or more accounts receivable filed on Lowndes County records, Columbus Canning Company, Inc., to Russell O'Neal, care of Continental Grain Company, New York City.

An account of moderate proportions is maintained at one bank where secured loans to a medium five figure have been granted and handled satisfactorily. One out-of-town bank has handled drafts of Columbus Canning Co., Inc., for about 60 days to an aggregate of a medium five-figure, no loans.

PAYMENTS

In August, 1958 Vice President Rockwell said that new funds, as they came into the business, would be utilized to liquidate or substantially reduce debt towards open account creditors. October 1, 1958, President Hooper said that substantial reductions had been made in the trade debt of Columbus Canning Co., Inc. In order to reflect such a reduction a trade clearance has been started, the results of which are not yet available. Meanwhile, the last ledger experiences available resulted from a clearance completed August 21, 1958, and are as follows:

HC	OWE	P due	Terms		
3,500	0		30 days	Put to slow 90	
6,200	1,300	1,300		Slow 60-90	Sold over 3 yrs.
3,000	2,000	2,000		Slow 90	
1,100	1,100	1,100	15 days	Slow 100	Sold over 3 yrs.
22,000	21,675	18,466	30 days	Slow	Sold over 3 yrs.

CURRENT INVESTIGATION

President James F. Hooper was interviewed March 10, 1959. Hooper said that the negotiations for the proposed transaction involving Columbus Canning Co. Inc., Woodward Foods of Florida, Inc., Zellwood (near) Orlando, Fla. and Battle Creek Dog Food Co., Battle Creek, Mich., are still under way; that the situation remains substantially unchanged from the status as reported December 19, 1958. Again, Hooper suggested that negotiations might be completed at any time, either in the near future, or may be dragged out still further.

Meanwhile, Hooper said that the company continues to transact an active volume and that representative earnings are being produced. He deferred discussing the financial condition of the company at this time.

MORTGAGES

A transcript of Lowndes County, Miss., records for the period Jan. 1, 1959 to Jan. 31, 1959 carried a mortgage executed by this company to Weiss & Geller, Inc., New York City; Leonard I. Dosser, Baltimore, Maryland; and Phil Groh, Baltimore, Maryland, for \$40,000 at 8 percent interest, and secured by the plant and property of Columbus Canning Co. Inc. The mortgage is repayable at the rate of \$3,650 monthly beginning Feb. 27, 1959.

During the current interview President Hooper said that this mortgage was executed for additional financing, with the proceeds used primarily for working capital purposes; that the previously recorded mortgage to Tintin, Inc., had been made secondary to this more recent mortgage.

The same transcript of Lowndes County records showed that Columbus Canning Co. Inc. gave a \$2,822 chattel mortgage to Freuhauf Trailer Company, Detroit, Michigan due in 12 monthly installments of \$235.20, and secured by one trailer. This mortgage was dated December 17, 1958, and filed January 13, 1959.

This mortgage resulted when the company purchased a trailer to be used in hauling its product to its distributors.

PAYMENTS

The latest detailed ledger experiences on this company are contained in the previous report, which see for further information.

HC	Owe	P due	Terms	Payments Feb. 13, 1959	
12,000	0		1-10-30	Disc	Sold yr.
Req	10,000	0	1-10-30	Ppt	Sold over 3 yr.
4,000	3,198	0	15 days	Ppt	Sold over 3 yr.
100	0		10 prox	Ppt	Sold over 3 yr.
15	0		7 days	Ppt	Sold yr.
2,000	0		15 days	Slow 7	Sold over 3 yr.
15	0		10 prox	Slow 30	Sold 1st sale.
3,000	1,000	0	15 days	Slow 35	Sold over 3 yr.
200	100	100	Rec. of shipment	Slow 180	Sold 2 yr.

- (10) 11/7/58 cash sale \$861.
 (11) Active account, satis.
 (12) Not a good account.

MORTGAGE FORECLOSED—PHYSICAL PROPERTIES SOLD

It was learned on August 18, 1959 that a mortgage on all physical properties (except inventories) of Columbus Canning Co. Inc., was foreclosed due to non-payment, and at a public auction held at 4 P.M., Saturday, August 15, 1959, those physical properties were sold. The mortgagor foreclosing was Weiss & Giller, Inc., New York City. This mortgage was originally executed in January, 1959 by Columbus Canning Company, Inc. to Weiss & Giller, Inc., New York City; Leonard I. Dossier, Baltimore, Md.; and Phil Groh, Baltimore, Md. for \$40,000 at 8 percent interest and secured by the physical properties (except inventories) of Columbus Canning Co. Inc. The mortgage was scheduled to be repaid at the rate of \$3,750 monthly beginning February 27, 1959.

It was also learned during this investigation, concluded August 18, 1959 that the properties brought \$41,600 at the public auction, and the buyer was reported to be C. E. Forker and one or more associates, Columbus, Miss. The new interest had no connection whatsoever with the principals of Columbus Canning Company, Inc.

It had previously been reported that the plant of this company was closed, and the telephone disconnected. The closing of this plant earlier had nothing to do with the mortgage foreclosure. Apparently, the company had run out of funds, and could not sustain its operation. It is reported, also, that the office was open on one or more occasions for short periods of time during the period July 20, 1959, to the mortgage foreclosure sale August 15, 1959. However, as far as can be determined the plant was not in continuous operation during this period.

Current efforts to interview President James F. Hooper have been unsuccessful. Efforts to develop information relative to the remaining assets and liabilities of the company have not been fruitful. However, it is known that the mortgage which was foreclosed covered land, buildings, machinery, equipment, office furniture, fixtures, trucks and trailers of the company, and all were sold August 15th. It is unlikely that there are any assets left to speak of in the corporation. Liabilities have been estimated in some quarters to range between \$200,000 and \$500,000. Apparently, there have been no provisions made for these liabilities.

IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF TENNESSEE
 WESTERN DIVISION

IN BANKRUPTCY NO. BK-69-2453

IN THE MATTER OF EVERETTE H. BROOKS,
 INDIVIDUALLY, AND d/b/a CONSOLIDATED
 BUSINESS SERVICE DEBTOR

PETITION AND ACCOUNTING OF JAMES F. HOOPER
 FOR PARTNERSHIP OPERATION OF HOOPER DAIRY FARM

Comes now James F. Hooper and exhibits and files this his accounting to the Court in connection with the partnership formerly operated by James F. Hooper and Everette H. Brooks d/b/a Hooper Dairy Farm in Lowndes County, Mississippi, and would respectfully show unto the Court the following facts and figures, to-wit:

1.

The following constitute all payments to and withdrawals from the Hooper Farm Account by both James F. Hooper and Everette Hope Brooks, according to your petitioner's bank records, these deposits or payments constituting the only payments ever made by Brooks for his equity in certain cattle and dairy machinery and equipment. These withdrawals constitute the only payments which Hooper received for his cattle, machinery and equipment which the partnership agreed to purchase from him for \$175,000.00.

Date	Deposits (Brooks)	Withdrawals (Brooks)	Deposits (Hooper)	Withdrawals (Hooper)
	Farm Acct.	Farm Acct.	Farm Acct.	Farm Acct.
10/18/65	15,000.00			
11/10/65	50,000.00			
11/10/65				25,000.00
1/ 3/66			5,000.00	
1/ 7/66			2,500.00	
1/11/66	15,000.00			
1/24/66	25,000.00			
3/10/66	10,000.00			
4/22/66	25,000.00			
5/27/66	27,000.00			
6/10/66	100,000.00			
6/10/66		90,676.67		
J.F.H. Total for 1966 (land income) 1966 ^a			10,024.94	22,011.03
11/ 1/67		6,250.00		
11/21/67	3,000.00			
11/23/67	2,500.00			
12/15/67	4,500.00			
12/22/67	1,500.00			
J.F.H. Total for 1967 (land income) 1967 ^a			10,306.42	34,010.75
1/ 7/68	10,000.00			
3/ /68		2,326.00		
6/21/68	5,000.00			
8/26/68		2,000.00		
J.F.H. Total for 1968 (land income) 1968 ^a			9,323.42	23,116.00
8/31/69		2,000.00		
(Crump) 6/20/69	20,000.00			
(LRF) 6/20/69		15,000.00		
(Crump) 6/23/69	20,000.00			
(Crump) 6/23/69		40,000.00		
(J.C. Bradford) 6/24/69		33,350.00		
(Marietta) 6/24/69	25,000.00			
(Brooks Co.) 6/25/69		10,000.00		
(Crump) 6/26/69	40,000.00			
(Marietta) 6/30/69	25,000.00			
(Bank of Yazoo City) 6/30/69		93,125.56		
(Standard Union) 7/ 2/69	95,000.00			
(Crump) 7/ 7/69		50,000.00		
(Marietta) 7/14/69	50,000.00			
(Standard Union) 7/31/69	5,000.00			
(LRF) 8/23/69		4,750.00		
(Brooks Cotton Co.) 8/28/69		232.50		
(LRF) 9/10/69		1,050.00		
(E.H.B) 10/15/69		2,000.00		
J.F.H. Total for 1969				21,070.92
TOTALS	573,500.00	352,760.73	37,154.78	125,208.70
	220,739.27			88.05

^aThe land income contributed by Hooper was derived from the sale of building lots and gravel on land not used by dairy partnership.

II.

Petitioner would further show that it was the agreement of the partners that he be paid a salary as the managing partner and herdsman in the amount of \$12,000.00 per year, and that he be reimbursed for all of his expenses paid on behalf of the partnership. The accrued salary for five years is the sum of \$60,000.00. Petitioner's withdrawals from the partnership to cover salary and expenses amounted to \$88,053.92, or \$28,053.92 more than the accrued salary, this being the only payment received by petitioner for the incurred expenses and the only payment made upon the agreed sales price of petitioner's cattle and equipment. Petitioner would show that his contributions to the partnership include the equity in cattle, machinery, and equipment of \$175,000.00; stock in Realicious Dairies, Inc. of \$2,400.00; a cash loan made in the year 1970 by his wife to the partnership in the sum of \$15,000.00; and 1970 land rent which he was required to pay for the partnership of \$13,500.00. These contributions total the sum of \$205,900.00. Deducting net payments above salary allowance as shown above, the resulting net contributions of your petitioner to the partnership is the sum of \$177,846.08. As will be hereinafter set forth, your petitioner has assumed and is responsible for additional partnership liabilities in the amount of \$71,228.00, which when paid by him will make his total net contributions or total net loss in this partnership the sum of \$249,074.08.

III.

In addition to the items of accounting gleaned from the partnership bank records, your petitioner has knowledge of certain other contributions and withdrawals made to the partnership by Everett H. Brooks which were not reflected on the corporation's bank account, and those items include the following:

CONTRIBUTIONS

Cattle purchased in 1967 *(This amount furnished to petitioner by Touche Ross & Co. and is accepted but unverified)	\$56,100.00
1968 payment to Prudential Insurance Company on land mortgage which should have been paid by the partnership as rent	<u>15,145.00</u>
Total	\$71,245.00

WITHDRAWALS

1968 payments made by partnership for Brooks individual debts	<u>4,913.95</u>
Net additional contributions	\$66,331.05

IV.

Petitioner would show that the present balance sheet of the partnership is as follows:

BALANCE SHEETAssets

Cattle and present appraised value	\$76,725.00
Machinery and equipment as per appraisal	34,000.00
Accounts receivable	3,500.00
Cash	<u>2,211.07</u>
Total Assets	\$115,436.07

Liabilities

Accounts Payable to third parties	\$ 34,000.00
Notes Payable to First Columbus National Bank	140,000.00
Accrued interest to bank	12,664.00
Owed to Hooper for excess contributions or capital account	177,846.08
Owed to Brooks for excess contributions or capital account	<u>267,070.33</u>
Total Liabilities	\$651,580.41

Net deficit of corporation without debts to partners \$ 71,227.95

Net deficit of corporation including debts to partners \$536,144.54

V.

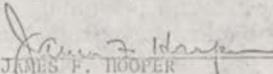
Petitioner would further show that in addition to the deficit position of the partnership and the outstanding obligations to both partners, that your petitioner is left with personal liability for all of the indebtedness owed by the partnership, including \$152,664.00 principal and accrued interest owed to the First Columbus National Bank and accounts payable to third parties of approximately \$34,000.00; and that although the assets of the partnership amount in value to \$71,228.00 less than these debts, your petitioner will have to assume and pay these debts in order to protect himself from personal bankruptcy because of his personal liability; that he will, therefore, sustain a net additional loss by the payment of these debts of \$71,228.00, which will add to the loss already sustained as set forth above.

WHEREFORE, PREMISES CONSIDERED, your petitioner would show that there is no equity in this partnership for either partner, and that your petitioner is obliged and interested in carrying on the business formerly engaged in by the partnership solely for the reason that he is personally obligated to pay all of the debts of the partnership and he must attempt to minimize his losses by continuing the operation of the business until it can be liquidated in an orderly manner; that there is no equity for the creditors of Everett Hope Brooks, a bankrupt, and that in equity and justice to your petitioner, as well as to expedite the business of the handling of the bankrupt's estate, the Court should order the Trustee in Bankruptcy to abandon any

claim upon the assets of this partnership as being of no net equitable value.

Petitioner prays for such other relief as this Court may deem appropriate to grant him.

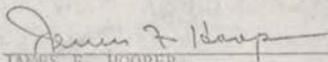
Respectfully submitted,



 JAMES F. HOOPER

STATE OF MISSISSIPPI)
 LOWNDES COUNTY)

Personally appeared before me, the undersigned authority of law in and for said county and state, JAMES F. HOOPER, who being by me first duly and legally sworn, stated and deposed on his oath that the matters and things alleged in the foregoing accounting and petition are true and correct as therein stated and averred.



 JAMES F. HOOPER

SWORN TO AND SUBSCRIBED Before me, on this the ____ day of January, A.D., 1971.

(SEAL)

 Notary Public

My commission expires:

 2-2-73

Senator BAKER (presiding). Mr. Williams, thank you very much for your statement, which I find to be very thorough. I am intrigued with the amount of work that must have gone into that research and development.

Mr. WILLIAMS. I was helped by some other people, Senator. I didn't do it all myself.

Senator BAKER. As a matter of curiosity, where did you develop the detail you have included in the statement?

Mr. WILLIAMS. Senator, I personally went to Memphis and examined the records in the bankruptcy proceedings of Mr. Brooks. As I testified, much of this information was developed from public documents in that case. I went through the file fairly thoroughly and Mr. Gibson went to Atlanta and talked to several individuals down there who have been associated with Little River Farms and looked at some documents in the IRS proceedings in the Little River Farms proceedings and developed much of the information about Little River Farms in that way.

As I testified about Columbus Canning Co., much of that information came from a Dun & Bradstreet series of reports on that company.

Senator BAKER. I thank you very much. The subject will be very helpful. We thank you, sir.

Is the next witness Mrs. Morgan or Mr. Brandt?

Mr. GIBSON. Ms. Whitehead.

Senator BAKER. We will be glad to hear your testimony.

STATEMENT OF CORRINE WHITEHEAD, ON BEHALF OF THE BETWEEN THE RIVERS COMMITTEE

Ms. WHITEHEAD. Thank you.

I am Corrine Whitehead, Benton, Ky. Thank you for allowing me to present this statement on behalf of the Between the Rivers Committee, elected to represent citizens, concerning TVA policies in western Kentucky.

We respectfully urge the Senate Public Works Committee not to approve the nomination of Mr. James Hooper to the TVA Board. I submit a resolution voted by the executive committee of our organization, opposing the nomination of Mr. Hooper (exhibit I). The information presented by Mr. Williams was made available to our organization June 1975, and was the basis for the resolution. Would you like me to read the resolution?

Senator BAKER. Whichever you prefer, Miss Whitehead. We will accept the resolution for the record or you can read it; whichever you prefer.

Ms. WHITEHEAD. Thank you.

EXHIBIT I

Resolution: On behalf of the some few thousand people we represent in Kentucky we call upon our Congressman Carroll Hubbard, Senators Wendell Ford and Huddleston and other interested Congressmen from our State to advise President Ford that the nomination of James Hooper to the TVA Board of Directors is totally unacceptable. We respectfully request that the above delegation to the Congress make every effort to secure the appointment of a board member who is technically and managerially qualified. Such people have been passed over in favor of Mr. Hooper, in our opinion.

In this era of energy related crisis and the lack of conservation orientation by TVA in the fields of lands, forests, wildlife, and water we pray for a TVA Board member who is fiscally qualified, technically qualified and accountable to the people of the Valley with a humane and conscientious interest in their well-being and future.

Now therefore be it resolved that the Between the Rivers Committee for and on behalf of our membership approve the above resolution:

The above resolution was voted on and approved June 21, 1975. Committee members and counties are: Arthur Wallace, Trigg County; George Bleidt, Trigg County; Wilma McAllister, Trigg County; Ernest Littlejohn, Trigg County; Virginia Ferguson, Christian County; Jack Colson, Livingston County; Judge Floyd Hooks, Livingston County; Mrs. Herman Jones, Calloway County; Virginia Chandler, Calloway County; Oscar Forsythe, Marshall County; Perry Calhoun, Lyon County; James Bannister, Lyon County; Homer Ray, Lyon County; Corinne Whitehead, Marshall County.

Ms. WHITEHEAD. The people of the Tennessee Valley are seething with resentment at the predicament we find ourselves in, due to the mismanagement and shortsighted policies of the TVA Board over the past 15 to 20 years. Mr. Hooper has said his desire is to continue and augment the Wagner TVA Board policies. The last thing on Earth we need is more of the same.

It is ironic that TVA—the agency hailed as an international star in the demonstration in the overall best development and conservation of the resources of the seven-State Tennessee Valley region—has been responsible for the most destructive elements in the Tennessee Valley.

I go back to the second paragraph and ask to include copies of editorials from leading newspapers in Kentucky as exhibit II. These editorials disapprove of the Hooper nomination.

Senator RANDOLPH. Without objection the material will be included. (See p. 172.)

Ms. WHITEHEAD. Thank you, sir.

Our Kentucky mountains and lands are ravished and gutted by strip mining, due to TVA's price wars with the coal industry. The trees are sold from park and TVA recreation areas in the LBL. (See exhibit III, p. 175.)

Sulfur dioxide from the TVA Shawnee steam plant pollutes the air so severely at times that vegetation and animals die, while humans suffer respiratory agony. (See exhibit IV, p. 177.)

Yet under present TVA Board policy, clean air laws—both State and Federal—are circumvented, defied, and ignored. Insult is added to injury when TVA dominated electric cooperative associations and recreational associations mount advertising campaigns on television and radio against the clean air laws.

The people in the Tennessee Valley find the continued rise in TVA electric rates difficult to accept. They are aware that TVA consorts with monopolistic multinational coal and oil conglomerates, contracting for coal at higher prices and generally refusing to do business with smaller coal operators who sell for less money. (See exhibit V, p. 178.)

As an addition to this statement, may I point out that in testimony given in the Congress last fall, Chairman Wagner confirmed the fact that in 1960 TVA used coal from only one multinational, and at the present time the consumption of coal is from seven multinationals, and only one independent. (See exhibit V-A, p. 180.)

Senator RANDOLPH. May I interrupt at that point?

Ms. WHITEHEAD. Yes.

Senator RANDOLPH. Is the coal purchased by bid?

Ms. WHITEHEAD. I understand that it is not in most instances.

Senator RANDOLPH. It is just a negotiated contract with a company?

Ms. WHITEHEAD. That is my understanding.

Senator RANDOLPH. We want to clarify that point. If you will proceed, please.

Ms. WHITEHEAD. Thank you.

Our people suspect that past TVA Board appointees with a history of affiliation with large coal, oil, and uranium interests have been responsible for this policy, to the detriment of the consumers.

One deeply resented TVA policy is that of selling electricity to huge industries at less than cost and making up the deficit at the expense of residential users, light industry and businesses. (See exhibit VI, p. 180.)

The estimated 165 percent increase in the cost of TVA power compared to the approximate 30 percent increase by private utilities in the area, does not make sense.

Labor union representatives and employees at steam generating plants tell me of the mismanagement by TVA of the labor force and crafts which has resulted in escalated costs. Circumstances surrounding the fire at the Browns Ferry nuclear plant are inexcusable.

TVA estimated at one point that repair cost at about \$100,000. Now it is revealed that \$6 million has already been spent on repairs. Just who would trust the construction and operation of the nuclear plant at Hartsville, Tenn., to a Board with such a track record? The awesome potential inherent in the nuclear programs TVA is actively involved in calls for nothing less than the most circumspect management.

Mr. Chairman, when your esteemed committee approves a man for the TVA Board, a mere mortal is immediately elevated to a position of power greater than that of most dictators and kings. For too long this position of power has been misused in the Tennessee Valley.

The TVA Act of 1933 has been stretched from the original intent to the present Board policy, which is that TVA can engage in any activity deemed for the general welfare of the people in the 5-State area [exhibit 7]. Unlike an Ambassador nominated to the court of St. James who can be recalled, if your committee selects a TVA Board member who is unfit, we cannot pack him up and send him back to you.

The issue at hand is whether the Tennessee Valley Authority can be made to work in the best interest of the region and the Nation. The TVA is in a crisis situation. I can assure you the people of the Tennessee Valley are alarmed and deeply concerned about this appointment.

The practice of repaying a political debt or rewarding a political crony by appointment to the TVA Board is no longer acceptable. The people are demanding impeccable standards for future TVA Board members. In our opinion, Mr. Hooper does not meet this criteria.

Remedial legislation is needed to augment the TVA Board. We are deeply appreciative for the proposed legislation Senators Ford and Brock have introduced in S. 2289 and S. 2740 which speak to the need for reform in the TVA area. We hope this committee will, at the appropriate time, act favorably on this legislation.

Mr. Chairman and committee members, I know that you are each dedicated to that which you determine to be in the best interest of

this Nation. We ask that you assure a new day of hope in the Tennessee Valley by approving future TVA Board members only after determining their total commitment to the highest ideals of personal integrity, scientific knowledge, responsible fiscal and managerial background, and a dedicated concern and respect for humanity. The TVA Board position calls for nothing less. Thank you, sir.

May I say a few more words on suggestions about what TVA could do?

Senator RANDOLPH. Yes; you may. You proceed.

Ms. WHITEHEAD. Personally, I would think it would be an appropriate agency to do an indepth study on solar power. I think it would be the ideal agency to investigate that aspect of energy development.

I have jotted down some things since I have listened to the other testimony. There is one thing I think that TVA could do, which might be of great service to the valley. Kentucky Dam and Barkley Dam are sitting in the New Madrid earthquake fault. The last big quake is estimated to have been more than 12 points on the Richter scale in intensity. The fault area is considered to be one of the most dangerous in the world.

It is comparable to the St. Andreas. Since we are in an area where there are tremendous chemical plants and the Paducah atomic plant and many other industrial plants, it would seem that TVA could look into this. It would be a challenge to draw up a plan of warning and remedial action in the case of a national disaster in that area. There has been recent publicity that this is most likely.

I would recommend those two areas.

Above all, I would recommend TVA to have more of a give-and-take with the people of the valley, not be totally isolated.

Senator RANDOLPH. Thank you very much, Ms. Whitehead. As to your closing comment, "not be totally isolated." I don't think the original intent of the act of 1933, although Senator Baker has very properly given to us today exactly how it was set in motion and the, let's say, almost invulnerability of the Board, to manage it.

But I never felt that TVA or any organization can divorce itself from continued contact with people.

I am asking you now, has the Tennessee Valley Authority, through its management team, appeared in open meetings and discussed problems with the people of Tennessee? Or have they declined the invitations, or have they absented themselves? Or is there a failure to communicate, a rapport that is absent? Discuss that a moment, please.

Ms. WHITEHEAD. I think the general feeling on the part of the people is that the agency is totally unapproachable.

Senator RANDOLPH. Unapproachable?

Ms. WHITEHEAD. Unapproachable. Our Kentucky State agencies find TVA unwilling to cooperate. I know of great frustrations of the members of the general assembly.

It has been now for about 15 or more years. The Governors feel cut off without courteous and even-handed treatment. In other words, the general wishes and expressions are not given what they consider or what we consider due consideration.

Senator RANDOLPH. Do you, or others that you know of, have correspondence with the management in one form or another?

Ms. WHITEHEAD. At times.

Senator RANDOLPH. Do you feel then that it is more routine when you present a problem that the answer isn't given consideration?

Ms. WHITEHEAD. I think generally the question is anticipated and the answer has already been prepared and you are presented a canned answer. That is my judgment. If you people will pardon that, that is my feeling.

Senator RANDOLPH. Thank you, Ms. Whitehead.

Are there any questions?

Senator BAKER. I think the statement was very good and very useful, Mr. Chairman. I have no further questions.

Senator RANDOLPH. Thank you, Ms. Whitehead.

[Ms. Whitehead's exhibits follow:]

EXHIBIT II

[From the Sun-Democrat, Paducah, Ky., June 17, 1975]

FORD NOMINATES PARTY HACK TO TVA

By his nomination of a Republican party hack to succeed the retiring Don McBride on the board of directors of the Tennessee Valley Authority, President Gerald Ford has again shown that he puts party loyalty above talent, brains, experience and other more generally valued qualities in picking people for the most important jobs he has to distribute.

Ford's choice is a native of Alabama who has long been engaged in business and Republican politics in Columbus, Miss. He is James F. Hooper III, age 59, whom the White House describes as self-employed, in manufacturing, real estate and farming. What he has ever done to qualify himself for the demanding and nationally important post of TVA director, nobody seems to know; at least, nobody in the Ford administration has said. Except that Hooper is loyal to the GOP, and that the senators from Mississippi and Alabama like the choice.

This is a terrible way to treat an agency which was created as the great hope of an entire, economically backward region of the U.S., and which has fulfilled its promise in so very many ways that it is today, after more than 40 years, still the U.S. government agency that visiting foreigners are most curious about, most anxious to see, and regard as most inspiring.

Gone from TVA, except for Aubrey (Red) Wagner, are the great men who organized the Tennessee Valley Authority, and comprehended the vast dreams of Nebraska's George Norris and New York's Franklin Roosevelt; and their successors who also understood the thrilling concept, and made it reality. We are thinking of Dr. Arthur E. Morgan and H. A. Morgan, and Dave Lilienthal and Gordon Clapp, and much more recently, Mississippi's ex-Congressman Frank Smith.

President Eisenhower was inclined to stress party loyalty in making many of his key appointments, but in the instance of TVA he felt the agency needed disciplining and "bringing into line" with his personal creed, so he named an Army general, Herbert Vogel, as his TVA chairman. The general, after he got acquainted with his organization and people and saw what it and they had accomplished, became a stentorian defender of TVA in Congress against Ike's misguided attempt to sell it to the private power trust, in the ill-conceived Dixon-Yates deal.

Gerald Ford should find himself another Gen. Vogel for this board vacancy, or some thoughtful, respected college professor, or a retired statesman of distinction like Arkansas' Bill Fulbright, or—some TVA people think—some practicing philosopher. There is a grand philosophy upon which TVA is founded, and excellent as he is in his demanding post as TVA chairman, Red Wagner—the pragmatic engineer and power expert, could well use now the counsel and help of such a comember of his board.

President Ford has been successfully vetoing numerous important bills passed on to him by Congress in recent months. The Senate, if its Democratic majority wishes, can square accounts with him to some extent now by rejecting his nomination of this nonentity to the TVA board. At the same time it will do the nation a great service by insisting that the appointment go to someone with truly impressive qualifications.

[From the Louisville Courier Journal, Aug. 1, 1975]

FORD SHOULD DROP NOMINEE

President Ford should spare himself further political embarrassment and withdraw his nomination of Mississippian James Hooper for a seat on the board of directors of the Tennessee Valley Authority.

The Senate Public Works Committee has indefinitely postponed hearings on Mr. Hooper's nomination, pending an investigation into the financial background of this Republican loyalist and promoter of bankrupt businesses.

The investigation doubtless was prompted by *The Nashville Tennessean*, which traced Mr. Hooper's background through court bankruptcy records. What emerged is the portrait of a wheeler-dealer who diverted funds from an ailing Alabama insurance company of which he was a director, to a financially troubled Atlanta dairy in which Mr. Hooper also had an interest. According to *The Tennessean*, funds were channeled from the insurance company to the dairy through Mr. Hooper's Mississippi farm operation by means of an intricate check-swapping scheme.

Mr. Hooper has denied any illegality. But even if it turns out that he has been only an innocent participant in a string of financial failures (he also operated a pet-food company that went broke), is this the kind of man who should be spending the taxpayers' money as a \$38,000-a-year director of the TVA?

Surely not. Given TVA's influential role in national energy planning this nine-year vacancy on the three-member governing body demands someone with a broad background in energy affairs, industrial management and conservation. As Kentucky Senator Huddleston has said, "we need excellence, not mediocrity" in this job. Nothing in Mr. Hooper's background suggests that he comes close to meeting the Senator's first qualification.

[From the Louisville Courier Journal, June 30, 1975]

SENATE SHOULD REJECT NOMINEE

As Senator Jackson argued on the floor of the Senate earlier this month, a president of the United States should have the widest possible latitude in selecting whomever he wants for his closest advisers and members of his Cabinet. But the rules change when it comes to filling long-term (even lifetime) vacancies in the courts and the multitude of federal agencies and commissions.

The case Senator Jackson was discussing was the nomination of former Wyoming Governor Stanley Hathaway to be Secretary of the Interior. While environmentalists properly raised questions about his views on energy and conservation no one seemed to doubt the nominee's integrity or his ability to administer a major federal agency. On the theory that a president is entitled to surround himself with associates of his choice unless they are provably awful, Mr. Hathaway was confirmed and now holds office. Who knows, he might even turn out to be another Walter Hickel.

But latitude is not license. This is what makes the nomination of Mississippi Republican loyalist James F. Hooper III to the Tennessee Valley Authority board of directors, like that of brewer Adolph Coors to the Corporation for Public Broadcasting, a different situation. Most of Mr. Ford's appointments have been at least good, and some of them exemplary. But the Hooper and Coors appointments are transparent attempts, lacking any other rational justification, to shore up the President's stock with the ultraconservative wing of the GOP.

Why else would Mr. Ford appoint the promoter of a failed dairy, a failed pet food factory and a defunct insurance company to a nine-year term on such an important energy-policy post as the TVA board of directors? As the *Nashville Tennessean* has observed, Mr. Hooper's career, though also marked by hard work for a number of civic causes and the Republican Party, makes him a questionable candidate for this important post.

Above all there is nothing in Mr. Hooper's record to suggest that he possesses qualifications in energy matters, industrial management or environmental protection. Yet he would be one of only three directors voting on such questions as TVA's commitment to nuclear power, its plans to strip parts of the Daniel Boone National Forest for coal, and its refusal to cooperate with the Environmental Protection Agency in installing stack-gas scrubbers on its steam-generating plants.

Given the current deadlock on most of these questions between the other two members of the TVA board, this appointment becomes even more crucial. The environmental groups that oppose Mr. Hooper's confirmation would prefer a nominee who'd help make this bureaucracy more responsive to consumers and conservation. But one needn't share that view to insist that a presidential appointee at least be qualified to vote intelligently on the policies of one of the nation's largest energy producers and users.

[From the Louisville Courier Journal, Apr. 7, 1975]

MAKING TVA MORE ACCOUNTABLE

It appears that at long last the Tennessee Valley Authority, which has come under increasing criticism from consumer and environmental groups for its energy policies, will be put under the congressional microscope.

The Senate Public Works Committee has scheduled five days of hearings, beginning April 30, with the focus of testimony expected to bear on the federal power agency's \$1 billion bid to buy Peabody Coal Company. But the three-member TVA board and its staff surely will face close scrutiny on a number of other vital public issues, such as the agency's proposal to strip mine parts of the Daniel Boone National Forest in Eastern Kentucky and its rock-ribbed opposition to proven air pollution control techniques.

Equally important, however, will be President Ford's choice to fill the vacancy that will be created May 18 when the term of board member Don McBride expires. So far, reports that an Alabama newspaperman and a Mississippi businessman have the inside track for the nine-year, \$38,000 post aren't encouraging news that consumer and environmental interests will be adequately represented.

The United Mine Workers offer the intriguing suggestion of appointing Whitesburg, Ky., newspaperman Tom Gish, editor of *The Mountain Eagle*. For an agency that only this year abandoned secret meetings, the prospect of adding to the board a harsh TVA critic and defender of openness in the conduct of the public's business must surely cause the Nashville bureaucracy to tremble.

But one has to wonder if editor Gish wouldn't better serve the public interest, particularly that of the citizens of Appalachia who must live with the results of TVA-nourished strip mining, if he remained on the outside looking in, rather than becoming part of the bureaucracy that he so effectively watches over. Fortunately, some of the other nominations include people with similar environmental credentials plus professional expertise—among them Dr. Charles Whittle a Centre College physicist currently on leave to the Institute of Energy Analysis at Oak Ridge, Tenn.

President Ford also might look seriously at the proposal by Tennessee's governor to expand the size of the TVA board to seven as a step toward providing more divergence of opinion on TVA policies. This would be especially useful if the four additional members were, as Governor Ray Blanton suggests, named by the governors of his state, Kentucky, Alabama and Mississippi—the four main service regions for TVA. This expansion, plus the appointment to Mr. McBride's seat of someone with environmental credentials, could go a long way toward making the federal power agency more responsive to the public it serves.

[From the Louisville Courier Journal, Jan. 15, 1976]

TVA DESERVES A BETTER DEAL

INCREDIBLE as it may seem, the nomination of James Hooper, the spectacularly unsuccessful businessman chosen by President Ford for the board of the Tennessee Valley Authority, is still alive if not well in the United States Senate.

Mr. Hooper's unfitness for the \$39,000 post as one of the three full-time directors who actively oversee TVA was demonstrated so fully last year that it is stretching a point to call it controversial. The nominee presented no qualifications in either the fields of energy or conservation, plus a tangled business record as a promoter of a failed dairy, a failed pet food company and a defunct insurance company. His sole qualification appeared to be as a Republican loyalist who might improve the President's standing with the conservative wing of the party.

Mr. Hooper apparently failed even at that. The appointment was one that even Senator William Brock, the conservative Tennessee Republican, couldn't swallow. In the normal course of events, the nomination would have died at year's end, since the Senate failed to act on it.

The nomination stayed alive, however, when a resolution carrying it into the new year was passed by unanimous consent. Senator Brock reportedly passed up the opportunity to block the resolution for fear that the President would place Mr. Hooper on the board on an acting basis, as he is entitled to do. This could have put the appointment for the nine-year term in the hands of a new president, possibly a Democrat, if Mr. Ford is not continued in office.

As this sort of politicking has continued, the post has lain vacant since mid-May, when Don McBride retired. Left on the board are Chairman Aubrey Wagner and William Jenkins, who sometimes disagree on vital issues, such as TVA policy on expanding nuclear generating capacity. The original intent of Congress was that such major decisions would be made by a full, three-member board.

Indeed, there is considerable question today in Congress and in TVA's seven-state service area whether even the three-man board is sufficiently responsive and responsible to the public interest. Senator Brock and Senator Wendell Ford have offered separate proposals for broadening public representation in TVA matters, and both plans deserve careful consideration.

Meanwhile, President Ford will be acting less than responsibly if he does not quickly withdraw the Hooper nomination and send the Senate the name of a man with proper credentials to help guide TVA. If political considerations must be the guide, there surely are Republicans with better qualifications.

EXHIBIT III

[From the Mountain Eagle, Whitesburg, Ky., June 26, 1975]

TVA TIMBER TO BE WEIGHED

(By James Branscome)

The senior timber cutter for a private company operating on the Tennessee Valley Authority's Land Between the Lakes recreation project in western Kentucky has accused TVA of under-estimating the volume of timber the agency allows to be cut from the area.

R. C. Reynolds, who is employed by Averitt Lumber Co., Inc., the TVA contractor, told the Mountain Eagle in a telephone interview last week that he believed one 50-acre tract of timber was under-estimated by 40,000 to 50,000 board feet. He estimated in other cases that TVA's figures were low by five per cent.

Averitt, the single TVA contractor, cuts two million board feet from the Land Between the Lakes (LBL) each year.

Last week the Eagle quoted records and sources which cast doubt on the accuracy of the TVA timber estimating practices. Based on that information, the paper said TVA figures on about 700 acres of the timbering area were low by several thousand board feet.

Reynolds said he was approached by Kenneth Averitt, the manager of the company, and told that "beginning immediately" all timber hauled from the area would be weighed for accuracy by weighing each truckload. The actual volume of the timber can be estimated so that TVA and the timber cutters, who are paid on the basis of TVA's estimate of the board feet, could be compensated more accurately for the timber.

In the interview Reynolds also agreed with Eagle sources that the average truckload of timber hauled from the area contains about 3,000 board feet. "Some loads could be a lot more," he said. The load count from several tracts—based on this average figure—varied considerably from TVA estimates, the Eagle said last week.

Reynolds disagreed, however, with his timber-cutting partner, Lester Pogue, who had explained that a \$700 payment questioned by the Eagle was for work the pair had done in the lumberyard. The payment was back-payment, according to Reynolds, for a raise he demanded on the amount received on each cord of wood cut in conjunction with the timber.

TVA said last week that Kenneth Averitt's explanation for the amount was a payment to "keep money in his timber-cutters' pockets." Eagle sources said earlier

that this payment was for additional timber the cutters believed they had cut above TVA's estimates.

Reynolds confirmed Eagle sources who said he had complained to TVA's chief forester at LBL, Bob Drexler, that he believed TVA was under-estimating its timber sold to the Averitt Lumber Co. "I told Drexler that I actually believed your boys are actually making a mistake," he said.

Reynolds named three tracts—Woodson's Chapel, Long's Creek, and Gray's Cemetery—where he said he thought TVA estimates were particularly low. TVA foresters measure the timber while it is still standing and demand no further accounting. The company's contract calls for payment to TVA based on these estimates and not on a final count.

In the interview Reynolds also:

—Confirmed reports that the company is not complying with safety and work requirements that are in the TVA contract. He said that the company furnished neither water coolers nor toilets to the timber cutters as provided in the TVA contract and did not have procedures established for emergency medical treatment.

In one case he said he guided an injured timber cutter, with blood streaming from a head wound above his eyes, "about a half mile and put him in my station wagon. They haven't got an ambulance. They do a lot of talking on these things, but talking and doing are two different things." The timberman was sliced in the head by a chain saw and has not returned to work since the accident one year ago, Reynolds said.

—Supported contentions by Eagle sources that Averitt Lumber Co. pays low wages to its workers. "They don't pay those workers very well. When they started they were going to pay a commission on weight. I think these boys are getting a beating." He said approximately 20 employees work in LBL for Averitt Lumber.

—Said that Kenneth Averitt, "whom I had not seen in over a month and a half," came to the woods last week to say that "a reporter had called" and that weighing of trucks would begin immediately at the Cadiz, Ky., lumberyard owned by the company.

Reynolds said that weighing each truck would meet his objections to the timbering practices TVA resources project director at LBL, Dr. Ray Nall, did not return phone calls made by the Eagle last week to ask further about the charges related to the timber cutting. The TVA public information office in Knoxville was asked last week to reply to the charges of Eagle sources, but as of Tuesday of this week had given no response.

TVA seized the 170,000-acre LBL area in the 1960's for a recreation project. The timber cutting in the area is only the latest in a series of controversies surrounding the project. Former land owners and some county officials in the area have petitioned Congress to turn the TVA management of the LBL over to another federal agency.

TVA says that some of the timber cut from the area is going to the Peabody Coal Company for mine timbers.

[From the Marshall County Courier, Benton, Ky., Oct. 22, 1975]

NOTICE—TVA TIMBER FOR SALE

The Tennessee Valley Authority offers for sale a tract of standing, selectively marked hardwood timber containing an estimated 132,638 board feet of saw-timber and 170 cords of pulpwood. The timber is located in Land Between the Lakes in Stewart County, Tennessee, approximately ten miles north of the intersection of U.S. Highway 79 and The Trace (Tennessee Highway 49).

Sealed bids will be received by the Forest Management Section, Land Between the Lakes, Tennessee Valley Authority, Golden Pond, Kentucky, until 10 a.m., Central Standard Time, October 29, 1975.

Parties interested in inspecting the aforementioned timber should contact the above office. Office hours are 7:00 a.m. to 3:45 p.m., Monday through Friday. Bid forms and detailed information may be obtained from the forester in charge, Land Between the Lakes, Golden Pond, Kentucky, telephone number (502) 924-5602.

EXHIBIT IV

[From the Louisville Courier Journal, Dec. 7, 1975]

TVA REIMBURSES FARMERS \$231,000 FOR BURNED CROPS

(By Bill Powell)

PADUCAH, Ky.—The Tennessee Valley Authority (TVA) has paid farmers \$231,000 for sulfur dioxide damage to crops around Shawnee Steam Plant in McCracken County, Leonard Smith, a member of the TVA legal staff in Knoxville, said yesterday.

Smith said payments covered damage mainly to tobacco, soybeans and gardens caused by sulfur dioxide burns in 1971, 1974 and 1975.

He said 215 claims were made and settled "without a single case going to court."

Smith said that yesterday's report is considered final but that subsequent claims of sulfur dioxide damage will be considered.

The worst burn was reported July 21, 1975, as smoke from the large steam generating electric plant affected a swath of farmland about six miles wide and 14 miles long.

Numerous farmers complained, and the settlement arrangement resulting in the \$231,000 payment was worked out in a series of meetings of TVA officials and farmers—with Gov. Julian Carroll and U.S. Sen. Wendell H. Ford, D-Ky., attending one meeting.

Until then, TVA had made only one payment in the area, for crop loss from a 1974 burn.

After the July burn, TVA started an emergency system of sulfur dioxide control that was maintained until the crop growing season ended in the fall.

Dr. Larry Montgomery, chief of TVA's air quality branch in Muscle Shoals, Ala., said yesterday that the emergency system resulted in numerous power cutbacks and extensive burning of low-sulfur coal at Shawnee, a 1.7 million kilowatt plant on the Ohio River 16 miles west of Paducah.

TVA also is establishing a system to limit sulfur dioxide emissions at Shawnee that Montgomery said he hopes will be operating fully by the end of this month. Computer and other problems delayed a November operations start.

The new system, he said, "undoubtedly will have bugs in it at first but we are confident it will be adjusted for full use before the next crop season."

He said the system will eliminate the guesswork and "loose motion" of the emergency system. Monitors, 14 of which already have been installed at Shawnee, and computerized equipment will be used to control sulfur dioxide emissions, Montgomery said.

The basic controls still will be generation cutbacks and use of low-sulfur coal, but Montgomery said the "sophisticated, efficient system will eliminate cutbacks and unnecessary fuel expense occurring because of the crude emergency system."

The new system will cost \$1.2 million to install and about \$3 million a year to operate and maintain. About \$2.6 million of the cost will be for electric power TVA will have to buy from other generation sources to replace power lost through reductions resulting from cutbacks.

[From the Wall Street Journal, July 31, 1975]

TVA INACTION HELPED CAUSE FIRE AT PLANT IN ALABAMA, NUCLEAR AGENCY

STAFF FINDS

WASHINGTON.—Inaction by the Tennessee Valley Authority and some of its workers contributed to the cause and severity of a fire at the utility's nuclear plant in Alabama, the staff of the federal Nuclear Regulatory Commission said.

In a report on the March 22 fire and in a letter to the utility, the NRC's Office of Inspection and Enforcement also charged that the TVA violated some of the nuclear agency's rules. The alleged violations basically involved certain paperwork requirements on safety procedures at TVA's Browns Ferry nuclear plant near Decatur, Ala.

The utility was asked to reply to the allegations within 20 days, after which the NRC will decide whether to file an enforcement action. The agency can fine companies or suspend or revoke their licenses to operate.

The staff report found that in addition to the alleged rule violations, various actions and inactions by the company and some of its employes contributed to the blaze. For example, the report said that TVA training of its personnel in fire fighting was "inadequate." It also said that workers failed to report many small fires that occurred before the March 22 incident.

The fire burned cables leading from the main control room to the plant's two operating reactors, each rated at 1.1 million kilowatts, and to a third reactor under construction. The report confirmed earlier reports that the fire originated from a candle used by workmen to check for air leakage in an electrical-cable penetration between a cable room and the reactor building. Some foam used for sealing the leakage caught fire, according to the report.

The fire burned for several hours, damaging about 2,000 cables and causing the closedown of both generating units. Also due to the fire, all closedown cooling systems for the units were inoperable for several hours, though they didn't cause any major problems, the report stated.

The units currently remain closed down, the NRC said. In March, the TVA estimated the plant would be closed for only about three months.

The report said the TVA didn't recognize the significance of the flammability of the materials involved in the fire and didn't prepare proper procedures for the sealing operation. The report also cited a delay in applying water to fight the fire and difficulties in using the self-contained breathing apparatus caused by inadequate training and maintenance. The report also said closedown of the reactors was delayed because control-room personnel lacked knowledge on the location and severity of the fire.

The alleged NRC rule violations included performing leak testing and sealing without developing detailed written procedures to control the work; failure to make a written safety evaluation of the reactors' operations while cable penetrations were unsealed; failure of persons discovering the fire to sound the fire alarm, and failure to take corrective action after two minor fires that occurred before March 22.

EXHIBIT V

[From the Mountain Eagle, Whitesburg, Ky., Oct. 17, 1974]

TVA AND PEABODY DEAL BEHIND DOORS

(By James Branscome)

The nation's largest power company locked itself behind closed doors last Thursday and loaned the nation's largest coal company \$23 million. In a financial move that set Peabody Coal Company executives to jabbering like hungry monkeys suddenly unleashed on a banana boat, the Tennessee Valley Authority Board of Directors approved a Peabody plan for the federal agency to use its funds to open a new deep mine for the company in Western Kentucky.

It was not the first deal struck between the child of the New Deal and the child of the giant Kennecott Copper Corporation, but it clearly was one of the coziest bottle-sharing exchanges the two have ever formulated. In New York City, the executives of the copper company were gloating that "this is the nicest contract Peabody ever negotiated," while in Knoxville the TVA highliners were raising their eyebrows in befuddlement, wondering why anyone could possibly think the agency got skinned by the conglomerate.

The TVA, which won the hearts of the nation's liberal community over the years with its claims of economic aid to Tennessee mountaineers, agreed to a contract with Peabody that obligates the company to open the new mine on TVA's coal lands on a former military reservation—Camp Breckinridge—in Union County, Kentucky. TVA agreed to pay all capital costs and operating costs of the mine and, in addition, granted the company a "management fee" of 80 cents a ton and a guaranteed "reasonable profit" on all coal that comes from the 35 million ton reserve.

In today's profit-bloated coal market that may not sound like a bonanza immediately, but consider:

§ Peabody will not have to borrow money on the open market at the going rate of 11 percent to finance the mine. One result of this will be that Peabody's major stockholder, the Morgan Guaranty Trust Bank of New York City, will not have

to lend any of its money to the fumbling giant, thus continuing to roll in cash at exorbitant interest rates while gaining a new mine.

§ The TVA will pay \$12 a ton for the coal—coal it already owns—when the mine begins production in three years. Even the most benign estimates at present place the real cost of underground coal production at about \$7 a ton. Any coal executive knows that today's coal market will not last forever. So Peabody is guaranteeing itself a steady, healthy profit over at least the next 20 years from the mine, which will produce around one and one-half million tons of coal a year.

In case anyone wishes he had known about the bidding on the project so that he could have shared in the scramble for the contract, pocket the thought. No bidding was allowed. Peabody was the only company notified of the offer. But any poor person could probably have beat Peabody's claim that it could not afford the capital for a new mine. Kennecott's profits (Peabody does not list its profits since it is wholly owned by the parent) were up 52 percent last year. Kennecott itself has assets of over \$1.4 billion and the Morgan Guaranty Trust Bank has assets of more than \$13.6 billion.

The new deal came to light last week as a Mountain Eagle reporter was chasing the TVA brass in and out of restrooms, up and down halls and elevators, and other various and sundry places trying to ask the agency why it was buying coal from Peabody in the first place. The company has a fatality and injury rate for its miners that exceeds anything in the industry. And even while TVA was pouring money into the giant, the government was enforcing an order that Kennecott sell Peabody for violation of the Clayton Anti-Trust Act. (The U.S. Supreme Court has ruled that the Federal Trade Commission was right in demanding that Kennecott sell the company by April 1, 1975, in order to comply with the law.)

Why would the TVA—an agency with a supposed conscience—be buying coal, a majority of all the coal it buys, from a company like that?

When the Eagle finally backed Don McBride—one of the three men who rule the agency—up against a wall and asked that question, he said, "It's not TVA's responsibility to enforce mine safety standards." McBride, who won his board appointment because of his friendship with Senator Kerr of Oklahoma (the same as Kerr-McGee oil company) also said he had been in a Peabody deep mine that the company already operates on TVA property at Camp Breckinridge. "I've been down into the Breckinridge mine, and I didn't like it at all," he said.

The second board member, Bill Jenkins, a Nixon appointee, did not even know he had just voted two hours earlier to lend Peabody the money for the new mine when he was asked about the contract. And Jenkins still had a report on his desk that the Eagle had sent him two weeks ago—at his request—detailing that Peabody had an injury rate four times the national average at its mines that supply coal to TVA. The report also showed that Peabody led the nation in deep mine deaths in 1971 even though it is primarily a strip mine company.

To his credit Jenkins did tell the board meeting (a combination of some 20 top staff and the three board members) that he had a report on Peabody that did not make the company look good safety-wise, but he said that he got no response from the meeting.

The third TVA board member, Chairman Aubrey Wagner, did not visit the restroom during the four hours the Eagle was on the executive floor, so he could not be reached for comment on the Peabody matter. Wagner called for repeal of sections of the 1969 Mine Health and Safety Act in a June 17, 1974, speech to the National Coal Association, so it is doubtful he would have expressed any concern about TVA buying coal from a company that ranks mayhem higher than safe mining.

C. E. Wilkerson, the TVA executive who buys the agency's 40 million tons—12 million tons supplied by Peabody—of coal each year, was not reticent about talking about Peabody's mine safety record, however. Asked if he was concerned about the safety record of its chief coal supplier, Wilkerson said flatly, "No!" He continued, "It's not part of my responsibility. If the mines are unsafe, it's another agency's responsibility." Asked why TVA would enforce its own reclamation standards for strip mining, even though all states from which it buys coal have a more vigorous program, and not be concerned about mine safety, Wilkerson said, "I have no comment." This was one of nine "no comments" that he made during a telephone interview.

TVA's chief press spokesman, Paul Evans, was more lucid about why the agency did not concern itself with mine safety at its supplying mines. "Buying coal is just like our buying turbo-generators for our steam plants," he said. "We don't write into our contracts compliance with any laws that are not required." The agency was asked if it could supply any records indicating that TVA had ever

expressed concern in any fashion about Peabody's mine safety record. Lee Sheppard, another TVA spokesman, said it could not.

Peabody owes its very lifeblood to TVA. It was TVA which gave the giant its major long-term contracts in the 1960's guaranteeing it a profit far into the future. TVA has used its power of eminent domain to condemn land for Peabody's mines. It even built the Paradise Steam Plant on a Peabody strip mine in Muhlenberg County, Kentucky, after it destroyed the town now immortalized in the song "Paradise" by John Prine. The two are inseparable. And, as Prine's song laments, both claim their union is "for the progress of man."

EXHIBIT V-A

[From the Wall Street Journal, Feb. 9, 1976]

Some Congressmen and other critics of Big Oil worry about the oil companies, ownership of 17% of proven U.S. coal reserves. The critics fear that oil companies are investing in coal and other alternative fuels simply to prevent their development as competitors of oil. The oil companies say they are investing in alternative fuels to help replace diminishing domestic oil reserves. They say that with their technological capability and capital, they are in the best position to increase alternative-fuel production.

Consolidation Coal Co.'s 1976 capital budget, for example, is \$336 million, primarily for increasing production and complying with new environmental laws. Before its acquisition by Continental Oil Co. in 1966, Consolidation, the nation's second-biggest coal company, never had an annual capital budget larger than \$40 million, says Howard Blauvelt, Continental's chairman.

Some critics suggest that the oil companies are responsible for the sharp increase in the price of coal in recent years. Aubrey J. Wagner, chairman of the Tennessee Valley Authority, one of the nation's biggest coal consumers, told a congressional subcommittee last November that during the 1960s, the average price of coal delivered to TVA steam plants was a little more than \$4 a ton. By 1974, it was \$8.50 a ton. When he testified, it was around \$17.

HEALTH AND SAFETY

Howard C. Hardesty Jr., a vice chairman of Continental Oil, told the same subcommittee that the coal price increase resulted from sharply higher outlays for health and safety programs and for meeting new environmental requirements.

But Mr. Wagner testified: "We recognize the coal industry has experienced increases in costs, as have other industries; however, we believe the increase in prices substantially exceeds the increase in costs. We cannot say whether, or to what extent, these increased prices resulted from the decline of the independent coal producers. But we do believe the acquisition of coal companies by large conglomerates has been a factor in reducing the competition in the overall fuels market."

Mr. Wagner noted that in 1960, only one of TVA's major coal suppliers was not an independent coal company. Now, he said, only one of its major coal suppliers is an independent. Seven of TVA's current major coal suppliers are controlled by large oil companies or by conglomerates also engaged in developing or marketing oil and gas.

Some oilmen see a breakup of Big Oil as only the first step in an attempt by Congress to nationalize the oil industry. Some Congressmen, says C. John Muller, past president of an association representing independent oil producers, want to "shatter the industry so the federal government will have to take over and pick up the pieces."

EXHIBIT VI

[From the Paducah Sun Democrat, November 1975]

TVA'S RATE STRUCTURE CALLED UNCONSTITUTIONAL

NASHVILLE, Tenn. (AP).—A U.S. District Court was asked today to rule that Tennessee Valley Authority's rate structure, particularly as applied to extra large industrial customers, is unconstitutional and in violation of the TVA act.

Clifford Allen, Metro Nashville's tax assessor and a critic of TVA, asked the Middle Tennessee court to accept his challenge to the federal agency's rates as an amendment to a lawsuit against TVA's local distributor, Nashville Electric Service.

"We are going to test the right of any public agency to charge an industry less than cost and make up the deficit at the expense of other taxpayers or consumers," said Allen before filing the papers.

The court papers also claim TVA's rate schedule "is calculated to encourage, not less, but greater use and consumption of electrical power, by reducing the price and the rates that are charged, the more electricity a customer uses."

Allen said these rates are maintained despite a national policy "to encourage every citizen and concern to economize sources of energy."

Allen, the Democratic candidate in Tuesday's special election for the vacant 5th Congressional District seat, contended TVA is selling or compels its distributors to sell power to large industries "at rates which discriminate against other consumers and customers."

TVA, as of last year, sold power directly to 50 industries and 10 federal installations and to 160 municipal and cooperative distributors in Tennessee, Georgia, Alabama, Mississippi, Kentucky, Virginia and North Carolina. The suit could affect contracts between TVA and all of its distributors.

Allen claimed Nashville Electric Service was charged by TVA an average of \$9 for each thousand kilowatt hours of electricity distributed to NES customers, which meant a net cost to NES of \$10.80 per thousand KWH when operating and billing expenses were added.

In contrast, Allen claimed, DuPont's local plant has been paying only \$8.78 per thousand KWH and the local Ford Motor Co. glass plant paid only \$8.85 per thousand KWH.

"As recently as May, 1975, homeowners on an average paid Nashville Electric Service \$20.10 for the first 1,000 KWH of electricity used and some light industry during the same time period paid \$31.55 per 1,000 KWH used.

"During that time the average cost of electricity furnished Nashville Electric Service by Tennessee Valley Authority was \$13.40 per 1,000 KWH. But DuPont was charged only \$12.95 per 1,000 KWH or 45 cents less than the average cost charged Nashville Electric Service . . ." the suit claimed.

EXHIBIT VII

LAW OFFICES OF J. GRANVILLE CLARK,
Russellville, Ky., February 14, 1976.

Mrs. CORINNE WHITEHEAD,
Route 9,
Benton, Ky.

DEAR CORINNE: In trying to go over the matter we discussed yesterday, I really think what you have planned to say to the committee would be more appropriate than the thoughts that I had; however, I thought the following might be helpful to you.

From the very outstart of TVA they have attempted to broaden their area of operation. In the beginning TVA sought authority through the courts to extend transmission lines outside of the Tennessee Valley area on the idea of distributing surplus power. Then TVA sought authority to build a steam plant in order to supplement power generated at the dams. Now probably 10% of the electricity generated by TVA comes from the dams and TVA now claims the right to transmit electricity anywhere within the eastern half of the United States.

In the Welch case due to wartime need for production of electricity TVA condemned land necessary for the Fontana Dam. In so doing they flooded the roadway to an area containing 44,000 acres and the state would not rebuild the roadway. Due to the emergency situation created by TVA, the Supreme Court allowed TVA to condemn this 44,000 acres. In the LBL case TVA claimed the right to buy this property in order to demonstrate a recreation project which the court allowed. In the Elk River project they claimed the right to have a four prong project: generation of electricity, flood control, recreation, and resale of lake front property to a state development commission. Now in the Little T project TVA admits that the generation of electricity, flood control and recreation

are relatively insignificant and are condemning land for the purpose of creating industrial work sites and recreation facilities. In fact TVA now claims that the agency has a right to take any land that in the opinion of the administrative board would promote the general welfare of the peoples of the Tennessee Valley area. This agency has probably become more powerful than the Federal government in many respects.

I am attaching hereto a chart showing the predictions that TVA made for the Melton Hill project and showing that in the 8 year period their predictions were .19% of their estimates. The manager of TVA, shortly after the Brown's Ferry Nuclear Energy Plant fire, said that it would take approximately \$100,000 to repair this plant. The other evening he made a statement on television that they had already expended more than \$6 million in repair and redesign work.

The history of TVA is replete with predictions and promises made by TVA officials that have failed to materialize. However, this is easily understandable by reason of the fact that when any individual or agency assumes a position of divine guidance they will fall short in their planning.

Sincerely,

J. GRANVILLE CLARK.

Enclosure.

AUGUST 2, 1971.

TVA'S MELTON HILL PROJECT

The Melton Hill Project was justified by TVA on the basis of navigation and power generation benefits.

TVA claimed navigation benefits would amount to \$729,000 per year at a savings rate of \$0.54 per ton shipped.

The table below presents TVA's estimated annual navigation benefits versus the actual navigation benefits for years 1963 through 1970.

Year	Estimated annual navigation benefits	Actual		
		Tons shipped	Benefits or savings	Percent of estimate
1963	\$729,000	2,000	\$1,800	0.15
1964	729,000	5,000	2,700	.37
1965	729,000	5,000	2,700	.37
1966	729,000	1,000	540	.07
1967	729,000	1,000	540	.07
1968	729,000	2,000	1,080	.15
1969	729,000	639	345	.05
1970	729,000	4,247	2,290	.31
Total	5,832,000		11,275	.19

Source: Mr. Douglas Williams, president, Loudon County Taxpayers Association, Inc., Lenoir City, Tenn.

EXHIBIT VIII

[From the Louisville Courier Journal]

WESTERN KENTUCKY, CALIFORNIA SHARE EARTHQUAKE RATING

(By Bill Powell)

There's no noticeable indication that residents of Western Kentucky and Southwestern Indiana fret much over the possibility of being jolted by an earthquake.

Little earthquake insurance is sold; rarely does anyone inquire about earthquake safeguards at Kentucky and Barkley dams, and earthquakes are not major discussion subjects in schools.

Yet . . .

Western Kentucky and the southwestern tip of Indiana are part of an area that has the same top earthquake risk rating as the San Francisco Bay area of California, where a lot of folks live in fear of quakes.

What's more, one of the nation's leading experts on earthquakes, Dr. Otto Nuttli of St. Louis University, said in a recent interview that tremors from the Western Kentucky-Southern Indiana area are recorded almost daily at the university.

Dr. Nuttli said, "The Paducah area certainly is an active seismic zone . . . with the possibility of having an earthquake as big, or about as big, as the largest ever occurring anywhere in the world."

He also said, "There is nothing to be panicky about . . . there is nothing to joke about either."

Dr. Nuttli, a doctor of geophysics at St. Louis University and a man who probably keeps a closer tab on earthquake possibilities for Western Kentucky and parts of nearby states than anyone else, said of quakes:

"We know they are going to happen because the smaller ones are happening all the time."

He said that hardly a day passes without a tremor being recorded from an area comprising parts of Western Kentucky, the southwest tip of Indiana, West Tennessee, Southeast Missouri, Northern Arkansas, Southern Illinois and Northeast Mississippi.

"This tells you that the area is an active earthquake region," he said. He added that the tremors mean there is a significant relationship to the San Francisco Bay area, which like the Western Kentucky-Southern Indiana area has a top earthquake-risk rating of "3."

The designation means that major earthquake damage is anticipated someday. That "3" rating is listed for only five other areas on the latest seismic risk map of the United States, published last November by the Coast and Geodetic Survey, U.S. Department of Commerce.

The other areas include parts of Montana, Idaho, Utah; upper Washington; upper New York; South Carolina; Maine and Vermont.

Western Kentucky and parts of neighboring states lie in what is commonly called the New Madrid Fault. The fault is so named because a series of three quakes as severe as any ever recorded occurred near the Missouri town of New Madrid in 1811-12.

The first great shock was felt Dec. 16, 1811. Log cabins rocked or collapsed, dishes shattered, furniture tumbled, trees crashed to the ground and large fissures opened in the earth.

The second quake came Jan. 23, 1812, and the third on Feb. 7, 1812. All, according to geologists, reached the maximum measurement of 12 on what they now call the Modified Mercalli scale, which measures how hard a quake hits.

The other quake measurement used is the Richter Scale, which measures impact as far as it reaches. The 1811-12 shocks are believed to have reached a stunning 8 on that scale. A reading of 5 on the Richter Scale means big trouble, but there is a vast difference between 5 and 8. Motion of the earth increases 10 times with each added point, according to Dr. Nuttli.

The New Madrid quakes were of the severity of the San Francisco Earthquake of 1906, where property damage and loss of life were vast. The severity of the 1811-12 quake is calculated to occur once every 500 to 1,000 years.

The last major-damage earthquake in the New Madrid Fault was in October 1895. Buildings were knocked down, mud and water gushed from closing fissures. There is no record of loss of life.

The 1895 quake was of the severity geologists figure occurs every 75 to 100 years in the New Madrid Fault. It registered 6.25 on the Richter Scale. The last severe shock in Western Kentucky was in 1968—it measured 5.5 on the Richter Scale. Damage was widespread but light.

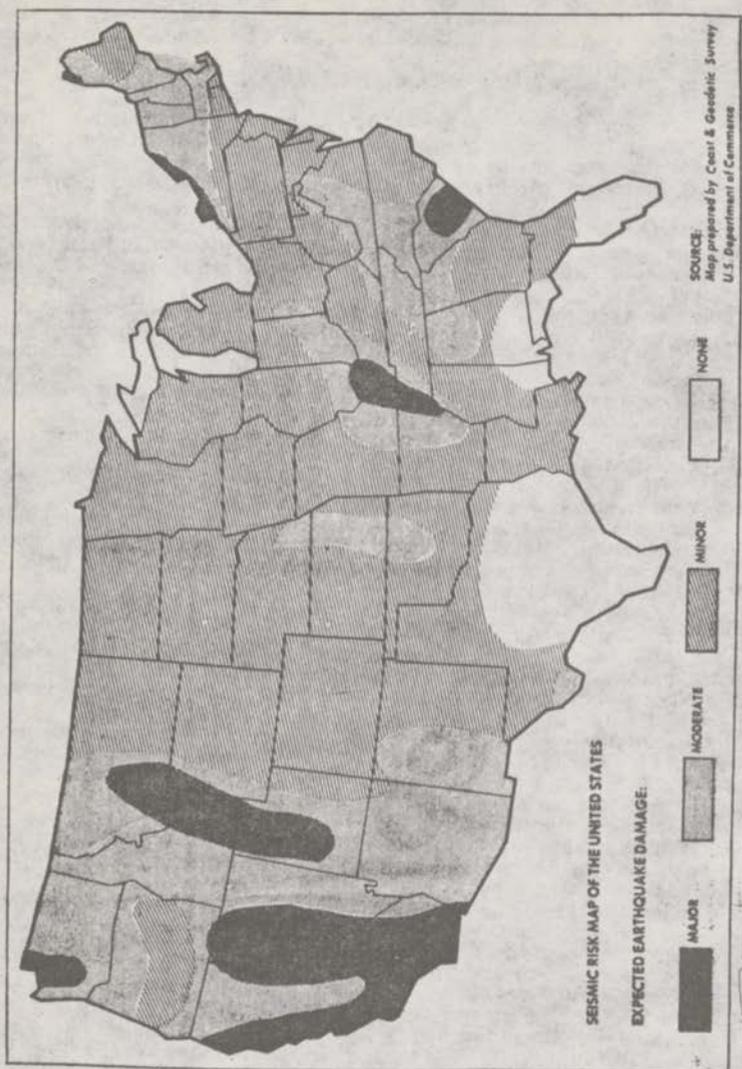
Dr. Nuttli said, "It is natural not to worry about earthquakes in your (Western Kentucky) area, because who remembers 1895?"

But, he said, because of the constant tremors and the recurrence schedule (plus no assurance that the worst earthquakes can't happen in quick succession), "We are carrying out a program of research as part of the U.S. Geological Survey research effort to try to predict earthquakes.

"Here, we must depend on seismograph traces, recordings of instruments," he said.

St. Louis University has 16 seismic monitoring stations in neighboring five states, including five stations in western Kentucky.

Dr. Nuttli has been a professor in the Department of Earth and Atmospheric Sciences of the university since 1952. He is nationally respected as an earthquake authority. He is serving a four-year term on the U.S. National Committee on Geology, which reports to the secretary of the interior and U.S. Academy of Science. He also is a member of the U.S. Committee on Seismic Risks, and is helping prepare a new risk map.



This map divides the United States according to the amount of earthquake damage that is expected in a region. Western Kentucky and Southeastern Indiana have the same earthquake risk rating as the San Francisco Bay area in California — the highest risk category.

Senator RANDOLPH. Mrs. Morgan, will you be our next witness, please?

STATEMENT OF SHIRLEY MORGAN, JACKSBORO, TENN.

Mrs. MORGAN. Thank you.

May I say one word before I go any further about Ms. Whitehead's statement? At the last TVA board meeting, I was there. I was politely asked to come in and be seated with the board members and Mr. Wagner answered one little question and then presumably was going to pat me on the head and let me be along on my way.

I didn't go there to do that. So that is one reason why I am here today, so I will go on with my statement.

Senator RANDOLPH. That is very important.

Senator BAKER. I can personally testify, she certainly was there I was home for the Lincoln Day recess at the time and watched television. I can say without any hesitation Mrs. Morgan made an impression on the board.

Mrs. MORGAN. Well, I am going to make one here.

Mr. Chairman, members of the committee, my name is Shirley Morgan. I am from Jacksboro, Tenn. First of all, I have been here since Sunday and the only thing that has really impressed me about this place is Senator Randolph. I think he is good.

Senator RANDOLPH. Will you repeat that?

Mrs. MORGAN. I really enjoyed what you said yesterday. It sounded fruitful. You sounded like you were interested in me and everybody. And I thank you because it is very great.

Senator BAKER. You are off to a good start.

Mrs. MORGAN. I didn't even realize that.

Senator RANDOLPH. Thank you, Shirley.

Mrs. MORGAN. You are welcome. Oh, I wish we had you on the TVA Board. I am here for one simple reason. I don't know Mr. James Hooper personally, but I don't think he can help the TVA run its business.

The people in Tennessee, as well as the whole country, are upset over some of the things that the TVA is trying to pull. We need strong leadership on the TVA Board of Directors. After what we heard yesterday, I dare anyone up there before us to look me straight in the eye and honestly tell me that Mr. Hooper can do this job.

I have been to the last TVA Board meeting and I don't like the way it is run. I don't think it is run for us or for the benefit of us. I think that TVA has got to get back for us. We will support them if they help us. So I think we need someone up there for us, us little people. That is who counts. I count. I pay my taxes. I think that we should have a say in some of the things that go on.

I don't know how to run it, but we pay people to do our business for us, such as Senators Howard Baker, Bill Brock, and the rest of you people. It is your job to know what is best for us. And that is what I am asking for.

I am going to be at every TVA meeting from now on. That is part of being a good citizen. The next part is having honest men in our Government. When we voted you in, you were to work for the good of the country and the people who you are serving. The little people who are doing their thing, go to work and pay their taxes.

Now, it is your turn to do your job, approve only the best one who can get the job done for us, someone with the background and knowledge of running a big business, such as the TVA.

I know of several people who aren't eating well at this minute. From December to the month of January, the electric bills didn't go double but they went over double. I know of one lady who I have known all my life. You tell me how she can pay an electric bill of \$105 on a \$185 Social Security check.

Something has got to be done for these people. I can pay my electric bill. My husband works and I work. I am proud to say I am fortunate to be able to pay it. Buy my neighbors can't pay it.

That is why I am here. I paid my own way to come here. Nobody is behind me except a little group of people in La Follette, Jacksboro, and Knoxville. They want something done. I can pay mine, but my neighbors can't. So you tell me how someone is going to eat on \$30 or \$40 or \$50 a month. If you can show me that, that is what I asked Wagner. I haven't gotten an answer, but Friday I will have an answer.

I want someone on the TVA Board of Directors who, when I go to him, they are not above me. They are just like I am. I have got to eat just as well as that fellow. I don't mind how much money you pay them. Let them make their money but let them remember us, the little people. That is what we have got to have recognized.

I worked and got over 4,000 signatures, in the last 2 or 3 days before I started up here, of people who are interested in this. This petition is signed and is supposed to go to Senator Howard Baker, of course. I would like to read it for you:

I have a petition with 4,000 signatures on it from people who are against the nomination of James Hooper to the TVA Board. I got these signatures in less than 5 days. With more time I could get five times that much right around home. Let me read you what the petition says: Hon. Howard H. Baker, Jr., U.S. Senate, Washington, D.C.

Dear Senator Baker: We, the undersigned citizens of Tennessee, urge you to do all you can to oppose the nomination of James F. Hooper to the Board of Directors of the Tennessee Valley Authority. This winter we and our neighbors have paid the highest electric bills we have seen in our lives, more than double what we paid last year.

At a time when electric bills have become such a crushing burden on the people of the Tennessee Valley, any new member to the TVA Board should be chosen with one thing in mind: the experience and professional background to help TVA find ways to reduce the burden of rising electric rates. We do not think that James Hooper's background shows that he is qualified for the job.

This is what the people who have to pay TVA's bills think about Mr. Hooper. We hope you will take their advice.

Mrs. MORGAN. I thank you.

Senator RANDOLPH. Thank you. Your statement will be printed in the record. (See p. 188.)

Thank you, Mrs. Morgan.

I ask you to return to your comment about the amount of the bill, of a lady who is a neighbor of yours. Was the amount of that electric bill for one month?

Mrs. MORGAN. One month.

Senator RANDOLPH. What was the amount?

Mrs. MORGAN. The most I collected—Friday night and early Saturday morning, I collected over 1,000 electric bills. Over 900 of those electric bills from December until January doubled. If you had a \$40 electric bill for December, your electric bill I can guarantee you was not under \$80.

If it was \$80, it was over \$200. I looked at these bills. I know what I am talking about. They are at the Tennessee Valley right now. My husband delivered those bills yesterday so they could be looking after them but they didn't believe me either. That is what is happening. I know. I saw it. I collected these things and it wasn't easy.

Senator RANDOLPH. I am certain of that, the collection and the information you are bringing to our attention. I want to be specific now about the one bill that you mentioned.

Mrs. MORGAN. Her bill was \$105.

Senator RANDOLPH. \$105?

Mrs. MORGAN. Yes.

Senator RANDOLPH. All right. The electricity for which that bill was rendered, was that to a person living in a large house?

Mrs. MORGAN. No.

Senator RANDOLPH. Tell me the picture.

Mrs. MORGAN. It is rather a new little house. It is sort of like a small home. It is about a 5-room house; just a small house. It is a widow woman who lives by herself. There is no one else at home except just her. Her husband is dead and she has no small children in her home.

She only has her social security check to live on. It is not a big home. I don't suppose it is one of the best homes, but it is new and it is rather nice.

Senator RANDOLPH. The name of the lady, please?

Mrs. MORGAN. Mrs. Flossie Blank of Careyville.

Senator RANDOLPH. Howard, I turn to you. How can such a bill be rendered in 1 month there on a valid assessment? Can you imagine it? I am just tempted to reconcile this figure.

Mrs. MORGAN. I have a list where I have gotten over 200 where it went from \$60 to \$200; \$70 to \$190. In many instances they more than doubled. They went over \$20 and \$30, but there were 5 days, mind you, 5 days now, that were added on. Of course, it was colder, but the point I am trying to get across is something has to be investigated.

Senator BAKER. Mr. Chairman, I would like to say this. I had the opportunity to talk with Mrs. Morgan briefly before the hearings began this morning. She says she comes from Jacksboro, which is in Campbell County, and very close to my hometown. We had a brief chat this morning.

I fully agreed with her then, as I do now, that the escalating fuel costs are just an impossible burden for our low income citizens and for many of our elderly citizens in the area.

As I indicated to Mrs. Morgan then, I have an idea that before we are done with this and find any sort of solution, that we probably will have to take up and consider a whole range of possibilities and maybe even put several different ideas into effect before we get anything like an equitable remedy for this situation.

I think there is one point, Mr. Chairman, that we ought to take account of. I think Mrs. Morgan has done a good service, not only for her neighbors and for the people of that area, but for this committee, in intensifying our attention on this matter and publicizing it. That is an American tradition, to call public attention to matters of great concern.

I think we ought to do one other thing. I think we ought to ask the staff of the committee to confer with Mrs. Morgan after this hearing and go over and take additional information from her on the product of her collection of these bills so that we can answer your question about how that sort of bill could occur.

I don't know, to answer your question, whether it is entirely a fuel cost escalation or whether it is a different billing period or what.

Mrs. MORGAN. They have no answer.

Senator BAKER. I bet they will have an answer.

Mrs. MORGAN. They will Friday because we are going to take a tour of La Follette.

Senator BAKER. I think this is a good case study. Why don't we, Mr. Chairman, if you are agreeable, ask our staff to cooperate with Mrs. Morgan to try and correlate and analyze this? She has done such a good job of collecting.

Senator RANDOLPH. Senator Baker, that will be done.

Senator BAKER. This, Mrs. Morgan, I hope would further your cause.

Mrs. MORGAN. I don't have any cause, Senator Baker, other than just trying to get help to the people who need it. We do need attention back there for people who don't have enough food to eat as it is. I mean you have to stay warm and you have to have food. It is just not there.

Senator BAKER. That is undeniable. We intend to do whatever we can to try to be helpful, Mrs. Morgan. You have been very helpful to us.

Mrs. MORGAN. Thank you.

Senator RANDOLPH. Thank you, Mrs. Morgan.

[Mrs. Morgan's statement with attachments follows.]

STATEMENT OF MRS. SHIRLEY MORGAN, JACKSBORO, TENN.

Mr. Chairman, members of the committee. My name is Shirley Morgan. I am from Jacksboro, Tennessee. Thank you for this chance to talk to you about something that is very important to me and my neighbors in Tennessee. I am here for myself, as someone who pays TVA's bills, and as a representative of a group of people in Campbell County who have gotten together to try and do something about the electric bills we have to pay now.

I am giving you a copy of some news articles which describe a trip we made to the TVA Board meeting last week to tell them about our problems. We have just gotten started and there are a lot more people who want to help us try to make TVA lower its electric rates.

As I have said, we have met with the TVA Board members. We don't have anything against them personally, but we know how important it is to have people we can trust on the Board.

I am interested in the TVA. I have always been for it and I defended it. That is why I am here to tell you that we need strong leadership on the Board of Directors. Over the past few years the TVA has gotten out of hand. The people don't think that they have any say in what the TVA does.

Over the past month many of our electric bills doubled. TVA now charges over twice as much per kilowatt hour now than it did a year ago. Many of our bills have gone from \$40 to over \$200. One lady, who lives in a five-room house and whose only income is a \$185 Social Security check, has an electric bill of \$106. There are lots of people like her.

There is no way that people in Campbell County and the surrounding area can pay this kind of bill. A lot of people in these areas live on Social Security checks of about \$150 or \$200 a month, or they have low-paying jobs of \$2.10 or \$2.50.

We feel that it is time for TVA to try and find some way to help people who can't afford to pay this much for electricity. We need somebody on the Board who will make TVA try and help us.

Other people can tell you the details about the man the President has selected. I don't know a lot about him, but it does not seem to me that he was chosen because he is the best man for this job. He doesn't seem to be the kind of man who will really help TVA solve some of the problems it has.

We are the government and TVA belongs to us. The big men have forgotten that but the little people remember. We want intelligent and honest men to run TVA for us. TVA is too important to put in the hands of incompetent people. We need someone who has proved that they can get our confidence and who can do a good job for us.

You should only approve someone who is both a good leader and a good businessman.

I am not just speaking for myself. People all over the Tennessee Valley have the same problem. We don't intend to sit around and do nothing about this. It is hard right now to pay our electric bills and have enough to eat on for the rest of the month. How do you think people are going to feel when they have to make sacrifices to pay these bills, thinking that a damn fool is making TVA's decisions?

I have a petition with four thousand signatures on it from people who are against the nomination of James Hooper to the TVA Board. I got these signatures in less than five days. With more time I could get five times that much right around home. Let me read you what the petition says:

The Honorable HOWARD H. BAKER, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAKER: We, the undersigned citizens of Tennessee, urge you to do all you can to oppose the nomination of James F. Hooper to the Board of Directors of the Tennessee Valley Authority. This winter we and our neighbors have paid the highest electric bills we have seen in our lives, more than double what we paid last year.

At a time when electric bills have become such a crushing burden on the people of the Tennessee Valley, any new member to the TVA Board should be chosen with one thing in mind; the experience and professional background to help TVA find ways to reduce the burden of rising electric rates. We do not think that James Hooper's background shows that he is qualified for the job.

This is what the people who have to pay TVA's bills think about Mr. Hooper. We hope you will take their advice.

[From the Tennessean, Feb. 13, 1976]

EAST RESIDENTS HOPPING MAD OVER TVA HIKES

(By Keel Hunt)

KNOXVILLE—Brimming with frustration over sky-high electricity bills, an irate waitress looked the chairman of the TVA in the eye yesterday and called him a "boogey man."

Mrs. Shirely Morgan, the waitress from Jacksboro, and about 40 other angry bill-payers from Upper East Tennessee took their complaints directly to the Tennessee Valley Authority's board of directors.

"I'm mad. Everybody I brought today is mad," she told TVA chairman Aubrey Wagner, who moments earlier had explained that power rates have been pushed higher this winter by increased rates and cold weather.

"We're not here to be turned away," Mrs. Morgan said.

The busload of troubled Campbell Countians filled the normally sedate TVA board room here to near capacity, many of them waving their own electricity bills at TVA officials and others carrying home-made placards calling for "reasonable rates."

One member of the group, Mrs. Flossie Blank of Caryville, said her Social Security check totaled \$185 a month and her electric bill for January was \$106.

"I guess the only thing we can do is leave," she said. "I'll tell you what I'm going to do. I'm going to get a coal stove to heat with."

Mrs. Morgan, one of the principal speakers for the group, which has been picketing a LaFollette utility all this week, said wages in Campbell County average \$2.10 to \$2.30 an hour and many are forced to live on Social Security amounting to \$150 a month.

"The old people can't pay their bills," she said. "I know one old woman who paid her electric bill and had \$4 left for the month."

Mrs. Morgan recalled Sen. Barry Goldwater's proposal to sell TVA to a private firm during his 1964 presidential campaign.

"I hated Goldwater when he wanted to sell TVA" she said. "Oh, God, I wish we had him now!"

The protesters remained seated as Mrs. Morgan, a spokesman for the group, was invited to the front of the board room at the conclusion of its formal meeting. Then she took a seat between Wagner and TVA general manager Lynn Seeber.

She gave Wagner a petition, signed by 3,760 rate-payers, which read:
 "We understand that TVA cannot avoid some of these (rate) increases. But we urge you to do all you can to take the burden of these increases away from the average consumers who use just enough power to cook their food and light and heat their homes."

Mrs. Morgan told the board some Campbell Countians have received winter power bills that almost equal their monthly house payments. She said TVA should adopt a "lifeline" rate structure.

A "lifeline" rate system—advocated by some consumer groups but generally opposed by TVA—would set low rates for small customers such as low-income and elderly persons.

Wagner told the group yesterday "lifeline" rates would not help many low-income people and would benefit many wealthy consumers who heat primarily with gas or keep vacation homes that are not used year-round.

Also, he said the bills paid by many TVA area home-owners are high because their homes may be poorly insulated—causing them to waste heat—and not only because rates are high.

But Mrs. Morgan, who was frequently cheered on by her neighbors, persisted. "We believe that TVA does not know how serious the problem is for some people," she said. "We also believe that many people do not realize that TVA could change the way it charges for electricity to give a break to the average consumer."

Seeber told the group TVA officials would meet with them again soon, along with officials of their local power distributor, to discuss individual problems.

Earlier, in the formal board meeting, Wagner and TVA director William Jenkins approved:

An increase in coal prices paid to South Hopkins Coal Co. near Madisonville, Ky. TVA officials, saying the company was facing bankruptcy as a result of the 1974 price of \$9.57 per ton, will now pay the company \$11.52 per ton for delivery of 20,000 tons.

A project to replace switchboard equipment in electricity control centers in South Nashville and four other sites in the region. The replacements will cost an estimated \$530,200.

[From the Knoxville New-Sentinel, Feb. 13, 1976]

UNANIMITY MISSING IN MORGAN-WAGNER CLASH

(By Jim Dykes)

It was not what you'd call a meeting of the minds when TVA Board Chairman Aubrey Wagner and Jacksboro waitress Shirely Morgan met yesterday.

It was more like a head-on collision.

Mrs. Morgan led a delegation of angry Campbell Countians to the TVA board meeting. They are furious over doubled electrical bills.

Mr. Wagner, as gently and smoothly as possible, welcomed Mrs. Morgan and the delegation of more than 60 people. He said he was gratified that they had taken the interest to turn out, and how much he and the rest of the TVA board and staff gathered there appreciated the visit.

Mrs. Morgan regarded him calmly for a moment, then said, "Who are YOU?" The answer was almost lost in the roar of laughter—much of it from Mr. Wagner's subordinates sitting behind him.

Mrs. Morgan said she—and the rest—came for answers and would not leave without them. She outlined the plight of many Campbell Countians . . . that many work at jobs paying \$2.10 to \$2.30 an hour, others are on black lung benefits, Social Security, and the like.

"Tell me, how can you get an electric bill of \$104 and pay it out of Social Security of \$156 and still eat? I want an answer—and you are the boogerman!"

Mr. Wagner said his bill went up, too. But not double.

"I have a heat pump," he said.

"I have a heat pump, too," Mrs. Morgan said, "and my husband (a carpenter) built our house. It is tight and well insulated. Why didn't your bill double? It was just as cold here as it was in Campbell County."

Mrs. Morgan implied that Mr. Wagner receives some sort of break on his bill. He said he paid the same rate as anyone else.

He explained that since 1969 the price of electricity has doubled but that the price of the coal used to generate it has quadrupled.

"In 1969 the price per 1000 kilowatt hours was \$11.50," he said.

"In January 1976 it was \$23.43," he said, "while the average price of coal in 1969 was \$4.50 a ton; it doubled to \$9 a ton in 1974 and redoubled to \$18 by 1975."

He said TVA's coal bill has increased from about \$150 million in 1969 to nearly \$600 million in 1975 and that it would probably reach \$860 million by the end of this year.

He said materials, labor and the inflationary trend of the times has also contributed to the high cost of electricity.

He reiterated TVA's longstanding promise that when Brown's Ferry Nuclear Plant gets on line it will help somewhat in keeping electrical prices lower. He said heat generated by the nuclear plant would be that equivalent to a steam plant paying \$3 a ton for coal.

He said he has been saying for years that coal prices must be brought under control—that something should be done to tie coal costs to the costs of producing coal. He said TVA still charges consumers only 62 per cent of the price paid by the average U.S. consumer.

The "lifeline rate" was brought up. It is a means whereby small consumers would get electricity at a very low price.

TVA holds that this is a welfare problem and the agency cannot determine who should get it and who shouldn't. Board member Bill Jenkins noted that someone with a summer cottage on the lake—unused most of the time—would get lifeline rates while a poor person, in a drafty house heated by electricity, might not.

"We can't pay. We don't have it. You're getting cheaper electricity here than in Campbell County. It's not fair," Mrs. Morgan charged, to shouts of approval from the crowd.

"TVA is supposed to belong to the taxpayers. Well, we're taxpayers. Why don't we have a say? I hated Goldwater when he came here and said he wanted to sell TVA. I just wish to God we had him now. I wish I'd voted for him, now," she said.

Mr. Wagner, who makes over \$40,000 annually, had been asked about his salary. He had answered by saying he wasn't having trouble paying his bill.

Mrs. Morgan followed her Goldwater speech with, "I know what you make . . . you deserve it . . . to take talk like I'm talking. But we want answers and we have to have them."

Mr. Wagner said to give specific answers he would need to look at specific electric bills.

That broke the dam. Campbell Countians stood waving receipts. One Mr. Wagner looked at was from Sister Yvonne Nelson's Community Action Committee headquarters in Newcom Community. It has, she said, a heater and a couple of lights.

The December bill was \$81.66. The January bill was \$151.98.

Mr. Wagner pointed out that December's \$81.66 bill was for 2994 kilowatthours and that the January bill for \$151.98 was for 5892 kilowatthours.

He said there was a slight rate increase but that mainly January was much colder—therefore more electricity was used—than in December.

General Manager Lynn Seeber, knowing the meeting could go no further toward any agreement, proposed consulting with the La Follette power company; then having a meeting between TVA and the embittered Campbell Countians where electric bills could be studied in detail. Mrs. Morgan agreed to have the electric bills in hand by next Friday.

Then she said, "I don't know how you all adjourn these meetings but I'm fixing to leave." She left. Meeting adjourned.

The group from Campbell County was not at all in favor of the appointment of James Hooper, Mississippi businessman, to fill the long-vacant third chair on the TVA Board of Directors. Mrs. Morgan is to testify Wednesday in Washington at the Hooper hearings. She will testify "against."

The board, in routine action, approved a contract amendment with South Hopkins Coal Co. which increases coal prices from \$9.57 a ton to \$11.52 a ton.

Deliveries are 20,000 tons a week from a deep mine near Madisonville, Ky. The contract is through January 1984.

Senator RANDOLPH. Mr. Brandt?

STATEMENT OF ROBERT S. BRANDT, TENNESSEE CHAPTER,
SIERRA CLUB

Mr. BRANDT. Thank you, Mr. Chairman.

I am Robert S. Brandt, an attorney from Nashville and am here today, testifying on behalf of the Sierra Club.

I want to thank the committee for inviting me to testify today on behalf of the Sierra Club. I would like to express my thanks not only to Senators Baker and Randolph, but to the committee staff and also ask the staff members from other Senators' staffs to convey our thanks to those Senators who could not be here.

I have prepared some written testimony which I choose not to read. Senator BAKER. Would you like to include it in the record?

Mr. BRANDT. Yes.

Senator BAKER. Without objection, the statement will be received for the record. (See p. 194.)

Mr. BRANDT. Senator Baker, it is very difficult to improve on what has already been said. That is one reason I don't want to be repetitive. I think it is impossible to improve on what Senator Brock said this morning.

I was most impressed with the obvious depth of his consideration of the matter of TVA. I find it very encouraging; very, very encouraging that Senator Brock has undertaken to learn as much as he has about TVA. I hope that something will result from it.

As I stated, I am here on behalf of the Sierra Club. I am past chairman of the Tennessee chapter of the Sierra Club. I also serve as chairman of the Tennessee Conservation Commission, having been appointed to the Conservation Commission by Governor Blanton in 1975.

I am not here on behalf of the State of Tennessee, although I think the Governor's position in opposition to Mr. Hooper's nomination is well known.

Senator, I would like to, if you will indulge me for a moment, tell you a little bit about my personal background.

I am from about 40 miles from Huntsville, from a town called Norris, Tenn. I am a native of Norris, born and raised there. Norris, Tenn., as the Senator knows, is a creature of TVA. It was conceived by TVA and built by TVA and named after Senator George Norris, TVA's creator.

As I have said in my written remarks, most of us who grew up there sort of feel that we were conceived by TVA too. When you look at a lot of how our parents happened to get there and get together, it may not be too far from the truth.

My father migrated to Tennessee from Chicago in the early 1930's to go to work in Tennessee for TVA and married a Chattanooga girl. I am a product of that marriage. So when I say a lot of us were conceived by TVA, I think that may be somewhat true.

I was raised in a TVA town. I have a TVA outlook, or thought I did, on life. Yet I suppose I am as vocal a critic of TVA as now exists in the State of Tennessee.

I think that is significant, that this could happen. I think that, having people like Mrs. Morgan here today, is quite significant. We

are the people who are supposed to be benefiting from TVA. Here is someone who has been born and raised from a TVA town, from a TVA family.

I guess I talk about TVA so much I just bore my friends. That is how upset I get about it.

I have attempted in the written testimony, Senator Baker, to identify why I think TVA has such a bad name right now. I have identified several things. I would like to touch upon one of them. That is, TVA's institutional personality. Mrs. Morgan and Miss Whitehead both talked about that. TVA has an arrogant corporate personality that is very difficult to conceive unless one has dealt with it. I have heard this from two Governors. I have heard it from more than one Member of Congress. I have heard it from a justice on the State supreme court. I have heard it from lawyers and from anybody who has anything to do with TVA, that it is an arrogant institution.

I think it is this institutional personality that we are talking about when we talk about Mr. Hooper. You cannot pass laws and tell people to change the way they are and the way they think.

TVA's institutional personality has been developed over a period of years by the Board of Directors. The Board of Directors, like any corporation, with TVA sets the tone for the institutional personality. I think that this is the most important thing I can say, that when you consider Mr. Hooper's nomination you are considering the institutional personality TVA will assume.

I listened with interest to Senator Baker's question to Mr. Gibson about where Mr. Gibson thinks TVA should go in the future. I think one of the most interesting comments I have heard was when I turned on the Today Show the other day to watch Senator Baker and my good friend the publisher of the "Tennessean," John Siegenthaler.

John said something that really struck home about TVA. The NBC man, I can't recall his name, said, "What do you see as the future for the State of Tennessee?"

Senator BAKER. His name was Jim Hartz. The real perspective to that story was when somebody, during that filming, looked out and said, "Who is that man next to John Siegenthaler?" Right away you knew you were in Nashville.

Mr. BRANDT. Well, that is good. I enjoyed your part of the program. I thought it was very perceptive and a good analysis of my native State.

John Siegenthaler said, "We are concerned in Tennessee that the blessings of the past do not become the curses of the future." He said, "TVA and nuclear power." I think that is the question. I think that is the question you asked essentially of Mr. Gibson, Senator Baker, are the blessings of the past—and I consider TVA a blessing of the past—going to be the curses in the future?

My conclusion is that unless something happens to change TVA, it is going to be a curse in the future.

There is simply nothing in the record, as Senator Brock said, that can remotely suggest that Mr. Hooper has any of the qualifications which equip himself to be a force in shaping this institutional personality.

I don't know of any agency of the U.S. Government, with the possible exception of the CIA—to talk about a current topic—where

the directors or the leaders of that agency have such an absolute opportunity to shape the institutional personality.

Any other agency of Government has many more restraints on it than does the TVA. It doesn't need to be repeated, the TVA is autonomous, as it has been said today. I think that is a unique opportunity that this committee has to be a force in shaping the institutional personality.

I am not in favor of any structural changes in TVA right now, with one or two exceptions. I do think they ought to have to get authorization for public works projects. I think their utility rates ought to be subject to regulation.

But I like the flexible nature of TVA. I think it served us well in the past. I don't think it is serving us well now. I keep coming back to the same thing, it has to do with the people who are running it. They are the ones who set the tone.

As for Mr. Hooper, I don't know the gentleman. I have only seen him once in my life and that was here today. But from everything I read about him he just is not the person to be a force in shaping that institutional personality.

Thank you.

Senator BAKER. Mr. Brandt, you have been an outstanding witness. I thank you for your insights. I will read your statement with great interest.

[Mr. Brandt's prepared statement follows:]

STATEMENT OF ROBERT S. BRANDT ON BEHALF OF THE SIERRA CLUB

I am Robert S. Brandt, an attorney from Nashville and am here today, testifying on behalf of the Sierra Club. The Sierra Club is a national conservation organization dedicated to the conservation and preservation of America's natural resources. The Sierra Club has chapters in each state within the TVA service area. I am past Chairman of the Tennessee Chapter.

In addition, I am currently serving as Chairman of the Tennessee Conservation Commission, an advisory agency of the State of Tennessee. The views expressed today are those of the Sierra Club and not the State of Tennessee. However, the position of the State Administration on the question of Mr. Hooper's nomination has been forcefully expressed by our Governor. The Governor and the Sierra Club are in agreement that the nominee has none of the qualifications which equip him to become a TVA director.

To assess Mr. Hooper's potential contribution to the nation as a TVA director, it seems appropriate to examine TVA as it exists in 1976, and more particularly to examine the public's attitude toward TVA.

It is apparent that at this time, TVA does not enjoy widespread public affection. To the contrary, it would be difficult to imagine an agency which has so changed its image to the citizenry of the democracy it serves than has TVA. This is reflected in the multitude of articles which have appeared in the press over the last several years reporting on the public unrest over TVA. National publications such as Newsweek, Forbes, The New York Times, The Washington Post, and others have written more than once recently about the changing attitude of the public towards TVA. The South magazine, The Louisville Courier Journal, The Nashville Tennessean, and the Montgomery Advertiser have each joined the chorus of asking serious questions of TVA. Even the Knoxville News-Sentinel, the last hold-out of the "TVA can do no wrong" advocates within the ranks of the press, has recently published an objective, critical analysis of TVA's Browns Ferry Nuclear Ferry Plant fire and the costs of repair.

I mention this not because the press is necessarily the source of all knowledge and wisdom about TVA or any other issue, but because these many articles and editorials about TVA are reflections of a changing public attitude about the Tennessee Valley Authority.

I must add my name to the list of those critical of TVA, indeed to the list of the most vocal TVA critics. If the committee will indulge me, I would like to relate

some personal background. I am a native of Norris, Tennessee, a town conceived by and built by TVA, named after its great creator, Senator George Norris. The TVA influence was so great upon my early life in this TVA town that I came to believe that my fellow Norris natives and I, like the town itself, were likewise conceived by TVA. I also recall vividly my activities in the 1964 presidential campaign when our slogan was "Peace, Prosperity and TVA." I mention this biographical matter only because it seems significant that one from this background should become such a vocal critic of TVA. It seems significant that one with a TVA nurtured outlook on life would be here today in the United States Senate discussing what to me seem to be gross abuses committed by TVA.

As stated above, it is appropriate to look at TVA today to determine if James Hooper, referred to by President Ford recently as "Mr. Hooker", is qualified to become one of the three directors of this autonomous agency.

Assuming TVA's current unpopularity, we must ask why TVA is unpopular and how did it happen.

As to the first, it is clear that TVA's practices and programs came into direct confrontation with the conservation and environmental revolution which swept the nation in the late 1960's and early 70's. TVA's dam building momentum is so strong that it has embarked upon a course of building small dams and small rivers, so small that they cannot even support hydro-electric facilities, they provide negligible flood control, and hardly any navigation.

As the largest purchaser of strip-mined coal, and a not too subtle promoter of strip-mining, it was inevitable that TVA would clash with a variety of interests ranging from theoretical environmentalists to the mountain folk who are the victims of TVA's practices. When I look at the denuded and barren mountains of my native Anderson County, Tennessee, ripped apart with TVA money, my money, I am bewildered by my early recollections of TVA's outstanding efforts in the 30's and 40's at soil conservation, reforestation, and increased agricultural productivity. Thus, what we have seen is the evolution of a new generation of critics of TVA formed around various conservation, sportsmen, agricultural, and other interests.

A second factor which has resulted in quite vocal criticism of TVA is its commitment to nuclear power as a means of providing one hundred per cent of its base power load. Many people question the safety of TVA's nuclear program, while many, many more question the economics of it. Responsible and knowledgeable citizens are asking how TVA can intelligently place such reliance upon a technology which has such a dismal record of production. TVA's nuclear power activities, thus far, have been a tragic disaster. The mammoth TVA nuclear commitment, the largest in the nation, has brought to the surface an entirely new constituency of TVA critics.

But it takes more, in my opinion, than TVA's shift from an agency born in the spirit of conservation to one of America's prime dispoilers to create the current outcry of criticism and even downright hostility. A third factor is a factor which figures most prominently into the question of James Hooper's qualifications . . . that factor is TVA's institutional personality. Like any corporation or entity, TVA has a corporate personality, and, in recent years, that institutional personality has been characterized by an arrogance which is difficult to conceive unless one has dealt with TVA. I have heard repeatedly from a variety of people that have dealt with TVA that it is almost impossible to amicably work with the agency. I have heard this from a Governor, more than one Congressman, and a State Supreme Court Justice. I have heard it from lawyers who have had cases with TVA, from employees of other agencies of government, both State and federal, and most importantly, from many private citizens who have been forced to deal with TVA.

Naturally, there are many capable and public minded TVA employees, but like any other corporation, the directors set the tone for the entire organization. One new appointment to the TVA Board can dramatically change TVA's institutional personality.

Finally, I must mention the one factor which has given rise to more public hostility towards TVA than any other—dramatically increased rates for residential electricity. The question of electric utility rates is indeed complex and I profess no expertise in this area. But one does not need to be an expert to see that when a utility builds the largest nuclear plant in the world, and it not only fails to produce electricity for nearly a year, but the catastrophe which caused the failure costs millions to repair, electric bills are going nowhere but up. And, when the average citizen struggling to pay utility bills learns that a giant energy intensive industry is paying a substantially lower rate than the home-owner,

he gets downright angry. Moreover, when that rate payer complains to his local utility, he finds that the utility cannot significantly change the rate due to its contract with the unregulated TVA.

Our rates are lower than almost anywhere in the nation, but it remains to be seen how long that situation will exist. Many innovative suggestions are being made around the country on reforming utility rates, suggestions which may or may not have merit. This unique agency which was created to be an experiment to begin with, has led the field, nationwide, in its obstinate refusal to consider rate reforms.

Having given our answers to the question of why TVA is so unpopular nowadays, the more difficult question should be answered . . . how did it happen? The answer to this question is indeed complex and intricate and I make no pretense of having the complete answer.

TVA is completely autonomous. It has to secure no congressional authorization for its major projects. Its power rates are unregulated.

TVA was once well-known nationally. Now, however, even members of congress who come from outside the TVA region know very little about TVA. Either unwilling or unable to control TVA, Congress has given TVA a free hand to do whatever it pleases. As I understand it, the 1975 oversight hearings were the first since the late 30's.

TVA's basic mission is vague and ambiguous, thus enabling the agency to seek its current purpose after its existence has already been firmly established. With so massive a bureaucracy in place, TVA is going to do something, even if it is not in the public interest.

TVA's early success has engendered an affection among the populace, which has made many people reluctant to speak out against its obvious current abuses.

There have been many proposals in the past year or so to make statutory changes in TVA's structure, some of which have already been introduced in Congress. These proposals may or may not have merit. No legislative body can legislate a change in attitudes or personality.

When considering TVA's personality, we come back to James Hooper and his desire to become a force in shaping that personality and the administration's apparent desire to have him become such a force. By serving as one of the three directors of this autonomous unregulated bureaucracy, it is incredible how powerful the new TVA director will become.

This job is not some petty political job to be given away for solely political considerations as Postmaster's jobs once were. This is a job for someone with a proven record of administrative ability, someone knowledgeable in the grave economic energy and health problems facing TVA. Nothing I have read or heard about Mr. Hooper even remotely suggests he has any qualifications to serve.

I and my fellow Sierra Club members believe that TVA is on a self-destructing course. However vocal or critic we may be of TVA, we do not want to see TVA's destruction. Only the appointment of a qualified third member of the Board of Directors can save TVA from itself. James Hooper is not that person.

The Sierra Club respectfully urges the Senate to refuse to confirm Mr. Hooper.

Senator BAKER. You have been an excellent panel, and we thank you for your participation today. If any of you have any further and concluding remarks, we would be happy to have them at this time.

Thank you.

Ms. WHITEHEAD. Senator Baker, may I say something, please?

Senator BAKER. You may, indeed.

Ms. WHITEHEAD. With respect to the statement that Mrs. Morgan made, there are petitions out all over western Kentucky with respect to the TVA. Some of these are directed to the Congress; some to the State of Kentucky.

With respect to what she said about the increase in the electric rates, one of the State legislators was in my home last Sunday. He was extremely perturbed because he said his bill had doubled and that it was \$174 and that he hadn't even been at home. The heat had been turned off part of the time.

Senator BAKER. I have an office full of mail. I can recite case after case that has been brought to my attention personally, of extraor-

dinary increases in electric rates, particularly in the December-January billing period.

I entirely agree, it is a matter that requires careful attention. I assure you we are going to do that.

Ms. WHITEHEAD. Thank you.

Mr. GIBSON. Thank you very much for your time this morning, Senator, and for your interest in TVA.

Senator BAKER. Thank you.

The next witness is a representative of the United Mine Workers.

Senator RANDOLPH. I want to thank Mr. Brandt for his testimony.

Mr. Savitsky, am I correct?

Mr. SAVITSKY. Yes, sir.

Senator RANDOLPH. We had earlier communication from Arnold Miller. He is president of the United Mine Workers and was to have been a witness, but because of certain circumstances and commitments you are here testifying for the United Mine Workers. Who are you joined by today?

**STATEMENT OF BILL SAVITSKY, EXECUTIVE BOARD MEMBER,
UNITED MINE WORKERS, REPRESENTING ARNOLD MILLER, PRES-
IDENT OF THE UNITED MINE WORKERS OF AMERICA, ACCOMPANIED BY DALE LAWSON, LEGISLATIVE REPRESENTATIVE OF
UMW**

Mr. SAVITSKY. I have also here with me today Mr. Dale Lawson who is the legislative representative of the United Mine Workers, Senator RANDOLPH. If you will proceed as you desire, by reading a statement or filing a statement or commenting on the statement, members of the committee will be glad to hear your testimony.

Mr. SAVITSKY. Mr. Chairman and members of the committee, I am the international executive board member of the UMW and, as you mentioned earlier in your statement, I am representing President Miller, who was not able to attend today because of other urgent commitment.

I am pleased to appear before you today to present the views of the UMWA on the nomination of James Hooper as a member of the Board of Directors of the Tennessee Valley Authority. As you know, the UMWA is extremely interested in the operation of the TVA and we appreciate this opportunity to make our views further known.

In addition to that, Mr. Chairman, at the conclusion of my presentation I will be glad to answer any questions and any questions I will not be able to answer, will be answered for the record at a later time.

The UMWA represents 143,000 working miners and 77,000 retired miners—with their dependents, a total population of 692,000. Three-fourths of our members and their families live within or adjacent to the TVA service area.

TVA is the largest single consumer of the coal that we produce. On many levels, we have intense interest in TVA and the policies which the directors of TVA develop and implement. We have looked closely at Mr. Hooper's record—at least at that part of his record which has been made public—and it is an understatement to say that we are disappointed.

We give President Ford due credit for the excellence of some of his appointments in other areas. We had hoped that he would recognize the importance of this appointment and would approach it in a spirit of finding the best available man or woman for the job.

In April, we asked that consideration be given to the appointment of Thomas E. Gish, a Kentucky newspaper editor and publisher whose whole career has been dedicated to the best traditions of grassroots democracy and whose dogged coverage of TVA in recent years has done more than any other single force to shed light on the agency's policies.

Later, we indicated our willingness to support the nomination of Dr. John Gibbons, a respected nuclear physicist whose name has been proposed by others.

In making these recommendations to President Ford, we felt that we were acting as good citizens, while fully recognizing that the final decision on the nomination would rest with the recommendation of the White House and its confirmation in the Senate.

Nevertheless, we wanted to make it clear that the vacancy on the TVA Board was a matter of much more than routine concern, and should be given the most serious and thoughtful consideration by the administration.

TVA directly affects the lives of more than 6 million people living within its service area and millions more who are either the victims or beneficiaries of its policies. TVA is not just another utility that happens to be owned by the Federal Government.

In a very real sense, TVA constitutes a regional government, with as much direct influence as many States. The appointment of a TVA director, in our view, is as serious a matter as the election of a Governor, a Senator, or a Member of the House of Representatives.

In testimony before this committee on May 6, 1975, we spelled out our concern that TVA has long since ceased to be the bold new vision of Roosevelt's time and has become, instead, a corporation which is not accountable to the public and which makes policy without consideration for the public good.

In our testimony we attempted to demonstrate that TVA, in pursuit of low-cost electricity, established and followed coal procurement policies which disrupted the industry and laid waste the land with a total disregard for the welfare of those who produce the coal and those who live among the devastation.

We offer that testimony as an appendix to this statement and ask that it be included in the record. (See p. 205.) It reflects our concerns and supports our deep conviction that the next director of TVA must be a man or woman of ability, unchallengeable principle, and dedicated to establishing full public accountability for this supposedly public agency.

Those are, we believe, minimum standards for an acceptable appointment. Measured against those standards, the career of James F. Hooper III, falls far short.

He might go unnoticed as an appointee to one of the innumerable advisory committees in Washington that are already packed with friends and relatives of political figures. But the Tennessee Valley Authority is not just another committee and this appointment must not go unnoticed. In our opinion, it deserves forceful and determined opposition sufficient to force reconsideration by the White House.

The information available on Mr. Hooper is admittedly incomplete. Clearly, however, he has left behind him a trail of dubious business dealings which of themselves were enough to prompt this committee to postpone previously scheduled hearings and conduct a thorough review of his financial background. I understand that the investigation has been completed and will soon become available to the public.

Mr. HOOPER is reliably reported to have sought the nomination through influential friends active in the Republican Party in Mississippi. His wife is the Republican National Committee-woman from that State. When Mr. Hooper's name floated in over the transom at the White House, it was not hard to imagine the thoughts that must have passed through the minds of Mr. Ford's political advisers.

Looking not very far ahead to the campaign battles of 1976, they had a clear opportunity to trade a favor. Mr. Hooper's worth could be measured in political support.

But what about the people of the TVA area? And what about the years to come, when they will be saddled with a TVA director who was once worth something, if only very briefly, to a President's reelection efforts?

Mr. HOOPER politically is a perishable commodity, valuable only through 1976, but his term runs for 9 years. The people of the TVA area will be living with him, if his nomination is confirmed, until 1984.

Nat Caldwell, a veteran staff writer for the Nashville Tennessean who has covered TVA affairs for more than 20 years, attempted to explore Mr. Hooper's past and reported his findings in a revealing article published on June 22, 1975.

We submit that article in its entirety with our testimony and ask that it be included in the record of these hearings. It is, in our opinion, devastating. (See p. 223.)

Item: Mr. Hooper publicizes himself as the investor of the Air Force's crash helmet, an accomplishment of dubious relevance to TVA and one which he included in an autobiography provided to "Who's Who in American Politics." Try as he might, Mr. Caldwell could find no evidence to support the claim.

If Mr. Hooper has misrepresented himself in this matter, he is guilty of no crime greater than excessive bravado. But he should be questioned about it by the committee, and if he is unable to substantiate the claims which he has made for himself, it should be a matter of great concern for this committee.

Item: Mr. Hooper has been associated with business failures and resulting court actions which, while never resulting in any direct convictions, have left a heavy shadow of doubt on his business talents and, as the earlier testimony indicates, ethics.

As Mr. Caldwell reported:

Hooper was the promoter of a failed dairy intended to be Mississippi's largest, and a failed pet food factory that for a short time enjoyed the largest sales volume of any in the South. He was a co-promoter of an insurance company which had its Tennessee license revoked in February 1970.

Mr. Hooper has explained away all of these disasters, but they leave the persistent impression that he is dogged by incredible bad luck or simply has poor business sense. In either event there is no immediately apparent or discernible reason to select him out of the mass of Americans for the high honor of directing the Tennessee Valley Authority.

Compare these credentials with those of the first three Directors of TVA. David Lilienthal, a brilliant lawyer who spent his whole life in public service, had spent 7 years representing the city of Chicago in utility litigation and had been a member of the Wisconsin Public Service Commission. During that time he had completely revamped the State's utility code.

Arthur E. Morgan had been a civil engineer for more than 30 years and was a nationally recognized expert on conservation and reclamation. He had been president of Antioch College for several years prior to his appointment. Harcourt Morgan had spent 14 years as president of the University of Tennessee and was a professional agronomist who had been director of Tennessee's Agricultural Experiment Station.

TVA has had only 15 Directors, and most of them have had substantial and recognized careers in work directly related to the activities which they have supervised as TVA overseers. In recent years there has been an increasing tendency to regard these jobs as suitable for filling with political appointments, and a simultaneously increasing tendency for TVA to veer away from the path of public service on which it was first launched. Now President Ford proposes to go further, with an appointment blatantly not based on merit.

We hope that you will give this nomination intensive scrutiny and will withhold your support if you believe, as we do, that this is a political and totally unwarranted appointment.

Mr. Hooper counters the charges made against him by pointing to membership in various associations established to lobby for development of waterways and other projects. No doubt these efforts deserve reward. But why should that reward be provided by the people of the Tennessee Valley, and by our members, who mine the coal for their generators and whose livelihoods are so directly affected by TVA policies.

A final remark on this nomination relates to the Caldwell article that appeared in the Nashville Tennessean June 22, 1975. In that article Mr. Hooper is quoted as saying:

I respect and admire both the purposes and achievements of the TVA, and I know of no other Republican, with a chance of White House appointment, who, conscientiously, as I can, could stick in there and uphold Red Wagner's hand.

This is not the time to debate the performance of Mr. Wagner but I believe this statement by Mr. Hooper is cause for concern. Mr. Hooper has made it clear he will not be bringing any new ideas to the TVA at a time in its history when they are most needed. His confirmation by this body will merely allow a continuation of business as usual and Aubrey Wagner's domination of that agency.

We submit that President Ford did not make much of an effort to find that best qualified man or woman to serve the 6 million people of the Tennessee Valley.

We submit with this testimony, for inclusion in the record, background information concerning Tom Gish and John Gibbons, two individuals previously recommended for this nomination. We do so, not with any hope that the White House will voluntarily reconsider this nomination, but because of the stark contrast between the qualifications which we sought and found, and those which the White House sought and found.

We submit that Mr. Hooper's nomination is transparently political and totally without merit. The White House should have withdrawn it, but failing that, we urge its prompt defeat by this committee.

Gentlemen, the issues facing the TVA Board are complex and the resulting policies will have a widespread and lasting effect. Before this committee acts on this nomination, I ask that the members take the following into consideration: one: The TVA is among the Nation's largest corporations. Its assets total over \$4 billion and it employs over 26,000. Is the committee convinced that Mr. Hooper's background indicates he is capable of competently administering a business of this size and complexity?

Two: At present the TVA is engaged in a controversy involving its proposed switch from coal-fired to nuclear-powered electric generators, a most serious and far-reaching decision. Of all the Nation's utilities, TVA has the strongest commitment to nuclear power.

Last week's newspapers were filled with articles concerning the resignations of experts in the field of nuclear energy. These highly qualified men resigned because of their fears concerning the spread of nuclear powerplants. Is this committee convinced Mr. Hooper is knowledgeable enough in the field to make sound decisions concerning nuclear power?

Three: Similarly, in the pursuit of low cost electricity TVA is moving to Western markets for low cost strip mined coal, abandoning once again the TVA region's bountiful coal supplies. Does Mr. Hooper realize the TVA's obligations to people and economy of the TVA region?

Is Mr. Hooper cognizant of the many social, economic, and environmental factors which must be evaluated as the TVA makes policy decisions concerning the use of cheap, strip-mined coal versus coal readily available in the TVA region?

Four: Consumer groups across the Nation are mounting campaigns to institute major changes in the rate structures and pricing policies of electric utilities. Large industrial users have been able to receive extremely cheap power because small consumers pay a disproportionately high price per kilowatt for their electricity.

This is due to the descending block rates which are used by almost all utilities including the TVA. From California to New York consumer groups are fighting before public utilities commissions and in the State legislatures and courts for the institution of lifeline rates, fair share rates, and inverted block rates.

These new rate structures represent an end to cheap electrical power for industry which is subsidized by the small consumer.

As the Nation's largest utility, with \$560 million in residential sales and \$670 million in commercial sales, the TVA's pricing policies affect 2.2 million residential and 263,000 commercial and industrial users.

With the trend toward more equitable rate structures, the TVA will certainly be confronted with these issues time and again. It will be necessary for this giant utility to make many major decisions concerning its overall pricing policy.

Is Mr. Hooper familiar enough with economics, and more specifically with the peculiar economics of the electric utility industry, to

make intelligent decisions in this regard? Does he have adequate concern for the consumers' interests? With no previous experience in the utility industry, does he know enough about electrical power rate structuring and related issues to justify his appointment to a position on the board of directors of the Nation's largest utility?

Senator RANDOLPH. Thank you very much for your testimony, Mr. Savitsky. Is there further testimony that you think you should give to the committee? Are you accompanying Mr. Savitsky?

Mr. LAWSON. Yes.

Senator RANDOLPH. I didn't know whether Mr. Lawson wanted to testify. I wanted to give him the opportunity to do so, if he wished. Thank you very much.

Mr. SAVITSKY. Mr. Chairman, may I offer as a final comment, in view of much of the testimony that was placed here before this distinguished group, I believe I have to share, along with the rest of the United Mine Workers and their constituents, the urgency in this matter. We cannot permit at this time, as—the magnitude of the problem is great in the Tennessee Valley—the nomination of this person to go through.

After listening to testimony and reading all about the background and the qualifications of this person and when obviously the track record is so bad, I think this committee should carefully consider the nomination. This corporation's responsibility is so great and so many people will be affected by it. Thank you.

Senator RANDOLPH. Thank you very much. I wish, as chairman, to make this further comment. You and others have spoken of the necessity, as you understand it, for a person to fill this position who has certain qualifications.

It is incumbent upon those associated with this subject matter, from the White House and including, of course, the Congress, to act on the matter of the vacancy.

The vacancy for which the nomination has been made occurred on May 18, 1975. There have been a series of situations which have delayed action on these problems.

We have had in the past hearings on other nominees who have come before us and who are members of the board. Mr. Jenkins, for example, Mr. McBride, for example, and Mr. Wagner, for example. Mr. Wagner, of course, was associated with TVA before he became a member of the Board.

As these have moved along, I think that we have tried to be thorough in our hearing process in all these instances. But now I would want to share with Senator Baker and other members of the committee, because I think we are of one mind on this matter, that we must not ourselves contribute to the delay in the filling of this position.

If the committee acts in one way or the other, that is a matter for the individual conscience and understanding of each member. We must not delay our action.

So, within a very reasonable time—and I hope that is a matter of days—we will be able to give the judgment of the committee membership on the nomination of Mr. Hooper.

I think that the TVA area, in fact, the country, has been ill-served by this long period of uncertainty, from May 18, 1975 when the vacancy occurred, and now some 10 months later, with no resolution on this situation.

Of course, we have that in other boards, as Senator Baker knows. I am not referring politically to the present administration. Let's take the position that it is necessary to be a continuing one of the person who is responsible for the health and safety of coal miners, where the action is delay, delay, delay.

I think it is not a carping criticism that I make, that we now have many, many positions to be filled in the Federal Government by appointment and confirmation by the Senate.

This is certainly one that holds a priority and one which this committee is directly concerned with.

Senator Baker, do you have comments?

Senator BAKER. No, I don't, Mr. Chairman. I think that was a very excellent statement and we will profit by having had it.

I might point out that the term expired on May 18, 1975 and we got off to a pretty good start. A nomination was sent up about 3 weeks later and we had our first hearing scheduled for July, just about a month later.

But then it was postponed so that the staff could do certain field investigations which took some time. Then, in December, it was rescheduled and postponed again, as you recall. So for a variety of reasons, not all of them at the request of the committee, the nomination hearings have been prolonged.

I agree with you, Mr. Chairman, we ought to dispose of the matter promptly. I hope we can finish this witness list today and move on then, even this week, for consideration of the markup in the committee.

Senator RANDOLPH. Thank you, Senator Baker.

Thank you, gentlemen.

Mr. SAVITSKY. Thank you for the privilege of being here.

Senator RANDOLPH. You did mention, Mr. Savitsky, I understand that the investigation has been completed but is not available for public scrutiny.

In your testimony as it was written, I believe I heard you say that it was readied for public scrutiny.

Mr. SAVITSKY. I had just learned prior to my appearance here that that was made available. That is the reason why I entered it in my testimony. So there has to be a change made.

[Discussion off the record.]

Senator RANDOLPH. Mr. Savitsky, with the approval of and consultation of many persons, we had the desire to make this available, even though it was not in print. We had been working from galley proofs. But we will have the staff analysis made available very soon.

Senator BAKER. It has already been done.

Senator RANDOLPH. What I am saying is we will correct it. I think about 15 copies have already been prepared. I hope that has been enough. We would want to make it available as quickly as we can. I presume that has been done. It has been sent to the printer for further prints.

I thank you for calling attention to that matter.

Mr. SAVITSKY. Thank you, Mr. Chairman.

Senator RANDOLPH. Thank you, Mr. Savitsky.

Did you wish the letter from Arnold Miller as president of the United Mine Workers of America included in the record?

Mr. SAVITSKY. Yes, sir.

Senator RANDOLPH. He addressed the committee. I thought you might look at the letter. Perhaps your testimony has taken care of that matter and from the explanation of why he wasn't here, we can determine that. It was a letter of opposition?

Mr. SAVITSKY. Yes, sir.

[Mr. Miller's letter and attachments to Mr. Savitsky's statement follows:]

UNITED MINE WORKERS OF AMERICA,
Washington, D.C., June 26, 1975.

Hon. JENNINGS RANDOLPH,
Chairman, Public Works Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR RANDOLPH: The United Mine Workers of America is opposed to President Ford's nomination of James F. Hooper to the Tennessee Valley Authority Board of Directors.

This nomination is a matter of considerable national importance in my opinion I have had the opportunity to witness the direction in which the TVA has moved in recent years, and I see a distressing failure to respond to the needs of the people of Appalachia.

The Ford Administration had an opportunity to move decisively and constructively to demonstrate a commitment both to the agency's future and to the people of Appalachia when a vacancy occurred on TVA's Board of Directors. Sadly, Mr. Hooper's nomination was a purely political decision. Mr. Hooper's main qualification for the position is that he is the husband of a member of the Republican National Committee from Mississippi.

The position requires expert administrative experience. Mr. Hooper has been involved in three business deals where the companies went bankrupt. Mr. Hooper's failing business ventures included a dog food canning company, real estate development, and an insurance company. None of these businesses, nor Mr. Hooper's handling of them, qualify him for the post he has been nominated to by the Administration.

The TVA as a government agency has important responsibilities to the people it serves. The UMWA is opposed to the ill-advised nomination of Mr. Hooper because we don't believe he will fulfill these responsibilities.

We feel that Mr. Hooper is unqualified for the hingly important job of being one of the three TVA Directors whose decisions have a tremendous effect on the lives of 6 million people who are served by the Tennessee Valley Authority. Mr. Hooper's record is not one which would inspire public trust in him, either as an administrator or as the kind of open responsible public official who is desperately needed at the TVA.

The UMWA feels that if the TVA is to regain the confidence of the people of the Tennessee Valley region, the nominee for the vacant position on the TVA Board of Directors must be a man who is qualified beyond a doubt and not merely a political appointee. Mr. Hooper does not meet these important criteria.

Sincerely—

ARNOLD MILLER.

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STATEMENT
OF
ARNOLD MILLER
PRESIDENT
UNITED MINE WORKERS OF AMERICA
BEFORE THE
UNITED STATES SENATE PUBLIC WORKS COMMITTEE
WASHINGTON, D. C.
MAY 6, 1975

Mr. Chairman and members of the Committee, my name is Arnold Miller, President of the United Mine Workers of America. I appreciate your invitation to participate in these important hearings on the Tennessee Valley Authority.

This Committee has decided to explore some very serious problems, and in doing so, you are hearing expert testimony from many witnesses. At the United Mine Workers of America, we have been taking a hard look at TVA for some months. Following these hearings, we plan to release a report setting forth our views in detail. Today, however, I will try to be brief. I simply want to bring to your attention some of the concerns we have about the Tennessee Valley Authority and offer some suggestions for your consideration.

We have a point of view which is obviously different from some of your other witnesses. We are a union of coal miners. We produce raw energy -- and the energy we produce is vital to the future of the United States.

Our first priority is to produce coal safely. Our second priority is to produce it without destroying the land we live on. Our third priority is to produce it efficiently and economically in whatever quantities the nation needs.

These priorities are a matter of common sense to us. It disturbs us deeply that they sometimes put us on a collision course with the Tennessee Valley Authority.

For many years, TVA has been the largest single consumer of coal in the United States. As such, TVA has had an enormous impact on coal technology, and that impact has been felt in every corner of the

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coal mining communities of Appalachia -- far beyond the Tennessee Valley itself. We live in those communities, in those hills. We work in those mines. We feel the impact of TVA directly, every day. We believe that TVA has a clear responsibility not only to the people it supplies with electric power, but also to the people who provide the raw energy to make that power possible. I am sorry to say that TVA has not been a friend to us.

I don't want to be misunderstood. We are not here today to attack the basic philosophy behind the Tennessee Valley Authority. TVA was needed desperately back in 1933, and the basic idea is still sound today. In Roosevelt's words, TVA was designed to be "a corporation clothed with the power of government, but possessed with the flexibility and initiative of a private enterprise." TVA's accomplishments over the past 42 years are truly awesome, and they prove beyond any doubt that the basic idea made sense and worked well.

The problem is that this is not 1933, and TVA is not what it set out to be. The bold new vision of Roosevelt's time has been replaced by something ugly and dangerous. We still have a corporation clothed with the power of government, but that corporation is not accountable to the public and makes policy without consideration for the public good. TVA no longer combines the best of government with the best of private enterprise. Instead, it combines the worst.

This does not mean that TVA should be abolished. Instead, we must try to figure out what went wrong, and why. Then we must look

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for ways to make TVA a responsive public servant again. We would not be here today if we did not believe that this can be done.

Long before TVA was actually brought into being, the supporters of public power were arguing for a "yardstick" to be used as a way of determining the actual costs of power production and as a way of controlling the excessively high rates charged by private companies. The yardstick concept was built into the legislation creating TVA in 1933 and remains as a central reason-for-being four decades later. In our view, this valuable concept has been irresponsibly used by TVA's board of directors, with terrible consequences in the past and the prospect of more to come.

Section 15 of the TVA Act, which deals with electric power generation, charges TVA with establishing rates "as low as are feasible." In the Depression years, when most of TVA's power production came from hydroelectric generating plants, this language -- and its interpretation by the TVA board - caused few if any serious problems. At that time, TVA's principal opposition came from conservative state and local governments and their powerful allies in private industry. The private utilities had reason to worry about the new yardstick and they fought to destroy it. At that time, and under those circumstances, it made sense to insulate TVA from public control.

But then, after World War II, the power demands of the TVA service area clearly and quickly outstripped the system's hydroelectric capacity. Within the space of a few short years, TVA became the nation's number-one coal buyer and the nation's number-one builder of conventional coal-burning generating stations. And this was where the trouble started with Section 15 of the Act and with the yardstick idea.

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Like other utilities, TVA campaigned hard to get its customers to use more electricity, and succeeded so well that the people of the TVA service area today use about twice as much electricity per capita as the average American. Then, to deliver that electricity at the comparatively low rates for which the agency was famous, TVA's board of directors led the agency into a series of irresponsible decisions.

The worst of these was the decision to set the price of coal so low that it could not be met by companies involved in underground mining. You must remember what the coal market looked like in the 1950's and 1960's. The demand for coal had peaked immediately after the war and then had gone into a long decline, which was accelerated by the availability of relatively cheap oil and gas and the conversion of the coal-burning railroads to deisel locomotives. The coal industry had turned out 630 million tons in 1948 and had found customers for all of that production. By 1955, production had dropped by nearly 40 percent and millions of tons of that production could not find buyers. Day in and day out, companies went bankrupt and miners went on relief. Anybody who can remember Appalachia 15 years ago knows what I am talking about. It was a nightmare, and Appalachia has never totally recovered from the shock.

TVA was strategically located within easy reach of the nation's richest and most fully developed coal fields. By 1959, TVA was buying about three-fourths of the coal produced in Tennessee and more than a fourth of the coal mined in Kentucky. Because the market was so soft nationally, and because TVA bought coal in larger volume than any other customer, TVA could and did set the prices it would pay.

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Those prices ranged anywhere from \$1.00 to \$3.00 per ton below the actual cost of production at the average deep mine in Appalachia. A coal company could successfully profit from a TVA contract only by reducing wages and eliminating fringe benefits, laying off men, cutting corners on safety and maintenance, gouging its other customers, or by going into strip mining.

All of these things happened. The blame for the consequences must be laid squarely at TVA's door.

The United Mine Workers, which had gone through a long and bloody fight to organize the southern Appalachian coalfields in the 1930's, lost its grip in the 1950's and early 1960's as one company after another broke away from union wage scales and union safety standards in order to compete in the artificially depressed market. Mechanization and the loss of markets combined to lay off one out of every three miners in Appalachia -- men who had no other skills, and who were too crippled with black lung to travel across the country in search of work. The frequency of fatal accidents climbed during those grim years, but the men dying in the mines made no impression on the directors of TVA. Coal customers got tired of receiving substandard coal at inflated prices from companies struggling to operate under TVA contracts, and the shift away to oil and gas accelerated. And across the mountains of Appalachia, the first raw scars of strip mining began to appear.

Remember that Roosevelt had said this of TVA, back in the early years: "The agency's real purpose is the reclamation of land, of human beings."

That great purpose should have governed the directors of TVA

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and should have carried more weight with them than the language of Section 15. It should have influenced them when they were buying coal. It should have made them think twice about their yardstick.

Over the years, TVA's purchasing policies had the effect of completely disrupting the Appalachian coal mining industry. We are going to be living with the consequences for a long time to come. Stop and think, for a moment, that if the deep mines of Appalachia had been encouraged to develop slowly and steadily over the years, we would have nothing to worry about now when we look toward the goal of domestic energy self-sufficiency. But those mines are not there. The skilled miners are not there. The communities to support them are not there. It will take massive commitments of money and time to build the industry that we need in Appalachia in the years ahead.

The directors of TVA defend their policies as being consistent with the need to supply cheap power. Since I know they are not stupid men, I guess they must be blind. I am not an economist, but it takes me no time at all to see the flaw in their reasoning. Their rates are comparatively low only because somebody else is picking up the tab.

The record will also show that TVA is continuing to make irresponsible decisions and to establish irresponsible policies in the name of cheap power, and in the name of a yardstick that long since ceased to have any meaning. In the limited time available today, I would like to mention three specific areas where TVA policies will lead the nation into trouble unless TVA is forced to change course.

First: TVA is helping to subsidize the development of western coal at the expense of the coal reserves waiting to be developed in the east. In a letter to Senator Randolph last November, Aubrey Wagner, Chairman of TVA's board, justified this move once again as strictly a matter of cost, arguing that western coal was more readily available at the prices that TVA was willing to pay.

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Let's keep certain issues in perspective here. TVA has told this Committee of its problems caused by the sharp increases in the price of coal since 1973. Coal companies have inflated the price of their product beyond all reasonable levels, and their greediness is being paid for by everybody who uses electricity. We have no quarrel with TVA's claim that it is being gouged. But that is not the issue here -- and it probably should be mentioned in passing that when the shoe was on the other foot, TVA was just as hard-hearted as the coal operators are today. I am inclined to say that they deserve each other. The only problem with that is that when they get each other, the rest of us feel it when the bills come due.

The UMWA is not opposed to the development of western coal, as long as that development is planned and balanced against the availability of coal closer to TVA's service area in the East. But keep this in mind: If we had no coal west of the Mississippi -- if we had no reserves there to develop -- we would still have enough in the East to supply the entire country and much of the rest of the world for the next century. By even the most conservative estimates, we have more than 23 billion tons of deep-mineable coal available to us in the immediate service area of TVA (Alabama, Kentucky, Tennessee, and Virginia). At TVA's current rate of consumption, this represents a supply of nearly 600 years. Obviously, much of that coal would go elsewhere, but the point is still true that it is there, waiting to be developed; and any sensible plan for the use of our resources would look to that coal first.

But TVA does not plan that way. Having delivered a nearly fatal blow to the Appalachian coal industry 20 years ago, TVA is perfectly willing to do it again. If you remember the Appalachia of 20 or even 10 years ago -- if you know the parts of Appalachia that

have never recovered, even today.

Second: TVA is now turning to nuclear power in a big way. I hesitate to comment on this, for an obvious reason. The United Mine Workers of America is a union of coal miners. We do not represent nuclear engineers or technicians and it is easy to dismiss our view on atomic energy as being prejudiced. But the fact is that we are not blind. We recognize the need for this nation to develop all of its sources of energy in good time. We are not opposed to solar energy even though we do not represent the sun in collective bargaining. We are not opposed to geothermal energy. We are not opposed to windmills. But we know something about coal. We know how much of it there is under our feet. We know that it represents more than 80 percent of the resources available to the United States, and that it accounts for only 20 percent of the energy supplied to us today. So it is only reasonable for us to believe that TVA, sitting almost directly on top of the finest supply of coal in the United States, should give that coal priority over the atom. You are hearing from other witnesses about the safety problems that TVA is experiencing. We share their concerns. We know that coal can be mined safely, even though few if any companies have ever given safety top priority. We are not so sure about nuclear energy. Too many problems remain unsolved. TVA's decision -- made, as always, without public hearings -- to shift about 90 percent of its future generating capacity to nuclear is another way of abandoning the resources and the work force of Appalachia.

Third: TVA proposes to acquire the largest coal company in the world and to mine its own coal on a massive scale. TVA's offer

to buy Peabody Coal Company for a reported \$1.2 billion poses some very serious problems which must be explored fully, not only by this Committee and the Congress as a whole but also by the Federal Trade Commission.

The coal industry is increasingly concentrated, and within that industry, Peabody Coal is an extremely powerful force. It has always been a very tough outfit to deal with. Peabody makes its own rules and has very little respect for anybody who opposes them. Thousands of our members will vouch for that. Federal and state mine inspectors will agree. State legislators will agree. The UMWA is not at all happy with the prospect of merging Peabody into TVA. Basically, it is a matter of combining the power of two organizations which are already too powerful and which use their power without regard for the public.

Peabody is the company which is famous for having done away with the town of Paradise, Kentucky, so that coal could be mined for a TVA plant. We should not forget that TVA has the power of eminent domain. I see no reason to believe that TVA would use that power wisely if it wanted the coal that somebody's house or town happened to sit on. In the name of cheap power, the town or the house would go.

Peabody's mines are union mines now. We have no reason to believe that TVA would willingly recognize the UMWA's right to represent those miners. It was not so long ago that TVA policies helped to drive the union out of scores of mines in Appalachia. We see the possibility of a very long and bitter struggle with TVA if the agency acquires Peabody. We do not relish the idea of dealing with TVA as an employer after seeing first-hand its public-be-damned attitudes at work over the past 20 years.

We are not automatically opposed to the idea that some coal should be mined under public control. But TVA, as it is presently structured and operated, is a public agency in name only. TVA's ordinary way of doing business is behind closed doors, and it took The Mountain Eagle, a Kentucky weekly paper, more than a year to pry those doors open even a little. We have no reason to believe that things will change.

The three-man board of directors should include public representation. Accordingly, the UMWA has proposed the nomination of Tom Gish, editor-publisher of The Mountain Eagle, a man who has been fighting for the people of Eastern Kentucky for nearly as long as TVA has been victimizing them. We note that Congress will more likely accept a conventional political nomination by the Ford Administration. If that should be the case, we would have even more reason to oppose TVA's acquisition of Peabody and even more reason to fight for a basic overhauling of TVA's charter.

The nomination to TVA's board is one area where the public should be involved. There are others. TVA should establish policies only after open public hearings, and TVA business in general should be opened to public scrutiny. We have no interest in turning TVA into another Appalachian Regional Commission, blown every which way by whatever political winds happen to be going around on a given day. We recognize the need for TVA to be able to plan, and to carry out its plans without unreasonable political interference. But, at the same time, it is vitally important to permit citizen participation in rate-making and in decisions about the utilization of resources. As a matter of simple common sense, the people affected by TVA must have the opportunity to influence its policies. They lack that opportunity

today. For more than 20 years, TVA has not really been accountable to anybody. We have paid a high price for that, and the time has come to give TVA a new direction and a new purpose. This Committee and this Congress have the responsibility to do that, and we offer our support.

BACKGROUND INFORMATION
ON
THOMAS E. GISH

March, 1975

THOMAS E. GISH, editor-publisher of *The Mountain Eagle*, was born in the Eastern Kentucky coal camp of Seco on January 28, 1926. He attended the University of Kentucky at Lexington, where he majored in journalism and edited the college newspaper, graduating in 1947.

From 1947 until 1956, he worked as a reporter for United Press International (then United Press). As chief of the wire service's Frankfort bureau, he covered more than thirty sessions of the Kentucky state legislature, earning a reputation for dogged and thorough investigation and reporting of issues before the legislature and of the lobbying activities and other external pressures which influenced the legislative process.

With his wife, Pat, also a reporter, Gish returned to his home area of Letcher County in Eastern Kentucky in 1957 and purchased *The Mountain Eagle*, a weekly paper with a tradition of editorial independence in its earlier years. Since then, over the span of eighteen years and nearly a thousand issues of the paper, he has consistently built on that tradition. Today, *The Mountain Eagle* has earned national recognition for its determination to face controversial issues head-on, regardless of the consequences.

Initially, the controversies were local in scope. Early on, for example, Gish found that county government -- including the school system -- functioned with its doors closed tightly to the public and the press. Campaigning to open those doors, he discovered the price of speaking out: local businessmen boycotted his advertising columns, and local politicians and coal operators subsidized a rival newspaper to drive him into bankruptcy and out of the county.

Their attack failed, not because Gish had financial resources of his own (he didn't) but because *The Mountain Eagle* had earned and won the strong support and continuing loyalty of its readers. Scattered across the hills and hollows of Letcher County (and now across all of central Appalachia), they had been abused and ignored for decades and they had had no voice in the press until Gish and *The Mountain Eagle* provided one. Now they write its local news columns, its features, its letters-to-the-editor; they help shape its outlook and they regard it as their own; their subscriptions sustain it, and in return they give fierce support to Gish's independence, whether they agree with his viewpoint or not. As a result, *The Mountain Eagle* comes as close to true grass-roots journalism as any other paper published in the United States today.

Many of the paper's campaigns have been aimed at the large, impersonal, distant forces which tend to treat Appalachia as an economic and political colony, wide open to exploitation and experimentation. For nearly fifteen years, Gish has taken a dim view of coal industry

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practices in the area, particularly strip-mining. Long before mountain stripping was widely opposed, Gish pointed out that it was an "economical" form of mining only because most of the costs could be passed on to the public; long after the coal operators had gone, local people would be left with the mudslides, the acid water in the creeks, the roads destroyed by overweight trucks. And, in the process, the deep-mining industry was being destroyed competitively. *The Mountain Eagle* exposed the fact that Tennessee Valley Authority coal purchasing policies were subsidizing the stripping industry (by setting purchase prices too low for deep mines to meet, in order to help maintain TVA's reputation as purveyor of cheap power) and pointed out the irony of a federal agency contributing to the destruction of a whole region in order to maintain its image as the benevolent giant of the neighboring Tennessee Valley.

The Mountain Eagle fought the Corps of Engineers when the Corps came up with a plan to build dams in Eastern Kentucky, thereby submerging most of the tillable land and forcing thousands of families to migrate (the Corps plan was successfully blocked); fought the Appalachian Regional Commission for its preoccupation with blueprints and bureaucratic jargon at the expense of any meaningful grass-roots development; fought the United Mine Workers for its failure to provide strong local leadership, and now fights the current administration of the UMWA for the same failings; and fought, generally, on behalf of the right of ordinary people to make their own decisions about their own lives. Not long ago, Gish summed up his feelings (and the feelings of his readers) this way:

"...We need to be skeptical, to be suspicious, to ask a million questions, and to demand answers of all who would come to save us, no matter what cloak they wear. Had we asked the right questions and insisted upon the right answers at the right time, we might have been saved from a TVA that devastates an entire area for its strip coal; from a Corps of Engineers that builds dams simply to build dams; from a Forest Service that serves only the lumber industry; from an Appalachian Regional Commission that seeks not to assist but to eliminate an entire culture rich in its own heritage. We might even have been saved from our own folly in turning over the greatest wealth in the nation to a few moneymen from the outside who wanted our minerals..."

"We don't need any new ideology forced upon us. We just need help in seeing and understanding all the alternatives. Give us all the facts -- and I mean all of them -- and we will make the right decisions."

This kind of tough-mindedness continues to carry a high price tag. Having failed to drive Gish out of the mountains with economic sanctions, *The Mountain Eagle's* enemies went a step further last August; in the dark of night they set fire to the newspaper's office. Despite extensive damage from fire, smoke, and water which destroyed all of the paper's photographic and composing equipment, Gish set out to complete the publishing of the issue in preparation at the time, only to be evicted as he was doing so. In defiance, he put the paper out from his living room until he could find another office.

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The fire brought a new rallying of support from the paper's readers, and widespread coverage nationally by reporters who had come to know the paper and to respect it. Early in 1975, *The Mountain Eagle* received the John Peter Zenger Award, a coveted mark of journalistic excellence awarded on the basis of nominations by previous recipients, screened by several hundred editors (last year, the award went to *The Washington Post* for its coverage of Watergate; the year previously, to *The New York Times* for its reporting of The Pentagon Papers). In accepting the award, Gish had this to say:

"...Freedom of the press is not something to be placed in a book and filed away on a library shelf. If it has any meaning at all, it is in the nature of what happens as we, as editors and publishers, go routinely about our daily business.

"Press freedom is not something that belongs only to the editor and publisher. It really is a kind of common property, involving the reader's right to information fully as much as it does the publisher's rights. The press will remain free only so long as it lives up to those deep obligations to the readers. The founders of our country, in drafting our Constitution, embraced the idea that democracy was an ever growing thing, and that each generation had to give a new birth to freedom. The same is true of freedom of the press. It will exist only so long as it is a living, day-to-day part of us."

This attitude has been basic to *The Mountain Eagle's* recent reporting on the Tennessee Valley Authority, in numerous articles by reporter Jim Branscome. Gish described the process in his Zenger award speech:

"...The TVA has deep tentacles in the mountains. It is the largest purchaser of coal. In fact, it is the mother of strip mining in the mountains, and more than than any other happening or institution, it is responsible for the destruction of hundreds of miles of mountainside and the uprooting of hundreds of mountain families as the region has had to give up its way of life and surrender to the bulldozers.

"TVA...was so much a part of the problem in the mountains that we decided to start staffing its monthly board meetings in Knoxville, to see just what was going on. To our surprise, we found we were the first newspaper in the 40-year history of the Tennessee Valley Authority to attempt to staff a TVA board meeting. Our reporter got thrown out. He kept going back, and we dug in all the harder to find out everything we could about the agency. We asked lots of specific questions, seeking specific information about TVA's coal buying practices, the deals it was making with coal companies, its plans to start strip mining in places like Montana and Wyoming, and we wanted to know about rumors that TVA wanted to buy Peabody Coal Company, the nation's largest coal producer. We knew that everything we wanted to know was in the TVA files. We knew also that the public information law passed by Congress would compel TVA to produce

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the information when we asked the right questions. TVA then informed us it would give us no more information, answer no more questions, unless we would agree to pay its costs. We said, sure, we'd pay. We didn't know what money was involved, but we thought we were probably talking about a few dollars to cover Xerox costs. How wrong we were. TVA informed us we would have to pay the hourly wage of a file clerk for time spent collecting information, plus the hourly wages of a supervisor. To test this out, we asked a few questions, all really relating to only one question. We got back some answers and a bill for \$107. We paid the bill...

"So much for Freedom of Information, in the view of TVA. Freedom of the press, freedom of information, obviously is only for those who can afford to pay.

"We have not stopped our efforts, even though we have been advised we now owe TVA a 'very substantial' bill. We have found and reported that TVA is considering stripmining the Cumberland National Forest, and we are proud that because of this reporting, Congress wrote into its strip mine control legislation a couple of months ago a provision specifically designed to keep TVA from stripping the forests...We found TVA plans to purchase Peabody Coal Company for more than a billion dollars, a major step toward nationalizing the coal industry. All in all, we have found overwhelming evidence that TVA, far from being the servant of the people of the Tennessee Valley, is the high lord and master, a king presiding over a colony, a king in no way accountable to the people."

Public accountability, in Gish's view, is basic to democracy. His entire career as editor-publisher of *The Mountain Eagle* has been devoted to shining bright lights into dark corners. He grew up in the coal-muscled mountains of Kentucky and has spent almost all of his life there; he is closely familiar with the complex problems of using resources without misusing people, and in issue after issue of his newspaper he has come out strongly and articulately on behalf of the people he represents.

This attitude was once the cornerstone of the philosophy that brought the Tennessee Valley Authority into being more than forty years ago. Now, TVA is a sprawling, powerful, remote giant; its policies affect the lives of millions of people living within its service area and other millions beyond, but none of them has had a say in those policies and all too many have been victimized by them.

As editor of a small weekly deeply rooted in the community it serves, Tom Gish knows more about accountability than most government officials will ever learn. In every issue, in its news columns and its editorials, *The Mountain Eagle* is accountable to its readers. Without their trust, it could not survive. The record of the past eighteen years is exceptionally clear proof of Tom Gish's qualifications for membership on the board of directors of the Tennessee Valley Authority -- a board which must face the immediate challenge of giving TVA a new sense of direction and purpose based on open policy-making, with those policies carried out in unity with the people whom TVA must learn to serve over the years ahead.

VITA

JOHN H. GIBBONS

EDUCATION:

- B.S. (1949), Mathematics and Chemistry, Randolph-Macon College, Ashland, Virginia
 Ph.D. (1954), Nuclear Physics, Duke University

POSITIONS:

1954-1965. Oak Ridge National Laboratory. Experimental research on nuclear reactions pertinent to nuclear reactor design and to understanding mechanisms of heavy element synthesis in stars.

1965-1969. Oak Ridge National Laboratory. Group leader, nuclear geophysics. Research on stellar nucleosynthesis and solar system elemental abundances; nuclear techniques to explore composition of solid materials near their surface.

1969-1970. Oak Ridge National Laboratory. Director, Environmental Quality Study Project. Research on environmental problems associated with conversion of energy resources to electricity.

1970-1973. Oak Ridge National Laboratory. Director, ORNL - National Science Foundation Environmental Program. Research applied to problems of energy conservation; environmental impacts of coal mining and conversion; origins, flow, and fate of heavy toxic elements; solid waste management; regional land use and environmental systems analysis.

Jan.-August 1973. University of Tennessee. Director, Environment Center. Research and service in environmental issues, with emphasis on private and public costs of coal mining.

Sept. 1973-Sept. 1974. Department of Interior, Federal Energy Office, Federal Energy Administration: Director, Office of Energy Conservation. Responsibility for directing overall Federal programs in research, development, and demonstration on energy conservation. Directed Federal Energy Management Program which reduced energy consumption by federal agencies in FY 1974 by 24%. Directed action programs with state and local government. Directed national education and public awareness campaign to conserve energy. Developed issue papers and decision papers for administration and legislative action programs in short-term energy curtailment and longer term increase of U.S. energy-efficiency. Developed program for international cooperation (NATO-CCMS) in energy conservation research and demonstration programs.

Oct. 1974- University of Tennessee: Director, Environment Center. Programs of research and service in a variety of environmental issues; with emphasis on energy supply and demand trade-offs, including environmental implications; coal mining and conversion systems analysis, emphasizing environmental implications; land use patterns; and other socio-technical issues associated with energy and environment.

PROFESSIONAL ORGANIZATIONS AND HONORS:

Fellow, American Association for the Advancement of Science.
 Fellow, American Physical Society.
 Member, Phi Beta Kappa, Sigma Xi, Omicron Delta Kappa, Sigma Pi Sigma, Pi Mu Epsilon, Pi Gamma.
 Member, Ecological Society of America.
 Member, US AEC Advisory Committee on Nuclear Cross Sections (1969-70).
 Member, Governor's Task Force on Energy (1973).
 Government Co-Chairman, National Petroleum Council Committee on Energy Conservation (1973-74).
 Member, U.S. Delegation to Plenary Meeting of the NATO Committee on the Challenges to Modern Society (1974).
 Consultant to Federal Energy Administration, Oak Ridge National Laboratory, Oak Ridge Associated Universities.
 American Men of Science, Who's Who in Atoms, Who's Who in America.
 First Distinguished Service Award, Federal Energy Administration.
 Board of Editors, "Energy Systems and Policy".
 Consultant: FEA, ERDA, OTA

PERSONAL:

Born 1929, Harrisonburg, Virginia
 Married: Mary Ann Hobart, 1955
 Children: Virginia (now at Smith College); Diana (now at Yale University);
 Mary Marshall (High School)
 Member, Church of the Ascension (Episcopal)
 Residence at Sassafras Hill Farm, Concord, Tn. and Riverbend Farm,
 Lansing, Tn.
 Member of Board of Directors, Oak Ridge Chamber of Commerce (1958).
 Chairman, Mayor's Committee on Industrial Development (1960-61).
 Founding Member, Board of Directors and President (1971-73), Oak
 Ridge Development Corporation.
 Vice President and Member, Board of Directors, Oak Ridge Civic Music
 Association (1962-63).
 Member, Board of Trustees, Webb School of Knoxville (1968-73).
 Member, Board of Directors, Scientists and Engineers for Appalachia.
 Member, Board of Directors, Environmental Systems Corporation.
 Member, Board of Directors, McDowell Enterprises, Inc.
 Founding Member, Board of Directors, 2nd Federal Savings and Loan,
 Oak Ridge, Tn.
 Member, Tennessee Citizens for Wilderness Planning, Sierra Club, The
 Wilderness Society.
 Cosmos Club (Washington).

[From the Tennessean, June 22, 1975]

CONTRADICTIONS DOT FORD'S TVA CHOICE

(By Nat Caldwell)

Columbus, Miss.—There seem to be two James F. Hooper's living inside one skin—two different personalities—and his hometown wonders which "Jim" President Ford has named to the Tennessee Valley Authority board.

One Jim Hooper, lavishly endowed with sales and promotion skills, but constantly haunted by bad business judgment or luck, appears as the sporadic contriver of a series of elaborate commercial ventures that flopped.

Usually drama and lawsuits followed business failure. This is Jim Hooper, the huckster and hustler.

The other Jim Hooper is the civic leader, the visionary pioneer of waterways projects, the volunteer pilot for regional charity drives or public improvement projects, the tireless worker for the Republican party in his home state. This is Jim Hooper, the solid, stable citizen.

These conflicting images of the man emerge from a careful research of court suits brought against him and his associates, from interviews with local businessmen and lawyers who know him, and from a study of news clips recounting some of his activities.

Research into the past of this controversial but colorful man whom the President wants to be a TVA director, shows him to be a remarkable but questionable candidate for the high federal office he soon may hold.

There is Hooper the ex-band leader who escorted more new bands into the historic ball rooms of Memphis' Peabody hotel in four years than any other musician or promoter.

There is Hooper the self-proclaimed inventor of the U.S. Air Force crash helmet (a dozen Mississippi newspapers front-paged this Hooper claim to fame when it appeared he was high on President Ford's list for the TVA post).

There is Hooper, the private pilot, who talks of his days in the cockpit of his personal, private plane as the times he has enjoyed the most.

There is Hooper the business entrepreneur whose business associates seem plagued by ghastly fates: two of them, a decade apart, suicide victims; a third, in deep financial trouble, was involved in a tragic head-on collision as he returned from a disappointing business trip in Memphis.

Two persons in the other car were killed. The business partner was arrested. Later, he went on to suffer bankruptcy, his assets \$5 million short—and other tragedies still stalk this former associate of Hooper.

There is Hooper who has known business failings and civil court actions that have grown out of the flops of these enterprises. He has won these lawsuits, but he has been accused by opposing counsel of being a conman, a four-flusher and a hapless splurger.

All of this makes this greying, strikingly handsome man less than attractive as a potential TVA board member.

No man with such a unique, diverse past has ever been seriously considered for the TVA board.

Hooper, in person, responded to this reporter's questions in an out-going manner, seemingly unconcerned that already his nomination is stirring early opposition.

"I am basically a conservative businessman," he says, "I have often been a successful one."

The presidents of three Columbus banks agree. So do Mississippi GOP leaders (Hooper's wife is Republican national committeewoman) whose support for the TVA post he first solicited.

It is assumed, since Ford has sent Hooper's name to the Senate for confirmation to the TVA board, that the FBI found nothing in his past that bars his appointment.

When he was asked by a reporter about his record of business failure Hooper urged the journalist to talk to other people in Mississippi who know him and who would vouch for him.

He listed bankers, civic leaders and old friends to see. He mentioned his lawyers, members of the most successful and most potent law firm in North Mississippi. This crosssection of people who knew him would corroborate his status as a solid citizen.

Hooper is well-known in Columbus business circles. Those who know him are willing to discuss him.

Some praised him for attribution, but assured at their request they would not be quoted by names, warned that he has propensities they consider undesirable which might follow him to TVA.

A few civic leaders, not named by Hooper, or his lawyers, volunteered their tributes, extending his list of achievements.

His calm in the face of a reporter's tough questions was evidence that he has poise. He is a groomed man, trim and looking cool, even on the hottest days. When he goes out in his khaki jumpsuit to supervise the small dairy that remains of all the business ventures, or at least the only surviving venture that he will discuss, he looks neat.

Hooper was the promoter of a failed dairy intended to be Mississippi's largest, and a failed pet food factory that, for a short time, enjoyed the largest sales volume of any in the South. He was a co-promoter of an insurance company which had its Tennessee license revoked in February, 1970.

Hooper told a reporter: "I was out of the Standard Union Life Insurance Company long before it was suspended in Tennessee or any other state." But he was sued by men who replaced him as majority stockholders anyway. He pointed out that the Tennessee suspension involved no questionable practice, simply a re-insurance plan that sent Tennessee policy holders to another company.

Like most of the business failures that Hooper acknowledged, incredibly bad luck could have been a cause as well as management failure.

But there was no equivocation from the Air Force on Hooper's claim to have invented the protective headgear. Calls to Air Force Systems Commands, archives, protective clothing and headgear research, produced neither record nor memory that he played even a minor role in the development of the famed safety headgear.

But Donald E. Huxley, of Dayton, Ohio, a retired civil service supervisor of the research sector said: "Hooper's name rings a bell. I think he was one of our very minor helpers. He could be assigned about one-one hundred and sixty-seventh of the credit for one activity at one time. But there are other names, principal contributors, I would write about."

Hooper, when interviewed earlier, described himself as the "key man" in developing the crash helmet.

He says he is surprised that the news media has not found more people who oppose him.

"I am flabbergasted because all of the press has found so few detractors . . . I am not a foolish man. If I were, every top office holder and political leader of both parties in Mississippi would not have endorsed me for one of the most responsible assignments in the national government service."

Questions about his business record seemed to irritate him, however. Once in an interview in his home, he suddenly pulled two pieces of paper out of a rear pocket. He extended these to be read.

One was on the memorandum pad of Columbus National Bank of Commerce, the other was on the memorandum pad of the First Columbus National Bank. Signed by the presidents of these two banks, these memos said they were evidence Hooper owned certificates of deposit of \$200,000 and \$100,000.

Top officials of both banks said later their regulations prevented them from substantiating Hooper's claim or the size of any other depositor's account.

He retrieved the memos, flourishing them and grinning. He declared that "if anybody questions my success, here's \$300,000 cash to start with. And I'll be ready with a sworn net worth statement in excess of \$600,000. It's a shame to goad a man until he is forced to boast of his success . . . This, almost, gets to me."

One who volunteered commendation in behalf of Hooper's civic efforts and "imaginative effort in behalf of the Tennessee Tombigbee waterway" insisted he would not presume to discuss Hooper's financial affairs.

Glover Williams, executive director of the Tennessee Tombigbee Waterway Authority, called from Washington. "I want a chance to boost Hooper," Williams said.

"To any of the old guard of river development, flood control, soil conservation, scientifically improved farming, and wild life protection, bad mouthing Jim Hooper, as some environmentalist groups seem to be doing, is unjust, unfair and totally lacking in truth," said Williams.

"Jim Hooper was one of the original plank holders of the Tennessee Tom waterway," Williams continued. "How many trips over the South can I remember in his Bonanza, buying the gas was on him too, barnstorming for money to pay for lobbying just to get the Corps of Engineers started?"

Reading the court records must make Hooper wince. Fifteen years ago at Aberdeen, Miss., a Columbus lawyer was trying to garner some money for a client, after Hooper's large southwide pet food factory went down. He offered the federal court jury an acid critique to the man, who soon may be casting the deciding vote on whether and how much the Tennessee Valley Authority will increase light bills for 3 million valley citizens.

The lawyer said, "That Jim Hooper continued in his usual manner to operate the business, to fly around in his plane, to take the biggest suites in the hotels, saying 'Now things are going . . . Business was booming.' . . . and, while he was behind on his bills, he was going to have some people put new money in the business . . ."

Hooper responds, "I reject the idea that a series of incidents show I was no manager. This was at a time when the whole U.S. was rolling the dice, trying to get rich quick . . . But I won all those law suits you read, overturned in court, all of the fraud charges . . . I have made money and still make money in my business deals. I am a basic conservative."

Hooper added more strokes to this portrait. "I respect and greatly admire both the purposes and the achievements of the TVA, and I know of no other Republican, with a chance for White House appointment, who, conscientiously, as I can, could stick in there and uphold Red Wagner's hand."

"On top of that," he continued, flicking the string tie of a woven white sport shirt as he spoke. "I know that the TVA board needs a man who will battle for new industry and new jobs. Also, it needs a man who understands the full potential contribution of the Tennessee Tom waterway to the Tennessee Valley and to the central South. I dearly love that waterway and I helped to organize most of the groups that promoted it in the early days."

Failed pet food factory, failed 500 cow dairy which was planned to be the largest in Mississippi with four milkings per day and a Hooper devised high protein feed formula to keep the dairy cows producing at this level—how do these fit in?

It may square with Hooper whose friends insist that he "never missed" on a civic promotion. From Tenn Tom to the kidney machine badly needed by a Jackson hospital a few years ago and obtained, according to Hooper, from federal H.E.W., he listed these successes.

And the very lawyer who offered the jury the biting synopsis of Hooper's business methods has been won over. He is State Sen. Bill Burgin and, as head of the local firm that now represents Hooper, he's slated to coach his client through the Senate confirmation committee hearings that alone bar his path to a \$38,000 law annual wage and a full third of the responsibility for running TVA.

Burgin said: "On that law suit, we were trying to get the jury's attention, at a time when Hooper's lawyer had all the facts and all the proof on his side."

Burgin's associate, Hunter Gholson, added: "Hooper's an innocent victim of bad luck on lots of those cases."

What about the law suit to recover from Hooper his dairy farm, previously pledged as reserve against policy premiums of the Standard Union Life Insurance Company?

"He won that case in the Mississippi state courts. He was absolved of all fraud charges."

What about the suit of the federal receiver in bankruptcy, also directed against Hooper's farm?

"The record will show that Hooper won that too."

Neither Burgin, who obtained for Hooper unanimous endorsements from the Mississippi legislature and strongly worded statements from all major Democrat officeholders, nor any of his Republican sponsors believe he'll be even lightly skinned in the confirmation procedures.

And Burgin seemed totally unimpressed by the protests of anti-strip mines and environmentalist groups against Hooper's environmental positions. These protests had started to come in when Hooper and Burgin were interviewed two weeks ago.

Twelve national and TVA regional environmental groups filed formal protests against the Hooper nomination before the Senate Public Works Committee Tuesday. They pledged a battle against confirmation.

Another Hooper admirer in Columbus, Louis Wise, manager of Four Counties Electric Cooperative, said that "with Mississippi's two very senior senators, Eastland and Stennis, carrying the ball for him, the environmentalists will have to come on stronger with the votes than they have ever done before to even show him down."

"Jim Hooper hasn't told the press how he stood on any of the environmental issues," Wise declared. "So these 12 groups must have gotten mad because he said he'd like to back up the TVA board chairman, who has been having some hard going recently. That's a poor ground to fault him on."

Senator RANDOLPH. Mr. Hall and Mr. Blackwelder. Would you tell us how you desire your statements to be given to the committee?

STATEMENTS OF RICHARD M. HALL, FRIENDS OF THE EARTH AND BRENT BLACKWELDER, ENVIRONMENTAL POLICY CENTER

Mr. HALL. Mr. Chairman and Senator Baker, I am pleased to submit my statement for the record. I will not read any portion of it but I would like to make one comment in addition to the statement in response to some of the points that were made yesterday.

Senator RANDOLPH; Yes, you do that, Mr. Hall. Your statement will be included in the record. (See p. 229.)

Mr. HALL. Thank you.

The one comment is that Senator Stennis said he felt strongly that the Board needed balance. On that statement we agree. I believe the panels here today, and many of the people who testified, in effect said that.

In addition, there was a strong emphasis that Mr. Hooper could bring the background of an agriculturalist to the Board. We are not sure that in a crisis stage as to the major issues, so referred to in my testimony, that that can be given overriding importance in lieu of anything else. But we agree that an agricultural background would be a plus for any man.

I would like to point out the background of Mr. Harcourt-Morgan as an agriculturalist who was one of the first three members of the TVA Board.

I would like to read just a brief passage from a book entitled, "Morgan versus Lilienthal, a Feud within the TVA," by Comis McGraw, published as a Master's thesis:

John Harcourt Alex Morgan has spent his adult life promoting agricultural improvement in the South. He had been recommended to Arthur Morgan—

was the person who selected the other members of the Board—

for recommendation to President Roosevelt by officials in the Department of Agriculture and formally endorsed by the executive of the Russell Sage Foundation and several land grant colleges.

Born in Canada, he was educated there. Upon graduating from college, he later earned several Doctoral degrees. Upon graduating from college in 1889, he was hired immediately by the Louisiana State University to teach entomology and work in the new agricultural experiment station.

As Chairman of the Department of Zoology and Entomology at Louisiana State, a position he assumed in 1893, Harcourt-Morgan applied his specialized knowledge to agricultural problems.

He battled the boll weevil, the Army worm and the grasshopper, traveling throughout rural Louisiana and neighboring States. Intermittently, during the 1890's he pursued graduate work at Cornell and studied at the Marine Biological Station at Woods Hole, Massachusetts.

In 1903, as Executive Director of the new State Crop Pest Commission, he intensified his personal campaign against the tick and boll weevil. In 1905, he was hired by the University of Tennessee to direct its agricultural experiment station. He was also made Professor of Entomology and Zoology, but his main interest continued to be in agricultural development.

The Tennessee Department of Agriculture at that time conducted farmers' institutes to demonstrate progressive methods in rural areas throughout the State. This form of education suited Harcourt-Morgan perfectly. He had guided a similar program in Louisiana.

He ultimately became the driving force behind the project. He frequently lectured at the meetings himself and traveled to the back country on horseback to recruit students to the university's new agricultural school.

In 1913 he became Dean of the College of Agriculture, and during World War I served as Food Administrator for Tennessee.

In 1919 he was made President of the University of Tennessee and in 1927 was elected President of the Association of Land Grant Colleges and Universities.

More than once, Hareourt-Morgan was asked to run for Governor of Tennessee. He was shrewd in the ways of politics, but had no desire to become a professional. Throughout these years he continued his interest in entomology, serving on national advisory committees—and I might add their legion—for the control of insects, pests and working closely with the Extension Service.

Thus, when he was selected to be placed on the Board of Directors of TVA, besides extensive background throughout the South, both in Agriculture and in the sciences necessary to support Agriculture, he spent 14 years as the President of the University of Tennessee and six years as the President of the Association of Land Grant Colleges and Universities.

Mr. HALL. That is an agricultural kind of background that would be of real value to the Tennessee Valley Authority. But we do not believe Mr. Hooper matches those standards even as an agriculturalist.

Thank you.

Senator BAKER. Dr. Morgan was indeed a distinguished citizen of this country and a distinguished citizen and resident of Tennessee. Thank you for that.

The chairman found it necessary to leave because of another prior commitment that was scheduled for 12:30. He asked me to conclude this last panel of this hearing.

Mr. Balckwelder, do you have a statement that you would like to make?

STATEMENT OF BRENT BLACKWELDER, ENVIRONMENTAL POLICY CENTER

Mr. BLACKWELDER. Yes, sir. If that can be included in the record I will be very brief.

Senator BAKER [presiding]. We will receive the statement for the record. (See p. 238.)

Mr. BLACKWELDER. The focus of my testimony concerns TVA's water resources development policy. Essentially, our feeling is that Mr. Hooper is not sensitive to the serious environment problems in this area. It is our feeling that the State of Tennessee has ample water developments to last for the rest of this century and into the indefinite future and that in fact he would not bring about some needed reforms in TVA's water development policy.

As you know, the General Accounting Office's audit and report on the Duck River Dam revealed that the TVA was certainly overzealous in its economic justification of the project. The trial on the Duck River Dam revealed that high TVA officials had falsified information provided by the staff in an effort to make the project appear more favorable.

It is our view that we need a person on TVA's Board of Directors who will be able to take an honest look at water development projects and not attempt to put forward projects which do not meet the standards that we feel need to be adopted across the country.

One final point concerns Mr. Hooper's sponsorship of the Tennessee-Tombigbee Waterway. This project, if you read the promotion liter-

ature, is in part designed to provide water transportation for strip-mined coal going to Japan.

We feel that is not a very responsible energy policy.

Furthermore, his support for the Tennessee-Tombigbee Waterway opens up another area of concern—racial discrimination. This project goes through areas with heavy black populations. Indeed, some of the counties through which the Tennessee-Tombigbee Waterway crosses are over 60 percent black. Yet there are no blacks on the Tennessee-Tombigbee Development Authority, despite the fact that the project will be heavily impacting on black populations. We feel his sponsorship of this project reveals an insensitivity in this important area of public concern.

Senator BAKER. Thank you, Mr. Blackwelder and Mr. Hall. We thank you very much. We appreciate your patience and forbearance in being the final witnesses in this schedule.

Your statements will be considered very carefully and we thank you. [Mr. Hall's and Mr. Blackwelder's prepared statements follow.]

TESTIMONY OF FRIENDS OF THE EARTH BEFORE
THE SENATE PUBLIC WORKS COMMITTEE ON THE
NOMINATION OF JAMES HOOPER AS DIRECTOR OF
THE TENNESSEE VALLEY AUTHORITY

February 18, 1976

I am Richard M. Hall and speak for Friends of the Earth, a national environmental organization with 23,000 members devoted to the preservation, restoration and rational use of the ecosphere. Many Friends of the Earth members live in or benefit from the area served by the Tennessee Valley Authority. A substantial part of my work over the past five years has been devoted to environmental, energy and some fiscal issues of the TVA, both as a staff attorney for Natural Resources Defense Council and as consultant to Friends of the Earth. Friends of the Earth as an organization and I personally thank you for the invitation to testify today.

The position of Tennessee Valley Authority Director for which James Hooper has been nominated is demanding and important. A TVA director is not a figurehead or part-time advisor. The TVA Board of Directors by statute, by historical precedent and by the expectation of the people served by TVA combines in itself the powers and duties ordinarily exercised by both the board of directors and officers of a business corporation.

Thus, if confirmed, James Hooper will be one of the three men running on a full-time basis the nation's largest utility and one of its largest corporations. Moreover, with policy differences between the Board's present two members, the director under consideration today may frequently be the swing or deciding director.

The powers and duties of this position are awesome. TVA presently owns and operates 109 hydro-electric units, 63 coal-fired steam units, two nuclear units and 44 gas turbine units which, with some minor additions, give TVA a generating capacity of 26.7 thousand megawatts. With this capacity TVA serves 2.5 million ultimate customers by generating and selling 103 million kilowatt hours of electricity for receipts of 1.4 billion dollars. During fiscal 1975 TVA employed over 25,000 workers and made "net purchases of equipment, material and nonpersonal services"* of 3.8 billion dollars. Just running such an enterprise is a demanding and challenging task.

The challenge of the next decade, roughly the term of the directorship at stake, dwarfs even that task. Not only must the directors operate the TVA of today, but they must at the same time build new generating capacity of 21 thousand megawatts, just slightly less than that presently on line, at a tremendous increase in cost. TVA projects that by 1985 it must raise close to 10 billion dollars in the private money market to build new power plants. The value of the net completed plant (completed plant less depreciation) which totalled 3.7 billion

*The phrase is used in the TVA 1975 Annual Report, page 66, without explanation of the computation used to derive "net purchases"

dollars on June 30, 1975, is projected to be 12.7 billion dollars by 1985.

Does Mr. Hooper's business background suggest he has the managerial and financial skills required to fill this position? The testimony here today and the accounts in the Nashville Tennessean leave no doubts that Mr. Hooper's business background suggests the exact opposite. Although Mr. Hooper has maintained a living for his family, apparently by consuming his inheritance, he has demonstrated an inability to manage even the relatively small businesses in which he has been involved, much less a business the size and complexity of TVA.

This Committee has undertaken an investigation and prepared a detailed report of Mr. Hooper's business background. This effort was staffed by public employees, paid for by public funds and undertaken to provide information on the topic of these hearings; yet the Committee has inexplicably refused to release the report. We call upon the Committee to release the report immediately and to allow time for interested persons to comment on the report for the record prior to any Committee action favorable to the nomination. Mr. Hooper has had the report for study and comment since November, 1975. Surely the public is entitled to at least several weeks of the same consideration.

In addition to the talents and skills required to run TVA as an enormous business, because of TVA's status as a government owned electric energy company with a broad charge of human and natural resource conservation, the talents required of a

TVA director are more than managerial and financial. The position of TVA director calls for a person able to lead TVA in complex areas of public policy currently the focus of broad national debate - debate familiar to the Senate and, indeed to this Committee.

TVA is at the center of the debate over the use of scrubbers to remove sulfur dioxide produced by power plants. TVA is an important institution in the debate over the regulation of coal surface mining. TVA by its choices significantly effects the national choice of fossil or nuclear fuels for future electric generation. TVA through its construction and operation of the pilot plant is critical to the debate about the liquid metal fast breeder reactor and the so-called "plutonium economy". TVA is still a yardstick not only for overall electricity costs but potentially for rate structure reform and the intimately related issue of energy conservation and load management.

I needn't belabor either the importance of these issues to the residents of the TVA region and to the entire nation or their complexity.

Does Mr. Hooper's background demonstrate the ability to deal wisely and forcefully with these issues? Here, from Mr. Hooper's background we can only say that by the age of 60 he has never demonstrated any of the talents and skills that are needed. By education, profession or publication he has not demonstrated that he is a student of these complex areas. By work experience he has not dealt with them. Nor has he held public office or lead significant civic efforts which may demonstrate a grasp of these issues.

The one exception is Mr. Hooper's involvement with several water projects, principally the Tennessee- Tombigbee project. Even there Mr. Hooper's involvement was, by available accounts, limited to promotion, not analysis, planning, financing or construction of the projects.

It is because of the lack of background and involvement in these public policy areas that on July 13, 1975, representatives of six environmental groups from the TVA region met with Mr. Hooper. As the attached letter from Sherrill and Glenn Clemmer, spokespersons for a Mississippi environmental group and participants in the meeting, indicates, Mr. Hooper did not demonstrate any talents or knowledge beyond what his lack of background and involvement would suggest.

Can the members of the Committee, both in thier role as the functional stockholders of TVA and as leaders in the decision-making process in the many areas of public policy which TVA effects, allow James Hooper to assume control, with his two co-directors, of the Tennessee Valley Authority? I believe not.

Mr. Hooper's rejection is required not because an individual member of the Committee agrees or disagrees in whole or in part with the views of James Hooper on any particualr issue which the TVA Board of Directors will face, but because Mr. Hooper is plainly not equal to the task for which he has been appointed - a task the importance of which this Committee knows.

An amazing number and array of political, business, labor and civic leaders and newspapers within and without the

TVA region oppose Mr. Hooper. In the end this opposition is typified by the statement of Mike Sartin, director of Mr. Hooper's hometown utility in Columbus, Mississippi, quoted in an article in the Nashville Tennessean of July 23, 1975:

"Whatever his buddies may say, the local dairy down here was a flop, just like everything else that I know of that Jim Hooper tried his hand at was a flop... I hate to think of somebody like him deciding how much to charge for light bills in the Tennessee Valley."

Friends of the Earth agrees with that assessment and urges you to disapprove James Hooper's nomination.

Thank you.

July 14, 1975

Hon. Jennings Randolph
Dirksen Senate Office Bldg.
Washington, DC 20510

Dear Senator Randolph:

In response to your letter (9 July 1975) requesting information bearing on the qualifications of James F. Hooper to the Board of Directors of the Tennessee Valley Authority, we would like to relate an informal meeting held in our home with Mr. Hooper, Sunday, July 13 (see attached sheet for those in attendance). While the meeting provided a rare occasion for a free exchange of views, little occurred to negate our strong reservations concerning Mr. Hooper's qualifications for the job.

Indeed, Mr. Hooper's primary claim to qualification rests in his involvement with three water development groups. Certainly this is a meager background for one to hold such an important position. We have incredibly little insight into what his possible capabilities as a Director of TVA might be, and his limited experience offers little basis upon which to forecast his future policy decisions.

As to what Mr. Hooper wants to accomplish at TVA, he envisions a solution to two problems to which he would engage his skills. The first of these is the solution to the nation's "lowering water table problem" which he thinks TVA should concentrate upon both in research & development and advocating expanded public works programs. He gave endorsement to the idea of a cross-Texas water diversion from the Mississippi as an example. Second is the refurbishing of the TVA fertilizer program in the direction of "chemical composting". Neither of these two primary interests even obliquely focuses upon TVA's critical problem areas to which not only innovative impulse but seasoned expertise must concentrate.

Senator Randolph, TVA for better or worse is predominantly concerned with electric power generation. It has become the nation's largest electric utility and largest coal purchaser and wants to become the nation's leading nuclear power developer. TVA, like all other utilities in the nation, faces enormous problems at this time in our history, as we see the ushering out of low-priced energy in all forms. It is in this area that hard decisions are to be made if we are to evolve to meet these new conditions.

TVA, however, is unlike all other electric utilities in that it was congressionally mandated to be the nation's "yardstick" for electric power generation. We cannot see that Mr. Hooper adds any meaningful understanding of or competency in any of the energy issues TVA must deal with. Mr. Hooper has little knowledge of the coal industry or TVA's

coal procurement policies. Mr. Hooper related to us no comprehension of TVA's rate making dilemmas associated with energy conservation. The most hopeful thing we can say about James Hooper is he did maintain a "layman's" skepticism about the dangers of nuclear development. For TVA to reassume its policy priorities in the nation's best interests, it will take someone far more knowledgeable to have any impact.

Mr. Hooper stated that he believed his salient qualification in the energy field was an open mind, unbiased by a career in the energy field; however, we believe this rather candidly admits the lack of any working knowledge upon which to make far reaching policy decisions. Therefore, Senator Randolph, our opposition to Mr. Hooper is based on the absolute necessity to have a TVA Director who has energy expertise and who has a demonstrable record of accomplishment in the public interest. How else will the public be able to evaluate a person who is to exercise such a powerful role upon the Tennessee Valley region and the nation itself?

Sincerely yours,

Sherrill M. Clemmer

Glenn H. Clemmer

Sherrill M. Clemmer
Glenn H. Clemmer

Box 5351
Ms. State, Ms. 39762

Mary Burks
 Robert Burks
 Tim Murphy
 Chan Kendrick
 John Burris
 Bill Dow
 Elsie Croft
 Pudgett Kelly
 Sherril Clemmer

The Alabama Conservancy
 "
 Appalachian COALition
 Sierra Club and SOCM (Save Our Cumberland Mountains)
 SOCM
 "
 CLEAN (Committee for Leaving the Environment of
 America Natural)
 "

ENVIRONMENTAL POLICY CENTER

324 C Street, S.E., Washington, D.C. 20003

(202) 547-6500

TESTIMONY OF BRENT BLACKWELDER, WASHINGTON REPRESENTATIVE OF THE ENVIRONMENTAL POLICY CENTER, BEFORE THE SENATE PUBLIC WORKS COMMITTEE, CONCERNING THE NOMINATION OF JAMES HOOPER TO THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY, February 18, 1976

The Environmental Policy Center is a national conservation organization which focuses attention on critical environmental issues such as land use, water resources, and energy problems. We appreciate the opportunity to testify on the nomination of James Hooper to the Board of Directors of the Tennessee Valley Authority.

The Environmental Policy Center is opposed to the nomination of Mr. Hooper for a number of reasons. Based on our examination of the background of Mr. Hooper, we believe that the only reason for his nomination is that his wife is a most influential figure in the Republican Party in Mississippi. The Public Works Committee will be hearing testimony concerning Mr. Hooper's inability to manage his business affairs competently. The Environmental Policy Center wishes to focus on a different ground of opposition: Mr. Hooper's total lack of sensitivity to environmental problems.

Since TVA is heavily involved in energy production and water resource development, we believe that it is essential that a member of TVA's Board of Directors possess some minimal understanding of the many environmental problems associated with these activities. The State of Tennessee is literally covered with reservoirs. It has had enough dam building for one century. Yet we feel that Mr. Hooper would advocate and back still more reservoir construction for Tennessee. TVA is presently violating the Endangered Species Act in constructing the Tellico Dam, and its Duck River dams would also eliminate endangered species. TVA needs some new leadership which will not engage in projects which forever eliminate natural resources and drown areas of priceless historical value. Mr. Hooper, we believe is not about to advocate any reforms in TVA's water development policy.

Testimony at the trial on the Duck River dams revealed that high TVA officials had deliberately falsified reports from the staff and consultants concerning this project. Basic changes are needed in TVA's ruthless efforts to get projects built no matter what the consequences. The General Accounting Office's audit and report on the Duck River Project was issued in September, 1974, and contained a scathing condemnation of the procedures used by TVA in an effort to make the project appear justifiable. Reform is clearly needed, but Hooper is not the person for the job.

The Environmental Policy Center has long been concerned about strip mining and has worked for a tough bill to regulate strip mining. TVA's promotion of strip mining and failure to enforce thorough reclamation is a serious environmental issue. Here again Mr. Hooper's sensitivity to this problem is low. Mr. Hooper is a big supporter of the Tennessee-Tombigbee Waterway, which will literally destroy the Tombigbee River with its rich diversity of fishes. Review of the promotional literature for the Waterway reveals that one of its prime purposes is the provision of water transportation to facilitate the shipping of strip-mined coal to Japan.

Mr. Hooper's support of the Tennessee-Tombigbee Waterway opens up another area of public concern--racial discrimination--which we hope the Committee will investigate. Despite the fact that the Waterway goes through an area with a heavy Black population (some counties being crossed by the canal are more than 60% Black), there are no Blacks on the Waterway Development Authority, the agency promoting the project. Blacks have been excluded from the development and planning of the Waterway and occupy no areas of real responsibility here, even though the canal will be heavily impacting on Black populations.

In summary, our examination of Mr. Hooper's record and our conversation with conservationists in his area lead us to conclude that his appointment to TVA's Board would be a major mistake. Mr. Hooper does not comprehend the nature of environmental problems and has little sympathy toward conservation goals. He lacks the leadership and character necessary to institute reforms in TVA's energy and water resource development policies. We therefore urge the Committee to reject his nomination.

Senator BAKER. The chairman asked me to announce that it will be the intention of the committee to have this transcript typed and made available to the committee members as soon as possible. We will proceed with an early consideration of the nomination in executive session. My personal estimate is that probably will be sometime next week.

If there are no further statements at this time, the hearing is adjourned.

[Whereupon, at 12:53 p.m., the committee recessed, to reconvene subject to the call of the Chair.]

STATEMENTS IN OPPOSITION TO MR. HOOPER'S NOMINATION

U.S. SENATE,
Washington, D.C., February 17, 1976.

HON. JENNINGS RANDOLPH,
Chairman, Senate Public Works Committee,
4202 Dirksen Building,
Washington, D.C.

DEAR MR. CHAIRMAN: I want to thank you for this opportunity to comment on the nomination of James F. Hooper to the TVA board of directors. Unfortunately, my schedule prohibits me from appearing personally before your committee.

As you know, I have previously stated my opposition to this nomination on grounds that I believe we need a person of truly outstanding qualifications and reputation for the job.

My attitude on this nomination is molded by my belief that TVA is entering perhaps the most difficult period of its existence. I have always been, and continue to be, a strong supporter and advocate of TVA. It has provided untold benefits to our region.

But many, many questions are now being raised about its public accountability, about its rate structure, about its role in environmental matters, and about public input in its decision making.

That being the case, I think this nomination—which is for a seven-year term—is more significant than usual. It is a great opportunity to put on the board someone who can provide the leadership and the insight to address and effectively deal with these issues so that TVA can remain strong and maintain the kind of grass roots support it has always had in the past.

Since announcing my opposition to Mr. Hooper, I have at the request of others reviewed my decision to see if perhaps I have overlooked factors in his favor. However, my review was undertaken with the same sentiments about the nomination's importance at this particular time.

I must say that I have come to the same conclusion, if somewhat reluctantly. I am sure Mr. Hooper is an honorable man with the best of intentions, but I simply do not believe he is the right man for the job at this time.

Therefore, I urge that the committee not report this nomination to the full Senate.

Sincerely,

WALTER D. HUDDLESTON.

KENTUCKY GENERAL ASSEMBLY,
HOUSE OF REPRESENTATIVES,
Frankfort, Ky., February 13, 1976.

HON. JENNINGS RANDOLPH,
Chairman, Senate Public Works Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: After much consultation with the constituents I represent, I feel it necessary that I address myself to the proposed appointment of Mr. James Hooper to the T.V.A. Board.

I feel that there are many questionable situations within T.V.A. already, such as: inefficient utilization of the skills of employees and scheduling methods which are conducive to inefficiency.

I feel that Mr. Hooper's appointment to this board would not improve the questionable practices already in existence within T.V.A.

I do oppose Mr. Hooper's appointment to this board and I am confident that everyone involved will give this matter careful consideration before making their decision.

Sincerely,

J. R. GRAY.

EAST TENNESSEE ENERGY GROUP
Knoxville, Tenn., February 18, 1976.

Senator JENNINGS RANDOLPH,
Committee on Public Works, U.S. Senate,
4202 D-2 OB, Washington, D.C.

DEAR SENATOR RANDOLPH: Please include the enclosed testimony in the public record of the hearings on James F. Hooper as Director of the Tennessee Valley Authority. Thank you.

Sincerely yours,

JOHN Z. C. THOMAS.

TESTIMONY PRESENTED BY THE EAST TENNESSEE ENERGY GROUP

As numerous witnesses, I am sure, have already noted, the Tennessee Valley Authority is at a critical juncture. The TVA has always been at a critical juncture, only this time the agency is faced with problems, the solution of which will profoundly shape the future of the Valley. Never before in TVA's long and turbulent history has it been faced with so many decisions of such long-range effect nor has it had to deal with massive, broad-based criticism and opposition both within and outside the Valley. As the United States largest utility, the course TVA charts will have an influence on the rest of the nation.

The problems and critics that TVA faces are numerous and varied. They are found in the lengthy hearings, mostly the result of interventions by local citizens, on the Hartsville nuclear reactors which found the State of Tennessee and TVA in sharp disagreement over TVA's adherence to the state's water quality standards. They are found in the recent massive dissatisfaction with TVA's electrical rates which resulted in the organization of demonstrations or consumer groups across the Valley. They are found in the national and local opposition to TVA's involvement in the construction and operation of the Clinch River Breeder Reactor Demonstration Plant. They are found in the endless opposition to TVA's final dam, the Tellico project. They are found in the State of Alabama's lawsuit against TVA over the agency's failure to adhere to the State's air pollution standards.

Never before has TVA needed such qualified leadership as it needs today. The agency is a great experiment, born of the New Deal. Even those currently in opposition to it do not want it to fail. Thus at this critical moment great hope was had that a new director would be appointed who would bring fresh and knowledgeable viewpoints to the Board. It was anticipated that such a person would be familiar with energy problems and experienced in administration and thereby help our great institution weather the current storm.

Unfortunately this was not to be. Instead the citizens of the Valley were given James F. Hooper, a Mississippi businessman, whose principal qualifications appear to be that he is a good fellow, well met and is supported by key persons in Mississippi politics. Such an appointment is an insult to TVA and to the citizens of the Valley. The East Tennessee Energy Group urges the Senate Public Works Committee to advise against his confirmation forthwith. TVA does not need a promoter nor will the agency's problems be solved by the appointment of a director with no experience in energy or administration. Mr. Hooper's principal qualification that might be of some use to TVA are his public relations abilities. TVA's problems are far too great and far too important to be dealt with in such a manner. A superficial, uniformed approach will not help.

Further damaging to Mr. Hooper is his professed desire to continue without question the current policies of TVA. He is quoted as saying "I know of no other Republican, with a chance for White House appointment, who, conscientiously, as I can, could stick in there and uphold Red Wagner's hand." (Nashville Tennessean, June 6, 1975.) The new director for the agency should have an open mind, not a closed one such as Mr. Hooper professes.

The East Tennessee Energy Group feels that TVA's new director should have a basic knowledge of energy and its problems, that the person should have had some administrative experience, that the new appointee should be aware of environmental problems and the solution to those problems to the best benefit to man and nature, and that the person should be aware of the broad implications of TVA's policy on the national scene. Mr. Hooper has none of these qualifications and does not deserve to be recommended to the full Senate.

R2 Box 385,
Blacksburg, Va., October 8, 1975.

HON. JENNINGS RANDOLPH,
U.S. Senator,
Washington, D.C.

DEAR SENATOR RANDOLPH: As a former Elkinsite I am writing to you to relate an experience I am sure you will be interested in knowing about. Yesterday I attended The White House Conference in Knoxville and was one of the questioners of the president. I asked him what qualifications he used in determining James F. Hooper's qualifications to be a member of the Board of Directors of TVA. He responded by saying that since his (Hooper's) name had been forwarded to the appropriate committee he should not comment.

The above is background.

Tonight I am in Memphis. Before I left Knoxville the morning TV coverage to the Conference was limited to his response to the question of Hooper's qualifications. On the way west on I-40 I heard radio news and it answered the question. Tonight in the local Memphis TV news, the only item covered in respect to the President's entire visit to Tennessee was his response to the question of Hooper's qualifications. There was no editorializing in these reports, but it is obvious that this is a very important issue in Tennessee. Those of us who have followed the TVA's activities from the beginning are also gravely concerned as I said and also said that it is a matter of national concern.

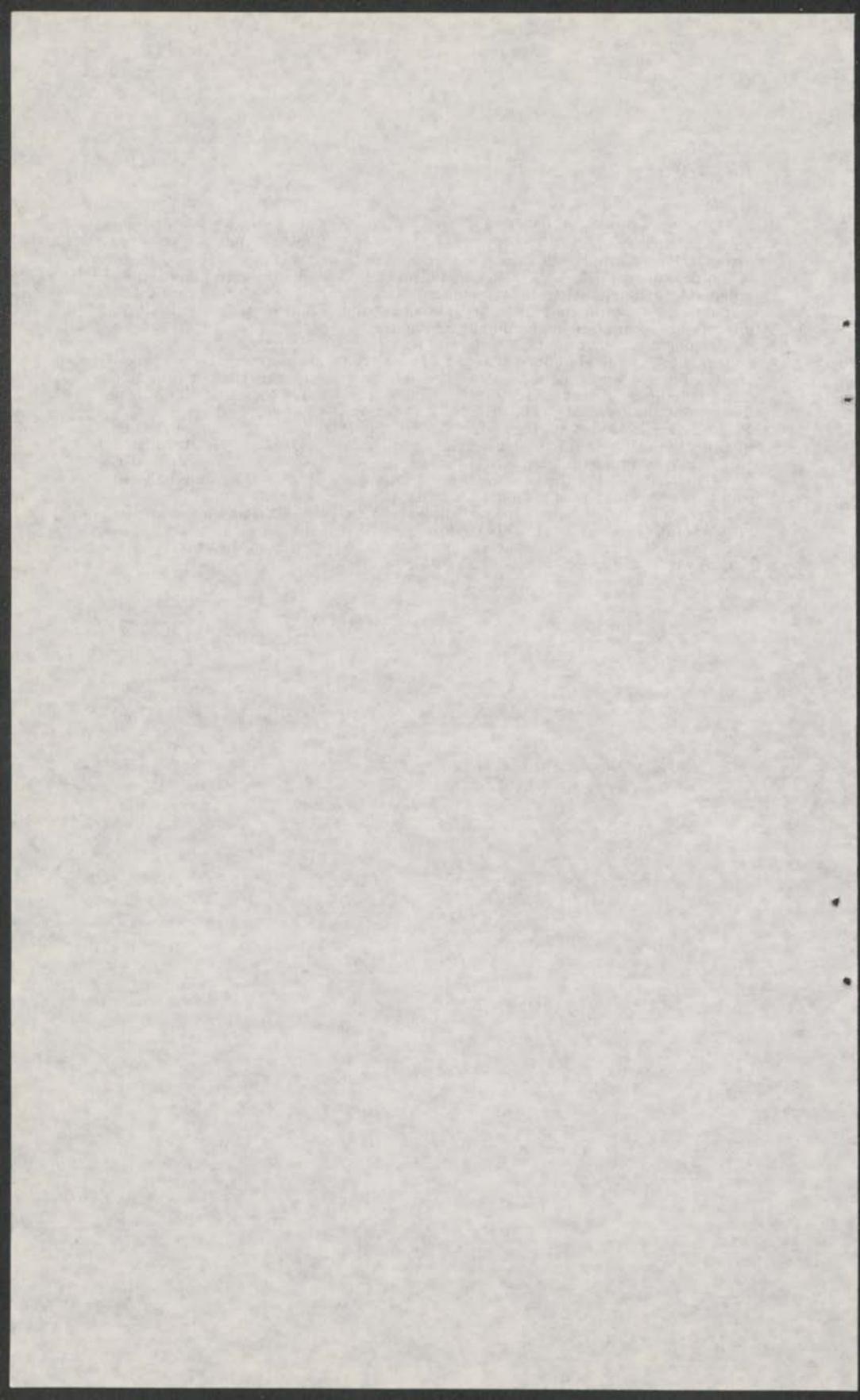
I trust that Mr. Hooper's record will be fully revealed, so that the committee's vote will be based on his complete record.

If you wish you may make this letter a part of the record in the hearings.

Best wishes for your continued good health and work.

Sincerely,

CARL J. HOLCOMB.



APPENDIX

AN ANALYSIS OF THE BACKGROUND OF JAMES F.
HOOPER III, TOGETHER WITH MR. HOOPER'S RESPONSE

7. 10. 1914

THE NATIONAL ARCHIVES
COLLEGE PARK, MARYLAND

INTRODUCTION

On June 12, 1975, the nomination of James Fullerton Hooper III to the Board of Directors of the Tennessee Valley Authority was submitted by the President for confirmation by the United States Senate. The nomination has been referred to the Committee on Public Works.

A number of individuals and organizations have asked to be heard with regard to the confirmation of Mr. Hooper, and have indicated that they intend to raise questions regarding the business background of the nominee. In addition to the issues raised by these potential witnesses, several articles appeared in newspapers in the valley region raising specific allegations which would bear on the nominee's business and managerial competence. Selected news articles are contained in Appendix III, p. 61.

Because of the nature of the allegations which have been made, the Committee postponed hearings on the nomination scheduled for July 22 and 23 and requested the Committee staff to conduct an analysis of Mr. Hooper's business background.

This analysis is limited to the business affairs of Mr. Hooper. His positions on issues related to the mission and programs of the Tennessee Valley Authority or to energy and the environment are beyond the scope of this analysis.¹

GENERAL BACKGROUND

In 1939, James F. Hooper, having completed 4 years studying industrial engineering at Auburn University, left to pursue briefly a career in music.

In October of 1941, Mr. Hooper entered the U.S. Army Air Corps. He earned his pilot wings and served until discharged on September 25, 1945.

While in the service he married Virginia Reid Fite of Columbus, Miss., and after his discharge settled in Columbus to take up dairy farming on land formerly owned by his wife's father. Mr. and Mrs. Hooper have three children: Mrs. Ralph Rood, Columbus, Miss., a landscape architect; Dr. James F. Hooper IV, Lexington, Ky., a resident physician at the University of Kentucky Medical Center; and P. F. Hooper, a farmer.

Mr. Hooper has served as President and Board Member on the Mississippi Rivers and Harbors Association and was a charter member of the Tombigbee Water Management District.² He has served on the Board of the Tombigbee Valley Authority and was named a member of the Water Resource Advisory Boards for Republican presidential candidates in 1960, 1964, and 1968.

¹A Table of Documents containing the materials relied on or referenced in this report is attached and may be found at p. 67. References to documents are indicated in the text in brackets citing the number of the document in the Table of Documents.

²Mr. Hooper has stated that his interest in water related problems derives from lifefarming experience. His farm is located adjacent to the Tombigbee River.

In addition to dairy farming, which has remained his primary occupation for almost 30 years, Mr. Hooper has become involved in several business ventures.

In the late 1940's through 1959 Mr. Hooper participated in the ownership and management of the Columbus Canning Company, which produced, canned, and sold Jet and Bonus dogfood. This business was operated initially as a proprietorship, then as a partnership, and finally, from 1957 until it ceased operations in 1959 as a corporation.

In 1965, Mr. Hooper met Everett Hope Brooks, a Memphis businessman, and in 1966 the two formed a partnership in the dairy farm operation which lasted until the bankruptcy of Mr. Brooks in late 1969. Mr. Hooper and Mr. Brooks also were associated in two other business ventures: Standard Union Life Insurance Company and Little River Farms, Inc., an Atlanta retail milk chain.

Because Mr. Brooks was closely involved in these businesses with Mr. Hooper, an understanding of the nominee's business background is aided by understanding the financial background and bankruptcy of Mr. Brooks. A brief account of Mr. Brooks' business affairs is attached to this report as Appendix II, p. 59.

In addition to the foregoing enterprises Mr. Hooper has from time to time realized income from the development and sale of real estate inherited from his father-in-law, Dr. Ped L. Fite. In the early 1970's Mr. Hooper and his wife sold several small houses in Memphis. In December, 1974, Mr. Hooper negotiated the sale of the farm property upon which the dairy was located for approximately \$560,000 to the Weyerhaeuser Company for rail access to their new pulp and linerboard mill at Columbus, Mississippi. [68, 69.]³

Mr. Hooper retains a lease on the dairy farm and continues that operation as his primary occupation.

³ The settlement statement for the Weyerhaeuser sale shows that Weyerhaeuser disbursed the proceeds of the sale to pay several outstanding debts of Mr. Hooper, including the balance due on a mortgage to Prudential Insurance Company in the amount of \$114,500, the balance due on several notes to the First Columbus National Bank in the amount of \$121,626.62, and a note to the Farmers Home Administration in the amount of \$70,377.90. The net proceeds of the sale of the farm to Mr. and Mrs. Hooper were \$228,495.48 [70.]

THE HOOPER DAIRY FARM PARTNERSHIP

THE PARTNERSHIP AGREEMENT

In the fall of 1965 Mr. Everett Hope Brooks and Mr. Hooper agreed to form a partnership to continue the operation of Hooper Dairy Farm, which had theretofore been operated as a proprietorship by Mr. Hooper. The partnership agreement was never reduced to writing. A letter from Mr. Hooper's attorney, Hunter Gholson, to Mr. Brooks' attorney, James S. Gilliland, dated November 4, 1969, states:

It is my hope that you and I can devise some documents which will accurately reflect and document the informal and verbal agreements which took place between Brooks and Hooper. [103.]

A memorandum was subsequently filed as an exhibit to the deposition of Mr. Hooper in the Bankruptcy of Mr. Brooks⁴ taken in February of 1971 that undertakes to set forth both the agreement and experience of the partnership. The memorandum is untitled and undated, but Mr. Hooper stated that he believed it was executed in the fall of 1969. It was apparently made in preparation for the bankruptcy proceedings and that at the time of its execution Mr. Brooks had either filed or was preparing to file his petition for a Chapter XII arrangement under the Bankruptcy Act.

The memorandum reads as follows:

In 1965, Hooper and Brooks had many discussions and arrived at certain conclusions about the economic opportunities in the commercial production of milk. It was evident that the price of raw milk had fallen so far behind the general economy that small dairymen could not survive and that their withdrawal over a period of time would inevitably result in a reduced supply, which in turn would mean a rise in price. The only dairy operations that could survive this shortage would have to be those well-financed, large-scale organizations able to provide good working conditions, efficient utilization of feed by top-quality cattle, and able to withstand temporarily adverse economics.

Based on these discussions, Hooper and Brooks felt that they could each benefit from the other's background and experience and that the combined effort could develop an operation that would meet the above criteria with large financial rewards.

A partnership was formed with the understanding that because of Hooper's background in nutrition, manufacturing, engineering and dairy operation, he should devote full time to management of the existing operation, develop additional physical facilities as required, locate and select top quality cattle, and set up feeding systems that would be economically sound. Brooks' background in finance in the construction, cotton and farming businesses would be devoted to making available adequate long-term capital. The main thrust of the whole concept was to develop a large-scale, factory-type dairy operation.

The partnership was formalized in 1966. The basic financial agreement was that Brooks would buy an undivided one-half interest in certain farmlands owned by Hooper for \$100,000, plus assumption of one-half of the existing mortgage. In addition, Hooper was to be paid \$175,000 for his cattle, machinery, and equipment, by the partnership, out of financing that was to be made available and/or profits.

⁴ See Appendix II for brief account of Mr. Brooks' bankruptcy.

During 1966, 1967, and 1968, Brooks made available to the partnership a series of loans as temporary measures, pending proper long-term financing. During the latter part of 1968 a reappraisal of the relationship of the two partners was made in which the following situation became evident.

While Hooper had conveyed title to one-half interest in the land, and had made available the cattle and machinery as originally agreed upon, the hand-to-mouth financing had made it impossible for any substantial sums to be paid to Hooper. Specifically, out of \$79,137.78 paid to Hooper, \$36,000.00 would be equal to the salary requirements of a competent herdsman, and approximately \$15,000.00 was for reimbursement of expenses out of Hooper's personal funds, leaving a net of \$28,137.78 total that could be considered as payment toward the indebtedness of \$275,000.00. This would leave a balance still due at that time of \$246,862.22.

At this point, even though a diligent search had been made for the necessary long-term financing, there was no immediate prospect of securing these funds, nor was the profit structure such that there were any foreseeable funds to make any substantial reduction in the indebtedness to Hooper. Since this was not the situation originally intended, it was agreed that Brooks would re-convey title to the one-half interest in the land, plus a small acreage valued at \$13,000.00 which he owned (known as the canning plant) to Hooper. This would reduce the obligation to Hooper to a more reasonable figure by crediting \$113,000.00 toward the \$246,862.22, leaving a total balance due of \$133,862.22.

Before the above agreement was implemented, an attempt was made to use this and other farm properties as admitted reserves in an insurance company owned by Brooks, with Hooper to be paid by stock in the company. This plan was submitted to the insurance commissioners but was rejected. Since no stock had been issued, nor payments made, the land was formally conveyed to Hooper in August of 1969, in line with the agreement reached in 1968.

During 1969, payment to Hooper of \$18,070.92 was approximately equal to salary and expenses due him without any reduction in the debt owed him. In July, 1969, some monies were made available to the partnership by Brooks, but due to other financial pressures, were immediately withdrawn by him.

Throughout the four-year period, a line of credit was maintained at the First Columbus National Bank as a joint personal liability of Hooper and Brooks with cattle and machinery as collateral. This account presently shows \$140,000.00 due the Bank. Due to high interest rates, tight money, and the generally depressed farm situation, the cattle and machinery owned by the partnership have a value approximately equal to this indebtedness.

During the existence of the partnership the accounting firm of Touche, Ross & Company in Memphis, Tennessee, was retained by Mr. Hooper and Mr. Brooks to prepare the Federal income tax returns for the partnership. Mr. Hooper would regularly submit to the firm all of the James F. Hooper—Farm Account bank statements and canceled checks for the tax year.⁵ Any accounting questions raised by Touche, Ross & Company in connection with the partnership accounting would be resolved through correspondence and telephone conversations with the partners.⁶

The interpretation of the partnership dealings derived from these contacts by the accountants at Touche, Ross & Company is at variance with the interpretation presented by Mr. Hooper both in the

⁵ After Mr. Brooks declared bankruptcy on October 27, 1969, the firm of Touche, Ross & Company was retained by the Trustee in Bankruptcy because they possessed knowledge and information regarding many of the complex business relationships of the bankrupt, including the Hooper Dairy Farm partnership. Touche, Ross & Company had been retained by Mr. Brooks as his personal accountants for several years prior to his bankruptcy. The partnership discontinued sending Touche, Ross & Company financial information regarding the partnership operation in August of 1969 and did not retain the accountants in the preparation of their 1969 partnership tax return.

⁶ The partnership bank account with the First Columbus National Bank of Columbus, Mississippi bore the designation "James F. Hooper—Farm Account." The account had been set up some time earlier in connection with Mr. Hooper's individual operation of the farm. Although Mr. Hooper maintained a separate personal checking account, the farm account was used for some personal and non-farm business transactions both before, during, and after the partnership's existence. This necessitated a careful review by Touche, Ross & Co. of transactions affecting that account in the preparation of partnership tax returns.

foregoing memorandum and in his deposition in the bankruptcy case.⁷ The difference in these interpretations is significant and an analysis of the partnership transactions is included in Appendix I to this report to assist in understanding the disparities.

The partnership tax work was supervised at Touche, Ross & Company by Mr. Don Stark, now a partner in the firm. Mr. Stark met with Mr. Brooks and Mr. Hooper on May 2, 1967, to discuss the preparation of the partnership tax return for 1966. Since this was the first return of the partnership, the general partnership arrangement was discussed at some length. Mr. Stark's impression of that discussion was reduced to an interoffice communication to file and is as follows:

For over 18 years, Mr. Hooper had operated a Holstein dairy farm near Columbus, Mississippi. As of October 15, 1965, Mr. Brooks became an equal partner with Mr. Hooper in the operation of the farm. Actual operations did not begin until January 1, 1966. The basis of their partnership arrangement was that Mr. Brooks was to contribute \$150,000 in cash, while Mr. Hooper was to contribute some 1500 acres of land, 45 lots, equipment, equity in the venture was agreed to be \$300,000. See balance sheet of October 18, 1965, in the workingpapers.

Mr. Brooks . . . personally paid in cash to the partnership and . . . guaranteed loans at National Bank of Commerce to provide immediate working capital for the venture. Total cash deposits by E. H. Brooks totaled \$240,000 of which \$90,000 was then repaid to the NBC bank loan. Mr. Hooper is to be charged for the \$676.67 interest on the repayment of this loan. Thus, the total cash contribution of E. H. Brooks is \$150,000, in addition he has advanced another \$27,000. Based on the \$300,000 determined equity, it would appear that the \$150,000 should have gone to Mr. Hooper personally. Actually the money went to the joint account and Mr. Hooper has withdrawn only \$35,000 of the funds.

Mr. Hooper indicated that he has substantial capital and net operating loss carry forwards available to him. Accordingly, the venture should be set up in such a way as to give the greatest tax advantage to Mr. Brooks. Mr. Hooper has also included a copy of his prior year's tax return which should provide information for depreciation purposes.

Mr. Hooper emphasized that we should not rely upon his summary sheets entirely because they may be inaccurate. He has furnished us with bank statements and cancelled checks. Worksheet number 5 shows estimated operations for the first three months of 1967. Based on expectations, the venture could earn \$100,000 in 1967 before depreciation. [91.]

During the Brooks bankruptcy proceedings the Trustee sought to ascertain the nature and value of the interest of Mr. Brooks in the farm partnership to determine if it might be of any benefit to the creditors of Mr. Brooks. The Court appointed Mr. John Paul Jones of Memphis, Tennessee, attorney for the Trustee to gather information regarding the Hooper Dairy Farm partnership and the other business interests of Mr. Brooks in which Mr. Hooper was involved. [24.]

On February 18, 1971, Mr. Jones took the discovery deposition of Mr. Hooper in connection with these affairs. In the course of that deposition Mr. Hooper testified at length regarding the partnership operation. His testimony furnishes an insight into his understanding of the partnership dealings:

Q. [by Mr. Jones.] In other words, Mr. Brooks became the record title holder of that land?

A. [by Mr. Hooper.] Undivided half interest.

Q. All right. Became the record title holder of an undivided half interest in this land on February 15, 1966.

A. Correct.

⁷ See pages 5 through 9.

Q. At that time did he owe any money on it?

A. Yes, sir. This was subject—the sale was subject to Prudential mortgage of \$140,000.

Q. Yes, sir. But did he owe the former owners any money?

A. Owed me, yes.

Q. All right. What did he owe you?

A. Well, the total package was 100,000 for this, 175,000 for land and machinery.

Q. All right. But then on February 15, 1966, you caused to be conveyed to him this land?

A. Yes, sir.

Q. On which he owed you \$100,000, right?

A. Yes, sir.

Q. Did you take a second mortgage back?

A. Not to my knowledge, no, sir.

Q. But he still owed you the \$100,000?

A. Total of two seventy-five, yes.

Q. All right. But it would be \$100,000 for this particular land that was transferred plus \$175,000 for cattle, machinery and equipment?

A. Correct.

Q. All right. Now, was Mr. Brooks to pay this \$100,000 for the land personally, or was the partnership to pay it?

A. I can't honestly distinguish in my mind between the two. I believe my best memory is that the land was to be purchased by Brooks, and that the partnership would pay me for the other part. Now, that's the best of my memory.

Q. All right. Then, as a matter of fact, in February of 1966 you caused this land to be transferred to Mr. Brooks subject to the first mortgage of Prudential?

A. Yes.

Q. And he owed you \$100,000 for the sale price, but you didn't secure that \$100,000 by second mortgage recorded at the court house, is that correct?

A. That's correct, because it was all part of a complete package, the hundred plus the hundred and seventy-five.

I would not have sold either one without the other at that time. Let's put it that way.

Q. All right. Now, when and under what circumstances did Mr. Brooks agree to transfer this land back to you?

A. In 1968. We went over the history of flow of funds, and as you can see in Exhibit 3, it was obvious that I had not been paid any substantial sum of money. And it was agreed at that time that he would transfer it back to me, and that we would go forward on just the equipment and machinery partnership.

Q. What month in 1968 was this?

A. Oh, October. [1, pp. 52-55.]

Q. So, when you got this land back, Mr. Brooks had a net investment in the partnership of \$220,000, right?

A. Yes, sir.

Q. On the same date, that is the date you received the land back, your withdrawal from the partnership account exceeded your investment by \$88,000, did it not? And I am looking at the figure at the bottom of page two in the fourth column.*

A. At the bottom of page two in the fourth column. The \$88,000 is the net income I had withdrawn.

Q. But your withdrawals exceeded your investments by that amount, did it not?

A. Well, I didn't have any investment. These sums, as you see, are from deposits, or some of it is money that I put back in there from having withdrawn it first. I don't know what the correct—I guess you would call it investment. My investment was the original 175,000 of machinery and cattle. That is my basic investment. So, at this point you would have to add the 175 to the 37 if you want to take that route. [1, pp. 59-60.]

Q. What was your agreement with Mr. Brooks concerning about who would furnish the cash to operate this partnership?

A. It was my understanding Mr. Brooks.

Q. And in turn he was going to be given what?

*Mr. Jones is reading from Mr. Hooper's "Petition and Accounting" filed January 19, 1971. [30.]

A. Half interest.

Q. And what contribution did you make?

A. Management, use of a going concern, moving into a going concern.

Q. Did this partnership ever make a profit?

A. No, sir. [1, pp. 62-63.]

Q. Now, when and under what circumstances did you and Mr. Brooks reach this agreement you would be paid a salary as a herdsman?

A. To the best of my knowledge that would be in the period of 1968 when we looked the record over and realized that I was completely, physically involved in the thing, and it had not flowed to pay me my money, which could be off to one side. In other words, I was just simply in the position of a herd manager, and it was agreeable that it should have been done that way from the very beginning. The initial concept was that in a matter of, oh, less than six months that the funds would have been paid to me completely free of the partnership situation, and we would go forward on some kind of mutual agreement. When this didn't materialize, why, we had to redo it. [1, p. 64.]

Q. Now, during the last two months of 1965, twelve months of 1966, and twelve months of 1967, this partnership operated, did it not, had a bank account at The First Columbus National Bank?

A. Yes, sir.

Q. And during that time not one check was paid to you out of that account as salary, is that right?

A. I made periodic withdrawals as needed with the understanding that we would adjust it whenever we settled down.

Q. Now, are these withdrawals listed on page two?

A. Yes, sir.

Q. Now, on that basis you withdrew \$25,000 before it had been in operation a month, didn't you?

A. Yes, sir, and returned 7,500 within a few days.

Q. Then, you had 17,500 that you withdrew in the first two or three months, is that right?

A. Yes, sir.

Q. What did you do with that \$17,500?

A. Lived on it.

Q. Then, six months later you withdrew \$22,000 didn't you? No. I beg your pardon. I beg your pardon. That's your total for 1966 there, isn't it?

A. Yes, sir.

Q. Well, is that in addition to the 25?

A. Yes, sir, each year.

Q. I see.

A. Coming down.

Q. So, then 18 months later you withdrew \$34,000, didn't you?

A. No, sir. They are each summary of each year.

Q. Each year, all right. How did you draw that \$22,000 in 1966, as you needed it for living expense?

A. 1,000, 2,000, yes, sir.

Q. What was your agreement with Mr. Brooks concerning that?

A. Going into the partnership, the assumption was that I would be paid the hundred plus the hundred and seventy-five within a six month period as a lump sum or, certainly, within that period during which where I could invest it and have an income on which to live.

I would say since we were never able or in that position from funds furnished, could not be withdrawn to pay me, then I just withdrew it on hand-to-mouth basis. And after reviewing and realizing that that's what was happening, actually, then we agreed I should be entitled to a salary, that I was actually furnishing a salary because I had no other income.

In other words, I had turned over the business to a partnership and hadn't been paid for it, so, obviously, I would have to be paid a salary, too, during that period.

Q. Well, this money you drew out, was it ever credited—was Mr. Brooks ever given a credit of it towards the \$100,000 for the land \$175 thousand for the cattle and the machinery?

A. Well, other than the way we have got it listed here, in which it does give it credit back and forth, it shows the withdrawals and deposits by each of the two partners.

Q. Now, Mr. Brooks, so you testified, agreed to pay you \$100,000 for the land and \$175,000 for the cattle and machinery.

A. Right.

Q. And he never did that, did he?

A. No, sir.

Q. Well, now let's break that down. The \$100,000 was supposed to come personally from Mr. Brooks, right?

A. Yes, sir.

Q. And the \$175,000 was supposed to come from the partnership, right?

A. Yes, sir.

Q. So, Mr. Brooks would be only liable for \$37,500 of that, wouldn't he? Wouldn't you be liable for the other eighty-seven five?

A. Frankly, it just leaves me blank when you start as to dividing this back and forth. If you take it that route, then you are saying that I still owned—I shouldn't have put in but half of my equipment and stuff. I mean it frankly just confuses me on an accounting basis. As far as he and I understood it, I was to withdraw a total from the partnership of \$175,000 and the \$100,000 for the land.

And as a matter of fact, what happened is dribbles were put into the partnership, required by the partnership, and therefore left me in a position of obviously dribbles coming out of it.

Q. Was there an appraisal made of your cattle and machinery in October 1965?

A. October of 1965, as between us, yes. We agreed on the value.

Q. Well, did you have any head count of the cattle?

A. Yes, sir.

Q. How many cattle were there?

A. I don't remember.

Q. Is there any record of that anywhere?

A. (No response.)

Q. What about a description of the machinery?

A. Yes sir, there was a description of the machinery listing, and I'm sure the number of cattle, because there was some correspondence between Touche-Ross and my accountant as to my tax impact.

Q. Did the cattle and machinery have a market value of \$175,000?

A. Yes, sir.

Q. Who placed it on there?

A. Hope and I plus common knowledge.

Q. As a matter of fact, what happened during the first two and a half years was Mr. Brooks put money in and you drew it out and lived on it, and Mr. Brooks didn't receive any capital return on his investment at all, isn't that correct?

A. Mr. Brooks put in sums of money periodically as per agreed, but not in sufficient quantity nor at the conditions under which we had both of us anticipated would be available. And this forced it to where it was a situation in which he was putting a little bit in at a time, therefore the thing was never able to pay me.

Q. But that wasn't what I asked you, sir.

A. I know it's not.

Q. What I asked you was we had a situation where Mr. Brooks was putting money in and getting no return on it, but you were getting your living expenses.

A. That's correct.

Q. You didn't get any return on your cattle and machinery, did you, other than your living expenses?

A. Other than these sums I have withdrawn here.

Q. All right. Well, looking at this accounting, through 1968 it's apparent that Mr. Brooks put in there somewhere in the neighborhood of a hundred and fifty to two-hundred odd-thousand dollars, and he didn't get any return, at all, on that money, did he?

A. Right.

Q. You put in your cattle and machinery, but you did get a return of about \$90,000 through 1968—well, make that \$100,000, isn't that correct, if my arithmetic is right? The first four figures under withdrawals, I am saying are \$100,000, approximately in the fourth column.

A. Well, if you subtract from that the salary, then the difference is what I was being paid for my machinery and cattle.

Q. But Mr. Brooks didn't get any salary, did he?

A. No sir, he didn't operate it.

Q. The partnership didn't pay him any interest on his money, did it?

A. No, sir.

Q. All right. Did you operate this business full time?

A. Yes sir, at that time. [1, pp. 65-71.]

THE PROFITABILITY OF THE FARM OPERATION

In his deposition in the bankruptcy case Mr. Hooper affirmed that the partnership did not show a profit at any time during its existence. [1, p. 63.] The tax returns for the partnership and Mr. Hooper's personal tax returns indicate the following income and losses for the farm operation for the last 10 years [20, 21.]:

Year	Farm income		Miscellaneous farm related income*.
	Cash basis	After depreciation	
1965.....	(\$21,536)	(\$37,923)	\$6,188
1966 *.....	1,691	(32,783)	8,012
1967 *.....	(58,181)	(99,800)	9,816
1968 *.....	(50,080)	(95,604)	9,323
1969 *.....	(21,102)	(64,558)	9,706
1970.....	(18,823)	(46,928)	8,000
1971.....	(31,113)	(48,123)	6,970
1972.....	(28,066)	(45,077)	16,643
1973.....	(34,772)	(51,783)	10,900
1974.....	(32,163)	(43,530)	20,745

() Indicates loss.

* Indicates partnership operation.

* * Includes income from sale of lots, oil leases, gravel sales, and pasture rentals.

A clearer picture of the income and loss for the partnership farm operation is shown in the following table:

HOOPER DAIRY FARM, FARM INCOME AND EXPENSES FROM U.S. PARTNERSHIP RETURN OF INCOME

	1966	1967	1968	1969
Income:				
Sales:				
Cotton.....	\$15			
Soybeans.....				\$1,330
Dairy products.....	137,916	\$155,175	\$215,131	157,787
Grain.....		3,525		
Rebates.....		116		
Total.....	137,931	158,816	215,131	159,117
Expenses:				
Labor hired.....	21,054	28,237	35,558	37,215
Repairs and maintenance.....	3,943	5,050	9,698	6,895
Interest.....	8,176	7,874	23,149	11,610
Feed purchased.....	82,440	146,776	168,523	123,813
Seed plants purchased.....	4,396	0	0	0
Machine hire.....	4,373	0	0	0
Supplies purchased.....	0	9,112	5,265	2,684
Breeding fees.....	1,412	1,104	0	0
Veterinary, medicine.....	1,336	4,532	4,703	8,745
Gasoline, fuel, oil.....	3,864	4,109	3,051	0
Taxes.....	2,477	2,540	3,962	5,096
Insurance.....	3,412	2,629	3,249	3,173
Utilities.....	152		2,518	5,166
Freight, trucking.....	158	450	891	1,069
Conservation expenses.....	0	1,174	0	0
Commissions.....	300	222	0	0
Travel.....	349	448	2,566	5,983
Accounting.....		1,700	700	
Rent cattle.....			1,085	
Telephone.....		245	0	2,820
Entertainment.....		133		
Miscellaneous.....	1,225	662	293	
Total.....	139,067	216,997	265,211	216,179
Depreciation.....	34,429	41,619	45,524	43,456
Total deductions.....	173,496	258,616	310,735	259,635
Loss.....	(35,565)	(99,800)	(95,604)	(100,518)
Adjustment for sale of cattle.....	2,827			35,960
Net loss.....	(32,738)	(99,800)	(95,604)	(64,558)

The memorandum set forth at pages 3 and 4 indicates that the partners were never able to obtain sufficient financing to "develop a large-scale, factory-type dairy operation." The foregoing income and expense statement, however, indicates that during the period of the partnership the depreciable property of the farm operation increased substantially. The depreciation schedule derived from the tax records of the partnership specifically shows that the cattle, equipment, and machinery were acquired from Mr. Hooper at a price of \$175,000 in 1966. At the end of 1967 additions to these assets had increased their value to \$305,368.00—an increase of 74 percent.

When interviewed in 1975, Mr. Brooks attributed the financial difficulties of the partnership, not to a lack of investment capital, but to an inability to market increased production:

... our production of Hooper Dairy Farm was beginning to look bright. Our work and all had paid off, upgrading of the cattle, as I had mentioned, better grade of cattle from the north and continuing culling which was brought out in the Murdock loan installment purchase of cattle. We were producing a trailer truck, tank truck load of milk per every other day as surplus milk which could only be sold at below our cost of production in that it had to be utilized for powdered milk even though it was grade A prime quality milk. [12, p. 39.]

In 1969 and in the years following Mr. Brooks' bankruptcy the farm operation declined considerably. The value of farm assets fell back to a level commensurate with pre-partnership operations. Mr. Hooper asserted on numerous occasions in the bankruptcy case and in other legal actions that he was prevented from continuing the operation on a sound basis by the uncertainties posed by the bankruptcy litigation.

The Hooper Dairy Farm was appraised at the request of the trustee in the Brooks Bankruptcy in September, 1971 by Mr. W. C. Wilkinson who had been appointed appraiser in the bankruptcy action for other properties of Mr. Brooks in the State of Mississippi. His report of September 16, 1971, states that the total value of the dairy real property was \$300,000 of which the land value was \$258,225. That report estimates the income potential of the farm in its condition as of September, 1971, to be \$10,122 per year. [174.]

In explanation of his conclusions Mr. Wilkinson includes the following two statements in the appraisal:

Economic appraisal is based on potential possibilities not on actual operation. Farm is badly neglected and rundown.

Land, buildings and fences show gross neglect. Saw only about 10 acres of milo growing. Saw about 100 head of cattle and calves.

DISSOLUTION OF THE PARTNERSHIP

REAL ASSETS

While it was originally proposed that the farm real estate be included in the partnership, Mississippi law precludes the ownership of real estate by a partnership. Therefore, the transfer of a one half interest in the real property was made to Mr. Brooks. The half interest was first conveyed to E. M. Radcliffe Investment Company and then to Mr. Brooks.⁹ Radcliffe Investment paid Mr. Hooper the agreed con-

⁹ The transaction was handled in the manner developed by Messrs. Brooks and Gordon Brent. For more detailed analysis of the Brooks-Brent relationship see Appendix II.

sideration by a check dated June 14, 1966, in the amount of \$100,000.00 and canceled a credit due Mr. Brooks on other property. [57; 58; 59; 62; 177; 12, pp. 1-6.] The \$100,000 check was deposited in the J. F. Hooper-Farm Account, which was used throughout the partnership for both partnership business and Mr. Hooper's personal transactions. Touche Ross & Company showed the amount as a credit on the partnership ledgers to Mr. Hooper's personal account because Mr. Hooper did not immediately draw out the funds.

In addition to the \$100,000 payment, Mr. Brooks assumed half of the \$150,000 mortgage on the farm property held by Prudential Insurance Company.¹⁰ The total consideration for the transfer is shown on Mr. Hooper's personal 1966 Federal Income Tax Return, in the amount of \$175,000 on which a gain of \$144,089 was reported.

Mr. Hooper, however, stated that he did not receive the consideration for the sale of the one half interest, because he returned the bulk of the money to Mr. Brooks immediately in the form of a check for either \$90,676.67 (according to his Petition and Accounting) [30.] or in the amount of \$98,000 (according to his testimony in the case of *Standard Union Life Insurance Company v. James F. Hooper*). [8, p. 7.] The discrepancy, apparently an error of memory, is cleared up by a letter from Mr. Hooper's attorney, Mr. Hunter Gholson, to Mr. Brooks dated June 16, 1966 explaining that a disbursement of \$90,676.67 was to be made against the \$100,000 received from Radcliffe Investment to the National Bank of Commerce in Memphis, Tennessee. [89.]

This \$90,000 disbursement to the National Bank of Commerce, claimed by Mr. Hooper to represent a return of the proceeds of the check from Radcliffe Investment Company to Mr. Brooks, actually was a repayment of three loans obtained from that bank for the farm operation. The bank's records indicate that these loans were made as follows:

Date	Amount	Obligor
Nov. 9, 1965.....	\$50,000.00	Mr. and Mrs. James F. Hooper. ¹
Jan. 13, 1966.....	15,000.00	James F. Hooper and Everett H. Brooks.
Jan. 25, 1966.....	25,000.00	Do.

¹ Mr. Brooks endorsed this note.

The foregoing analysis is pertinent for on August 20, 1969, Mr. Hooper negotiated the reconveyance to himself of Mr. Brooks' one half interest in the farm real property on the premise that Brooks had never paid him for it. [165.]¹¹ Ten days before the reconveyance, Mr. Brooks had retained an attorney, Mr. James S. Gilliland, to represent him in connection with his bankruptcy. Six days before the transaction, on August 14, 1969, Touche, Ross & Company filed an application with the Internal Revenue Service for an extension of time to file the Hooper Dairy Farm partnership tax return due to Mr. Brooks' illness. The specific statement in the extension request is as follows:

The principal partner, E. H. Brooks, is seriously ill and hospitalized. His physician advises that his mental and physical conditions are such that he is unable

¹⁰ The partnership made the annual payments on this debt as rent payments in 1966 and 1967. In 1968, Mr. Brooks personally paid the entire installment due.

¹¹ See pages 25 through 27 for further details regarding the reconveyance of the farm property. The minutes of Standard Union reflect that Mrs. Betty Brooks participated in the reconveyance.

to work with accountants with respect to completion of the return by the previously extended due date. [180.]

During the bankruptcy proceedings Mr. Brooks testified in response to an examination by his attorney, Mr. James S. Gilliland, as follows:

Q. [by Mr. Gilliland]. Mr. Brooks, between you and I, let's turn back the calendar a few days to those unpleasant days in August when I first came in the picture. You recall it was about the second week in August, August 9th or 10th, when I came into the picture, originally your wife had spoken at length to me, and I met with you, and, frankly, you were physically and emotionally dreadfully upset, were you not?

A. [by Brooks]. Yes, Sir.

Q. And frankly, at that time you were operating under strict doctor's orders, were you not?

A. Yes, Sir.

Q. And your doctor's orders were that in view of the dreadful stress and problems that you had, you were not to conduct any business until sometime the following—sometime in 1970?

A. Until quite some time in the future that he would determine.

Q. And it was certainly clear both to you and to your wife and to me, that you were then suffering under a great deal of agony from your problems and that I guess you had pretty good reason at that point?

A. And more afterwards. [9, pp. 1161-1162.]

Mr. Hooper states that at the time of the reconveyance he was unaware that Mr. Brooks had hired a lawyer or that he was physically and emotionally upset.

On September 23, 1975, Mr. Brooks stated he could not recall the details of the reconveyance of his half interest in the farm property. He confirmed that the transaction took place at a time when he had been under mental stress due to his financial problems. [12, p. 76.]¹²

GENERAL ASSETS AND CAPITAL ACCOUNTS

On July 28, 1970, Mr. Hooper filed under oath his Petition to Authorize Trustee To Abandon a Burdensome Partnership Interest of the Bankrupt. [26.] That petition asserted:

I.

All of the assets of Hooper Dairy Farm are encumbered by security agreement and financing statement with the First Columbus National Bank of Columbus, Mississippi, as the lienholder. The amount of the indebtedness secured by said lien materially exceeds the value of the encumbered property.¹³ There are no assets of Hooper Dairy Farm which are unencumbered.

¹² According to Mr. Hooper's Petition and Accounting, Standard Union Life transferred \$100,000 to the Hooper Dairy Farm shortly before the reconveyance of the farm property. Mr. Brooks was questioned regarding this transaction and responded as follows:

"Q. In July of '69, one month prior to the reconveyance of the farm property to Mr. Hooper which was in August of '69, Standard Union Life, which you owned wholly, paid to the Hooper Dairy Farm the \$100,000 which we talked about earlier. . . . Why did you do it?"

"A. [By Mr. Brooks.] Well, now that I'm going to have to check into the circumstances and find out because, now frankly, and as I say, this is not rehearsed, I hadn't seen the records and I'm having to reconstruct things that took place between the loss of my best friend, one that I was willing to give money to when I wouldn't give it to my children and things of that sort. But I wasn't that frustrated. I can see why maybe I would have asked him to give me the \$100,000 back and we'd call it off.

"Q. Well, the \$100,000 went from Standard Union . . .

"A. I know, I say I can understand the other way, but now this you got me, but I can guarantee you I might have gotten pretty crazy but I didn't get that crazy. There is a reason but I don't know if it had been rightly or wrongly, if it had, I would have gone on and accepted that it was to call the deal off if he had paid me the \$100,000. Since it worked the other way, I'd have to check and see what the reason was." [12, pp. 75-76.]

Mr. Hooper accounts for the \$100,000 deposit from Standard Union to the Hooper Dairy Farm as an offset to a withdrawal of \$93,126 from the Farm Account by Mr. Brooks in payment of a personal debt to the Bank of Yazoo City owed by Mr. Brooks.

¹³ The amount of the indebtedness to the First Columbus National Bank on December 31, 1969, was \$140,000. Interest was due on the loan on that date in the amount of \$3,909.44.

II.

... Petitioner affirmatively charges that if the indebtedness is allowed to remain unpaid and foreclosure results, a large deficiency is likely to be incurred. Petitioner would show that on the other hand, he is willing to assume all of the indebtedness owed on said assets and indemnify the bankrupt estate from any claim made by the First Columbus National Bank in connection with said indebtedness. . . .

On the basis of the foregoing allegations Mr. Hooper and his attorneys requested the Trustee in the bankruptcy case "to abandon any claim or interest on behalf of the bankruptcy estate in and to the assets of the dairy business."

In support of Mr. Hooper's assertion that the assets of the partnership were overburdened his attorney, Mr. Hunter Gholson, forwarded to the Trustee two copies of a December 23, 1969, "Statement of Assets and Liabilities" prepared by T. E. Lott & Company of Columbus, Mississippi. [122; 85.]¹⁴ Although documentation does not indicate whether Mr. Gholson enclosed the accountant's explanatory materials in his submission to the Trustee, that Statement was submitted to Mr. Gholson with a cover letter from the accountants which stated:

We made no independent confirmations or detailed audit of the records of the Hooper Dairy Farm other than verification of the bank loan and accrued interest.

Due to the absence of usually accepted auditing procedures on the part of this office, we cannot express an opinion regarding the correctness of the attached statements. [121.]

The Statement shows the partnership liabilities as follows:

Accounts payable (schedule)-----	\$31,453.73
Notes payable—First Columbus National Bank-----	140,000.00
Accrued interest on bank notes-----	3,909.44
Account due J. F. Hooper-----	133,862.22
Subtotal-----	309,225.39
Capital deficit-----	(170,878.17)
Total liabilities-----	138,347.22

Mr. Hooper undertook to show not only that the assets of the farm were overburdened but that he had not been paid for the farm assets he had placed in the partnership. On March 25, 1970, Mr. Hooper filed a "Proof of Claim" in the bankruptcy case asserting that Mr. Brooks owed him \$66,931.11 as the "unpaid purchase price of assets transferred to the partnership." [25.] The amount of the claim equals precisely half of the amount shown on the December 23, 1969, Statement prepared by T. E. Lott as "Account due J. F. Hooper."

The claim was originally filed in the full amount, \$133,862, and later lined through and reduced to \$66,931.11. Apparently the modification of this claim represented a correction reflecting the fact that the partnership and not Mr. Brooks personally owed Mr. Hooper for the farm machinery and cattle. Mr. Hooper's Petition for Abandonment filed in July, 1970, indicates that he was at that time still pressing his claim for the full amount shown on the December 23, 1969, Statement. [26.] This would further confirm the confusion evidenced in Mr. Hooper's testimony regarding the transfer of personalty to the partnership:

Q. [by Mr. Jones.] . . . The \$175,000 was supposed to come from the partnership, right?

A. [by Mr. Hooper.] Yes, sir.

¹⁴ An interview with Eugene Beard the senior accountant for T. E. Lott & Company indicated that he had not been advised by Mr. Hooper of several substantial transactions which would substantially affect the balances shown on this Statement.

Q. So, Mr. Brooks would only be liable for \$87,500 of that, wouldn't he? Wouldn't you be liable for the other eighty-seven five?

A. Frankly, it just leaves me blank when you start as to dividing this back and forth. If you take that route, then you are saying that I still owned—I shouldn't have put in but half of my equipment and stuff. I mean it frankly just confuses me on an accounting basis. As far as he and I understood it, I was to withdraw a total from the partnership of \$175,000. . . . [1, pp. 67-68.]

Additionally Mr. Hooper's Petition For Abandonment failed to show that the assets were conveyed to the partnership subject to an encumbrance to U.M. & M. Credit Company in the amount of \$52,860.¹⁵ The Petition further failed to account for the transfer to the partnership of additional personal debts derived from the pre-partnership dairy operation amounting to more than \$100,000.¹⁶ The partnership assumed and paid this entire indebtedness of \$152,860.00. Thus, Mr. Hooper's equity in the assets transferred to the partnership amounted not to \$175,000 as shown in the Petition for Abandonment, but to approximately \$19,000.

THE COURT'S DISPOSITION OF THE PARTNERSHIP

On December 16, 1970, Mr. Hooper's attorney requested that the Trustee hold an informal proceeding so that information in support of the Petition for Abandonment could be presented. [128.] This request was denied because of the complexity of the financial transactions involved. In January of 1971, a sworn Petition and Accounting . . . For Partnership Operation of Hooper Dairy Farm was executed at the request of the Trustee's attorney. [129, 30.] This accounting purported to show "all payments to and withdrawals from the Hooper Farm Account by both James F. Hooper and Everett Hope Brooks, according to Mr. Hooper's bank records."¹⁷

The Petition and Accounting indicates that the partnership had a net deficit of assets of \$536,144.34 including partner's capital and loan accounts and an asset deficit of \$71,227.93 excluding contributions and loans from partners. After setting forth the basis for the analysis of the partnership accounts, the Petition and Accounting goes on:

. . . your petitioner will have to assume and pay these debts in order to protect himself from personal bankruptcy because of his personal liability . . . your petitioner would show that there is no equity for the creditors of Everett Hope Brooks, . . . and that in equity and justice to your petitioner, as well as to expedite the business of the handling of the bankrupt's estate, the Court should order the Trustee in Bankruptcy to abandon any claim upon the assets of this partnership as being of no net equitable value. [30.]

On July 23, 1971, the Trustee filed an Objection to the claim of Mr. Hooper against the Brooks estate. [33.] The Objection alleged that the conveyance of Mr. Brooks' interest in the farm property was "a preference void under Section 60 of the Acts of Congress relating to Bankruptcy" and was "fraudulent under the terms of Section 67 of

¹⁵ There was some dispute as to the applicability of the U.M. & M. encumbrance to the partnership assets. Correspondence between T. E. Lott and Company and Touche, Ross and Company carefully discuss the matter. There apparently is no dispute that the partnership paid this debt, however. See page 43, Appendix I.

¹⁶ See page 44, Appendix I.

¹⁷ Although this accounting was apparently prepared with the assistance of Mr. Eugene Beard, CPA, T. E. Lott & Company, it includes entries related to several transactions of which Mr. Beard stated in an interview he had no knowledge. There are substantial questions raised regarding the accuracy of the accounting which are discussed in Appendix I at page 43. [130, 14.]

the Bankruptcy Act." On August 20, 1971, Mr. Hooper's attorney was notified that "the Trustee makes demand upon James F. Hooper and Mrs. Virginia Fite Hooper" for the reconveyance of the one-half interest of Mr. Brooks in the farm property for the same reasons set forth in his Objection.

In October of 1971, the Trustee filed an Amended Objection to Mr. Hooper's claim against the bankrupt estate for the partnership debt asserting that the \$12,000 annual salary Mr. Hooper claimed did not show on the partnership tax returns and was never credited to him on the books of the partnership, that several of the items credited by Mr. Hooper in his accounting as his capital contribution had been reported on the partnership tax returns as ordinary income, and that Mr. Hooper's accounting on its face showed a capital balance due Mr. Brooks of \$80,000. [35.]

The matter was heard before the Honorable Clive Bare, referee, in Memphis on October 15, 1971. On November 5, 1971, an order was entered disposing of the claims of Mr. Hooper and settling the rights of the Trustee in the personal property of the partnership by dismissing Mr. Hooper's claim¹⁸ and by ordering the Trustee to abandon the partnership personal property. [37.] In support of abandonment of these assets the Court found:

... that such property so far as the bankrupt estate is concerned is worthless, overburdened, certain not to yield any benefit to the general estate, and is burdensome property within the meaning of the bankrupt act as interpreted by the Courts.

Although the order did not end the controversy over the "preferential" conveyance of the farm real estate, it did declare "the partnership heretofore existing between Hooper and Brooks . . . liquidated, wound up and concluded."

While the Trustee's claim for \$80,000 due Mr. Brooks for contributions to the partnership apparently was abandoned, it was not specifically mentioned in the decree. It is clear that Mr. Hooper would have been unable to pay any significant portion of a claim for Mr. Brooks' contribution at that time. [126; 135.]

Regarding the transfer of Brooks' half interest in the farm real estate to Mr. Hooper, the Order states:

This order is entered without prejudice to the right of the Trustee to petition this Court for authority to enter a plenary suit in a proper Court joining all proper and necessary parties to adjudicate the claim of the Trustee to an interest in said real estate; provided that any such petition must be accompanied with satisfactory proof of the probable success of such a suit and evidence that the same would be economically practical for the benefit of the creditors of this estate.

In accordance with the Referee's instructions the Trustee's attorney, John Paul Jones conducted an investigation of the economic and legal prospects of an action to recover the real estate. His recommendation was forwarded to the Trustee in a letter dated March 24, 1972, which states:

In summary, the proof in this case relative to these sharp issues of disputed fact would necessarily be the testimony of Messrs. Brooks and Hooper. The forum would probably be the Northern District of Mississippi before a jury of Mr. and Mrs. Hooper's peers. With a foreign bankrupt as a weak witness and that Jury.

¹⁸ The claim for the partnership debt was voluntarily withdrawn by Hooper as a part of the settlement of all claims.

I can not conscientiously advise a reasonable chance of success for you in this suit, the enforcement of a Federal statute.

The economic practicality of such a suit is less encouraging. There is no opportunity to settle this suit, Mr. Hooper, since the inception of these proceedings, has stated that he has no cash. [135.]

The Trustee on March 31, 1972, responded to the foregoing stating:

. . . I am completely satisfied that I cannot, as Trustee in Bankruptcy, pursue the proposed suit on any basis which would be economically feasible to the bankrupt estate. Accordingly, I authorize you to advise the Court and the Hoopers through their counsel that I am abandoning such proposed suit. [136.]

This decision terminated and dissolved any remaining vestige of the Hooper Dairy Farm partnership.

A detailed accounting of the capital accounts of the partners is found in Appendix I. The total equity of Mr. Brooks in the farm operation, both direct and as a result of the reconveyance, amounted to more than \$215,258, and is set forth as follows:

Closing capital balance ¹	\$95,758
Columbus Canning property conveyed to Mr. Hooper without consideration ²	13,000
Mr. Brooks' apparent equity in one-half interest in farm property reconveyed	106,500
Total	215,258

¹ The partnership experienced operating losses in the total amount of \$292,700 during its existence. These losses were shared by the partners and are accounted for as a reduction in the capital accounts of the partners. Mr. Brooks' share of the operating losses of the farm is \$170,350.

² This figure is Mr. Brooks' 1966 cost for this real asset. The market value in 1969 is unknown.

PARTNERSHIP ACCOUNTING¹⁹

The Hooper Dairy Farm partnership accounting was done from 1967 through August of 1969 by Touche, Ross & Company, Memphis, Tennessee.²⁰ This firm prepared the tax returns for the partnership for 1966, 1967, and 1968, and kept double-entry records of the partnership accounts reflecting transactions from the beginning of the partnership through August of 1969.²¹

In August of 1969, at about the time Mr. Brooks began preparations for his bankruptcy, Touche, Ross & Company ceased receiving financial information from Mr. Hooper regarding the partnership.

Shortly thereafter Mr. Hooper transferred the partnership accounting to T. E. Lott & Company, Columbus, Mississippi. This firm had handled Mr. Hooper's personal accounting for some time. The partnership tax return for 1969 was prepared by T. E. Lott & Company under the supervision of Mr. Eugene T. Beard, Jr., senior partner of the firm. The firm also prepared a December 23, 1969, Statement of Assets and Liabilities for the partnership, [85.] and assisted in the prepara-

¹⁹ A detailed analysis of partnership transactions and accounts is attached to this report as Appendix I.

²⁰ Touche, Ross & Company is an international accounting firm among the four or five largest worldwide with offices in forty countries and in 75 U.S. cities.

²¹ The double-entry records were posted to a General Ledger as of January 1, 1969. This General Ledger was kept current for transactions received by Touche, Ross & Company until August 19, 1969. [133.]

tion of Mr. Hooper's Petition and Accounting which was filed in the Brooks Bankruptcy case in support of Mr. Hooper's claim. [30.]

The apparent "complexity" of the partnership accounting, especially for transactions during 1969, has made the task of analysing the partnership accounts difficult. In a letter dated August 4, 1970, the Trustee stated:

... we must get the proper answers because just too much money ran through this account and there were too many complicated transactions for one to ignore them. [120.]

There is nothing inherently complex about the partnership business mode adopted by the Hooper Dairy Farm. The confusion results more from the use of the farm account as a conduit during the summer and fall of 1969 and the failure of T. E. Lott & Company to provide an accounting disposition for several transactions reflected in the General Ledger of the partnership maintained by Touche, Ross & Company.

The cash transactions listed in the Petition and Accounting show that there was a substantial increase in activity involving the partnership checking account at the First Columbus National Bank after June 20, 1969, and until about two weeks before Mr. Brooks filed his bankruptcy. [30.] Although the transactions are posted by Mr. Hooper as capital "deposits and withdrawals" by the partners, on examination by Mr. John Paul Jones, attorney for the Trustee, regarding the transfer of the proceeds of a loan from the First National Bank of Marietta, Mr. Hooper explains:

Q. [by Mr. Jones.] Now, did Mr. Brooks with reference to that \$65,000, put into the Hooper Dairy Farm partnership account, \$65,000 in cash, which was then transferred to Little River Farms, is that what you are telling us?

A. [by Mr. Hooper.] He had an account in Marietta in which he instructed me to draw the fifteen from that—

Q. I see.

A. —to Columbus, and then from Columbus back to Little River Farms, the same with the fifty.

Q. In other words, that \$65,000 never was part of the assets of Hooper Dairy Farms, or partnership?

A. Boom, boom, in and out.

Q. In other words, the Hooper Dairy Farm's account was only a conduit?

A. Precisely. [1, p. 24.]

While this explanation may shed some light upon the use of the partnership checking account, it is inconsistent with Mr. Hooper's Petition and Accounting which shows no disbursement of the funds transferred to that account out of the proceeds of the loan from the First National Bank of Marietta, Georgia.²²

The Marietta loan transaction was posted to the General Ledger of the partnership by Touche, Ross & Company as a partnership "note payable," and \$153,500 received from Standard Union Life Insurance Company in four checks dated April 11, July 2, 17 and 31, 1969, was posted as a "loan payable" to Standard Union Life Insurance Company.²³ The final disposition of these items can not be determined.

²² For further details regarding this loan see pages 31 through 33. The Petition and Accounting indicates that \$100,000 was transferred to the farm account out of the proceeds of the Marietta loan. Apparently, however, Mr. Hooper incorrectly attributed a \$50,000 payment into the farm account from Standard Union Life Insurance Company on July 17, 1969, to the Marietta account. There are numerous other inaccuracies in the Petition and Accounting which are discovered upon comparison of the ledger to the records kept by Touche, Ross & Company and the partnership bank statements.

²³ Mr. Don Stark of Touche, Ross & Company, in a letter dated December 3, 1975, explained the use of the terms "accounts receivable," "accounts payable," and "notes payable" were our method of segregating these transactions by source and were not meant to indicate an acknowledged relationship.

Mr. Beard stated on September 25, 1975 that T. E. Lott & Company had moved its offices in November of 1974 and had at that time "destroyed all working papers on individual tax returns that were over 6 years old. . . ." The destroyed materials, he stated, included the work papers on the Hooper Dairy Farm partnership return for 1969. [14, p. 1.] Since the 1969 Partnership Return of Income contains no partnership balance sheet or reconciliation of partners' capital accounts and also does not reflect that the cash receipts from Standard Union or the Marietta Bank were treated as income, there is no documentation regarding the accounting disposition of these transactions as of December 31, 1969, which is the date the partnership was effectively dissolved.

These transactions are reflected on the Petition and Accounting (with the inaccuracies noted previously). Although correspondence between Mr. Beard and Touche, Ross & Company indicates he had access to their accounting materials, Mr. Beard stated that he knew nothing about "advances made by Standard Union Life" to the Hooper Dairy Farm, [14, pp. 4-5.] that he knew "nothing about Little River Farms" or the proceeds of the Marietta loan, [14, pp. 6-7.] that the "only information that I have was furnished to me by Mr. Hooper," [14, p. 7.] and that he "did not receive any records of Touche, Ross & Company." [14, p. 5.]²⁴

While Mr. Beard has indicated that he was unfamiliar with the accounting work of Touche, Ross & Company in connection with the partnership, Mr. Hunter Gholson, attorney for Mr. Hooper, wrote Mr. Beard on December 29, 1970:

Enclosed please find a copy of a letter I have received from Mr. John Paul Jones relative to a partnership accounting. . . .²⁵

I hope that we can prepare a document that will present this matter in the light most favorable to Jim and which will also be sufficient to withstand scrutiny and cross-examination based on the obviously differing accounting which will be presented by Touche, Ross & Company. [130.]

The document which resulted was the Petition and Accounting filed by Mr. Hooper in the Bankruptcy proceedings on January 19, 1971. It appears to have been based upon the December 23, 1969, Statement prepared by T. E. Lott & Company. [85.]²⁶

²⁴ These statements are contradicted by numerous items of correspondence obtained from the files of Mr. Hooper's attorneys and from the files of the Federal District Court in Memphis, Tennessee. Specifically, a letter from Mr. Gholson to Mr. Beard dated November 26, 1969, [104.] indicates that it was his "understanding" that Mr. Beard would confer with Touche, Ross & Company regarding the partnership accounts; a letter from Mr. Beard to Mr. D. F. Stark of Touche, Ross & Company, dated December 18, 1969, [105.] indicates that Mr. Beard discussed an indebtedness associated with the partnership assets with Touche, Ross & Company accountants both by telephone and letter; Touche, Ross & Company responded to this letter on January 24, 1970, [107.] with a detailed explanation of the treatment of the item, enclosing their records of Mr. Brooks' capital account from January 1, 1966, to December 31, 1968, a list of 1969 transactions affecting that account, and a 1967 schedule showing Touche, Ross & Company's treatment of Mr. Hooper's contribution of machinery, equipment and cattle to the partnership (which was in direct contradiction of the accounting for this latter transaction on Mr. Hooper's Petition and Accounting, which apparently Mr. Beard helped prepare). [130.]

²⁵ See Document No. 129.

²⁶ For discussion of the use of this Statement in the Bankruptcy proceedings, see page 13.

The main disparities between the various accountings by Touche, Ross & Co. and the T. E. Lott & Co. for Hooper Dairy Farm partnership involve the following transactions:

1. The conveyance to the partnership of certain personal debts of Mr. Hooper related to the pre-partnership farm operation. These debts reduced Mr. Hooper's equity in the partnership assets substantially and should have been reported in connection with his claim against the bankrupt estate for a partnership debt.²⁷

2. Payment for the conveyance to Mr. Brooks of half interest in the farm real property. Mr. Hooper received and deposited \$100,000 from Radcliffe Investment Company, but claims to have returned \$90,676.67 to Mr. Brooks, although correspondence and other records indicate the latter payment was made in satisfaction of certain partnership debts.²⁸

3. The transfer to the partnership of \$50,000 from the proceeds of a loan procured for the Little River Farms corporation. Though these funds were accounted for by Touche, Ross & Company as a "loan payable" by the partnership, the debt was retired through the foreclosure of collateral supplied by third parties under an arrangement with Mr. Brooks.

4. The transfer of \$153,500 from the Standard Union Life Insurance Company during June and July of 1969.

The final disposition of items numbered 3 and 4 above was never made by Touche, Ross & Co. or by T. E. Lott and Company who took over the farm accounting after August 1969. T. E. Lott and Company disclaimed any knowledge of the items. Mr. Hooper, however, attributes these transactions to capital contributions by Mr. Brooks even though the partnership accounts reflect that Mr. Brooks' capital obligation to the partnership was paid on or before the end of 1967.

Although the disparities regarding 1969 partnership transactions raise substantial questions with regard to the accuracy of the partnership accounts as reflected in Mr. Hooper's Petition and Accounting, Mr. Hooper's treatment of items 3 and 4, above was accepted in arriving at the final partnership accounts shown on page 16 and in Appendix I, because Touche, Ross & Company was unable to confirm their treatment of these items with the partners.

²⁷ See Appendix I, page 3.

²⁸ See pages 10 through 12.

STANDARD UNION LIFE INSURANCE CO.

INTRODUCTION

On October 31, 1968, while still a partner in the Hooper Dairy Farm partnership, Mr. Brooks acquired 100-percent ownership interest in Standard Union Life Insurance Company, an Alabama corporation which had been doing business in the States of Alabama, Arkansas, Georgia, Mississippi, and Tennessee since its incorporation on February 6, 1954.²⁹ [100.]

When Mr. Brooks purchased Standard Union its only asset of any real value other than the corporate charter was approximately \$100,000 to \$140,000 in Treasury Bonds. [99.] At that time the insurance business issued by Standard Union had been transferred to other companies by its previous owners. It appears that during the 11 months of Mr. Brooks' control the only authorized insurance business transacted by Standard Union was the reinsurance of two small blocks of insurance. On December 30, 1969, some 100 policies originally issued by Mid South Insurance Company, of Tennessee, were reinsured by Standard Union, [167.] and in April of 1969 the corporation entered a reinsurance agreement with Trustee Life Insurance Company of Gadsden, Alabama assuming an unascertained number of credit life policies with a potential exposure of some \$50,000 to \$60,000. [17.]

MR. HOOPER'S INVOLVEMENT WITH STANDARD UNION

Mr. Hooper became associated with Standard Union on November 1, 1968, when at a joint meeting of directors and stockholders he was elected to its Board of Directors and to the position of corporate vice president. [153.] Shortly thereafter, by Warranty Deed dated December 23, 1968, Mr. and Mrs. Hooper, together with Mr. Brooks, conveyed their interest in the Lowndes County farm property to Standard Union. [63.] By a deed executed 5 days later Mr. Brooks conveyed to Standard Union his interest in the 68.5 acre parcel formerly owned by Mr. Hooper and used for the Columbus Canning

²⁹ Standard Union ended its first year of business with \$3,073,000 of insurance in force and for the next ten years continued to evidence growth, having \$27,599,000 of insurance in force at the end of 1966. In the latter part of 1966 Mr. Robert L. Moody acquired control of the company and became Chairman of the Board. Mr. Moody and Standard Union's President, Mr. Robert L. Hill, then formed the Security National Life Insurance Company of Montgomery, Alabama (later renamed First National Life Insurance Company). On June 30, 1967, Standard Union entered into an agreement with Security National whereby the latter reinsured a block of policies constituting 80.75 percent of Standard Union's business in force. As the result of litigation, Standard Union's remaining policies, known as the "President's Special Policies", were eventually reinsured by First National. [158.]

Company's operation. [64.]³⁰ In addition to the Mississippi properties conveyed to the corporation, Mr. Brooks contributed to the corporate assets two small parcels of property in Memphis and a 2900 acre parcel located in Desha County, Arkansas. In addition, Mr. Brooks contributed various stocks to the corporation including approximately 42,000 shares of common and preferred stock in Cadillac Conduit Corporation. [65; 76; 77.]

Although Mr. Hooper was an officer and director in Standard Union Life Insurance Company he states that he played only a minor role in the insurance company's affairs. This position is confirmed by the company's former attorney, Mr. John Taber, [17.] and by Mr. Brooks:

Q. Regarding Mr. Hooper's involvement in Standard Union. Did Mr. Hooper participate in efforts to get Standard Union Life licensed in the States of Tennessee, Alabama and Georgia?

A. [By Mr. Brooks.] No.

Q. Did he assist . . .

A. I was the sole proprietor. As a matter of fact it was licensed in all states when I bought it, the charter.

Q. Did he assist in the preparation of financial statements that were the basic prerequisites to this licensing?

A. No. It was filed by me in John Taber's office and Taber filed them.

Q. One of the financial statements that was prepared on Standard Union which is apparently consistent with the one filed in Tennessee is signed by Mr. Hooper. Did he participate in the preparation of that financial statement?

A. No. He possibly had to sign it or someone thought that he should, probably John Taber, if he signed it, possibly it showed some of the assets as being his.

Q. Did Mr. Hooper evidence any interest in the company's liquidity problems?

A. No, because I was working with the actuaries on that, Black and Company out of Nashville.

Q. Did Mr. Hooper keep apprised of the evaluation of assets on the financial statement of the insurance company?

A. No. I hate to be blunt but that's the answer. [12, pp. 66-67.]

FINANCIAL STATEMENTS AND PROPERTY VALUATIONS

From late 1968 through March, 1969 four financial statements were prepared reflecting the worth of Standard Union. Three of these statements reflect Standard Union's condition as of December 31, 1968. Two are the Annual Statements filed in March, 1969 with the Insurance Commissioners of the States of Alabama and Georgia. [76, 77.] They are signed by Mr. Brooks, his wife, and the corporation's attorney, Mr. Taber, and list Mr. Hooper as corporate vice president. While consistent with one another, the Alabama and Georgia Annual Statements are inconsistent in several respects with an undated Balance Sheet for Standard Union signed by both Messrs. Hooper and Brooks purporting also to reflect the corporation's condition as of December 31, 1968. [78.] This Balance Sheet appears to have been submitted to the Tennessee Department of Insurance and Banking.

The Annual Statements filed in Alabama and Georgia reflect total assets of \$4,254,829.09, while the Balance Sheet submitted to Tennessee reflects assets of \$4,755,814.00. The values of stockholdings reported in the Alabama and Georgia Annual Statements are less than half those

³⁰ A discussion of the eventual transfer of this parcel to Mr. Brooks is included at pages 39 through 40 dealing with the Columbus Canning Company and the foreclosure upon its assets.

reflected in the Balance Sheet submitted to Tennessee (\$619,356 as compared to \$1,403,000). The real property holdings shown in the Alabama and Georgia Annual Statements are some \$457,000 greater than reported on the Balance Sheet submitted to Tennessee. The worth of the four items of property carried as Corporate assets are variously valued on the three statements as follows:

Property	Balance sheet submitted to Tennessee	Alabama and Georgia annual statements
Desha County.....	\$2,340,000.00	\$1,902,082.00
With a mortgage of.....	437,917.96	437,917.90
1,550 acres, Lowndes County, Miss.....	465,000.00	1,199,500.00
With a mortgage of.....	142,500.00	142,500.00
Columbus Canning property, Mississippi.....	(¹)	132,500.00
Memphis real estate.....	31,500.00	60,077.05
With a mortgage of.....	4,922.95	4,922.95
Total.....	2,836,500.00	3,294,159.09

¹ Not listed as an asset.

The Alabama and Georgia Annual Statements thus show Standard Union's equity interest in the Lowndes County farm property at \$1,057,000, more than three times the \$322,500 equity interest reflected in the Balance Sheet submitted to the State of Tennessee. In addition, the stated market value figure of \$1,199,500 indicated for that property on the Alabama and Georgia Annual Statements is more than twice the price for which Mr. Hooper sold the property to Weyerhaeuser some five years later, [70.] and nearly four times the \$300,000 figure at which it was appraised in September of 1971 for the purpose of the Brooks Bankruptcy proceedings. [175.]

Although his signature appears on a Standard Union Life Insurance Company Balance Sheet which apparently was submitted to the State of Tennessee, Mr. Hooper did not participate in the actual preparation of any of the financial statements submitted to the various state insurance commissions.²¹

The manner in which the \$1,199,500 figure for the Hooper Dairy Farm land was arrived at is unclear. Mr. Hooper has stated that he

²¹ Mr. Taber prepared identical statements for filing in four States based upon information regarding the value of the corporate assets furnished him by Mr. Brooks. He stated that he sent those statements to Mr. Brooks with instructions to execute and return them to him for filing. [17.]

There is a dispute as to whether the four financial statements submitted to Mr. Brooks contained the valuations shown on the Alabama and Georgia Annual Statements or whether they reflect the valuations used on the Balance Sheet submitted to Tennessee. Mr. Taber has stated that he prepared the original statements using asset valuations which are consistent with those which appear on the Balance Sheet submitted to Tennessee. He recalls that a modified statement may have been prepared for filing with Tennessee reflecting lesser real property values than those shown on the original statements for the purpose of increasing the insurance company's apparent liquidity. [17.] However, the property valuations which Mr. Taber advised the Staff were contained in the original statements are identical to those which appear in the modified Balance Sheet furnished to Tennessee and do not agree with the valuations shown on the 1968 Annual Statements filed in Alabama and Georgia and signed by Mr. Taber. We are unable to resolve this discrepancy.

An interview with Mr. Brooks contains the following explanation of Standard Union's submission of differing financial statements:

"Q. Did Mr. Taber put the valuations on the property? Was this his responsibility?"

"A. [By Mr. Brooks]: No, he apparently turned in to me and mailed them all in alike and then cut them back down because of the fact that we then, as I told you wound up with more real estate than the Tennessee law would . . . require. So he says alright in that case we don't have time to take it out. It was just about, he says, we'll just redo it and cut the valuations. I don't know whether we did it on all of them or not." [12, p. 71.]

recalls a discussion with Mr. Brooks regarding appraisal of the farm property at a figure reflecting the land's "highest and best use." He recalled that the discussion took place at about the time of the conveyance of this property to Standard Union in December, 1968. Mr. Hooper stated that Mr. Brooks advised him that he thought they could obtain an "MAI appraisal" of the farm property at approximately \$1,200,000 and that the farm property would be submitted to the state insurance commissions as a reserve asset of the corporation having that value.

In discussing the valuation of the farm property, Mr. Brooks stated that he and Mr. Hooper agreed that they:

... would put it in and the idea being to have Standard Union come out with a strong financial statement and get it before we started selling insurance you see, get it approved and find out how much capital we did have which meant getting an MAI appraisal.... So we did attempt and contact several different firms but we never got an appraisal. [12, p. 69.]

Mr. Brooks' further discussion of the property valuation procedure is, in pertinent part, as follows:

Q. How did you arrive at the value per acre placed on the Hooper Dairy Farm property?

A. [By Mr. Brooks.]: As I told you originally I imagine that Mr. Hooper and I got the million dollar figure by taking a high priced land just like anything else, you put a price on it and then see what it will appraise for... [12, p. 71.]

RESTRICTIONS ON AUTHORITY TO TRANSACT BUSINESS

During the period of Mr. Brooks' ownership, Standard Union was either suspended from doing business or its license was not renewed in four of the five States in which it had previously operated. The only State not to take such action against the corporation until after Mr. Brooks' bankruptcy was Alabama, the State of its incorporation. [56.]³²

By May or June, 1969 the authority of Standard Union to transact business in any State other than Alabama was seriously in jeopardy and was dependent largely upon increased liquidity of its assets. Simultaneous with Mr. Brooks' attempts to persuade the Tennessee Department of Insurance of his good faith efforts to increase corporate

³² Mississippi and Arkansas both refused to renew Standard Union's Certificate of Authority for reasons connected with the business activities of its prior owners. On October 31, 1968, the Insurance Commissioner for the State of Arkansas officially advised Standard Union that its Certificate of Authority had terminated on May 1, 1968, and would not be renewed. [95.] Standard Union's license was not renewed by the State of Mississippi on January 1, 1969, for reasons relating primarily to the reinsurance of substantially all of its business by First National Life Insurance Company. [113.]

The corporation's authority to engage in any insurance business in the States of Georgia and Tennessee was either suspended or revoked on the basis of the aforesaid annual statements of financial condition filed with those states. In March, 1969 the Chief Deputy Insurance Commissioner for the State of Georgia advised Mr. Brooks that Standard Union's authority to operate in Georgia would not be renewed due largely to the fact that 77.4 percent of its assets were in real property—a proportion greatly out of balance with the requirements of that state's insurance laws. Mr. Brooks was offered the option of voluntarily withdrawing the corporation's application as an alternative to undergoing formal hearings. [98.]

In May or early June, 1969 the Director of Insurance for the State of Tennessee suspended the company's authority to write insurance in that state. The suspension was based in large part on the fact that the capital structure of the company did not meet Tennessee requirements as to liquidity. Whereas Tennessee required that real estate holdings not exceed 10 percent, the Balance Sheet submitted by Messrs. Brooks and Hooper listed real estate investments as accounting for \$2,836,500 of the total worth of \$4,755,814—slightly less than half. Tennessee officially revoked Standard Union's Certificate of Authority on March 12, 1970. [112.]

liquidity,²³ \$150,000 was transferred from Standard Union to the Hooper Dairy Farm partnership account. The record contains no explanation for the transfer of these funds in amounts of \$95,000, \$50,000 and \$5,000 on July 2, 17 and 31 respectively.

STANDARD UNION FORECLOSURE

During the summer of 1969 Mr. Brooks negotiated a loan of \$500,000 with the Union National Bank of Little Rock, bringing his total indebtedness to that bank to \$845,000. [163.] As part of the collateral securing his loans, Mr. Brooks pledged 175,000 of the 200,000 shares of Standard Union stock then outstanding. On October 17, 1969, the Union National Bank foreclosed on its collateral and took over operation of the insurance company. [106.]

PROPERTY RECONVEYANCE TO MR. HOOPER

Two months before the Union National Bank's foreclosure and at about the time Mr. Brooks first consulted his attorney concerning a possible bankruptcy filing, [9, p. 1162.] the corporate minutes reflect that a special meeting of the Board of Directors of Standard Union was held. At that August 19, 1969, meeting attended by Mr. Brooks, his wife and Mr. Hooper, a resolution was adopted authorizing the reconveyance of the Lowndes County farm property to Mr. Hooper because "the Insurance Commissions of the States of Georgia and Tennessee had refused to accept the Hooper land conveyed to the corporation in December, 1968, as a reserve asset of the corporation." [156.] This meeting occurred nearly 3 months after the State of Tennessee had suspended Standard Union's authority to do business, 5 months after the State of Georgia had refused to renew the corporation's Certificate of Authority, and well after both States had advised Standard Union that its real estate holdings were greatly in excess of their respective reserve asset requirements. The resolution makes no mention of Mr. Brooks' half interest in the farm property, nor does it specifically address the conveyance of the Columbus Canning property. At the August 19 meeting Mr. Hooper tendered his resignation as a director of the corporation. He did not resign his position as vice president.

Pursuant to the above resolution, the Lowndes County farm property and the Columbus Canning property were conveyed to Mr. Hooper by deed executed August 20, 1969. [66.] On the same day, the 2,900 acre tract of property in Desha County, Arkansas, shown on the corporate financial statements as having a worth of from \$1,902,082 to \$2,340,000, was transferred to Radcliffe Investment Company for \$50,000. [12, pp. 82-84 67.] In view of the lack of consideration for the transfer of the Desha County property which was appraised at \$785,000 in November, 1969, [174.] the Union National Bank was successful in obtaining the reconveyance of that parcel. The Bank did

²³ See Mr. Brooks' letters of June 5, 1969 [106.] and August 29, 1969 [101.] addressed to Roy F. Bess of the Tennessee Department of Insurance, the latter of which states that "concerted efforts are now being made to redistribute the assets of Standard Union from real estate to those forms of investments which are recognized as admitted assets in Tennessee."

not, however, prevail in its attempt to set aside the reconveyance to Mr. Hooper.³⁴

Both the Lowndes County farm property and the Desha County property were, nevertheless, transferred out of Standard Union by deeds executed August 20, 1969. At that time Mr. Brooks had already begun preparation for his bankruptcy and was in ill health and under severe mental strain.³⁵

In March, 1971 the Union National Bank of Little Rock brought suit in the name of Standard Union in the Chancery Court of Lowndes County, Mississippi, against Mr. Hooper and his wife to have the conveyance of the farm property set aside, asserting that the reconveyance had been made without consideration and was in violation of Mr. Hooper's duty as a corporate official. It sought a judgment cancelling the deed and requiring payment of amounts received by the Hoopers from the use or sale of the property. [45.]

In answering the complaint, the Hoopers contended that the conveyance of Mr. Hooper's half interest in the farm property to Standard Union in December, 1968 had been made for the purpose of inducing the Commissioners of the States in which Standard Union operated to accept the property as an asset for life insurance reserves, with the understanding that Mr. Hooper would in turn be issued stock in the insurance company, and further that the reconveyance of the land was predicated on the failure of these conditions. In his answer, Mr. Hooper stated that the August 20 reconveyance was in accordance with "an agreement between the Hoopers and Everett H. Brooks in satisfaction of an indebtedness owed by Brooks to Hooper." He further stated that "Standard Union neither at that time nor at any time prior or subsequent thereto had acquired any equitable interest in this real estate whatsoever, nor had Standard Union paid anything as purchase price for said property." [46.] The basis for the reconveyance has been also described by Mr. Hooper as follows:

A. [By Mr. Hooper]: . . . In December of 1968 we agreed that it would be of potential benefit to all of us if this land was put into his (Brooks') company known as Standard Union Life Insurance.

This was done on December 31st of that year so that it could be presented to the Insurance Commissioners for approval or rejection, with the understanding that after the approval has been granted that I would then be issued stock in the corporation, the Standard Union Insurance Company, equal to the value of the entire land. [1, p. 55.]

The 1968 agreement between Messrs. Hooper and Brooks regarding retransfer of the land was never formalized. However, for the purpose of the Bankruptcy proceedings, Mr. Hooper and Mr. Brooks jointly signed a memorandum purporting to reflect its provisions. [165.] This memorandum, which bears neither title nor date, was admitted in evidence by the Chancellor during the course of Mr. Hooper's testimony in the Standard Union Life suit for the purpose of showing that Mr. Hooper had received no consideration for the transfer

³⁴ The minutes of a Board of Directors meeting of October 15, 1969, at which it was resolved to set aside the conveyance of the Desha County property to Radcliffe reflect that Mr. Hooper did not participate in that reconveyance and suggest that he was not party to the determination to transfer this property to Radcliffe in the first instance. [157.]

³⁵ For a more detailed discussion of Mr. Brooks' physical and mental condition see pages 11 through 12.

of a half interest in the farm property to Mr. Brooks. [8, pp. 22-23.]

On July 27, 1971, the Chancellor issued a decree in favor of Mr. and Mrs. Hooper dismissing the complaint filed against them. That decree contains the following language:

2. The evidence presented on behalf of complainant proves that defendant, James F. Hooper, on August 19, 1969, occupied a fiduciary relationship to complainant and its shareholder, but the court finds, as a fact, that defendant, James F. Hooper, received no consideration for conveyance of the subject land either to Everett H. Brooks or to complainant, made full and complete disclosure to complainant, and discharged his burden of proof by showing his good faith and the inherent fairness of the transaction from the viewpoint of complainant; furthermore, the court finds that the sole shareholder of complainant ratified the deed to defendant, James F. Hooper, by executing the deed as President of complainant; and, finally, the court finds that the evidence presented on behalf of complainant is insufficient to cancel and set aside the deed of August 20, 1969, from complainant to defendant, James F. Hooper. [47.]

On September 24, 1971, the Chancellor entered a new decree making the prior decree final but preserving the interests of the Trustee in the Brooks Bankruptcy proceedings. [48.]

LITTLE RIVER FARMS, INC.

INTRODUCTION

Little River Farms, Inc., a Georgia corporation located in Alpharetta, Georgia, operated as a dairy, processing and marketing milk through a number of small franchise retail outlets. On January 22, 1969, K. C. Investments conveyed Little River Farms together with some \$385,000 in corporate debts to Mr. Henry L. McMahan for \$100. Mr. McMahan transferred Little River Farms to Mr. Brooks for \$5,000 on February 14, 1969. [162; 1, pp. 6-7; 2, pp. 3, 10, 17-19, 43-44.]

Mr. Hooper's involvement with Little River Farms stemmed from his interest in obtaining a more favorable market for Hooper Dairy Farm's surplus milk. [12, pp. 39-40.] He stated Mr. Brooks "learned that Little River Farms was purchasing milk at a much higher price in Atlanta and discussed with me the possibility of our shipping milk to Atlanta. It seemed feasible when first considered and he thought it likely we could net more for our milk after transportation expenses than we were getting in Mississippi." [160.]

It is difficult to reconstruct the precise nature of Mr. Hooper's involvement with Little River Farms. The fact that the corporation's Minute Book has been tampered with is confirmed by both Mr. Hooper and Mr. McMahan. [1, p. 14; 2, pp. 46-47.] The financial statements of Little River Farms are inconsistent.³⁶ The objectivity of the individuals who participated in the corporation's management has been affected by the threat of liability to the Internal Revenue Service for the corporation's nonpayment of withholding taxes.³⁷

MR. HOOPER AS A MANAGER, SHAREHOLDER, AND OFFICER

The minutes of the shareholders meeting on April 17, 1969, reflect that Mr. McMahan was elected President of Little River Farms. [150.] The shares of the corporation were divided among Messrs. Hooper, Brooks, and McMahan. [1, p. 9.] Mr. McMahan was to manage the day-to-day affairs of the dairy. Mr. Hooper was to "keep in touch" with him and advise Mr. Brooks when money was needed. The extent of Mr. Hooper's participation in the daily affairs of the corporation is unclear. Mr. Hooper has stated that while he exercised no direct authority over Mr. McMahan he made periodic trips to Alpharetta and offered many suggestions as to what could be done to bring the corporation out of its problems. He has variously indicated that he made such trips as frequently as every other week and as infrequently as every other month. [1, p. 43.] It appears, however, that Mr. Hooper

³⁶ Refer to pages 30 to 31 detailing inconsistencies in Little River Farms' financial statements.

³⁷ Refer to pages 34 to 36 regarding the details of the Internal Revenue Service's seizure of Little River Farms.

traveled to Alpharetta often during the first few months of his involvement with Little River Farms. [3, p. 29; 5, p. 12.] He was in telephone contact with other officials of the corporation on virtually a day-to-day basis during a period of some months preceding the onset of Mr. Brooks' financial problems. [6, pp. 14, 30; 3, p. 29; 15, pp. 3-4.]

Mr. Hooper testified in connection with the Brooks Bankruptcy that with the exception of a ten minute period he was not a stockholder of Little River Farms. [1, p. 7.] His name, however, appears in the corporate Minute Book as one of the three stockholders present at the April 17, 1969, meeting, [149.] and he has variously testified in the bankruptcy proceeding that he was issued stock certificate No. 46 for 83,333 shares of stock in July, 1969 and in November, 1969 [1, pp. 7, 18.] This certificate was apparently issued sometime during the summer of 1969 but was not delivered to him until November, 1969 when he endorsed it in blank to Mr. William C. Brickey. [177.]³⁸

The minutes of the April 17, 1969, meeting reflect Mr. Hooper's election to the Board of Directors. [149; 1, p. 14.] As a member of the Board, his name appears in minutes of meetings held between April and October, 1969, March 3 and 4, and May 29, 1970. It does not appear that any meetings were held between the October, 1969, meeting and the March, 1970, meetings. [149, 150, 151, 152, 153.] Notwithstanding his signature in the minutes of a Board of Directors' meeting on October 28, 1969, Mr. Hooper testified in the bankruptcy proceedings that he resigned his position in the summer of 1969. [1, p. 4.] He also testified that he resigned his post in November of 1969, but was reinstated in March, 1970 [1, pp. 15-17.] and that his resignation was not submitted in writing or otherwise formally tendered. [1, pp. 16-17.]

Whatever the precise nature of Mr. Hooper's position as an officer and stockholder of Little River Farms, he assumed the responsibility of "keeping in touch" with its operation and advising Mr. Brooks as to the corporation's financial requirements. Mr. Brooks transferred some \$248,000 to the company from February to July. [71, 72, 75.]

CORPORATE ACCOUNTING

There are numerous inconsistencies in the balance sheets of Little River Farms regarding the amount and source of funds transferred to the Corporation. The August 18, 1969, Record of Deposits shows payments totaling \$248,598.36 comprised of contributions from Mr. Brooks of \$74,598.36, loans from Mr. McMahan of \$59,000 and deposits from the "Hooper Account" in the amount of \$115,000. [71.] The Record indicates that \$15,000 of the \$115,000 attributed to the Hooper Account was received June 26, 1969, and promptly repaid. This left an aggregate of \$233,598.36 deposited with Little River Farms. Six weeks later the September 30, 1969, Balance Sheet of Little River Farms shows as a liability a "loan payable to E. H. Brooks" in the

³⁸ Mr. Hooper's attempts to sell Little River Farms through Mr. Brickey is discussed at pages 33 through 34.

amount of \$248,598.36. [72.] The Balance Sheet of November 30, 1969, attributes the \$248,000 previously shown as owing to Mr. Brooks as comprised instead of a \$50,000 loan payable to the Bank of Cumming, a \$133,000 loan payable to Standard Union Life Insurance Company, and a \$65,000 loan payable to Mr. Hooper. [74.]

None of these statements of account appears to reflect the true character of deposits made to Little River Farms.³⁰ The depositions of both Messrs. McMahan and Hooper taken in connection with the Brooks Bankruptcy indicate that \$133,000 of the \$233,000 total (\$248,000 less the \$15,000 repayment) was transferred either directly or indirectly to Little River Farms by Mr. Brooks and that the balance was part of a loan from the First National Bank of Marietta. [1, pp. 19-26; 2, pp. 34-70.] Many of the individual deposits to Little River Farms' benefit are represented by checks drawn to Mr. McMahan personally rather than to the corporation. [2, pp. 19, 68.] The reason for this procedure has been given by Mr. Brooks as a method of assuring the accountability of Mr. McMahan. [12 pp. 51-53.] It appears, however, that a Georgia State law allowing creditors easy access to a debtor's funds by attachment of its bank account may also have influenced the decision not to transfer funds directly to Little River Farms. [1, p. 29; 12, p. 53.]

The Statements of Account for Little River Farms dated August 18, and November 30, 1969, show substantial investments in the corporation by Mr. Hooper. However, Mr. Hooper stated that he invested no personal or partnership funds in Little River Farms. [1, pp. 19-27.] He testified that the investments attributed to his account are proceeds of a loan borrowed from the First National Bank of Marietta on June 24, 1969, and deposited to an account from which he was authorized to draw:

Q. [By Mr. John P. Jones] I ask you if the money of Mr. Brooks which he transferred to Little River Farms, Inc., involved \$50,000 payment in June of 1969 and another \$50,000 payment in July of 1969?

A. [By Mr. Hooper] June 26, June and July, that's correct.

Q. All right. Is that the Bank of Cumming transaction?

A. The money came from an account of a bank in Marietta and was paid direct to the Bank of Cumming.

Q. Who set up the account in Marietta, Georgia?

A. Hope. [Mr. Brooks]

Q. Did you have anything, at all, to do with that?

A. I had the signature card.

Q. Do you know why he chose the Bank of Marietta?

A. It was the bank of account that Little River Farms was doing business with.

Q. Did you borrow money from the Bank of Marietta?

A. No, Sir. [1, pp. 21-22.]

MARIETTA BANK LOAN

In the spring or early summer of 1969 Messrs. Hooper and Brooks approached Mr. William Beasley, President of the First National Bank of Marietta, to apply for the \$150,000 loan to be invested in Little River

³⁰ Mr. Hooper testified as follows regarding the condition of the corporate records of Little River Farms:

"A. I looked at many financial statements, and none of them were complete, none of them were accurate. The excuse was that the company owed the accountants so much money that they wouldn't continue working. I recall at least three different bookkeepers that they had fired to try to bring the records to date. But I never could get a handle on it anyway." [1, pp. 28-29.]

Farms. They explained to Mr. Beasley that they were going into Little River Farms as a "joint venture" and showed a joint financial statement listing their net worth at about \$6,000,000. Additionally they offered to secure the loan with stock of Cadillac Conduit Company. It appears they had approached the First National Bank of Marietta because it was one of the few banks in the area which had not had a bad claims experience in its transactions with Little River Farms. Mr. Beasley would agree only to participate to the extent of \$100,000 of a \$150,000 loan provided that the loan was obtained from a bank more familiar with the offered security and with the applicants. [16.]

Therefore in June, 1969 Mr. Brooks returned to Memphis to negotiate the loan with Union Planters National Bank. According to the ledger sheet of the Union Planters National Bank, the First National Bank of Marietta participated in this loan to the extent of \$100,000 and \$50,000 of the proceeds was used to purchase a Certificate of Deposit in the name of Mr. Dabney H. Crump, a business associate of Mr. Brooks. [178.]⁴⁰

Mr. Hooper did not participate in the loan negotiations in Memphis nor did he sign the note, Mr. Brooks' recollection of the transaction is sketchy. From the magnitude and frequency of Mr. Brooks' dealings with various Memphis banks, it would appear simply that he handled the loan in a routine manner. Although Mr. Hooper was not involved in the arrangements for the loan in Memphis there is no evidence that the purpose of the loan or the business relationship of Messrs. Hooper and Brooks was modified. The ledger sheet of the First National Bank of Marietta reflects that Mr. Hooper participated in the loan. [16.]

Because there was probably an additional loan made to Mr. Brooks contemporaneously with the Marietta transaction in which Mr. Crump also participated, the various accountings for the proceeds of the loan are confused. It appears, however, that Mr. Crump retained \$50,000 of the proceeds of the \$150,000 total in the form of a Certificate of Deposit of the Union Planters National Bank and that the remainder of the loan was placed in an account at the First National Bank of Marietta upon which Mr. Hooper had checking authority. [1, pp. 21-22; 178.]

Although the loan was ostensibly borrowed for Little River Farms, no more than \$55,800 of the proceeds was received by the corporation. Of that amount \$50,000 was in the form of a check signed by Mr. Hooper and paid directly to the Bank of Cumming, Georgia, in satisfaction of a debt of Little River Farms. [179.]

Mr. Hooper's Petition and Accounting filed with the Bankruptcy Court indicates that the \$100,000 obtained from the Marietta bank was transferred to the Hooper Dairy Farm partnership account in two deposits of \$25,000 each made June 24 and 30, 1969, and a deposit of \$50,000 made on July 14, 1969. The Petition and Accounting fur-

⁴⁰A business associate of Mr. Brooks, Mr. Dabney H. Crump, was having difficulty obtaining a loan. To accommodate Mr. Crump, Mr. Brooks approached the Union Planters National Bank to obtain funds both for him and for Little River Farms. [12, pp. 57-63.] Mr. Brooks may have closed more than one loan at the Union Planters National Bank in June of 1969. The evidence in this regard is ambiguous. [39, pp. 7-10.] However, he did at least procure a loan in the amount of \$150,000. The note for that loan is signed by Mr. Brooks and co-signed by Mr. Crump and is secured by municipal bonds furnished by a Mrs. Fulton. [35; 38; 41.]

ther sets forth that, with the possible exception of \$5,800 transferred to Little River Farms in August and September, 1969, that amount remained on the books of the partnership. [30.] This accounting, however, is inconsistent with the fact that \$50,000 of the loan proceeds did not pass through the partnership account but were transferred directly to the Bank of Cumming by Mr. Hooper's check drawn directly on the Marietta bank. It is further inconsistent with Touche, Ross & Co.'s determination that the \$50,000 deposit of July 14, 1969, was received from Standard Union Life Insurance Company. [84.]⁴¹

It appears the proceeds of the Union Planters/Marietta loan were distributed as follows:

1. \$50,000 to Mr. Dabney Crump;
2. \$50,000 to Little River Farms;⁴² and
3. \$50,000 to Hooper Dairy Farm.⁴²

After commencement of the Brooks Bankruptcy proceedings, the Union Planters National Bank foreclosed on its security.⁴³

MR. HOOPER'S ATTEMPTS TO SELL LITTLE RIVER FARMS

In July, 1969, 5 months after acquisition of Little River Farms and 1 month prior to Mr. Brooks' preparations for bankruptcy, Messrs. Hooper and Brooks became interested in selling their interests in the corporation. At about that time, they were introduced to Mr. William C. Brickey who had been convicted of mail fraud and was free pending appeal. Mr. Hooper describes Mr. Brickey as "astute or shrewd . . . capable of doing what seemed to be an impossible thing, which was to sell this particular piece of property". [1, pp. 31-32.]⁴⁴

Mr. Brickey's initial dealings were with Mr. Hooper who had approached him to see if Little River Farms could be "disposed of" in view of its troubled financial picture.⁴⁵ [13, pp. 1-2.] Mr. Hooper has stated that he was not aware of Mr. Brickey's criminal conviction until the fall of 1970 shortly before Mr. Brickey went to prison for 2 years.

In July or August, 1969 Mr. Hooper contacted Mr. McMahan and asked that Little River Farms execute a demand note in blank for \$248,000, the amount of Mr. Brooks' "loans" to the corporation, to enable Mr. Brickey to consummate a merger of the financially dis-

⁴¹ An extended discussion of Touche, Ross & Co.'s accounting for this \$50,000 transaction is contained in Appendix I.

⁴² Mr. Hooper's Petition and Accounting shows payments amounting to \$5,800 from the farm account to Little River Farms which might be adjustments to these figures.

⁴³ Municipal bonds worth approximately \$150,000 which had been pledged by Mrs. Fulton as security for the loan were sold in satisfaction of the indebtedness to Union Planters National Bank. As an unsecured creditor of Mr. Brooks, Mrs. Fulton received \$19,313 from the Bankruptcy Court in settlement of her claim for \$155,000. [41.]

⁴⁴ The introduction was arranged through Mr. Jack Lessenberry, the criminal attorney who had represented Mr. Brickey in connection with his conviction for mail fraud. [13, pp. 1, 10-11, 18-19.]

⁴⁵ Mr. Brickey explained that Mr. Hooper sought him out:
"A . . . I was going to Mobile, for I don't know what reason, not to meet Jim Hooper but when Jim found out that I was in Mobile, he met me there. . . ." [13, p. 1.]

tressed corporation with Gold Cloud Corporation. [2, pp. 24-30, 71; 169.] At the meeting of the Board of Directors on October 28, 1969, a resolution was adopted authorizing Mr. Brickey to negotiate the proposed merger. [151.] The meeting occurred after Mr. William L. Thurman, the corporation's controller, had advised Little River Farms' officers of the corporation's failure to remit withholding taxes to the Internal Revenue Service. [4, pp. 10-11.] Mr. Brickey has stated that he also discussed the matter of the corporation's tax liability with Mr. Hooper at the October meeting. [13, pp. 12-13.] An agreement was drawn between "Little River Farms, Inc., a Georgia corporation, Henry L. McMahan, individually, and James F. Hooper, individually," and Mr. Brickey authorizing the latter to effect a merger. Little River Farms and Messrs. Hooper and McMahan were to be issued stock in the company surviving the merger having a market value of at least \$300,000. [168.] Messrs. Hooper and Brooks endorsed their stock certificates in blank, and the corporation in turn issued a new certificate for 125,000 shares to Mr. Brickey's nominee, Barbara Goin. [2, pp. 28-29.] The demand note for \$248,000 was apparently transferred to Mr. Brickey as well. [1, p. 25; 2, pg. 71.] These transactions occurred in November, 1969, shortly after Mr. Brooks' filing in bankruptcy. On November 18, 1969, a certificate for 41,667 shares was issued to Mr. McMahan which, together with the 83,333 shares already in his possession, gave him a stock interest equal to that held by Mr. Brickey. [2, p. 77.]

Mr. Brickey was unable to negotiate the proposed merger with Gold Cloud and in late December, 1969, despite Mr. Hooper's demands that he return the stock to the corporation, [108; 109.] Mr. Brickey undertook to assert an actual ownership interest in the corporation. [2, p. 24.] To resolve the matter of Mr. Brickey's intermeddling in corporate affairs, a special meeting of the Board of Directors was held on March 4, 1970. At that meeting the shares transferred to Mr. Brickey were declared "lost and/or improperly retained" and instructions were issued to cancel the certificate in Barbara Goin's favor and reissue the shares to their "rightful owners". [153.] It is unclear whether the shares that were eventually returned were reissued to Messrs. Brooks and Hooper.⁴⁶

INTERNAL REVENUE SERVICE SEIZURE OF LITTLE RIVER FARMS

Little River Farms' unpaid creditors at the end of 1969 included the Internal Revenue Service. [2, pp. 84-85.] On April 2, 1970, a tax lien in the amount of \$69,980.50 was filed against Little River Farms, followed by liens of \$18,563.70 on April 8, 1970, and \$40,000 on May

⁴⁶ In order to physically resecure the certificate and the demand note, Mr. McMahan arranged to trade Mr. Brickey an ostensibly worthless \$7,500 bond. Mr. McMahan's testimony as to this transaction is in pertinent part as follows:

"A company in Florida owed us—owed the corporation \$7,500 for a bond that they had issued us that wasn't any good. It wasn't a real bond, so I made arrangements with Brickey if he would turn those stocks over to me that I would give him a letter of authority to pick his money up, which he did. Whether he got \$7,500 or not I don't know. He might have settled with them. I don't know exactly what he got. I met him at the airport on the way to Miami on a Sunday morning, and he turned the stocks over to me and I turned over the letter." [2, pp. 2330.]

A release issued by Little River Farms indicates that Mr. Brickey was able to recover \$4,000 on the bond. [172.]

18, 1970. The property of the corporation was sold at public auction on May 15, 1970, for \$21,800. [53; 117.]⁴⁷

On July 17, 1970, Mr. McMahan executed an affidavit which states the following:

During the period of affiant's management of this business, James F. Hooper of Columbus, Mississippi, has been listed as a member of the Board of Directors, along with Alton Hawk, and as Vice President. Mr. Hooper has attended several meetings in Atlanta in which the overall business of the corporation has been discussed. He has offered advice regarding possible sales and other financial arrangements, has attempted to obtain financing for the corporation or prospective purchasers for the assets or corporate stock, but he has, as a general rule, during the management of the affiant, not participated actively in the daily operation of the business. To the best of my knowledge and belief, Mr. Hooper was first informed of the company's failure to remit withholding taxes by me after Leon Smith left the corporation on March 9, 1970. [18.]

The foregoing affidavit was repudiated by Mr. McMahan in September, 1975 insofar as it indicates that Mr. Hooper played no part in the daily operations of Little River Farms. [11, pp. 33-34.]

At a Board of Director's meeting on May 29, 1970, the corporation adopted a resolution to retain an attorney to protect its interest. [154.] Shortly thereafter, on June 8, 1970, Mr. Fred L. Somers, the attorney, filed suit on behalf of Little River Farms and Mr. Jack Holloway as plaintiffs against the United States and Messrs. Bowman and Green, who had purchased the company at the tax sale. The suit sought to set aside the tax sale for procedural irregularities.⁴⁸

The United States Attorney questioned Mr. Jack Holloway's standing as a party to the suit. Plaintiffs amended their complaint on September 25, 1970, seeking to further establish Mr. Holloway's interest as an appropriate party to the suit, adding the following language:

Plaintiff, Jack Holloway, at the time and date of the said auction sale was representing and was the agent of James F. Hooper who, on said date and time held a note of Plaintiff, Little River Farms, Inc. in the amount of \$248,000 secured by a chattel mortgage which constituted a lien against much of the property seized by the Defendant, United States of America. Said note represented a partnership asset in connection with one Everette Hope Brooks whose partnership assets or interests on said date were subject to a restraining order of the United States District Court for the Western District of Tennessee. The act of the Defendant, United States of America in causing the assets of Plaintiff, Little River Farms to be sold at unconscionably low prices was in violation of the aforesaid Order of the United States District Court for the Western District of Tennessee and damaged Plaintiff, Jack Holloway and his principals to the extent of the loss of said collateral in the amount of \$248,000. [50.]

In a deposition taken February 2, 1972, for the purpose of the Little River Farms suit, Mr. Holloway affirmed that he acted on behalf of Messrs. Hooper and McMahan in bidding at the tax sale. He said there had been an agreement between the three of them that Mr. Hooper would furnish whatever amount was successfully bid by Mr. Holloway and that Little River Farms would thereafter be operated

⁴⁷ Thereafter, on April 10, 1973, the United States brought suit against Mr. McMahan in the same court for the purpose of reducing to judgment the "outstanding federal tax liability of Henry L. McMahan as responsible officer of Little River Farms." [53.] Despite attempts to show that he did not direct the financial affairs of the corporation or participate in decisions as to which creditors should be paid, the Court found to the contrary and ordered that the McMahan's residence be sold in satisfaction of the \$88,548.58 judgment entered against him. [54; 55.]

⁴⁸ Specifically, the complaint filed alleges that the tax sale was conducted in violation of the Internal Revenue Service's regulatory requirement that 20 percent of the purchase price be paid at the date of sale. [49.]

as a three-way partnership. [7, pp. 9-12.] Mr. Hooper has stated that he knew nothing about the purported agreement to which Mr. Holloway testified.⁴⁹ He also indicated that he knew nothing about Mr. Holloway's assertion that he acted as Mr. Hooper's agent or the fact that the Chattel Mortgage in his name was used in bringing the suit.⁵⁰ Mr. Hooper maintains that it was his attorney who first advised the Trustee in the Brooks Bankruptcy of the Chattel Mortgage in Mr. Hooper's name and that the instrument evidenced an indebtedness of Little River Farms to Mr. Brooks. This advice to the Trustee regarding the Chattel Mortgage in the amount of \$248,000 is confirmed by correspondence. [123; 124.] Mr. Hooper's attorney, however, had previously advised Mr. Somers, the attorney for Little River Farms, that his client would be glad to "do anything with reference to that mortgage which may help, your position vis-a-vis the Internal Revenue Service and other creditors." [116.]

SEALRIGHT GUARANTEE

In the summer or fall of 1969, Mr. Hooper executed a guaranty of Little River Farms' corporate account to Sealright Co., Inc., a subsidiary of Phillips Petroleum Company. That guaranty bears an execution date of October 7, 1969—within two weeks of Mr. Brooks' filing in bankruptcy. [171.] To the best of Mr. Hooper's recollection, his signature was required because Sealright was extending credit for the shipment of containers to Little River Farms on the basis of his and Mr. Brooks' joint financial statement indicating their joint net worth at over \$6,000,000. [1, pp. 41-43; 160.]⁵¹ Mr. Hooper offers the following explanation for his execution of a guaranty at approximately the time of Mr. Brooks' bankruptcy:

Hope [Brooks] and I both signed this instrument at my house, witnessed by two domestic employees there, and sent it to McMahan with the express understanding that it would not be delivered to Sealright at that time and would only be used if Sealright planned to cut off deliveries without it. . . . This purported guaranty instrument bears an October, 1969, date, which was a time after Dabney Crump's suicide and Hope Brooks' first filing with the bankruptcy court. I certainly would not and did not sign any such document in October of 1969. [162.]⁵²

In January, 1970, after having failed to secure payment of the account from Little River Farms, Sealright requested payment from Mr. Hooper. By September 18, 1970, the total indebtedness claimed by Sealright amounted to \$19,653.14 [125.] Throughout 1970 and into March, 1971, there was a considerable exchange of correspondence between Sealright and Mr. Hooper's attorneys. Initially, Mr. Hooper insisted that the guaranty should be first asserted in the Brooks bankruptcy proceedings and declined to make any payment on the basis

⁴⁹ The Staff has attempted to locate Mr. Holloway without success.

⁵⁰ The record indicates that upon Mr. Brickley's return of the \$248,000 note drawn in blank at Mr. Hooper's request, a Chattel Mortgage for \$248,000 was drawn in Mr. Hooper's favor securing his and/or Mr. Brooks' "loans" to the corporation in approximately that amount. [1, pp. 25-26; 170.] Mr. Hooper claims to have no knowledge of the circumstances surrounding its issuance.

⁵¹ Apparently the joint financial statement relied upon by Sealright is the same joint financial statement [86.] submitted to Mr. William L. Beasley in connection with the Marietta loan transaction.

⁵² Files obtained from Sealright Co., Inc., indicate that the guaranty originally signed in July of 1969 was reexecuted at a later date because the original guaranty had not been properly witnessed.

that he had executed the guaranty only as an agent for or in accommodation to Mr. Brooks. [114; 126.]

In March, 1970 Mr. Hooper filed a claim against the bankrupt estate, based on a "contingent claim by Sealright, Inc., Kansas City, Missouri, for a debt of Little River Farms, Inc., guaranteed by Hooper to accommodate Brooks." [31.] In his amended objection to that claim, the Trustee argued that Mr. Hooper's execution of the guaranty was not made solely as an accommodation to Mr. Brooks but in an attempt to better the financial condition of Little River Farms and create a market for the Hooper Dairy Farm's milk. In that amended objection, the Trustee alleges:

4. Claimant, James F. Hooper, was negligent as a director of Little River Farms, Inc. at the time of the execution of the guaranty on October 7, 1969, and at the time of the purchases from the Debtor Sealright Company to Little River, from September 2, 1969, to January 14, 1970, in that he knew, or should have known, that Little River Farms, Inc. had a deficit net worth during this period, and that there was no reasonable expectation of it converting that deficit net worth into anything but bankruptcy or insolvency as the final result of the corporation. [35.]

The claim was ultimately disallowed because it was not liquidated at the time the bankruptcy was settled.

In September, 1970, Mr. Hooper's attorney advised Sealright that they could demonstrate that the liabilities of the Hooper Dairy Farm exceeded its assets by more than \$25,000. The precise representation was as follows:

With respect to Mr. Hooper's financial condition, I believe that we could demonstrate to you, upon a visit, that Mr. Hooper has a dairy farm which was conveyed to a partnership consisting of Hooper and Everette H. Brooks; that Everette H. Brooks is now in bankruptcy in the Western District of Tennessee; and that the outstanding indebtedness on the assets of this dairy farm exceeds the value of the assets by more than \$25,000.00, and would exceed their price considerably more than that if they are sold at a forced sale. Mr. Hooper is delinquent in his payments to the First Columbus National Bank and other creditors largely because of the entanglement with Mr. Brooks; and he is subject to restraining orders of the Federal Bankruptcy Court which prevent his moving in any way with respect to any of the assets in which the bankrupt has any possible interest.

Despite all these entanglements, it is possible that we could obtain some money from a member of Mr. Hooper's family to discharge the alleged obligation to your company, if a considerable reduction in the demand could be made. [126.]

Sealright requested a balance sheet showing Mr. Hooper's financial condition. [125; 137, 138, 141, 142.] Based on the joint financial statement of March, 1969, showing Messrs. Hooper's and Brooks' net worth at more than \$6,000,000, and on Mr. Brooks' petition in bankruptcy showing assets of only some \$4,000,000, Sealright questioned the representations of insolvency made on Mr. Hooper's behalf. [140; 144; 145.] Finally, in July, 1973, Sealright was provided a hand written document sketchily portraying Mr. Hooper's net worth as a negative \$5,666. Together with that financial statement Mr. Hooper offered to settle the \$19,653.44 claim for \$2,000. [139.]

In December, 1973, Mr. Hooper furnished a new financial statement prepared by him showing his net worth at \$2,000. The letter from Mr. Hooper's attorney forwarding that statement to Sealright

stated that "Mr. Hooper's CPA advised us that because of the necessary disclaimers he would have to insert, it would be a waste of money to have him prepare the financial statement." [143.]

Sealright refused to settle the claim for the offered \$2,000 and requested specific information as to the appraised value of Mr. Hooper's assets which were included in the joint financial statement. In addition, Sealright requested to be advised as to the disposition of those assets or reasons for their substantially lessened value. [146.] In response Mr. Hooper's attorney, Mr. Ralph Rood, reported that he was unable to reconcile the valuation of assets contained in the joint financial statement. In restating Mr. Hooper's settlement offer of \$2,000 Mr. Rood⁵³ represented Mr. Hooper's overall condition as follows:

I can not recall whether or not I have given you any background information on Mr. Hooper. If I have, please accept my apologies for repeating myself, however, I believe it is important in order that you may understand my legal advice to them concerning Sealright's claim. Mr. Hooper is nearly sixty years old and has been in poor health for a number of years, having suffered major heart attacks in 1963 and in 1969. The last major heart attack occurred during the period which gave rise to Sealright's claim. Mr. Hooper is woefully underinsured and, as you might expect, has been uninsurable for a number of years. During the late 1950's Mr. Hooper suffered a major business reversal in connection with his part ownership of the Columbus Canning Company. He inherited a tremendous debt load at that time which has continued until the present. For the foregoing reasons, among others, I have insisted that the real estate not be subjected to further encumbrance. [147.]⁵⁴

Mr. Hooper agreed to Sealright's counter-offer to settle for \$8,000 in August, 1974, and, upon payment of that amount, was released from any further liability arising out of the guaranty. [173.]

⁵³ Mr. Ralph Rood is also Mr. Hooper's son-in-law.

⁵⁴ With reference to Mr. Hooper's indebtedness derived from his involvement with the Columbus Canning Company, see page 40, indicating that he assumed personal responsibility for payment of \$15,000 of its outstanding indebtedness of some half million dollars in 1959.

COLUMBUS CANNING COMPANY

The Columbus Canning Company, Inc. was incorporated January 15, 1946. Mr. Hooper provided virtually all of the \$7,500 authorized and paid in capital for the company. While there is little information available regarding this venture, Dun and Bradstreet reports that the corporation, which Mr. Hooper served as President, was discontinued in 1949 "due to unprofitable operations." [159]

From 1950 until 1957 Mr. Hooper and Mr. W. Pratt Thomas undertook to revitalize the operation as a partnership known as the Columbus Canning Company. Mr. Hooper served as managing partner. This partnership was not the subject of a formal partnership agreement. [10, pp. 119-121.] On November 25, 1957, the Columbus Canning Company was incorporated under the laws of Mississippi in order to secure additional capital. [159.] Messrs. Hooper and Thomas conveyed to the corporation all their partnership assets on November 31, 1957. This transfer included the 68.5 acre parcel of land known as the Columbus Canning tract on which the plant was situated and which adjoins the Dairy Farm. [60; 61.] Mr. Hooper, Mr. Thomas, and Mr. W. O. Garrard were the initial subscribers to 50,000 shares each of the authorized 1,000,000 shares of \$1 par value stock.

The documentation is contradictory as to the nature of Mr. Hooper's ownership interests in Columbus Canning Co., Inc., after July 7, 1958. Dun and Bradstreet reported that on October 1, 1958, "President James F. Hooper" stated to them that he held 51 percent of the corporate stock and that the remaining 49 percent was held by the corporate vice president, Mr. E. E. Rockwell, who represented "certain investors"—apparently Rhodes Optical Company, Inc. [159.] Mr. Hooper indicated in the case of *Premium Associates v. J. F. Hooper et al.* that on July 7, 1958, he sold all of the stock in the corporation to Rhodes Optical Company, Inc. and that he owned no stock in the corporation thereafter. [10, p. 18; 43.]

Although Mr. Hooper retained the title of corporate president after the conveyance of a substantial stock interest to Rhodes Optical Company, Inc. [160.], Mr. Hooper states that his control of the company ceased during the summer of 1958 and that he thereafter participated in the corporate affairs only to the extent desired by Rhodes Optical Company, Inc. for the purpose of maintaining sales. The nominee offers in substantiation of these assertions a letter dated April 25, 1975, to himself from Mr. Roger C. Landrum of Jackson, Mississippi:

Due to the rapid growth of the business and in order to assure its continued growth and expansion, it was decided that additional capital should be invested. You asked that I, as the company attorney, assume the responsibility for locating such capital. I contacted several different sources and finally made contact with Rhodes Optical Company of At-

lanta, Georgia, through a businessman who enjoyed a good reputation in the Georgia political and business communities. I undertook a very intensive investigation of Rhodes and its principals, including going to Georgia and Florida, checking with individuals there such as bank presidents, looking at other businesses in which Rhodes had invested and doing everything within my ability to assure myself that Rhodes would be a desirable type investor. My investigation led me to the definite conclusion that it would be and I so recommended to you.

Based on my recommendation, Columbus Canning entered into certain contractual relationships with Rhodes. While I do not remember the exact terms of the arrangements, I do recall that one Ray Goodman, a principal of Rhodes, assumed almost complete control of the affairs of Columbus Canning and that your services were retained only to the extent desired by Rhodes and Goodman. I recall being present in the offices of Columbus Canning on several occasions during the early stages of this relationship when Goodman would call past and prospective new suppliers of raw materials and assure them that Rhodes was to guarantee the accounts. Apparently these suppliers must have made credit checks and received the same type information that I did because they immediately started shipping materials in unlimited quantities.

It was expected that the infusion of additional capital by Rhodes Optical would permit the corporation to engage in added promotional activities and expand its sales. The anticipated expansion never materialized. During 1958 the corporation's assets were encumbered by a \$30,000 deed of trust in favor of Tintin Corporation, as well as by four chattel mortgages exceeding \$24,000. On January 27, 1959, the corporate assets were further encumbered by a deed of trust executed by Mr. Hooper as President in favor of Weisse and Geller et al. for \$40,000. This deed of trust was secured by all the real and personal assets of the canning company. The earlier deed of trust in favor of Tintin was subrogated to it.⁵⁵

By the summer of 1959 the corporation had virtually ceased operations and on August 15, 1959, Weisse and Geller foreclosed on its collateral. The corporate properties were sold for \$41,600.⁵⁶ Dun and Bradstreet in its supplemental report dated August 19, 1959, gives the following account of the termination of the Columbus Canning Company:

Current efforts to interview President, James F. Hooper, have been unsuccessful. Efforts to develop information relative to the remaining assets and liabilities of the company have not been fruitful. However, it is known that the mortgage which was foreclosed covered land, buildings, machinery, equipment, office furniture, fixtures, trucks and trailers of the company, and all were sold August 15th. It is unlikely that there are any assets left to speak of in the corporation. Liabilities have been estimated in some quarters to range between \$200,000 and \$500,000. Apparently, there have been no provisions made for these liabilities. [161.]

⁵⁵ Refer to Document No. 57 indicating filing in the Lowndes County Chancery Court of the following:

1. 7-18-58, \$30,000 deed of trust to Tintin, Inc., Book 278, page 250.
2. 1-17-59, \$40,000 deed of trust to Weisse and Geller, Book 286, page 59.
⁵⁶ Refer to Document No. 57 indicating foreclosure by deed of August 19, 1959, recorded at Book 291, page 101, in the Lowndes County Chancery Court.

In a suit subsequently brought by one of its creditors the unpaid corporate debt was stated to be in excess of a half million dollars. [10, pp. 23-26.]

Information is available relating to only two of the corporation's unpaid obligations as of the date of its dissolution. The first of these is a \$61,000 debt owed Premium Associates Inc. which was the subject of a lawsuit filed against Messrs. Hooper and Thomas in March of 1960. [42.] Premium Associates' alleged that a coupon collection and advertising contract signed by Mr. Hooper in August, 1957, three months before incorporation of Columbus Canning Company, was an obligation of the partnership. The jury returned a verdict in favor of Messrs. Hooper and Thomas, finding that the written contract executed by Mr. Hooper had been superseded by an oral agreement between the parties to the effect that the corporation rather than the partnership would receive the benefits and bear the liabilities under the contract. [44.]

According to Mr. Hooper, he and Mr. Thomas personally guaranteed certain debts owed to the American Can Company. They "agreed to pay American Can Company the amounts due on its account at the time of the sale of Columbus Canning Company to Rhodes Optical. The amount was approximately \$30,000 or \$15,000 for each of the partners." [166.] According to Mr. Hooper this was the only debt he inherited as a result of the demise of Columbus Canning Company, Inc.

Between the date of foreclosure in 1959 and the end of 1966 the Columbus Canning tract changed ownership five times. On December 9, 1966, it was acquired by Mr. Brooks.⁵⁷ It was subsequently transferred to Standard Union Life Insurance Company and, on August 20, 1969, Standard Union conveyed the property to Mr. Hooper.⁵⁸ The tract was subsequently sold to Weyerhaeuser Company as a part of the farm.

⁵⁷ See Document No. 57 listing filing in the Lowndes County Chancery Court of the following:

1. Deed to Radcliffe Investment Company dated November 29, 1966, and recorded at Book 380, page 288.

2. Deed from Radcliffe to Brooks dated December 9, 1966, and recorded at Book 380.

⁵⁸ Conveyance of the Columbus Canning tract to Standard Union Life Insurance Company and subsequently to Mr. Hooper is discussed at pages 25 through 27.

APPENDIX I

HOOPER DAIRY FARM ACCOUNTING ANALYSIS

I. Introduction.

From spring, 1967, until August 19, 1969, Mr. Hooper and Mr. Brooks retained the services of Touche, Ross & Company, Memphis, Tennessee, to maintain the books of the partnership and prepared all its tax documents.

T. E. Lott & Company of Columbus, Mississippi, was retained by Mr. Hooper to prepare the partnership's 1969 tax return. This accounting firm had represented Mr. Hooper for some time prior to 1969.

The following accounting analysis is based upon information received from these accounting firms and documents furnished by Mr. Hooper.

II. Background.

James F. Hooper and Everett H. Brooks formed a partnership, the Hooper Dairy Farm, commencing operations as of January 1, 1966. This partnership originated from discussions held and agreements reached by them in 1965. A formal partnership agreement was not drawn up. The following analysis of the financial relationship of Messrs. Hooper and Brooks in the operation of the Hooper Dairy Farm is based on various documents referenced in the attached Table of Documents. In this Appendix factual data is referenced to these documents in the same manner as in the Report.

For some years prior to the formation of the partnership Mr. Hooper had maintained a checking account, "J. F. Hooper—Farm Account" (Farm Account), in the First Columbus National Bank, Columbus, Mississippi. This same account was used by the partnership and by Mr. Hooper in the years subsequent to termination of the partnership.

On October 18, 1965, Mr. Brooks deposited \$15,000.00 in this account. On November 10, 1965, the proceeds of a \$50,000.00 loan obtained from the National Bank of Commerce, Memphis, Tennessee, were also deposited in this account. On this same date Mr. Hooper withdrew \$25,000.00. As of December 31, 1965, the outstanding checks drawn on the Farm Account exceeded the balance according to the bank statement by \$7,327.62. On January 3 and 7, 1966, Mr. Hooper made deposits totaling \$7,500.00 to cover the overdraft.

On June 14, 1966, a half interest in the Hooper Dairy Farm real property was conveyed by Mr. Hooper to Radcliffe Investment Company (Radcliffe) for \$100,000.00.¹ Mr. Hooper deposited Radcliffe's check for that amount in the Farm Account on June 16, 1966. On the same date a check was drawn on the Farm Account, payable to the National Bank of Commerce, Memphis, Tennessee, in the amount of

¹ Radcliffe was an intermediary under a real estate purchase arrangement devised by Mr. Brooks as a tax shelter. See Appendix II. Radcliffe subsequently conveyed the half interest in the farm property to Mr. Brooks.

\$90,676.67, repaying loans made November 9, 1965, and January 13 and 25, 1966, in the amounts of \$50,000.00, \$15,000.00 and \$25,000.00, respectively, plus interest of \$676.67.² The \$100,000.00 received from Radcliffe was credited to Mr. Hooper's capital account. In addition Mr. Brooks assumed half of the mortgage on the farm property owed to Prudential Insurance Company in the amount of \$150,000.00. Mr. Hooper's 1966 U.S. Individual Income Tax Return reported the selling price for the half interest in the farm property as \$175,000.00.

As of January 1, 1966, the partnership acquired assets totaling \$177,400.00 from Mr. Hooper³ and assumed his personal indebtedness of \$155,190.42, as follows:

First Columbus National Bank.....	\$30,000.00
U. M. & M. Credit Corp.....	52,862.80
Overdraft of checking account—First Columbus National Bank.....	7,327.62
National Bank of Commerce.....	50,000.00
E. H. Brooks—October 18, 1965.....	15,000.00
Total	155,190.42

Mr. Brooks' capital account was credited by Touche, Ross & Co. for his \$15,000.00 contribution of October 18, 1965. The item was treated also as a debt of Mr. Hooper because the money was used in the pre-partnership period.

In accounting for the operation of the dairy farm, the partners were to share equally the profit, loss and income from the sale of lots, timber and gravel (land income). The partners were to be individually charged with personal expenses paid out of partnership funds and were to be given credit for partnership expenditures made out of their personal funds. Payments on the Prudential Insurance Company mortgage were to be made by the partnership and charged equally to the partners.⁴ The partners agreed to put up \$50,000.00 each as capital and that contributions in excess of this amount would be credited to their loan accounts. In 1968, however, the loan accounts were closed into the capital accounts.

III. Inconsistencies Contained in Mr. Hooper's Petition and Accounting.

Mr. Hooper's "Petition and Accounting" filed in the Brooks Bankruptcy proceedings states:

The following constitute all payments to and withdrawals from the Hooper Farm Account by both James F. Hooper and Everette Hope Brooks, according to your petitioner's bank records, these deposits or payments constituting the only payments ever made by Brooks for his equity in certain cattle and dairy machinery and equipment. These withdrawals constitute the only payments which Hooper received for his cattle, machinery and equipment which the partnership agreed to purchase from him for \$175,000.00. [30.]

² The bank's records indicate that these loans were made as follows:

Date, amount, and obligor

November 9, 1965, \$50,000, Mr. and Mrs. James F. Hooper.
 January 13, 1966, \$15,000, James F. Hooper and Everett H. Brooks.
 January 25, 1966, \$25,000, James F. Hooper and Everett H. Brooks.

³ This amount consisted of cattle and machinery—\$175,000.00, and stock of Realclious Dairies, Inc.—\$2,400.00.

⁴ In 1966 and 1967 these payments were made by the partnership in accordance with the agreement. In 1968, however, the entire payment was made by Mr. Brooks. The 1969 principal payment was deferred; Mr. Brooks paid the interest for that year.

The following accounting furnished to the Bankruptcy court as a part of that document purports to be a chronological listing of all the deposits and withdrawals from the Farm Account made by Messrs. Hooper and Brooks from October 18, 1965, through December 31, 1969:⁵

Date	Farm account			
	Deposits (Brooks)	Withdrawals (Brooks)	Deposits (Hooper)	Withdrawals (Hooper)
Oct. 18, 1965	(b) \$15,000.00			
Nov. 10, 1965	(a, b) 50,000.00			
Do				(b) \$25,000.00
Jan. 3, 1966			\$5,000.00	
Jan. 7, 1966			2,500.00	
Jan. 11, 1966	(a) 15,000.00			
Jan. 24, 1966	(a) 25,000.00			
Mar. 10, 1966	10,000.00			
Apr. 22, 1966	25,000.00			
May 27, 1966	27,000.00			
June 10, 1966	(c) 100,000.00			
Do		(d) \$90,676.57		
J. F. H. total for 1966				22,011.03
1966 (land income)			(g) 10,024.94	
Nov. 1, 1967		6,250.00		
Nov. 21, 1967	3,000.00			
Nov. 23, 1967	2,500.00			
Dec. 15, 1967	4,500.00			
Dec. 22, 1967	1,500.00			
J. F. H. total for 1967				34,010.75
1967 (land income)			(g) 10,306.42	
Jan. 7, 1968	10,000.00			
March 1968		2,326.00		
June 21, 1968	5,000.00			
Aug. 26, 1968		2,000.00		
J. F. H. total for 1968				23,116.00
1968 (land income)			(g) 9,323.42	
Aug. 31, 1969		2,000.00		
(Crump) June 20, 1969	20,000.00			
(LRF) June 20, 1969		15,000.00		
(Crump) June 23, 1969	20,000.00			
Do			40,000.00	
(J. C. Bradford) June 24, 1969		(e) 33,350.00		
(Marietta) June 24, 1969	25,000.00			
(Brooks Co.) June 25, 1969		10,000.00		
(Crump) June 26, 1969	40,000.00			
(Marietta) June 30, 1969	25,000.00			
(Bank of Yazoo City) June 30, 1969			93,125.56	
(Standard Union) July 2, 1969				
(Crump) July 7, 1969	95,000.00			
(Marietta) July 14, 1969		50,000.00		
(Standard Union) July 31, 1969	(f) 50,000.00			
(LRF) Aug. 23, 1969	5,000.00			
(Brooks Colton Co.) Aug. 28, 1969		(h) 4,750.00		
(LRF) Sept. 10, 1969		(j) 232.50		
(E. H. B.) Oct. 15, 1969		(i) 1,050.00		
J. F. H. total for 1969		(e) 2,000.00		
				21,070.92
Total	573,500.00	352,760.73	37,154.78	125,208.70
	220,739.27			88,053.92

This accounting is inconsistent in many ways with the workpapers maintained by Touche, Ross & Co. and/or cancelled checks drawn on the Farm Account. [19; 81; 82; 83; 84.]⁶ The following discussion shows their nature and magnitude.⁷

⁵ In 1966 and 1967 these payments were made by the partnership in accordance with the agreement. In 1968, however, the entire payment was made by Mr. Brooks. The 1969 principal payment was deferred; Mr. Brooks paid the interest for that year.

⁶ Notations were made on the bank statements for the J. F. Hooper-Farm Account, 6-20-69 to 7-19-69 and 7-20-69 to 8-19-69, as to the payee of most of the larger checks and the source of all the deposits during this two month period. These notations were made by Mr. Hooper.

⁷ The letter keys are references to items in the foregoing table.

(a) The deposits (Brooks) on 11-10-65, 1-11-66 and 1-24-66 of \$50,000.00, \$15,000.00 and \$25,000.00, respectively, represent the proceeds of the loans obtained from the National Bank of Commerce in Memphis by Mr. Hooper and Mr. Brooks and thus should not be shown as capital contributions of Mr. Brooks.

(b) The National Bank of Commerce loan of 11-10-65 and the capital contribution of Mr. Brooks of 10-18-65 totaling \$65,000.00, were used by Mr. Hooper in financing the 1965 prepartnership farm operations and thus were included by Touche, Ross & Co. in the personal indebtedness of Mr. Hooper assumed by the Partnership. Since the withdrawal (Hooper) of 11-10-65 of \$25,000.00 was made out of funds thus charged, it is excluded by Touche, Ross & Co. from the withdrawals charged to Mr. Hooper's capital account.

(c) The 6-10-66 deposit (Brooks) of \$100,000.00 represents the proceeds of the sale of the half interest in the 1550 acre farm to Radcliffe, Touche, Ross & Co. shows this as a credit (cash contribution) to Mr. Hooper's account.

(d) The 6-10-66 withdrawal (Brooks) of \$90,676.67 is shown by Touche, Ross & Co. to be the repayment of loans mentioned in "a" above. The interest, \$676.67, was charged to Mr. Hooper's capital account.

(e) The withdrawals (Brooks) of 6-24-69, \$33,350.00, and of 10-15-69, \$2,000.00, are corrected by reference to canceled checks to 6-24-69, \$32,350.00, and 10-22-69, \$200.00.

(f) The deposits (Brooks) of 7-14-69, \$50,000.00, indicated as received from "Marietta" should have been attributed to "Standard Union Life Insurance Company", according to Touche, Ross & Co.

(g) The deposits (Hooper) for "land income" for 1966, \$10,024.94; 1967, \$10,306.42; and 1968, \$9,323.42, were credited on a 50-50 basis to the partners' accounts by Touche, Ross & Co. and Mr. Hooper's personal income tax returns prepared by T. E. Lott & Co.

(h) Withdrawal (Brooks) of 8-23-69, \$4,750.00, indicated as a payment to Little River Farms was a payment to the order of "N.Y. exchange to Murry Director." We have not been able to identify the purpose of this bank draft. It was not signed by either Mr. Hooper or Mr. Brooks. This transaction was subsequent to the date that Touche, Ross & Co. received the last document for posting to the Hooper Dairy Farm books.

(i) Withdrawal (Brooks) of 9-10-69, \$1,050.00. We cannot identify this item to the cancelled checks of the J. F. Hooper—Farm Account.

(j) Withdrawal (Brooks) of 8-28-69, \$232.50, was a check signed by Mr. Brooks payable to "Brooks Cotton Company" which was noted "Replacement of check No. 6192—Brooks Cotton Co. transfer of funds." This item appears to be the regular interest payment on a \$30,000.00 loan from Murdock Acceptance Corporation. Touche, Ross & Co. has consistently treated interest on this loan as a partnership expense, chargeable to the farm operation. The loan was included by Mr. Brooks in the bankruptcy proceedings as a personal liability.*

The workpapers of Touche, Ross & Co. disclose that Mr. Hooper's accounts were credited, as of January 1, 1966, with the \$175,000.00 sales price for the cattle, dairy machinery and equipment. At this date, however, he also had personal indebtedness amounting to \$155,190.42, as discussed above, which was assumed and paid by the partnership and charged by Touche, Ross & Co. to Mr. Hooper's capital account on the books of the Hooper Dairy Farm partnership. Thus, the Petition and Accounting should have shown Mr. Hooper's equity in the partnership assets as \$19,809.58 rather than \$175,000.00.

In contrast with Mr. Hooper's Petition and Accounting, Touche, Ross & Co. in recording the transactions which affected Mr. Hooper's accounts credited cash contributions, his share of land income, expenditures made on behalf of the partnership out of personal funds, as well as the assets that were contributed, and charged his accounts with cash

* See discussion of the Marietta loan transaction contained at pages 31 through 33.

* Mr. Brooks advised the Staff that the \$30,000.00 was borrowed from Murdock Acceptance Corporation to purchase cattle for the partnership. The loan was not secured and was settled as a liability of Mr. Brooks' bankrupt estate. [12, pp. 84-85.]

withdrawals, personal expenses paid out of the Farm Account, half of the partnership losses sustained, half of the payments to the Prudential Insurance Company on the Farm mortgage, and Mr. Hooper's personal indebtedness assumed by the partnership.

A Partnership Return of Income for 1970 was not filed for the Hooper Dairy Farm. The Petition and Accounting contained data pertaining to the 1970 farm operation, including a \$15,000.00 loan from Mrs. Hooper, 1970 land rent of \$13,500.00, and 1970 salary for Mr. Hooper of \$12,000.00, because at the time of its preparation no final decision had been made as to the date of the termination of the partnership. The inclusion of such data is inconsistent with the fact that the partnership was eventually terminated as of December 31, 1969.

The Petition and Accounting included the following balance sheet of the partnership prepared as of some date in 1970:

Balance sheet

Assets:	
Cattle and present appraised value.....	\$76,725.00
Machinery and equipment as per appraisal.....	34,000.00
Accounts receivable.....	3,500.00
Cash.....	2,211.07
 Total assets.....	 <u>115,436.07</u>
Liabilities:	
Accounts payable to 3rd parties.....	34,000.00
Notes payable to First Columbus National Bank.....	140,000.00
Accrued interest to bank.....	12,664.00
Owed to Hooper for excess contributions or capital account.....	177,846.08
Owed to Brooks for excess contributions or capital account.....	287,070.33
 Total liabilities.....	 <u>651,580.41</u>

¹ This is an incorrect addition. The correct sum of the figures shown is \$116,436.07.

This balance sheet shows a liability owed to Mr. Hooper of \$177,846.08 for "excess contributions or capital account." This, however, includes the 1970 transactions amounting to a total of \$40,500.00, which are not properly attributable to the partnership. After deducting this amount, the partnership liability to Mr. Hooper should be shown as \$137,346.08.

Touche, Ross & Co. shows Mr. Hooper's capital account with a deficit balance of \$52,118.38 as of December 31, 1968. This deficit would be increased to \$94,397 after posting all transactions affecting Mr. Hooper's account for 1969.

The balance sheet in the Petition and Accounting shows \$287,070.33 owed to Mr. Brooks for "excess contributions or capital account." According to Touche, Ross & Co., Mr. Brooks' capital account balance as of December 31, 1968, was \$115,004.45. After the posting of 1969 transactions affecting Mr. Brooks' account his balance would be adjusted to \$95,758.00. The accounting for 1969 transactions is discussed at pages 55 through 56 of this Appendix. The capital balances computed by Touche, Ross & Co. are reflected in the 1968 partnership tax returns prepared by that firm, copies of which were provided to Mr. Hooper and to T. E. Lott.

IV. Preparation of the 1969 U.S. Partnership Return of Income for the Hooper Dairy Farm.

The 1969 Partnership Return of Income for the Hooper Dairy Farm, prepared by T. E. Lott, was filed on September 14, 1970. Schedule L (Balance Sheets) and Schedule M (Reconciliation of Partner's Capital Accounts) were left blank on this return. On September 25, 1975, Mr. Eugene T. Beard, Jr., Senior Partner, T. E. Lott & Company, in an interview indicated that:

(a) T. E. Lott had prepared the 1969 partnership return from incomplete information received from Mr. Hooper and from T. R. & Co. [14, p. 1.]

(b) The 1969 partnership return is correct except that there was no information regarding balance sheet items. [14, p. 1.]

(c) T. E. Lott had moved their office in about November, 1974, and had destroyed all working papers on individual tax returns that were over 6 years old. [14, p. 1.]

(d) The working papers for the 1969 partnership return were also destroyed. [14, p. 1.]

(e) T. E. Lott was never furnished any bank statements. The cash transactions of the partnership were reconstructed from a book maintained by Mr. Hooper which supposedly contained all of the deposits and checks of the J. F. Hooper—Farm Account which related to the partnership operation. [14, pp. 2, 12-15.]

(f) T. E. Lott received a 1968 partnership return from Touche Ross & Co. [14, p. 3.]³⁹

(g) T. E. Lott had no information regarding assets other than physical assets. [14, p. 4.]³⁹

(h) He didn't know anything about the \$153,500.00 received from Standard Union Life Insurance Company in 1969. [14, p. 5.]

(i) He was not aware of the \$15,000.00 due from Little River Farms. [14, p. 6.]

(j) He was not advised of a \$10,000.00 indebtedness due from Dabney Crump. [14, p. 6.]

(k) He was not aware of the \$50,000.00 liability attributable to funds received from the Bank of Marietta. [14, p. 6.]

(l) Information for the 1969 tax return was furnished to him only by Mr. Hooper. He believed this information consisted of data from Touche, Ross & Co. through August, 1969, and data compiled by Mr. Hooper after that date. [14, pp. 6-7.]

(m) In years prior to 1969 he had talked to Mr. Stark of Touche, Ross & Co. regarding the partnership accounts. As time went on their communications became less frequent and thus he knew nothing of the transactions referenced in h, i, j and k above. [14, p. 7.]

(n) He did not recall making an effort to obtain the bank statements from the First Columbus National Bank (J. F. Hooper—Farm Account). [14, p. 7.]

(o) "Something happened up in Memphis with Touche, Ross in August . . . no records were available to Mr. Hooper after August." [14, p. 7.]

Many of the foregoing statements are contradicted by items of correspondence set forth in the following Exhibit:

EXHIBIT I

CORRESPONDENCE INVOLVING T. E. LOTT & COMPANY PARTNERSHIP
ACCOUNTING, 1969-71

October 1, 1969, from Ms. Martha Coleman, Touche, Ross & Co., to Mr. James F. Hooper:

Enclosed are the analysis of your drawing account for the years 1966 through 1968 and a list of checks drawn from 1969 through July 31. Sorry it took so long. If you need any other information, please advise. [102.]

³⁹ These two statements are inconsistent because the 1968 partnership tax return prepared by Touche, Ross & Co. included a balance sheet which showed the balances of the partnership assets, liabilities, and the partners' capital accounts as of December 31, 1968.

November 26, 1969, from Mr. Hunter M. Gholson, to Mr. Eugene T. Beard, T. E. Lott:

This will follow up our conference of November 18, 1969, regarding the Union National Bank of Little Rock, Arkansas, claim to the Hooper land.

It was my understanding that you would discuss various items in the tax returns which we studied with the partner in the Touche Ross firm who prepared these returns. After this we need to get together with Jim Hooper and go over the entire matter so that we can prepare to defend such claim as they may press.

I will be glad to get together with you and Jim at a time of mutual convenience. [104.]

December 18, 1969, from Mr. Eugene T. Beard, T. E. Lott, to Mr. D. F. Stark, Touche, Ross & Co.:

This is a follow up of our conversation on Tuesday. I have been out of the office and have not been able to forward you the enclosed material.

It appears from our records and from the statements of Mr. Hooper that the farm equipment covered under the U.M.&M. lease was not covered in the sale of the \$41,600 of farm machinery by Hooper to the partnership.

It would therefore seem that the \$52,862.80 due U.M.&M. at the time of the formation of the dairy should have been charged to Machinery and Equipment rather than to Mr. Hooper.

We will be glad to answer any further questions that you have on this matter.

Mr. Hooper also requested that we ask you for a copy of Mr. Brook's personal account on the partnership records from inception to the present.

As you know, Mr. Hooper is quite concerned about the condition of Mr. Brook's personal affairs on the partnership and we are trying to clarify the situation as much as possible.

We will appreciate your cooperation in this matter. [105.]

January 24, 1970, from Mr. D. F. Stark, Touche, Ross & Co., to Mr. Eugene T. Beard, T. E. Lott:

In accordance with your request, we are enclosing an analysis of Mr. E. H. Brooks' capital account on the books of Hooper Dairy Farm from January 1, 1966, to December 31, 1968, and also a list of 1969 transactions affecting that account.

We have reviewed our files with respect to the accounting for the \$52,862.50 U.M.&M. Credit Corporation obligation and we believe the accounting was proper.

Our understanding of the business relationship of Mr. Brooks and Mr. Hooper was that they entered into a partnership on January 1, 1966, to operate a dairy farm on jointly owned land. The farm had been operated previously by Mr. Hooper as a sole proprietorship. On January 1, 1966, Mr. Hooper sold all the cattle and machinery used in the dairy business to the partnership and assumed certain indebtedness of Mr. Hooper which had been incurred in connection with the dairy business, including the obligation to U.M.&M. Credit Corporation in the amount of \$52,862.50.

After January 1, 1966, all payments on the indebtedness of Mr. Hooper assumed by the partnership were paid out of partnership funds.

On May 2, 1967, we met with Mr. Hooper and Mr. Brooks concerning the operation of their dairy farm. At the meeting Mr. Hooper furnished a balance sheet of the dairy farm dated October 18, 1965, which listed an item for machinery and cattle at \$175,000 and the U.M.&M. obligation at \$60,000. Mr. Hooper explained that he had previously sold his equipment and leased it back, that this transaction had been treated merely as a financing arrangement on his records and that the equipment was that shown in the balance sheet. A list of the equipment was attached to the balance sheet.

We were furnished a copy of a letter from Mr. Hunter M. Gholson to you dated January 27, 1964, in which Mr. Gholson explained the financing arrangement and made reference to a "Schedule A" attached. The attached schedule contains a list of equipment involved which is the same as that contained in the list attached to the October 18, 1965 balance sheet. Following the list of equipment on the "Schedule A" there is language to the effect that it described all the items located upon the dairy farm owned by Mr. Hooper.

On May 25, 1967, we met again with Mr. Brooks and Mr. Hooper relative to accounting for their business relationship. During the meeting we discussed with you by telephone Mr. Hooper's sale of cattle and machinery to the partnership and on the following day we wrote you enclosing a copy of a schedule showing the computations of Mr. Hooper's gain from the transaction. The total basis for computing the gain was taken from the depreciation schedule on Mr. Hooper's 1965 income tax return. A copy of our letter was sent to both partners.

Again, on June 7, 1967, we wrote you with a copy to the partners enclosing a copy of the 1966 partnership return and advised that in preparing the return we had allocated the purchase price of \$175,000 for the property acquired by the partnership from Mr. Hooper as follows:

Cattle -----	\$123,400
Machinery -----	51,600
Total -----	175,000

Also enclosed was a copy of a schedule dated June 1, 1967, showing an analysis of Mr. Hooper's account wherein he had been credited with the \$175,000 sales price for cattle and machinery and charged with various items of his business indebtedness assumed by the partnership including his obligation to the U.M.&M. Credit Corporation. After a subsequent telephone conversation with you, the allocation of the purchase price was changed to decrease the amount allocated to machinery to \$41,600 with the balance allocated to cattle.

To summarize the situation, the accounting treatment on the books of Hooper Dairy Farm reflects the payable to U.M.&M. Credit Corporation because we were informed that the sale-leaseback had been treated by Mr. Hooper as a financing arrangement rather than a sale and that the equipment covered by the "lease" was included in the assets sold to the partnership.

We are sending copies of this letter to all interested parties to inform them of the question involved, together with a copy of your letter. [107.]

August 4, 1970, from Mr. Roy W. Hendrix, Jr., Trustee in the Brooks Bankruptcy proceedings, to Mr. John Paul Jones, attorney for the Trustee:

I need to get an up-to-date report from you on the status of the Hooper Dairy and the Little River Farms matters, particularly as to Hooper Dairy. Hunter Gholson has filed a Petition seeking the abandonment of the Hooper Dairy assets to Mr. Hooper. I have met with Roy Thurmond of Touche Ross and he states that there are many matters involving Jim Hooper which need to be resolved.

It appears that he got away with some \$115,000.00 in assets and hasn't furnished information requested by the accountants. There are just many unanswered questions, many of which I am sure he can adequately answer. Nevertheless, we must get the proper answers because just too much money ran through this account and there were too many complicated transactions for me to ignore them.

I would therefore like to get completely up-to-date on this matter well before your official report to the Court. [120.]

August 5, 1970, from T. E. Lott & Co. to Mr. Hunter M. Gholson:

At your request we have prepared a Statement of Assets and Liabilities and an Income and Expense Statement for Hooper Dairy Farm as of December 23, 1969.

The statements were prepared from information and records furnished to us by Mr. James F. Hooper and by the First Columbus National Bank.

The estimate of the value of machinery, equipment, and cattle was made by Mr. Hooper.

We made no independent confirmations or details audit of the records of the Hooper Dairy Farm other than verification of the bank loan and accrued interest.

Due to the absence of usually accepted auditing procedures on the part of this office, we cannot express an opinion regarding the correctness of the attached statements. [121.]¹¹

August 6, 1970, from Mr. Hunter M. Gholson to Mr. Roy W. Hendrix, Jr., Trustee:

I have received a statement of assets and liabilities and an operating statement for 1969 for Hooper Dairy Farm furnished to me by Mr. Eugene T. Beard, a certified public accountant of T. E. Lott & Company.

Two copies of these statements are enclosed. If you wish Mr. Lott's office to prepare the income tax return for 1969, I presume that they could do so from these statements, or I presume that the statement could be used for preparation of the return by Touche Ross & Co.

I trust that it will serve the further purpose of indication to you and your investigating assistants the lack of equity on the part of the bankrupt estate in any assets of this dairy farm. I know that the note to First Columbus National Bank is delinquent, and I do not know how any arrangements can be made to pay it off until the matter of the bankrupt estate's interest in this dairy farm can be settled. I realize that this is just a small part of a very large and complicated myriad of problems which you have. Realizing that, we waited since January hoping that the matter would be resolved in the due course of the bankruptcy proceedings and without the bank note coming to foreclosure. However, this has now become a matter of some urgency, and we trust that it can be resolved without much more delay.

I will be glad to cooperate with you in any way in further proceedings in this matter. [122.]

December 29, 1970, from Mr. Hunter M. Gholson to Mr. Eugene T. Beard, T. E. Lott:

Enclosed please find a copy of a letter I have received from Mr. John Paul Jones relative to a partnership accounting, a copy of my answer and a copy of a preliminary accounting which I have prepared based on the records brought to me by Jim Hooper about a week ago. It is my understanding from Jim that since we prepared this preliminary draft of an accounting, he has compiled additional figures which he has gone over with you and which will change the figures, but not the basic thrust and position of this accounting.

I would appreciate your examining these documents and an opportunity to get with you and perhaps with Jim in the next several days so that we may make such changes as you think appropriate. I hope that we can prepare a document that will present this matter in the light most favorable to Jim and which will also be sufficient to withstand scrutiny and cross-examination based on the obviously differing accounting which will be presented by Touche, Ross & Company, [130.]

March 2, 1971, from Mr. Hunter M. Gholson to Mr. Eugene T. Beard, T. E. Lott:

On February 18, 1971, Jim Hooper and I met with Mr. John Paul Jones representing the trustee in bankruptcy of Everette H. Brooks. Mr. Hooper was deposed and Mr. Jones seemed basically satisfied with his answers regarding the dairy partnership. He would like copies of the 1969 State and Federal income tax returns for the Hoopers and a 1970 financial statement on the operation of the dairy. I don't know what you and Jim had planned to do regarding the 1970 tax return, but it was Mr. Jones' opinion that we should proceed to file a tax return and consider it

¹¹ Although T. E. Lott & Co. stated that they could not express an opinion as to the accuracy of the December 23, 1969, financial statement, they did *not* disclose that they had the information, including the 1968 Partnership Tax Return, which would indicate that the accuracy of this financial statement was highly questionable.

a partnership in the process of liquidation. If you could furnish us copies of the income tax returns requested and prepare anything for 1970 which might satisfy the trustee, we would appreciate it. Jim or I or both will be glad to set with you at your convenience about this. [131.]

March 3, 1971, from Mr. Eugene T. Beard, T. E. Lott, to Mr. Hunter M. Gholson:

Please find enclosed copies of the income tax returns for 1969 for J. F. and Virginia Hooper and for the Hooper Dairy Farms.

With reference to the preparation of the income tax returns for 1970, Jim usually furnishes us with a worksheet which he prepares from his bank statements and we can prepare a return for the Hooper Dairy Farm after we receive this information. [132.]

V. Tabulation of Closing Capital Balances.

The balance of the Hooper Dairy Farm Partnership as of December 31, 1969, cannot be established with precision. As the tabulation below will indicate, however, it appears that as of this date Mr. Hooper had a deficit balance of at least \$94,397.00, while Mr. Brooks had a balance of about \$95,758. This tabulation is based on copies of workpapers and files obtained from Touche, Ross & Co., from the 1969 checks and the 1969 partnership tax return prepared by T. E. Lott and from Mr. Hooper's Petition and Accounting.

Analyses of the partnership capital accounts derived from Touche, Ross & Co. workpapers and tabulated from the U.S. Partnership Returns of Income for the years 1966 through 1968 are in balance as of December 31, 1968. These analyses of the partners' capital accounts are as follows:¹²

HOOPER DAIRY FARM—ANALYSIS OF PARTNERS CAPITAL ACCOUNTS FOR THE YEARS 1966 THROUGH 1969
(FROM U.S. PARTNERSHIP RETURN OF INCOME)

	Total	Hooper	Brooks
1966 (from U.S. partnership return of income):			
Capital contributed during year.....	\$100,000	\$50,000	\$50,000
Loss.....	(32,738)	(16,369)	(16,369)
Capital account at end of year.....	67,262	33,631	33,631
1967 (from U.S. partnership return of income):			
Capital contributed during year.....	99,910	0	99,910
Loss.....	(99,800)	(49,900)	(49,900)
Withdrawals and distributions.....	(15,515)	(8,938)	(6,577)
Capital account at end of year.....	51,857	(25,207)	77,064
1968 (from U.S. partnership return of income):			
Capital contributed during year.....	106,632	20,890	85,742
Loss.....	(95,604)	(47,802)	(47,802)
Capital accounts at end of year.....	62,885	(52,119)	115,004

Hooper Dairy Farm—Analysis of James F. Hooper capital account for the 3-year period January 1, 1966, through December 31, 1968¹

Jan. 1, 1966:

Purchase of properties:	
Cattle and machinery.....	\$175,000.00
Stock of Realicious Dairies.....	2,400.00
Subtotal.....	177,400.00

¹ From Touche, Ross & Co. work papers.

¹² A recapitulation of the partners' capital accounts for the entire four year term of the partnership is attached as Exhibit II to this Appendix.

Hooper Dairy Farm—Analysis of James F. Hooper capital account for the 3-year period January 1, 1966, through December 31, 1968—Continued

Jan. 1, 1966—Continued

Purchase of properties—Continued

Less indebtedness assumed:

First Columbus National Bank.....	\$30,000.00
U.M. & M. Credit Corp.....	52,862.80
Overdraft of checking account—First Columbus National Bank.....	7,327.62
E. H. Brooks—Oct. 18, 1965.....	15,000.00
National Bank of Commerce—Nov. 10, 1965.....	50,000.00

Subtotal 155,190.42

Total (purchase of properties) 22,209.58

Cash received:

Jan. 3, 1966, J. F. Hooper.....	5,000.00
Jan. 8, 1966, J. F. Hooper.....	2,500.00
June 16, 1966, Radcliffe.....	100,000.00
Dec. 22, 1966 (error-adjustment included in 1967 drawings).....	2,000.00

Total (cash received) 109,500.00

Partnership expenses paid by Mr. Hooper..... 1,130.87

Land income—one-half..... 5,012.47

Subtotal 137,852.92

Less:

Drawings—1966.....	22,011.03
Loss—1966—one-half.....	16,368.98

Subtotal -38,380.01

Balance Dec. 31, 1966..... 99,472.91

Jan. 1, 1967:

Balance 99,472.91

Land income—one-half..... 5,153.21

Subtotal 104,626.12

Less:

Drawings—1967.....	34,010.75
Prudential loan payment—one-half.....	6,576.87
Loss—1967—one-half.....	49,899.86

Total -90,487.48

Balance Dec. 31, 1967..... 14,138.64

Jan. 1, 1968:

Balance 14,138.64

Land income—one-half..... 4,661.71

Subtotal 18,800.35

Less:

Drawings—1968.....	23,116.60
Loss—1968—one-half.....	47,802.13

Total -70,918.73

Balance Dec. 31, 1968—deficit..... -52,118.38

Hooper Dairy Farm—Analysis of Everett H. Brooks capital account for the 3-year period January 1, 1966, through December 31, 1968¹

Jan. 1, 1966:	
Advance to James F. Hooper, Oct. 18, 1965.....	\$15,000.00
Cash received:	
March 10, 1966.....	10,000.00
April 22, 1966.....	25,000.00
May 27, 1966.....	27,000.00
Subtotal	62,000.00
Stock of Agricultural, Industrial Development Co.....	5,000.00
Land income—1966—one-half.....	5,012.47
	87,012.47
Less loss—1966—one-half.....	-16,368.98
Balance Dec. 31, 1966.....	70,643.49
Jan. 1, 1967:	
Balance	70,643.49
Cash received.....	43,810.00
Cattle purchased.....	56,100.00
Land income—1967—one-half.....	5,153.21
Partnership expenses paid by Mr. Brooks.....	6,466.40
Subtotal	182,173.10
Less:	
Prudential loan payment—one-half.....	6,576.87
Loss—1967—one-half.....	49,899.86
Total	-56,476.73
Balance Dec. 31, 1967.....	125,696.37
Jan. 1, 1968:	
Balance	125,696.37
Cash received.....	30,587.95
Land income—1968—one-half.....	4,661.71
Prudential loan payment (paid by Mr. Brooks).....	15,145.00
Skylark Buick automobile purchased for partnership.....	3,255.47
Partnership expenses paid by Mr. Brooks.....	3,374.02
Subtotal	182,720.52
Less:	
Drawings	4,913.95
National Bank of Commerce loan (Mr. Brooks received proceeds).....	15,000.00
Loss—1968—one-half.....	47,802.12
Total	67,716.07
Balance Dec. 31, 1968.....	115,004.45

¹ From Touche, Ross & Co. work papers.

The following table shows adjustments to the partners' capital accounts necessary to reflect 1969 transactions. It is keyed to explanatory comments which follow:

	Comment	Mr. Brooks	Mr. Hooper
Balance Jan. 1, 1969.....		\$115,004	(\$52,119)
1969 Loss—Shared.....	(a)	(59,509)	(59,509)
1969 Partners salary.....	(b)		18,500
1969 Sale of cattle—Shared.....	(c)	17,980	17,980
1966-68 salary adjustment.....	(b)	(14,750)	14,750
1969 Land income—Shared.....	(d)	2,455	2,455
1969 Partnership expenses paid out of personal funds.....	(e)	1,095	
1969 Skylark Buick repossessed.....	(f)	(1,628)	
1968 Prudential loan payment—Shared.....	(g)	(7,573)	(7,573)
1969 Prudential loan payment (interest only) paid by Mr. Brooks.....	(g)	8,220	
1969 Prudential loan payment—Shared.....	(g)	(4,110)	(4,110)
1969 Agricultural Industrial Development Co.—Stock.....	(h)	(2,500)	(2,500)
1969 Realicious Dairies, Inc.—Stock.....	(h)	(1,200)	(1,200)
1969 Partners drawings.....			(21,071)
Subtotal.....		53,484	(94,397)
Deposits—Standard Union Life Insurance Co.:			
Apr. 11, 1969.....	(j)	3,500	
July 2, 1969.....	(i)	95,000	
July 17, 1969.....	(i)	50,000	
July 31, 1969.....	(i)	5,000	
Deposits—Dabney Crump:			
June 20, 1969.....	(j)	20,000	
June 23, 1969.....	(j)	20,000	
June 26, 1969.....	(j)	40,000	
Payments—Dabney Crump:			
June 23, 1969.....	(j)	(40,000)	
July 7, 1969.....	(j)	(50,000)	
Deposits—First National Bank of Marietta, Ga.:			
June 24, 1969.....	(k)	25,000	
June 30, 1969.....	(k)	25,000	
Deposit—Loan—Creditor unknown: Jan. 3, 1969.....	(l)	6,200	
Payments:			
E. H. Brooks—May 23, 1969.....	(m)	(2,000)	
J. C. Bradford & Co.—June 24, 1969.....	(m)	(32,350)	
The Brooks Co.—June 25, 1969.....	(m)	(10,000)	
The Bank of Yazoo City—June 30, 1969.....	(m)	(93,125)	
Consolidated Business Services—Oct. 22, 1969.....	(n)	(200)	
Little River Farms—June 20, 1969.....	(o)	(15,000)	
NY exchange to Murray Director.....	(p)	(4,750)	
Balance Dec. 31, 1969.....		95,758	(94,397)

COMMENT

(a) The 1969 Partnership operating loss is taken from the 1969 U.S. Partnership Return of Income prepared by T. E. Lott. Since the workpapers of T. E. Lott were destroyed there are no adjusting journal entries and this figure cannot be verified.¹³

(b) On the 1969 partnership return \$18,500.00 was recorded as salary of Mr. Hooper. Mr. Hooper claims a salary for the 4 years in which the partnership existed of \$12,000.00 per year, or \$48,000.00. He was given credit for salary in the amount of \$18,500.00 on the 1969 partnership tax return leaving a balance due him for salary of \$29,500.00. Since this \$29,500.00 would increase the partnership loss by the same amount and half of the loss would be charged to his capital account, the net adjustment is a credit to Mr. Hooper of \$14,750.00 and a charge to Mr. Brooks of a like amount.

(c) The 1969 partnership return showed this sale of cattle for \$35,960.00 as "old-cull milk cows raised," and no depreciation was taken for this asset. The full sales price is shown on the return as a "Gain on Sale of Exchange of Property under section 1231." Touche, Ross & Co. treated this same transaction as a reduction of the asset account for cattle at salvage value, and thus did not recognize any gain.

¹³ According to the U.S. Partnership returns, the partnership suffered cumulative losses for the years 1966 through 1969 in the amount of \$292,700.00 of which Mr. Brooks' share was \$155,600.00 and Mr. Hooper's share was \$137,100.00. Mr. Hooper's share of the partnership operating losses after adjustment for salary is \$122,350.00. Mr. Brooks' share of the partnership operating losses after the salary adjustment is increased to \$170,350.00.

(d) Land income of \$4,910.00 is shown on Mr. Hooper's 1969 Individual Return. However, to give consistent treatment this item should be allocated on a 50-50 basis to the partners. Touche, Ross & Co. showed \$3,695.00 as land income for 1968 through 8-19-69.

(e) The \$1,095.00 for Mr. Brooks' expenses on behalf of the partnership was taken from the Touche, Ross & Co. workpapers. This figure may be incomplete.

(f) This item for a Buick automobile apparently purchased for Mr. Hooper's use was taken from Touche, Ross & Co. workpapers.

(g) Prudential mortgage payments were chargeable to the partners on a 50-50 basis. This entry adjusts the 1968 payment which was made by Mr. Brooks individually. Mr. Brooks is also given credit by Touche, Ross & Co. for the 1969 interest payment on the Prudential mortgage which he made individually and both partners are charged with half.

(h) These stocks, according to Touche, Ross & Co. files, were worthless. T. E. Lott did not include them as assets in the December 23, 1969, balance sheet.

(i) Touche, Ross & Co. showed the \$153,500.00 amount due Standard Union Life Insurance Company as a liability rather than as a contribution to capital. The items below the sub-total amount to a net increase in liabilities and/or capital of \$44,074.00.¹⁴ The partnership must account for the liabilities, whether due Mr. Brooks or to others.

(j) These five transactions resulted in a net payment by the partnership of \$10,000.00 to Mr. Crump. Touche, Ross & Co. showed this as a receivable from Mr. Crump rather than as a charge to Mr. Brooks' capital account. These transactions are unexplained and the final accounting for the \$10,000.00 receivable is not known.

(k) Touche, Ross & Co. showed this \$50,000.00 as a "note payable" to the First National Bank of Marietta, Georgia, with a notation saying, "However, a confirmation was received from the bank as of 7-31-69 in the name of Everette H. Brooks or J. F. Hooper which showed their liability as 'none.'"¹⁵

(l) Touche, Ross & Co., as of August 19, 1969, did not have information as to the disposition of this \$6,200.00 loan or the identity of the creditor.

(m) Both Touche, Ross & Co. and Mr. Hooper in his Petition and Accounting charged these four items to Mr. Brooks' capital account.

(n) This \$200.00 paid to Consolidated Business Services, a company owned by Mr. Brooks, was subsequent to the date that Touche, Ross & Co. last received data to post to the books of the Hooper Dairy Farm partnership.

(o) Touche, Ross & Co. records the \$15,000.00 payment to Little River Farms, Inc. as an account receivable. However, they wrote this off, charging "loss on investment" account, with the journal entry explanation "to write off payments made to Little River Farms, Company is bankrupt." The above tabulation by Staff shows this item as a charge against Mr. Brooks' capital account in accordance with Mr. Hooper's Petition and Accounting. However, Touche, Ross & Co. charged the item equally to both partners.

(p) In his Petition and Accounting, Mr. Hooper indicated that this \$4,750.00 payment to Murray Director, a New York investment concern with whom Mr. Hooper had dealings, was as a disbursement to Little River Farms chargeable to Mr. Brooks' capital account. The Staff has no information as to the purpose of this payment or what connection it has to the operations of Little River Farms, Inc.

¹⁴ Because we have not received back-up information regarding many of the items below the sub-total amount, we cannot attribute them conclusively to Mr. Brooks' capital or separate loan or receivable accounts. They would in any event represent items which would have to be accounted for by the partnership and the net amount would represent a liability of the partnership.

¹⁵ The loan was repaid out of the proceeds of the sale of collateral furnished by third parties under an arrangement with Mr. Brooks.

EXHIBIT II

Recapitulation: James F. Hooper—capital account—Hooper Dairy Farm partnership 1966 through 1969

Credits:

Sales price of cattle and machinery.....	\$175,000
Stock—Realicious Dairies, Inc.....	2,400
Cash—includes \$100,000 check from Radcliffe Investment Co. for one-half interest in 1,550-acre farm.....	107,500
Land income—one-half.....	17,282
Salary—at \$12,000 per year.....	48,000
Sale of cattle—one-half.....	17,980
Partnership expenses paid out of Mr. Hooper's personal funds.....	1,130
Total credits.....	<u>369,292</u>

Charges:

Mr. Hooper's personal indebtedness assumed by the partnership...	155,190
Loss—one-half.....	173,579
Loss—one-half—increase due to that part of Mr. Hooper's salary which was not reported on tax returns—\$29,500 (\$48,000—18,500).....	14,750
Drawings—excluding \$2,000 for 1967 adjustment.....	98,210
Prudential loan payments—one-half.....	18,260
Write off of investments—one-half.....	3,700
Total charges.....	<u>463,689</u>
Deficit balance—Dec. 31, 1969.....	94,397

Recapitulation: Everett H. Brooks—capital account—Hooper Dairy Farm partnership 1966 through 1969

Credits:

Stock—Agricultural Industrial Development Co.....	\$5,000
Cash.....	441,098
Land income—one-half.....	17,282
Partnership expenditures made out of Mr. Brooks' personal funds:	
Purchase of cattle.....	56,100
Expenses.....	10,935
Purchase of automobile.....	3,255
Prudential loan payments.....	23,365
Sale of cattle—one-half.....	17,980
Total credits.....	<u>575,015</u>

Charges:

Loss—one-half.....	173,579
Loss—one-half—increase due to that part of Mr. Hooper's salary which was not reported on tax returns—\$29,500 (\$48,000—18,500).....	14,750
Drawings.....	267,340
Prudential loan payments—one-half.....	18,260
Writeoff of investments.....	3,700
Automobile repossessed (book value).....	1,628
Total charges.....	<u>479,257</u>
Balance—Dec. 31, 1969.....	95,758

APPENDIX II

GENERAL BACKGROUND OF EVERETT HOPE BROOKS

The business career of Everett Hope Brooks began in the mid-1950's when he formed a partnership with a Mr. Gordon Brent to buy, improve and sell agricultural properties. The partnership was never evidenced by a written agreement, but continued until Mr. Brooks' bankruptcy in 1969. During the term of this partnership the partners completed about eighteen so-called "swaps" of improved agricultural lands. [32.]

Briefly the partnership business involved the acquisition of unimproved farm land which the partnership would clear and grade for cultivation. This property would then be conveyed to an intermediary, E. M. Radcliffe Investment Company, in exchange for other unimproved properties. In this manner no taxable gain was realized and the latter property was acquired with the same basis for capital gains purposes of the former property.

According to the Referee's findings in the Bankruptcy case the Brooks-Brent partnership was very successful, but Mr. Brooks became involved in various other business enterprises which were not successful and which, in the fall of 1969, resulted in his personal bankruptcy. [32.]

Mr. Gordon Brent refused to submit to bankruptcy jurisdiction and eventually by settling the accounts of the partnership was able to dissolve the partnership in an orderly fashion. The interest of Mr. Brooks in the assets of this partnership was the main source of funds in the bankruptcy settlement. The Trustee was able to liquidate Mr. Brooks' share of the partnership assets in an amount sufficient to pay substantially all of the debts of his secured creditors and to pay a dividend of 12.5 percent on the debts of his unsecured creditors. [41.]

The initial filing by Mr. Brooks in October, 1969, was under Chapter XII of the Bankruptcy Act. This little used section of the Act provides for a moratorium on indebtedness to permit a debtor in effect to resolve liquidity problems. It apparently was Mr. Brooks' belief that his real assets built up primarily through the Brooks-Brent partnership would assure his solvency if he were given time to make an orderly liquidation. His "Summary of Debts and Assets" filed with his Chapter XII petition showed assets of \$4,133,118.37 balanced against debts of \$3,882,024.06. [22.]

However, on July 31, 1970, an Order was entered adjudicating Mr. Brooks bankrupt and allowing him to withdraw his proposed Chapter XII arrangement. [27.] Two months later the Trustee, Mr. Roy W. Hendrix, Jr., was discharged of his responsibilities under Chapter XII though he continued as Trustee in the bankruptcy. [29.] An attachment was filed with the Order of September 23, 1970, which sets forth

broadly the course and purpose of the proceedings. In pertinent part that attachment states:

Controlling idea of these proceedings under Chapter XII was one of conservation and preservation of the assets, evolving a workable plan providing for a moratorium on indebtedness to enable debtor to work out his financial difficulties and salvage a substantial portion of his vast financial holdings. A combination of various circumstances resulted in debtor's decision to convert to a straight bankruptcy.

Paramount among these reasons was the news that Cadillac Cable Corporation had closed its doors and filed bankruptcy. . . . Since this stock had apparently become worthless, one of the largest single potential assets of debtor has become worthless. In addition, virtually all other investments of the debtor have likewise proved to be worthless. He was left in the main, only with his interest in various farm properties, and in the face of the declining farm land market and high interest rates, his estate had dwindled drastically.

* * * * *
The debtor's method of doing business and handling his affairs had been very loose, haphazard and unbusinesslike, most often orally and with little or no records having been kept. In many cases, the entire record of transactions involving large sums of money would consist only of a canceled check. [28.]

APPENDIX III

The following news articles regarding the business background of James F. Hooper ran in the *Nashville Tennessean* newspaper. They are the result of an investigation by Nat Caldwell and Keel Hunt, staff writers for that newspaper:

[From the *Nashville Tennessean*, June 22, 1975]

CONTRADICTIONS DOT FORD'S TVA CHOICE

(By Nat Caldwell)

COLUMBUS, MISS.—There seem to be two James F. Hooper's living inside one skin—two different personalities—and his hometown wonders which "Jim" President Ford has named to the Tennessee Valley Authority board.

One Jim Hooper, lavishly endowed with sales and promotion skills, but constantly haunted by bad business judgment or luck, appears as the sporadic contriver of a series of elaborate commercial ventures that flopped.

Usually drama and lawsuits followed business failure. This is Jim Hooper, the huckster and hustler.

The other Jim Hooper is the civic leader, the visionary pioneer of waterways projects, the volunteer pilot for regional charity drives or public improvement projects, the tireless worker for the Republican party in his home state. This is Jim Hooper, the solid, stable citizen.

These conflicting images of the man emerge from a careful research of court suits brought against him and his associates, from interviews with local businessmen and lawyers who know him, and from a study of news clips recounting some of his activities.

Research into the past of this controversial but colorful man whom the President wants to be a TVA director, shows him to be a remarkable but questionable candidate for the high federal office he soon may hold.

There is Hooper the ex-band leader who escorted more new bands into the historic ball rooms of Memphis' Peabody hotel in four years than any other musician or promoter.

There is Hooper the self-proclaimed inventor of the U.S. Air Force crash helmet (a dozen Mississippi newspapers front-paged this Hooper claim to fame when it appeared he was high on President Ford's list for the TVA post).

There is Hooper, the private pilot, who talks of his days in the cockpit of his personal, private plane as the times he has enjoyed the most.

There is Hooper the business entrepreneur whose business associates seem plagued by ghastly fates: two of them, a decade apart, suicide victims; a third, in deep financial trouble, was involved in a tragic head-on collision as he returned from a disappointing business trip in Memphis.

Two persons in the other car were killed. The business partner was arrested. Later, he went on to suffer bankruptcy, his assets \$5 million short—and other tragedies still stalk this former associate of Hooper.

There is Hooper who has known business failings and civil court actions that have grown out of the flops of these enterprises. He has won these lawsuits, but he has been accused by opposing counsel of being a conman, a four-flusher and a hapless splurger.

All of this makes this greying, strikingly handsome man less than attractive as a potential TVA board member.

No man with such a unique, diverse past has ever been seriously considered for the TVA board.

Hooper, in person, responded to this reporter's questions in an out-going manner, seemingly unconcerned that already his nomination is stirring early opposition.

"I am basically a conservative businessman," he says. "I have often been a successful one."

The presidents of three Columbus banks agree. So do Mississippi GOP leaders (Hooper's wife is Republican national committeewoman) whose support for the TVA post he first solicited.

It is assumed, since Ford has sent Hooper's name to the Senate for confirmation to the TVA board, that the FBI found nothing in his past that bars his appointment.

When he was asked by a reporter about his record of business failure Hooper urged the journalist to talk to other people in Mississippi who know him and who would vouch for him.

He listed bankers, civil leaders and old friends to see. He mentioned his lawyers, members of the most successful and most potent law firm in North Mississippi. This cross-section of people who knew him would corroborate his status as a solid citizen.

Hooper is well-known in Columbus business circles. Those who know him are willing to discuss him.

Some praised him for attribution, but assured at their request they would not be quoted by names, warned that he has propensities they consider undesirable which might follow him to TVA.

A few civic leaders, not named by Hooper, or his lawyers, volunteered their tributes, extending his list of achievements.

His calm in the face of a reporter's tough questions was evidence that he has poise. He is a groomed man, trim and looking cool, even on the hottest days. When he goes out in his khaki jumpsuit to supervise the small dairy that remains of all the business ventures, or at least the only surviving venture that he will discuss, he looks neat.

Hooper was the promoter of a failed dairy intended to be Mississippi's largest, and a failed pet food factory that, for a short time, enjoyed the largest sales volume of any in the South. He was a co-promoter of an insurance company which had its Tennessee license revoked in February, 1970.

Hooper told a reporter: "I was out of the Standard Union Life Insurance Company long before it was suspended in Tennessee or any other state." But he was sued by men who replaced him as majority stockholders anyway. He pointed out that the Tennessee suspension involved no questionable practice, simply a re-insurance plan that sent Tennessee policy holders to another company.

Like most of the business failures that Hooper acknowledged, incredibly bad luck could have been a cause as well as management failure.

But there was no equivocation from the Air Force on Hooper's claim to have invented the protective headgear. Calls to Air Force Systems Commands, archives, protective clothing and headgear research, produced neither record nor memory that he played even a minor role in the development of the famed safety headgear.

But Donald E. Huxley, of Dayton, Ohio, a retired civil service supervisor of the research sector said: "Hooper's name rings a bell. I think he was one of our very minor helpers. He could be assigned about one-one hundred and sixty-seventh of the credit for one activity at one time. But there are other names, principal contributors, I would write about."

Hooper, when interviewed earlier, described himself as the "key man" in developing the crash helmet.

He says he is surprised that the news media has not found more people who oppose him.

"I am flabbergasted because all of the press has found so few detractors . . . I am not a foolish man. If I were, every top office holder and political leader of both parties in Mississippi would not have endorsed me for one of the most responsible assignments in the national government service."

Questions about his business record seemed to irritate him, however. Once in an interview in his home, he suddenly pulled two pieces of paper out of a rear pocket. He extended these to be read.

One was on the memorandum pad of Columbus National Bank of Commerce, the other was on the memorandum pad of the First Columbus National Bank. Signed by the presidents of these two banks, these memos said they were evidence Hooper owned certificates of deposit of \$200,000 and \$100,000.

Top officials of both banks said later their regulations prevented them from substantiating Hooper's claim or the size of any other depositor's account.

He retrieved the memos, flourishing them and grinning. He declared that "if anybody questions my success, here's \$300,000 cash to start with. And I'll be

ready with a sworn net worth statement in excess of \$600,000. It's a shame to goad a man until he is forced to boast of his success . . . This, almost, gets to me."

One who volunteered commendation in behalf of Hooper's civil efforts and "imaginative effort in behalf of the Tennessee Tombigbee waterway" insisted he would not presume to discuss Hooper's financial affairs.

Glover Williams, executive director of the Tennessee Tombigbee Waterway Authority, called from Washington. "I want a chance to boost Hooper," Williams said.

"To any of the old guard of river development, flood control, soil conservation, scientifically improved farming, and wild life protection, bad mouthing Jim Hooper, as some environmentalist groups seem to be doing, is unjust, unfair and totally lacking in truth," said Williams.

"Jim Hooper was one of the original plank holders of the Tennessee Tom waterway," Williams continued. "How many trips over the South can I remember in his Bonanza, buying the gas was on him too, barnstorming for money to pay for lobbying just to get the Corps of Engineers started?"

Reading the court records must make Hooper wince. Fifteen years ago at Aberdeen, Miss., a Columbus lawyer was trying to garner some money for a client, after Hooper's large southwide pet food factory went down. He offered the federal court jury an acid critique to the man, who soon may be casting the deciding vote on whether and how much the Tennessee Valley Authority will increase light bills for 3 million valley citizens.

The lawyer said, "That Jim Hooper continued in his usual manner to operate the business, to fly around in his plane, to take the biggest suites in the hotels, saying 'Now things are going . . . Business was booming.' . . . and, while he was behind on his bills, he was going to have some people put new money in the business. . . ."

Hooper responds, "I reject the idea that a series of incidents show I was no manager. This was at a time when the whole U.S. was rolling the dice, trying to get rich quick . . . But I won all those law suits you read, overturned in court, all of the fraud charges . . . I have made money and still make money in my business deals. I am a basic conservative."

Hooper added more strokes to this portrait. "I respect and greatly admire both the purposes and the achievements of the TVA, and I know of no other Republican, with a chance for White House appointment, who, conscientiously, as I can, could stick in there and uphold Red Wagner's hand."

"On top of that," he continued, flicking the string tie of a woven white sport shirt as he spoke, "I know that the TVA board needs a man who will battle for new industry and new jobs. Also, it needs a man who understands the full potential contribution of the Tennessee Tom waterway to the Tennessee Valley and to the central South. I dearly love that waterway and I helped to organize most of the groups that promoted it in the early days."

Failed pet food factory, failed 500 cow dairy which was planned to be the largest in Mississippi with four milkings per day and a Hooper devised high protein feed formula to keep the dairy cows producing at this level—how do these fit in?

It may square with Hooper whose friends insist that he "never missed" on a civic promotion. From Tenn Tom to the kidney machine badly needed by a Jackson hospital a few years ago and obtained, according to Hooper, from federal H.E.W., he listed these successes.

And the very lawyer who offered the jury the biting synopsis of Hooper's business methods has been won over. He is State Sen. Bill Burgin and, as head of the local law firm that now represents Hooper, he's slated to coach his client through the Senate confirmation committee hearings that alone bar his path to a \$38,000 annual wage and a full third of the responsibility for running TVA.

Burgin said: "On that law suit, we were trying to get the jury's attention, at a time when Hooper's lawyer had all the facts and all the proof on his side."

Burgin's associate, Hunter Gholson, added: "Hooper's an innocent victim of bad luck on lots of those cases."

What about the law suit to recover from Hooper his dairy farm, previously pledged as reserve against policy premiums of the Standard Union Life Insurance Company?

"He won that case in the Mississippi state courts. He was absolved of all fraud charges."

What about the suit of the federal receiver in bankruptcy, also directed against Hooper's farm?

"The record will show that Hooper won that too."

Neither Burgin, who obtained for Hooper unanimous endorsements from the Mississippi legislature and strongly worded statements from all major Democrat officeholders, nor any of his Republican sponsors believe he'll be even lightly skinned in the confirmation procedures.

And Burgin seemed totally unimpressed by the protests of anti-strip mine and environmentalist groups against Hooper's environmental positions. These protests had started to come in when Hooper and Burgin were interviewed two weeks ago.

Twelve national and TVA regional environmental groups filed formal protests against the Hooper nomination before the Senate Public Works Committee, Tuesday. They pledged a battle against confirmation.

Another Hooper admirer in Columbus, Louis Wise, manager of Four Counties Electric Cooperative, said that "with Mississippi's two very senior senators, Eastland and Stennis, carrying the ball for him, the environmentalists will have to come on stronger with the votes than they have ever done before to even slow him down."

"Jim Hooper hasn't told the press how he stood on any of the environmental issues," Wise declared. "So these 12 groups must have gotten mad because he said he's like to back up the TVA board chairman, who has been having some hard going recently. That's a poor ground to fault him on."

[From the Nashville Tennessean, July 6, 1975]

HOOPER'S SWAPPING DETAILED

(By Nat Caldwell)

MEMPHIS.—James F. Hooper, nominated as the new TVA director, used his Mississippi dairy farm as a conduit to divert \$100,000 from a financially-troubled Alabama insurance company he served as director.

Hooper's involvement in a check-swapping scheme that took \$154,000 from the small, ailing Standard Union Life Insurance Co., of Greenville, Ala., is spelled out in federal court records on file here.

The full story of Hooper's financial dealings is not easy to piece together, but sworn documents in these voluminous court records show the diversion of money from the insurance company.

Hooper's sworn accounting statement, dated January 1971, documents that \$100,000 from Standard Union Life Insurance Co., came into the account of his dairy farm, through his then partner, Everett Hope Brooks, of Memphis, who went bankrupt in October 1969.

Earlier in this series of articles on Hooper, who is President Ford's choice for the TVA board, court testimony was quoted which traced another \$54,600 from the account of Standard Union Life to a Georgia milk processing firm which Hooper and his partner Brooks also served as directors. Brooks was president of Standard Union.

Hooper's own deposition, taken in the bankruptcy proceedings of his partner, Brooks, includes the following exchange with John Paul Jones, Memphis attorney who represented the bankruptcy trustee:

JONES. "In other words the Hooper dairy farm's account was only a conduit?"

HOOPER. "Precisely."

He said that he put money into the account of the farm at Brooks' instructions and took it out the same way.

"Boom, boom! In and out," he testified as he told how, on one occasion, he turned over \$65,000 to the Georgia milk processing firm known as Little River Farms, Inc.

Hooper is scheduled to appear before a U.S. Senate Committee Tuesday as he seeks to be confirmed as President Ford's TVA Director. Whether the Senate Committee is aware of the check-swapping operation in which he was a central figure could not be learned.

It is not known whether President Ford was advised of Hooper's involvement in the check-swapping before the White House announced him for the vacant \$38,000 TVA directorship.

Records show that in July of 1969, at a time Brooks was obviously in financial straits, that two checks totaling \$100,000 from Union Standard Life came into the account of the Hooper Dairy Farm.

Hooper's accounting statement shows:

A check for \$95,000 from Standard Union Life was put into the Hooper Dairy Farm account by Brooks on July 2, 1969.

A second check for \$5,000 from the insurance company was put into the Hooper Dairy Farm account on July 31, 1969.

Other documents show that four checks, totaling \$54,600, went from Standard Union Life into the Georgia Milk Processing company.

These checks were deposited as follows:

A \$20,000 check on February 27, 1969.

An \$8,600 check on March 11, 1969.

A \$10,000 check on March 3, 1969.

A \$16,000 check on April 2, 1969.

Henry L. McMahan, operator of the Georgia firm which both Hooper and Brooks served as directors, said when their company, Little River Farms, Inc., of Atlanta, needed funds he always telephoned Hooper.

Thereafter, McMahan testified in Brooks' bankruptcy hearings, he would receive checks from Brooks. Some of the checks were on the insurance firm, he said.

"I always worked through Mr. Hooper. Never through Mr. Brooks," said McMahan. Sometimes he got checks from Hooper, but usually it was Brooks who sent money, he said.

McMahan stated that he had been told by Brooks to take checks which came to him and deposit them to his personal account, then write another check "back to back" and deposit it into the account of the dairy processing company.

Why was it done this way?

"For reasons unknown," McMahan said.

Hooper, contacted by this reporter yesterday at his Columbus, Miss., home, was asked to explain the transfer of checks from the insurance company to his farm and to the dairy processing company in Atlanta.

"Hope (Brooks) could do what he wanted to with his own money," he said. "This all was his money. These all were his companies. I tried to do what he asked me to whenever I could. I don't know why..."

During the deposition-taking in Brooks' bankruptcy case Hooper testified that it was Brooks, not he, who bought the dairy processing concern from McMahan in Atlanta early in 1969.

He claimed at one point he had been a stockholder of the financially hurting Little River Farms for only about ten minutes—then contended he didn't know what the definition of a stockholder was. He also insisted that he had resigned—verbally—as a director of that company, but couldn't remember when he had done so.

Hooper, whose business ventures throughout his career have often suffered from mismanagement, bad luck or both, is a colorful, attractive promoter who claims credit for the creation of the U.S. Air Force crash helmet.

His relationship with Everett Hope Brooks is one of the more unusual partnerships in the history of American business.

The two men, Hooper, of Mississippi, and Brooks, of Memphis, met in 1964 when Hooper's daughter was a member of the queen's court at the Memphis Cotton Carnival. Brooks was a carnival official that year and the two men apparently hit it off.

Two years later they joined in a business venture—the operation of Hooper's 1400 acre farm in Columbus, Miss. This land was later a subject of court dispute when Brooks went bankrupt.

According to court records Brooks pumped money into the Hooper Dairy Farm and arranged to buy an undivided 50% of the land for \$100,000. He also planned to purchase half the cattle and equipment for \$175,000.

In the three years before he was to go bankrupt Brooks put \$573,000 into the Hooper farm—including the \$100,000 from Standard Union Life.

It is not clear from court documents exactly when Hooper and Brooks became fellow directors in Standard Union Life, but it appears to have been around December 1968—less than a year before Brooks financial debacle came to a climax.

In December, 1968 Hooper's farm, then held in partnership with Brooks, was transferred for \$10 "and other considerations" to Standard Union Life.

Then, early in 1969 Hooper and Brooks went to Atlanta and purchased for \$5,000 the Little River Farms milk processing plant and five subsidiary retail dairy outlets in the Atlanta area.

Hooper insists that, although he at one time held in his name one-third of the Little River stock, that Brooks was the actual purchaser of the company.

He testified that Brooks bought the Atlanta concern from McMahan—who had paid \$100 for it a month earlier—because it was anticipated that the Atlanta plant would help market farm products from the Mississippi farm operation. The Atlanta firm was \$368,000 in debt when they bought it.

By June 1969 Hooper and Brooks had arranged for a total of \$148,000 to be funneled into the Atlanta operation, \$54,000 from Union Standard.

Then, in June, Hooper signed a \$50,000 check on a bank in Cumming, Ga., over to the Little River Farms operation in Atlanta. A month later, in July, another \$50,000 check was sent to Little Rivers in Atlanta.

(Just a month later, the 3-member board of Union Standard met in Memphis and Brooks, his wife and Hooper, by unanimous resolution, transferred the 1,400 acre farm back to Hooper.)

Still another check for \$15,000 went from Hooper's dairy farm account in Mississippi into the Little River Farms—but Hooper testified that this \$15,000 was a "mistake." He said he got it back.

A hint of the check-swapping activities engaged in by Hooper and Brooks can be gleaned from Hooper's own testimony about this \$15,000.

"He (Brooks) had an account in Marietta (Ga.) in which he instructed me to draw the \$15,000 from that . . . to Columbus (Miss.) and then from Columbus, Miss., back to Little River Farms . . ."

A survey of the accounting statement of the Hooper Dairy Farm shows that at the time the two \$50,000 checks and the subsequent \$15,000 check went from Hooper to the Atlanta dairy concern, there were the following deposits by Brooks into the Hooper Dairy Farm account:

The two Standard Union Life checks for \$100,000.

Two \$25,000 checks from a Marietta bank—dated June 24 and June 30.

A \$50,000 check from Marietta July 14.

Three checks totaling \$80,000 from Dabney H. Crump, of Memphis, a business associate of Brooks.

Within six months, Crump, also facing bankruptcy, died from a self-inflicted shotgun blast.

Other details of Hooper's financial arrangements and dealings will be carried in subsequent articles in this series.

APPENDIX IV

HOOPER RESPONSE TO STAFF ANALYSIS

The following materials were supplied to the staff by Mr. Hooper with a request that they be furnished Committee members in conjunction with the Staff Analysis.

The staff has reviewed the materials and feels that there are two items which require comment—the two specifically raised in the letter dated February 2, 1976, from Ralph Rood to the Committee staff.

The first of these relates to the negotiations for a loan at the First National Bank of Marietta, Georgia, a loan eventually obtained at the Union Planters Bank Memphis, Tennessee, with a participation by the former bank. The staff has reviewed the correspondence from the Union Planters Bank solicited by Mr. Hooper's attorneys and finds no inconsistency with the treatment of this item in the Staff Analysis. The letter is an accurate account of information previously given the investigative staff regarding that portion of the loan transaction which occurred at the Memphis Bank.

The second item raised in Mr. Hooper's response alleges that the Staff Analysis fails to account for partnership obligations assumed by Mr. Hooper at the conclusion of the partnership. The analysis of partnership accounts in the Staff Analysis was prepared by a Certified Public Accountant detailed to the Committee by the General Accounting Office. His analysis of partnership accounts is based upon data derived from Court documents filed by Mr. Hooper in the legal action that led to the dissolution of the partnership; work papers, General Ledgers of the partnership, and partnership income returns prepared by Touche, Ross and Company, accountants for the partnership; the bank statements and canceled checks of the partnership.

The capital accounts balances shown in Appendix I to the Staff Analysis show all liabilities of the partnership ascertained or ascertainable from the above materials.

Although Mr. Hooper maintains that he assumed sufficient liabilities to counterbalance his net capital balance deficit of almost \$95,000 and Mr. Brooks' capital balance in a like amount, he has not in any staff interview or in any of the four objections related to this issue contained in his response offered information or documentation regarding these allegedly assumed partnership liabilities.

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PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

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ROBERT B. PRATHER
RALPH E. ROOD
JOHN W. CROWELL
STEPHEN C. EDDY
FRANK B. WEBB

February 2, 1976

Mr. M. Barry Meyer
Chief Counsel
Committee on Public Works
United States Senate
Dirksen Senate Office Building
Washington D. C., 20510

Dear Barry:

Per our conference of last Friday, please find enclosed the further response on behalf of Mr. Hooper to the staff analysis as modified January 30, 1976.

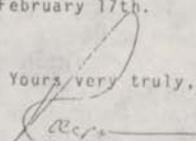
It is my understanding that Mr. John H. Hembree of Union Planters National Bank in Memphis, Tennessee, and Mr. Beasley of the First National Bank of Cobb County, Georgia, will correspond with you directly relative to the Union Planters Bank loan. I trust that their correspondence will help clear the air with respect to that particular situation.

I do not believe we discussed on Friday the fact that none of the reconciliation of capital accounts recognizes or gives Mr. Hooper credit for, the liabilities assumed at the conclusion. This has been detailed in the response.

Should there be anything at all that I might clear up prior to the briefing, please do not hesitate to call. Otherwise, I look forward to seeing you on February 17th.

With best wishes, I remain,

Yours very truly,


Ralph Rood

RR/er

CC: Mr. James F. Hooper, Mr. W. E. Creswell, Mr. Bill Simpson

February 2, 1976

Mr. M. Barry Meyer
Chief Counsel
Committee on Public Works
United States Senate
Dirksen Senate Office Building
Washington, D. C. 20510

Dear Barry:

Upon his return from Washington last Saturday, Ralph Rood advised me of his discussions with you and the staff concerning the profitability of the farm operation.

I would appreciate it if, during the briefing on February 5th, you would point out to the Members my statement and comments in this regard. Briefly, they are as follows:

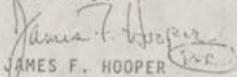
1. An analysis of the last table on page 9 will reflect that the cost of feed constituted 60% of income for the year 1966, 95% for the year 1967, 78% for the year 1968, and 78% for the year 1969. Maximum feed cost in relation to milk income during this period of time should have been no more than 45%. The feed cost were extremely high since we were required to feed all cattle, producing and non-producing, for a period of one and one-half to two years until the inferior and non-producing cattle could be properly tested and culled. It was anticipated that this expense would level out after a period of four to five years. However, due to Mr. Brook's bankruptcy we were unable to go forward. It should also be noted that during the first five years of the 1970s, the cost of feeding has accelerated much more rapidly than the price of raw milk.

2. I would also like to point out that, if the cash basis for the partnership operation is adjusted to eliminate the excessive feed cost, it will show an adjusted cash flow of \$22,069.00 for the year 1966, \$18,767.00 for the year 1967, \$21,635.00 for the year 1968, and \$31,707.00 for the year 1969.

3. It is my considered belief that the table shown on page 9 reflects the typical problems of the dairy industry during the past ten years. While milk prices have remained artificially depressed, the cost of labor, feed, machinery and equipment, fuel, and veterinary medicine have increased rapidly in an inflationary spiral. Added to this is the fact that once one has started into the dairy business he is locked in since it is practically impossible to liquidate without suffering substantial and devastating losses.

Your courtesies have been sincerely appreciated. I look forward to seeing you again during the week of the 16th.

Sincerely,


JAMES F. HOOPER

JFH/er

CC:

Mr. W. E. Creswell

Mr. Bill Simpson

RESPONSE AND OBJECTIONS OF JAMES F. HOOPER, III, TO STAFF
ANALYSIS:

The following constitute specific responses and objections of James F. Hooper, III, to staff analysis of his background as promulgated by the Staff of the Committee on Public Works in October, 1975, together with modifications of January 30, 1976.

1. The nominee requests that his letter of February 2, 1976, be included in any briefing relative to the profitability of the farm operation as set forth on page 9 of the analysis.

2. The nominee requests that the first sentence of the last grammatical paragraph on page 11 be re-written to read as follows:
"On August 20, 1969, pursuant to a resolution of the Board of Directors of Standard Union Life Insurance Company, title of the real property was conveyed to the nominee."

The nominee feels that the foregoing sentence will more properly reflect the actual circumstances as there is no evidence that there were any negotiations relative to the re-conveyance conducted on August 20, 1969, or at any time previous thereto.

3. It is requested that the word "allegations" in the first complete grammatical paragraph on page 13 be deleted and the word "petition" be substituted.

4. On page 14 of the analysis, it is requested that a footnote be added to the first quote under the section outlining the court's disposition of the partnership to read as follows:

Mr. Hooper did subsequently assume and pay all partnership debts."

5. The nominee respectfully submits that the statement contained on page 16 and quoted as follows is incorrect:

" It appears that Mr. Brooks thus contributed a total of \$215,258.00 to Mr. Hooper, either through the partnership or through transactions ancillary to the partnership."

The breakdown contained following the above mis-states Mr. Brooks capital contribution to the partnership since it does not decrease that amount by Mr. Brook's portion of the excess liabilities over assets assumed by Mr. Hooper at the termination of the partnership. Furthermore, the nominee respectfully suggests that the inclusion in the total figure of \$106,500.00 as Mr. Brook's equity in one-half interest in farm property re-conveyed without consideration is entirely improper. Additionally, Mr. Brook's contribution should be offset by Mr. Hooper's expenses incurred in protecting his

interest from the claims of the trustee and from the claim of Standard Union Life Insurance Company. Mr. Brook's capital contribution should also be charged with one-half of the \$8,000.00 settlement paid to the Phillips Petroleum Company.

6. The nominee respectfully suggests that the next to the last grammatical paragraph on page 17 is incorrect and would respectfully point out that the petition and accounting on page 45 shows that the transfer from the Marietta bank account replaced \$50,000.00 withdrawn by Mr. Brooks on July 7, 1969, and paid to Mr. Dabney Crump of Memphis, Tennessee.

7. The nominee respectfully suggests that the reference to proceeds of the loan from the First National Bank of Marietta, Georgia, contained on page 17 is an incorrect characterization of the actual transaction. The loan proceeds were from the Union Planters National Bank of Memphis, Tennessee, and were deposited into a checking account at the First National Bank of Marietta, Georgia. No loan was ever made by the First National Bank of Marietta, Georgia, to the nominee or to the partnership.

8. With respect to page 19 of the analysis, it is respectfully suggested that paragraphs No. 3 and 4 be deleted, together with the entire last grammatical paragraph. Mr. Stark has explained in connection with the 1969 transaction that the treatment given the items was merely tentative and

did not reflect any existing legal relationship between any of the parties.

9. The nominee requests that the following sentence be added to the first grammatical paragraph on page 26:

" The nominee has stated that he was unaware of any preparations for bankruptcy by Mr. Brooks or that Mr. Brooks was under severe mental strain at the time, and there is no evidence to the contrary,"

10. It is requested that the following sentence be added after the first sentence of the last grammatical paragraph on page 30:

" Mr. Hooper stated during his 1971 deposition that:
'A. I looked at many financial statements, and none of them were complete, none of them were accurate.'"

The nominee requests that the last grammatical paragraph beginning on page 31 and continuing on page 32 be re-written as follows:

In the early summer of 1969, Mr. Brooks, accompanied by Mr. Hooper, approached Mr. William Beasley, President of the First National Bank of Marietta, Georgia, to apply for a \$150,000.00 loan to be invested in Little River Farms. Mr. Brooks offered to secure the loan with stock of Cadillac Conduit Company. Mr. Beasley was not familiar with the collateral offered and would agree only to participate to the extent of \$100,000.00 in a loan

obtained from a bank more familiar with the offered security and with the applicant."

12. The nominee requests that the last two sentences of the modified grammatical paragraph 2 on page 32 be deleted.

13. It is requested that the second sentence of the last grammatical paragraph beginning on page 32 and continuing on page 33 be deleted. The petition and accounting purported to reflect only those cash deposits and withdrawals into and out of the partnership account and did not purport to reflect any funds transferred outside of the account; therefore, the treatment is not inconsistent.

14. It is requested that the last sentence of the last grammatical paragraph beginning on page 32 and continuing on page 33 be deleted pursuant to Mr. Stark's letter of December 3, 1976.

15. It is requested that the last grammatical paragraph beginning on page 33 be prefaced with the phrase, "Mr. McMahan says that ,". It is requested that the following paragraph be added on page 36 prior to the Section dealing with the Sealright guarantee:

" There is no evidence that Mr. Hooper was a party to, or testified in, by deposition or otherwise, any of the Internal Revenue Service proceedings. Furthermore, no evidence that the Internal Revenue Service ever

questioned Mr. Hooper concerning the tax liability of Little River Farms.

16. It is requested that the second sentence of the last grammatical paragraph on page 36 read as follows:

" On September 18, 1970, Sealright claimed a total indebtedness of \$19,653.14.

17. The nominee requests that paragraph 4 on page 37 be deleted for the reason that, assuming for the purposes of argument, the validity of the guaranty agreement, the execution thereof by a director for the benefit of the corporation as an accommodation or otherwise would, in and of itself, not be negligence, since it was of benefit to the corporation.

18. The nominee respectfully requests that the discussions of net worth in the next to the last grammatical paragraph and the last grammatical paragraph on page 37, continued on page 38, be accompanied by a prominent statement that the net worth figures applied only to the dairy operation, exclusive of real estate, and that the liabilities at the time included those liabilities assumed from the partnership operation.

19. It is respectfully requested that the following paragraph be added prior to the last grammatical paragraph on page 39:

" The Dunn and Bradstreet report was purportedly the result of a telephone interview. The nominee has stated that he did not make such a report to Dunn and Bradstreet. Accordingly, the possibility of someone with Rhodes Optical holding himself out to be Mr. Hooper must be recognized."

20. It is requested that the following sentence be added to the next to the last grammatical paragraph on page 43:

" The term "overdraft" as herein used is in the accounting context and in no way implies that there was an actual overdraft in the banking sense."

21. The detail in footnote 2 on page 44 following the November 9, 1965, loan should contain the notation that said loan was endorsed by Mr. Brooks.

22. It is requested that the last paragraph on page 45 be re-written as follows:

" The accounting differs in certain respects from the work papers maintained by Touche, Ross & Co., and/or cancelled checks drawn on the farm account. The following discussion details the differences. It should be noted at the outset that Touche, Ross & Co., has stated that the 1969 transactions do not purport to indicate any legal relationships.

23. Paragraph (f) on page 46 should be deleted since the Touche, Ross & Co. treatment apparently resulted from an error in reading the source of funds listed on the bank statement.

24. It is requested that the last sentence of the last complete grammatical paragraph on page 46 be re-written to read as follows:

" According to the Touche, Ross & Co., work papers, Mr. Hooper's apparent equity in the partnership as such would have been \$19,809.58. It should be noted, however, that a representative of Touche, Ross & Co. testified at the hearing on the Petition and Accounting and was unable to verify that company's treatment."

25. It is respectfully suggested that the last three grammatical paragraphs on page 47 be re-written to reflect any assumption by Mr. Hooper of the entire outstanding indebtedness of the partnership subsequent to its termination.

26. It is respectfully requested that the computation and tabulations of all capital balances contained in the remainder of the analysis be re-written to reflect that assumption of liabilities by Mr. Hooper.

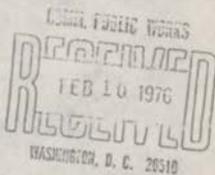
27. It is respectfully submitted that paragraph (i) on page 56 of the analysis be deleted.

Union Planters

NATIONAL BANK OF MEMPHIS
MEMPHIS, TENNESSEE

February 4, 1976

Honorable M. Barry Meyer
Chief Counsel
Committee on Public Works
U. S. Senate
Dirksen Building
Dirksen Senate Office Building
Washington, DC 20510



Dear Mr. Meyer:

Mr. James F. Hooper of Columbus, Mississippi, nominee to the Board of Directors of the Tennessee Valley Authority has requested that I clarify to you the circumstances of a certain loan made in 1969 by this bank to Mr. Everett H. Brooks and Mr. Dabney Crump.

First, I would like to state that I have never met Mr. Hooper. My only contact with him was by telephone this past Monday. I did meet briefly with his attorney in September of 1975 and related to his attorney the facts contained in this letter.

Second, as a background and for your information I did business on behalf of the bank for a number of years with both Mr. Brooks and Mr. Crump. They were both substantial businessmen and valued customers of the bank.

Sometime during the summer of 1969 Mr. Brooks and Mr. Crump approached me concerning a loan in the approximate amount of \$150,000. At this particular point the bank's lendable funds were limited, however, Mr. Brooks advised me that the First National Bank of Marietta, Georgia, was willing to place with us \$100,000 to be used to partially fund the loan. Mr. Brooks offered as collateral for the loan certain Common Stocks which I found unacceptable. I then arranged for other collateral, which was, as I recall, Municipal Bonds owned by a third party but accompanied by the proper documentation. This was

Honorable M. Barry Meyer

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2/4/76

acceptable and the loan was duly made. I was out of town when the loan was closed, however, Mr. Wayne Clark handled it in my absence.

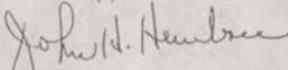
In the fall of 1969, Mr. Crump took his life and Mr. Brooks suffered severe financial reversals. It was necessary for the bank to liquidate the collateral to satisfy the loan. This was done in due course.

Mr. Hooper did not participate in the loan negotiations and was never liable legally or morally for the obligation. Had he been, you can rest assured I would have made demand upon him and pursued him vigorously. The loan was made by this bank and this bank was obligated to the First National Bank of Marietta for its participation.

I trust this clears up any controversy relative to Mr. Hooper's involvement in the loan. He was not involved.

If I may be of further assistance, please advise.

Sincerely,



John H. Hembree
Senior Vice President

hg

TABLE OF DOCUMENTS

DEPOSITIONS

1. Mr. James F. Hooper's deposition taken February 18, 1971, in connection with Mr. Brooks' Bankruptcy proceedings *In The Matter of Everett H. Brooks, Individually, and d/b/a Consolidated Business Service*, in the United States District Court for the Western District of Tennessee, Western Division, No. Bk 69-2453.
2. Mr. Henry L. McMahan's deposition taken March 24, 1970, in connection with Mr. Brooks' Bankruptcy proceedings.
3. Mr. Henry L. McMahan's deposition taken June 5, 1974, in the case of *United States of America v. Henry L. McMahan, et al.*, in the United States District Court for the Northern District of Georgia, Atlanta Division, Civil Action No. 18152.
4. Mr. William L. Thurman's deposition taken June 5, 1974, in the case of *United States of America v. Henry L. McMahan, et al.*
5. Mr. Leon C. Smith's deposition taken July 30, 1974, in the case of *United States of America v. Henry L. McMahan, et al.*—notes and verbatim excerpts therefrom.
6. Mr. Alton Hawk's deposition taken March 4, 1975, in the case of *United States of America v. Henry L. McMahan, et al.*
7. Mr. Jack Holloway's deposition taken February 2, 1972, in the case of *Little River Farms, Inc., a Georgia Corporation and Jack Holloway v. United States of America, Harold J. Bowman and Charles Green*, in the United States District Court for the Northern District of Georgia, Atlanta Division, Civil Action No. 13837—notes and verbatim excerpts therefrom.

TRANSCRIPTS OF TESTIMONY

8. Mr. James F. Hooper's testimony on July 29, 1971, in the case of *Standard Union Life Insurance Company v. James F. Hooper, et al.*, in the Chancery Court of Lowndes County, Mississippi, No. 11926.
9. Transcript of testimony from the Brooks Bankruptcy proceedings, *In The Matter of Everett H. Brooks, Individually and d/b/a Consolidated Business Service*, in the United States District Court for the Western District of Tennessee, Western Division, No. Bk 69-2453 (excerpts of testimony taken November 3, 4 and 6, 1969; January 5, 14 and 15, 1970; February 19, 20 and 24, 1970; and March 5, 1970.)
10. Transcript of testimony from *Premium Associates Inc. v. James F. Hooper and W. Pratt Thomas, Co-Partners d/b/a Columbus Canning Company of Columbus, Mississippi*, in the United States District Court for the Northern District of Mississippi, Eastern Division, No. E-C-22-60 (excerpts.)

TRANSCRIPTS OF STAFF INTERVIEWS

11. Transcript of Staff interview with Henry L. McMahan, August 25, 1975.
12. Transcript of Staff interview with Everett H. Brooks on September 23, 1975.
13. Transcript of Staff interview with William L. Brickey on September 24, 1975.
14. Transcript of Staff interview with Eugene T. Beard of T. E. Lott and Company on September 25, 1975.
15. Transcript of Staff interview with Alton Hawk, August 27, 1975.

MEMORANDA OF STAFF INTERVIEWS

16. Memorandum of Staff interview with Mr. J. P. Smith, Vice President, and Mr. William L. Beasley, Chairman of the Board, of the First National Bank of Cobb County (formerly the First National Bank of Marietta) on August 26, 1975.

17. Memorandum of Staff telephone interview with John Taber, Esq. on October 2, 1975.

AFFIDAVITS

18. Mr. Henry L. McMahan's affidavit executed July 17, 1970.

BANK STATEMENTS

19. Bank Statements, 1969 and 1970, together with selected checks—Hooper Dairy Farm Account at the First Columbus National Bank, Columbus, Mississippi.

TAX RETURNS

20. Hooper Dairy Farm Partnership Tax Returns for 1966-1969.
21. James F. and Virginia Hooper Individual Tax Returns 1965-1974.

COURT DOCUMENTS

BROOKS BANKRUPTCY PROCEEDINGS

22. Petition for Chapter XII Arrangement, "Summary of Debts and Assets", filed October 27, 1969, *In The Matter of Everett H. Brooks, Individually, and d/b/a Consolidated Business Service*, in the United States District Court for the Western District of Tennessee, Western Division, No. Bk 69-2453.
23. Petition For Authority to Employ Certified Public Accountants in Aid of Proceedings, filed February 2, 1970, in the Brooks Bankruptcy proceedings.
24. Order Authorizing Employment of Attorney John Paul Jones By Roy W. Hendrix, Jr., Trustee, dated February 20, 1970, in the Brooks Bankruptcy proceedings.
25. Proof of Claim in Bankruptcy, No. 32, filed March 25, 1970, in the Brooks Bankruptcy proceedings.
26. Petition to Authorize Trustee to Abandon A Burdensome Partnership of the Bankrupt, filed July 28, 1970, in the Brooks Bankruptcy proceedings.
27. Order Allowing Debtor To Withdraw His Proposed Arrangement and Adjudicating Debtor a Bankrupt, filed July 31, 1970, in the Brooks Bankruptcy proceedings.
28. Attachment to Order terminating Chapter XII Proceedings, entitled "Everett H. Brooks, September 17, 1970", filed September 23, 1970, in the Brooks Bankruptcy proceedings.
29. Order Approving Trustee's Accounting, Discharging Trustee and the Surety on His Bond, filed September 23, 1970.
30. Petition and Accounting of James F. Hooper For Partnership Operation of Hooper Dairy Farm, filed January 19, 1971, in the Brooks Bankruptcy proceedings.
31. Proof of Claim in Bankruptcy, No. 33, filed March 26, 1970, in the Brooks Bankruptcy proceedings.
32. Memorandum, Findings of Fact and Conclusions of Law, filed June 18, 1971, in the Brooks Bankruptcy proceedings.
33. Objections to Claim of James F. Hooper, filed July 23, 1971, in the Brooks Bankruptcy proceedings.
34. Order Disallowing Objection to Claim, filed September 17, 1971, in the Brooks Bankruptcy proceedings.
35. Amended Objection of Trustee to Claim No. 33 of James F. Hooper, filed November 5, 1971, in the Brooks Bankruptcy proceedings.
36. Amended Objection of Trustee to Claim No. 32 of James F. Hooper and Response of Trustee to Claimant's Petition For Accounting, filed November 5, 1971.
37. Order, dated November 5, 1971, in the Brooks Bankruptcy proceedings.
38. Memo in Support of Claim of Charles M. Crump, Executor, filed April 13, 1972, in the Brooks Bankruptcy proceedings.
39. Trustee's Brief in Opposition to the Claim of Charles M. Crump, Executor, filed April 13, 1972, in the Brooks Bankruptcy proceedings.
40. Memorandum, Final Report and Order, filed August 10, 1972, in the Brooks Bankruptcy proceedings.
41. Order For Payment of Dividends, filed October 30, 1972, in the Brooks Bankruptcy proceedings.

PREMIUM ASSOCIATES CASE

42. Complaint, *Premium Associates Inc. v. James F. Hooper and W. Pratt Thomas, Co-Partners d/b/a Columbus Canning Company of Columbus, Mississippi*, in the United States District Court for the Northern District of Mississippi, Eastern Division, No. E-C-22-60, filed March 24, 1960.

43. Answer of Mr. James F. Hooper in the case of *Premium Associates vs. James F. Hooper, et al*, filed June 3, 1960.

44. Jury Verdict in *Premium Associates vs. James F. Hooper, et al*, filed September 28, 1960.

STANDARD UNION V. HOOPER

45. Complaint in *Standard Union Life Insurance Company v. James F. Hooper, et al.*, in the Chancery Court of Lowndes County, Mississippi, No. 11926, filed March 19, 1971.

46. Answer in *Standard Union v. Hooper*, filed April 12, 1971.

47. Final Decree, *Standard Union v. Hooper* entered July 27, 1971.

48. Decree in *Standard Union v. Hooper* entered September 21, 1971.

LITTLE RIVER FARMS & HOLLOWAY V. U.S., BOWMAN AND GREEN

49. Complaint, *Little River Farms, Inc. a Georgia Corporation and Jack Holloway v. United States of America, Harold J. Bowman and Charles Green*, in the United States District Court for the Northern District of Georgia, Atlanta Division, Civil Action No. 13837. Filed June 8, 1970.

50. Amendment to Complaint *Little River Farms & Holloway v. U.S., Bowman and Green* filed September 25, 1970.

51. Consolidated Pretrial Order *Little River Farms & Holloway v. U.S., Bowman and Green*, filed June 2, 1972.

52. Judgment and Order *Little River Farms & Holloway v. U.S., Bowman and Green*, entered December 29, 1972.

U.S. V. M'MAHAN

53. Complaint in *United States of America v. Henry L. McMahan, et al.*, in the United States District Court for the Northern District of Georgia, Atlanta Division, Civil Action No. 18152, filed April 10, 1973.

54. Order in *U.S. v. McMahan*, entered May 15, 1975.

55. Judgment in *U.S. v. McMahan*, entered May 27, 1975.

ALABAMA V. STANDARD UNION

56. Decree for Temporary Restraining Order and Partial Injunction and Appointment of Agent, in *State of Alabama v. Standard Union Life Insurance Company*, in the Circuit Court of Jefferson County, Alabama, in Equity No. 161-098, entered May 4, 1970.

DOCUMENTS RELATED TO CONVEYANCE OF PROPERTIES

57. List of conveyances of property interest to and from Mr. and Mrs. Hooper, based on search of the records of the Chancery Court, Lowndes County, Mississippi.

58. Agreement of October 31, 1964, between E. M. Radcliffe and Johnson, first parties, and Mary M. Crump, Charles M. Crump, Dabney Crump and E. Hope Brooks, second parties, to purchase a half interest in the Hooper Dairy Farm property.

59. Instruction to Escrow Agent Under Real Estate Exchange and Escrow Agreement, dated October 31, 1964.

60. Bill of Sale from Messrs. Hooper and Thomas to Columbus Canning Company, Inc., conveying all farmer partnership assets, dated November 31, 1957.

61. Deed dated November 31, 1957, from Messrs. Hooper and Thomas conveying the Columbus Canning tract to Columbus Canning Company, Inc., recorded at Book 272, page 230, Chancery Court, Lowndes County, Mississippi.

62. Deed from Radcliffe Investment Company to Mr. Brooks, executed April 22, 1966, and recorded June 16, 1966, at book 375, page 672, Chancery Court, Lowndes County, Mississippi.

63. Deed from Mr. and Mrs. Hooper and Mr. Brooks to Standard Union Life Insurance Company executed December 23, 1968, and recorded December 27, 1968, at Book 403, page 337, Chancery Court, Lowndes County, Mississippi.

64. Deed of the Columbus Canning tract from Mr. Brooks to Standard Union Life Insurance Company executed December 28, 1968, and recorded January 3, 1969, at Book 403, page 397, Chancery Court, Lowndes County, Mississippi.

65. Deed from Mr. and Mrs. Brooks to Standard Union Life Insurance Company of the Desha County property executed December 30, 1968 and recorded at Book 188, page 456 with the Recorder for Desha County, Arkansas.

66. Deed from Standard Union Life Insurance Company to Mr. Hooper executed August 20, 1969, and recorded September 9, 1969, at Book 416, page 216, Chancery Court, Lowndes County, Mississippi.

67. Deed from Standard Union Life Insurance Company to Radcliffe Investment Company of the Desha County, Arkansas, property.

68. Option of Weyerhaeuser to purchase the Hooper Dairy Farm land, dated September 12, 1974.

69. Deed from Mr. and Mrs. Hooper to Weyerhaeuser, executed February, 1975.

70. Disbursement Statement in connection with sale of the Hooper Dairy Farm land to Weyerhaeuser.

BALANCE SHEETS, FINANCIAL STATEMENTS, ETC.

LITTLE RIVER FARMS

71. Record of Deposits, Little River Farms, for August 18, 1969.

72. Little River Farms Balance Sheet as of September 30, 1969.

73. Little River Farms Balance Sheet as of October 31, 1969.

74. Little River Farms Balance Sheet as of November 30, 1969.

75. Touche, Ross and Co.'s letter of February 11, 1970, listing payments to or on behalf of Little River Farms by Mr. Brooks of his related entities.

STANDARD UNION LIFE INSURANCE COMPANY

76. Standard Union's Annual Statement for the Year Ended December 31, 1968, filed in the State of Alabama.

77. Standard Union's Annual Statement for the Year Ended December 31, 1968, filed in the State of Georgia.

78. Standard Union Life Insurance Company Balance Sheet, December 31, 1968, signed by Messrs. Hooper and Brooks.

79. Statement of Account Number 26-4954-9 for the period from 6-20-69 to 7-19-69, First Columbus National Bank.

HOOPER DAIRY FARM

80. Financial Statement, James F. Hooper and Everett Hope Brooks, Dairy Farm, June 30, 1966.

81. Trial Balance of the Hooper Dairy Farm Partnership as of December 31, 1966, with supporting schedules and workpapers, prepared by Touche, Ross & Co.

82. Trial Balance of the Hooper Dairy Farm Partnership as of December 31, 1967, with supporting schedules and workpapers, prepared by Touche, Ross & Co.

83. Trial Balance of the Hooper Dairy Farm Partnership as of December 31, 1968, with supporting schedules and workpapers, prepared by Touche, Ross & Co.

84. Balance Sheet of Hooper Dairy Farm partnership as of August 19, 1969, prepared by Roy Thurman of Touche, Ross & Co. and forwarded to Roy W. Hendrix, Jr., Trustee.

85. Statement of Assets and Liabilities and an Income and Expenses Statement for Hooper Dairy Farm as of December 23, 1969 prepared by T. E. Lott and Co. and forwarded to Mr. Gholson.

MISCELLANEOUS

86. Joint Financial Statement, Everett H. Brooks and James F. Hooper, March 15, 1969.

87. Current Financial Statement, Mr. and Mrs. J. F. Hooper, submitted to Senate Public Works Committee.

CORRESPONDENCE

88. Undated letter to All Stockholders, Standard Union Life Insurance Company.
89. June 16, 1966; letter from Mr. Gholson to Mr. Brooks.
90. April 18, 1967; letter from T. E. Lott & Co. to Mr. Hooper, including attachments.
91. May 4, 1967, Memo to File from D. F. Stark of Touche, Ross & Co.
92. May 26, 1967; letter from Mr. D. F. Stark to Touche, Ross & Co., to Mr. Beard, including attachments.
93. June 6, 1967; letter from Mr. John A. Rice to Mr. Brooks.
94. June 7, 1967; letter from Mr. D. F. Stark to Mr. Beard.
95. October 31, 1968; letter from Mr. Allan W. Horne, Arkansas Insurance Commission, to Mr. Robert L. Hill, then President of Standard Union.
96. November 8, 1968; letter from Mr. Taber to Mr. Allan W. Horne, Arkansas Insurance Commission.
97. March 3, 1969, letter from Mr. Taber to the Insurance Commissioner, State of Tennessee.
98. March 27, 1969; letter from Mr. J. B. Perdue, Chief Deputy Insurance Commissioner, Georgia, to Mr. Brooks.
99. April 23, 1969; letter from Mr. Taber to Mr. Tidwell, Chief Examiner of the Tennessee Department of Insurance and Banking.
100. June 5, 1969; letter together with biographical sketch from Mr. Brooks to Mr. Roy F. Bess, of the Tennessee Department of Insurance and Banking.
101. August 29, 1969; letter from Mr. Brooks to Mr. Roy F. Bess, of the Tennessee Department of Insurance and Banking.
102. October 1, 1969; letter from Martha Coleman of Touche, Ross & Co. to Mr. Hooper, including attachments.
103. November 4, 1969; letter from Mr. Gholson to Mr. Gilliland.
104. November 26, 1969; letter from Mr. Gholson to Mr. Beard.
105. December 18, 1969; letter from Mr. Beard to Mr. Stark.
106. January 7, 1970; letter from Mr. Vic Hiryak to Mr. Wooley D. Box, Deputy Commissioner, Insurance Commission, Mississippi.
107. January 24, 1970; letter from Mr. Stark to Mr. Beard, including attachments.
108. February 9, 1970; letter from Mr. Hooper to Mr. Brickey.
109. February 10, 1970; letter from Mr. Hooper to Mr. McMahan.
110. February 24, 1970; letter from Alabama's Superintendent of Insurance to Mr. Joe Reid.
111. March 5, 1970; memorandum from Mr. Vic Hiryak to Mr. Douglas F. Graves.
112. March 12, 1970; letter and telegram from Mr. Roy F. Bess of the Tennessee Department of Insurance and Banking to Standard Union.
113. March 25, 1970; memorandum from Mr. W. D. Box, Mississippi Insurance Commission, regarding Standard Union.
114. April 14, 1970; letter from Mr. Gholson to Mr. Gilchrist.
115. June 22, 1970; letter from Mr. Somers to Mr. Gholson.
116. June 29, 1970; letter from Mr. Gholson to Mr. Somers.
117. July 6, 1970; letter from Mr. Somers to Mr. McMahan.
118. July 13, 1970; letter from Mr. Gholson to Mr. Somers.
119. July 28, 1970; letter from Mr. Somers to Mr. Gholson.
120. August 4, 1970; letter from Mr. Hendrix to Mr. Jones.
121. August 5, 1970; letter from T. E. Lott & Co. to Mr. Gholson, including attachments.
122. August 6, 1970; letter from Mr. Gholson to Mr. Hendrix, including attachments.
123. August 21, 1970; letter from Mr. Somers to Mr. Gholson.
124. September 2, 1970; letter from Mr. Hendrix to Mr. Somers.
125. September 18, 1970; letter from Mr. LaGrone to Mr. Gholson.
126. September 28, 1970; letter from Mr. Gholson to Mr. LaGrone.
127. October 1, 1970; letter from Prudential Insurance Company to Mr. Hiryak.
128. December 16, 1970; letter from Mr. Gholson to Mr. Jones.
129. December 22, 1970; letter from Mr. Jones to Mr. Gholson.
130. December 29, 1970; letter from Mr. Gholson to Mr. Beard.

131. March 2, 1971; letter from Mr. Gholson to Mr. Beard.
132. March 3, 1971; letter from Mr. Beard to Mr. Gholson.
133. May 3, 1971; letter from Mr. Roy Thurmond of Touche, Ross & Co., to Mr. Jones, including attachments.
134. August 30, 1971, letter from Mr. Hendrix to Mr. Wilkinson.
135. March 24, 1972; letter from Mr. Jones to Mr. Hendrix.
136. March 31, 1972; letter from Mr. Hendrix to Mr. Jones.
137. May 17, 1973; letter from Mr. Savage to Mr. Rood.
138. June 29, 1973; letter from Mr. Savage to Mr. Rood.
139. July 16, 1973; letter from Mr. Rood to Mr. Savage.
140. July 27, 1973; Memorandum from Mr. C. G. Meese to Mr. Gilchrist.
141. August 7, 1973; letter from Mr. Savage to Mr. Rood.
142. September 28, 1973; letter from Mr. Savage to Mr. Rood.
143. December 17, 1973; letter from Mr. Rood to Mr. Savage.
144. January 9, 1974; letter from Mr. R. E. Hall to Mr. R. A. Nygaard.
145. March 6, 1974; letter from Mr. R. E. Hall to Mr. Savage.
146. March 29, 1974; letter from Mr. Savage to Mr. Rood.
147. April 15, 1974; letter from Mr. Rood to Mr. Savage.
- 147A. August 9, 1974; letter from Mr. Rood to Mr. Savage.
148. October 16, 1974; letter from Mr. Beard to Mr. Hooper.

MINUTES OF CORPORATE MEETINGS

LITTLE RIVER FARMS

149. Minutes of Stockholders Meeting, Little River Farms, held April 17, 1969 at 9:00 a.m.
150. Minutes of Meeting of Board of Directors, Little River Farms, held April 17, 1969 at 10:00 a.m.
151. Minutes of Meeting of Board of Directors, Little River Farms, held October 28, 1969.
152. Minutes of Meeting of Board of Directors, Little River Farms, held March 3, 1970.
153. Minutes of Special Meeting of Board of Directors, Little River Farms, held March 4, 1970.
154. Minutes of Special Meeting of Board of Directors, Little River Farms, held May 29, 1970.

STANDARD UNION LIFE INSURANCE COMPANY

155. Minutes of Joint Meeting of Directors and Stockholders of Standard Union Life Insurance Company held on November 1, 1968.
156. Minutes of Special Meeting of the Board of Directors of Standard Union Life Insurance Company held on August 19, 1969.
157. Minutes of Special Meeting of the Board of Directors of Standard Union Life Insurance Company held on October 15, 1969.

REPORTS

158. Best's Life Insurance Reports for 1966, 1967, 1968 and 1969 in regard to Standard Union Life Insurance Company.
159. Dun and Bradstreet Report on Columbus Canning Company, Inc., dated October 14, 1958.
160. Supplement to Dun and Bradstreet Report of October 14, 1958, dated March 10, 1959.
161. Supplement to prior Dun and Bradstreet Reports dated August 19, 1959.

MEMORANDA

162. Mr. Hooper's undated memorandum entitled "Memorandum of James F. Hooper Regarding Little River Farms."
163. Union National Bank of Little Rock's memorandum dated July 10, 1969, entitled "Everett H. Brooks D/B/A Consolidated Business Systems."
164. Memo of Union National Bank of Little Rock, dated November 3, 1969, in regard to a "Meeting in Memphis with Everett Brooks, his attorney, Jim Gilliland, Bob Chowning and Vic Hiryak."

165. Memorandum, Exhibit #3 to Mr. Hooper's deposition taken in connection with the Brooks Bankruptcy proceedings. Undated, but filed with the Bankruptcy Court of February 18, 1971.

166. Mr. Hooper's Memorandum dated June 23, 1975, furnished to the Senate Public Works Committee.

AGREEMENTS

167. Reinsurance Agreement between American Life Assurance Company of Columbus, Georgia, and Standard Union Life Insurance Company dated December 30, 1968.

168. Agreement between Little River Farms, Inc., Messrs. McMahan and Hooper, first parties, and Mr. William L. Brickey, second party, dated October of 1969.

NOTES, GUARANTIES AND RELEASES

169. Little River Farms, Inc., note for \$248,000 dated July 26, 1969.

170. Chattel Mortgage for \$248,000, executed by Little River Farms in favor of J.F. Hooper and dated July 26, 1969.

171. Sealright guaranty, executed October 7, 1969.

172. Undated General Release issued in favor of NWN Underwriters by Little River Farms, Inc.

173. Release of Sealright claim, dated August 13, 1974.

APPRAISALS

174. Appraisal of Desha County property by Morris Real Estate Company, dated November 24, 1969.

175. Appraisal of the Hooper Dairy Farm land by Mr. Wyatt C. Wilkinson, submitted September 16, 1971, in the Brooks Bankruptcy proceedings.

STOCK CERTIFICATES

176. Little River Farms Stock Certificate No. 45.

177. Little River Farms Stock Certificate No. 46.

MISCELLANEOUS

178. Ledger Sheet of Union Planters' National Bank, dated June 25, 1969.

179. Mr. Hooper's July 21, 1969, check for \$50,000 to the Bank of Cumming written on Account No. 0612-0132 01-461-3 at the First National Bank of Marietta, Georgia.

180. Check No. 145 for \$100,000 from Radcliffe Investment Co. to James F. Hooper and Virginia F. Hooper.

181. IRS Form 2768, Application For Extension of Time To File Hooper Dairy Farm Partnership Return dated August 14, 1969.

STATEMENT OF JAMES F. HOOPER, RE: REPORT OF STAFF OF THE COMMITTEE
ON PUBLIC WORKS, UNITED STATES SENATE

During the period 1966 to 1969, I was engaged in a partnership with Mr. E. H. Brooks of Memphis, Tenn. Since this report is primarily concerned with that relationship, it is important to understand the background and objectives of our business together.

As stated in the report, Mr. Brooks was very successful for number of years in the acquisition of small farm tracts. After clearing, grading, consolidating and placing these farms into production, he operated or sold at a profit the resulting units developed.

His successful track record is evidence by a credit report dated 2/19/68 "Est. net worth \$3,900,000.00 bank credit, \$500,000.00 unsecured, over \$1,000,000.00 secured, owes nothing at this time. Regarded by bank as one of their most valued customers." (copy attached)

The financial format Mr. Brooks adopted for his farm development activities from standard commercial procedure was the use of short term bank loans to acquire, consolidate, and improve farm units. Once completed, long term mortgages repaid the short term "construction" loans and the units proceeded with a manageable debt load.

The Hooper-Brooks dairy partnership was formed in 1965 using the same basic format. Our purchase was to consolidate small unprofitable dairies into one large central facility along the line of proven dairy development in California. Mr. Brooks was to furnish interim short term financing to the partnership and was to be repaid from long term funds once the project was completed. I was to accumulate the required quantity of cattle and develop a feeding program suitable for a confinement dairy system.

For many years Mr. Brooks had made available his credit resources to an associate in Memphis to help the associate in extensive cotton buying activities. In late August of 1969, his associate committed suicide. This precipitated a large unexpected cash demand on Mr. Brooks which he was unable to meet. In October of 1969, Mr. Brooks petitioned the court for a reorganization to allow him time to absorb this demand. After six or seven months of discussions, investigations and appraisals, the petition was denied and in July or August of 1970 he was declared bankrupt.

Mr. Brooks was a very energetic and aggressive businessman. During the years of our association, he owned and operated several large farms scattered over five states, one being located on the banks of the Rio Grande in Texas. He continued to buy and develop other farm properties on a large scale and engaged in numerous real estate construction ventures including a high rise apartment building in Memphis.

Of his many ventures only two, Little River Farms and Standard Union Life Insurance Co., had a bearing on our partnership.

In 1969 Mr. Brooks bought an Atlanta firm, Little River Inc. The firm owned a bottling plant, delivery equipment and thirty retail "milk jug" stores strategically located throughout Metro-Atlanta. At the time of purchase the Company had a short term debt loan of approximately \$300,000.00. This was owed primarily to unpaid suppliers. Mr. Brooks paid \$5,000.00 for the corporate stock and made available advances to the company pending long term financing. A shortage of loan funds in the banking community and a continuous rise in interest rates in 1969 delayed commitments for long term financing that had been extended to Mr. Brooks. His advances were never adequate for proper management of the firm.

In the October petition for reorganization filed with the Bankruptcy Court, Mr. Brooks advances to Little River Farms were listed by his attorney as a possible asset. During the period of attempted reorganization an attempt was made to sell the Company. While the store locations were attractive to several groups interested in taking up Mr. Brooks note and the company debt, the complications of dealing with the Court for approval of any proposal while the company continue to operate was too much to overcome. Consequently, the trustee abandoned the property as useless to the Estate. It was sold for taxes around 1970.

Mr. Brooks, recognizing a need for consolidation and central management of his many business activities, bought Standard Union Life Insurance Co., an Alabama chartered company, in 1968 to use as an overall holding company for his assets. The home office was to be established in Memphis. Since the bulk of his estate was in farm land, the Alabama regulations allowing unlimited real

estate as admitted assets was particularly attractive to him. In the insurance business those assets admitted and approved each year by the insurance commission is the basis, or volume, on which the company may write insurance.

Pursuant to an agreement we reached, Mr. Brooks submitted my farm real estate along with his in December of 1968. If approved as admitted assets, I was to be issued stock on values to be appraised. In March of 1969 the Insurance Commissions of Tennessee and Georgia notified the Company that it had too much real estate and to qualify for a renewal certificate it had to have a better balance between liquid and real estate assets. According to our understanding, my land was returned to me by the company since it did not qualify. My active participation in the Company management was contingent upon my becoming a stockholder. Since this never occurred, I was never actively involved. The record shows however, that during the entire period of Brooks ownership, Standard Union Life Insurance had on deposit with the insurance commissioners over twice as much cash as the maximum policyholders exposure.

The list of assets and liabilities filed with the Court by Mr. Brooks' attorney in October 1969 shows Standard Union was foreclosed by the Union National Bank of Little Rock. Mr. Brooks pledged the stock of the company to the bank in connection with a large loan listed under his liabilities. Since the bank was a secured creditor the Company became their property and was not involved in the bankruptcy.

The staff report dwells at length on apparent inconsistencies between Touche Ross & Co. work papers and partnership accounting and my Petition and Accounting to the Court. Actually, these are two different reports. Touche Ross & Co.'s function and responsibility was to review partnership operations and determine the tax impact. Their posting to capital accounts was based on their impressions (See Stark letter) of the relations between the partners. My report, taken from the bank ledger sheets, shows all funds advances by Brooks to the partnership and all withdrawals by each of the partners. It also reflects the actual agreements between the two partners as to their correct relationship as evidenced by a memo of understanding signed by both partners.

While Touche Ross & Co. treats the partner relationship differently from the intent of the partners, the two reports are not mutually exclusive. No funds were unreported or unaccounted for and IRS rules were complied with. Corrections in the capital accounts were unimportant to the partners since the intent was to merge and adjust these accounts at the time of permanent financing. Touche Ross & Co. was hired by the Court to audit all of Mr. Brooks affairs and was the expert witness at the hearing on accountings for the Hooper-Brooks partnership. The Court after full examination accepted my report and a mutually agreeable dissolution of the partnership was reached.

Everything I reported was consistent with a reasonable equity position beginning with the 1965 balance sheet, written agreement between partners and Mr. Brooks methods of financing over the prior 10 to 15 year period.

While the chaos of the Brooks bankruptcy and the many reports and accountings of various authorities contribute to the complexity of the staff report and while there is nothing illegal or immoral in these records, it is important to me to point out that these were valid and serious business projects and had they not been halted in mid-stream, I remain convinced that they would be in successful operation today.

After reviewing the files and transcripts of this traumatic period, I see nothing I could have or ought to have done to prevent the events that occurred. If my judgment is at fault in not anticipating the suicide then my company includes many of the major bankers and insurance companies in the Mid-South. I cooperated with all authorities in the various proceedings, was not evasive and did not dodge my responsibilities. Whenever the facts were presented in the proper manner and forum, the rulings consistently confirmed my position.

With reference to the selected newspaper articles, I am pleased to report that the three major Tennessee newspapers editorially approved of my qualifications and applauded my nomination by the President (Enclosures)

On the basis that several conclusions and comments by this paper that are in error have a bearing on evaluation of my background, I have attached detailed corrections of the most pertinent points.

1. "Can find no Air Force records of work on Protective headgear". See attached (a) others from General Welch, Training Command, detaching me to Wright Field Research and Development. (b) Military requirements for my project. (c) letter of commendation for result achieved.

2. "Financially troubled Insurance Co." The attorney of the Insurance Company points out that at no time was the total liability for policyholders potential claims anywhere near the cash reserves on deposit with the Alabama Insurance Commission, the domicile State of the Corporation. The only "trouble" was an excess of assets in real estate. While Alabama rules permitted unlimited real estate as admitted assets, the State of Tennessee admits only a small percentage of such assets. When instructed by the Tennessee Commission to reduce the real estate holdings in March of 1969, Mr. Brooks made an effort to market some of his farm properties, returned my land to me and continued to report these efforts through August of 1969 to the Tennessee Commission. At no time was the financial condition such as to threaten the security of the policyholders.

3. "Check swapping". This is referring to the flow of checks detailed in my report to Mr. Brooks bankruptcy showing Mr. Brooks allocations of his resources. If his project "A" had surplus funds and his project "B" had a financial need, he would transfer funds from A to B. The main purpose of my report was to show year by year the net funds remaining in the partnership account after deposits and withdrawals which constituted the obligation to Mr. Brooks from the partnership and was the basis on which Mr. Brooks' advances were to be returned out of permanent financing.

4. "Failed Pet Food Manufacturer". I sold my interests in Columbus Canning Co., Inc. in early 1958. Midway in 1959 the new owners suffered severe reversals in one of the businesses, primarily a Miami hotel, and shut down Columbus Canning Co. in August of 1959. See attached. All of the creditors asserted their claims against the new owners with two exceptions and these claims were for sums owed by the Company prior to the sale of 1958. In one case, for lack of records, we settled the claim and in the other we proved the claim invalid in a court proceeding. We sold a going business and the failure was clearly the responsibility of the new owners and beyond that, was not the fault of the product or facilities we sold.

5. "Would uphold Chairman Red Wagner if confirmed". This statement belongs exclusively to the reporter. In spite of my denials he came to me and left expressing his conviction that this would be my position. Clearly, if, on a three man board, two are always together, you have in effect a one man board. What his concern was about this matter, I was unable to determine.

To give some perspective it is interesting to note that, in 1972, during the confirmation hearing on Mr. Jenkins to the TVA Board, Senator Cooper stated as follows: "apparently every time a new member of the board is nominated there is always a great controversy over it as I have seen on this committee . . ."

It is also interesting to note that while Senator Brock and Senator Baker endorsed Mr. Jenkins qualifications and track record in administration and environmental concerns the same newspaper and groups attacking me were emphatic in their opposition to Mr. Jenkins. "In our opinion he has done a far from adequate job as Commissioner of Conservation. He has demonstrated his lack of initiative and leadership . . ."

" . . . Based on our experience with Mr. Jenkins we are certain he cares little for the common people of this area." " . . . He had not done his job . . . lobbied vigorously against any strengthening of strip laws . . . Does not represent the needs of the public he serves but works for a small powerful group of moneyed men . . . He will use the office as a stepping stone in his own political career . . . Jenkins is not worthy of the public trust of a TVA directorship".

In spite of these dire predictions, Mr. Jenkins has done an excellent job during a period that has seen a severe dislocation of energy economics. Maybe these remarks point up what Mr. McBride, the retiring board member, had in mind when he suggested the advantages of having a nominee from out of State. (See attached, p. 337.)

From what I have been able to determine, the environmental groups and this one newspaper seem most concerned over the abuses in strip mining areas, particularly about acid wastes into water supplies. Since TVA purchases approximately 5 percent of total coal production, it must, along with the purchases of the other 95 percent, be concerned with proper production method. However to concentrate on this problem is to ignore the much larger impact of, for example, agricultural nitrogen on the water supply all over the United States. Nitrogen is required in practically all food and fibre production. In its present fast release form it is of growing concern to the Environmental Protection Agency. Since 90 percent of all fertilizer is produced under TVA formulas and developments and accounts for $\frac{1}{3}$ of the total food and fibre produced in this country, it is vital

that TVA be given the support to place in the hands of the farmer a slow release form of nitrogen to stop this danger before it becomes more widespread. In the 1972 hearings Senators Cooper, Muskie and Brock voiced concern that TVA re-emphasize the original objectives, i.e., water, land and agriculture and not be exclusively a power company. I share this concern.

TOUCHE ROSS & Co.,
Memphis, Tenn., November 13, 1975.

Mr. JAMES F. HOOPER,
800 Eighth Street North,
Columbus, Miss.

DEAR MR. HOOPER: Pursuant to your request we are enclosing a copy of a memorandum which I dictated to the file on May 4, 1967 from notes which I had prepared during the meeting at which the three of us discussed the preparation of the 1966 tax return of Hooper Dairy Farm.

You must keep in mind that this meeting was our first meeting and that we had not analyzed any of the financial transactions for the year. This memorandum, of course, represented my impressions of the items discussed and was prepared for the purpose of guiding us in the preparation of the first tax return.

Also enclosed are the five pages of workpapers which you furnished to me at that meeting and which are referred to in the memo.

Sincerely,

DON F. STARK.

Enclosures.

DECEMBER 3, 1975.

Mr. JAMES F. HOOPER,
800 North 8th Street,
Columbus, Miss.

DEAR MR. HOOPER: You have asked that we clarify certain points with respect to the services which we rendered to Hooper Dairy Farm for the years 1968 and 1969. As you know, we were engaged to prepare the partnership's tax returns from data furnished to us and did not in any way perform an audit or otherwise independently verify the transactions submitted to us.

You will also recall that you and I had very few direct dealings after our initial meeting on May 2, 1967. Accordingly the following comments are for the most part made as a result of my review of workpapers prepared by others and from my recollection of events that occurred six or more years ago.

With respect to the year 1968, our records indicate that the first contact occurred on May 2, 1969, when Martha Coleman wrote to you requesting information concerning 1968 transactions and that by May 20th part of the information had been received from you. A further note of May 27, 1969 indicates that the bank statements were mailed to us on that date. There is no indication in the workpapers that you ever personally met with any representative of Touche Ross to go over in detail any of the transactions for the year 1968. My best recollection is that all specific questions raised by us were handled either by correspondence and/or telephone. The type of questions handled in this manner would have been the accounting classification to be accorded to specific checks and/or deposits rather than any overall discussions of the results of operations for the year. The tax return itself was mailed to Mr. Brooks with a copy to you on/about September 30, 1969. An extension of time within which to file the return had been obtained to October 15, 1969.

With respect to 1969 operations, the initial classification of receipts and disbursements for the months of January through August 19, 1969 was probably performed during August and September of 1969, and was limited to a review of bank statements, deposits slips and cancelled checks. Since we did not ultimately prepare the tax return for this year our classifications were not reviewed in detail with either you or Mr. Brooks. For example, receipts and disbursements with respect to Little River Farms, Standard Union Life Insurance, Dabney Crump and First National Bank of Marietta, Georgia were classified separately because these were the indicated source of certain deposits and or/payee of certain checks. At no time did we receive or examine any underlying documents which explained any of these transactions. Thus the use of the terms "accounts receivable", "accounts payable" and "notes payable" were our method of segregating these transactions by source and were not meant to indicate an acknowledged relationship. In fact, a confirmation request sent to First National Bank of Marietta, Georgia was returned to us

indicating that neither Everett H. Brooks nor J. F. Hooper were directly liable to them as of July 31, 1969. Unfortunately, we have not been able to locate the bank's response at this time. This confirmation was, I believe, sent at the request of Roy Hendrix, Trustee in Bankruptcy, and may be in his possession.

We trust that this is responsive to your request, but if you have any further questions, please let us hear from you.

Sincerely,

DON F. STARK.

WILLIAMSON AND TABER,
Greenville, Ala., November 24, 1975.

Re: Standard Union Life Insurance Co.

Mr. JAMES F. HOOPER,
c/o Burgin, Gholson, Hicks & Nichols, Attorneys at Law,
Columbus, Miss.

DEAR JIM: I have had an opportunity to review the portion of the report as pertains to Standard Union and am returning it herewith along with my comments.

I am of the opinion that the introduction itself creates a misleading format as to that which follows. The writers editorialize: "By that time, not only had its business and assets been drained by prior owners but its very authority to engage in the insurance business was seriously in jeopardy." The language "been drained by prior owners" would infer wrongdoing on the part of previous owners.

Standard Union Life Insurance Company was a viable insurance company domiciled in Montgomery, Alabama. Because of the operating losses incurred in the immediate past, the shareholders of Standard Union deemed it in that company's best interest to enter into a corporate reorganization with Security National Life Insurance Company (now First National Life Insurance Company). Because of certain litigation then pending concerning a small block of Standard Union's business, the vehicle of reinsurance was used to accomplish this reorganization. I am enclosing herewith copy of the proxy statement that was used in conjunction with the Annual Meeting of Standard Union shareholders seeking approval of the Reinsurance Agreement.

You will note, from the proxy statement, that it provides, should the litigation concerning the "President's Special" policies be resolved that a total reinsurance would be accomplished. This, in fact, did occur and Security National was able to reinsure 100% of Standard Union's business.

This was a negotiated agreement done at arm's length with full value being paid for business and assets. There was nothing involved in this transaction that jeopardized Standard Union in any manner.

The introduction also refers to the reinsurance of Mid-South and Trustee Life business. I think it important that both of these Reinsurance Agreements were approved by the appropriate regulatory authority which was, in both instances, the Insurance Department of the State of Alabama. I am enclosing herewith copy of letter from Superintendent of Insurance, State of Alabama, dated February 3, 1969, wherein he states that the Reinsurance Agreement re Mid-South which came through reinsurance with American Family Life was in proper order and I also enclose copy of Reinsurance Agreement with Trustee which was approved by the Superintendent of Insurance, State of Alabama, on April 29, 1969.

There is some misunderstanding concerning my statements in regard to the financial statements filed with the States of Mississippi, Tennessee, Alabama and Georgia reflecting year end 1968 financial condition of Standard Union Life Insurance Company. As I recall my telephone conversation with Ms. Wilcox and Mr. Herod, I stated that I prepared December 31, 1968, Convention Statements for Standard Union Life Insurance Company. All of these statements were identical and were mailed from this office on March 3, 1969. Any statements that would have been changed after they left this office would have been the statements filed with the State of Tennessee which was not done by me. I am still of the opinion that Mr. Brooks requested permission to redo the Tennessee statement in an effort to have Standard Union qualified to do business in that state.

In regard to the financial statements, I am enclosing herewith the following:

1. Copy of a letter from me to Everett H. Brooks dated March 1, 1969, which reflects enclosure to him of four copies of Annual Statements for execution by him

as President and his wife, Betty, as Secretary of Standard Union. There is nothing in this letter to indicate that there is any difference in these Annual Statements. I am absolutely positive that the statements that accompanied my March 1, 1969, statements were identical and are those statements as shown in the Insurance Departments of Georgia and Alabama.

2. Copies of letters of March 3, 1969, to the Department of Insurance, State of Tennessee, Department of Insurance, State of Mississippi, Department of Insurance, State of Georgia, and Department of Insurance, State of Alabama. These letters are substantially identical and all show that Annual Statement of Standard Union reflected the condition as of December 31, 1968, were enclosed. These statements were identical and did not bear your signature thereon. I have personal knowledge of the fact that these statements were not shown to you nor were the figures contained therein discussed with you at the time of their preparation nor dissemination to the various insurance departments.

3. Copy of letter from me to Everett H. Brooks, dated March 5, 1969. You will note that the last paragraph of the first page thereof again shows that I forwarded the Annual Statements to the various departments. Again, I call attention to the fact that there is nothing in this letter nor in my recollection that would indicate there was any difference in the figures reflected thereon.

Page 23 of the report states that your signature appears on a Standard Union Life Insurance Company balance sheet that was submitted to the State of Tennessee. As stated above, your signature did not appear on any balance sheets or other financial statements going from this office to the Insurance Department of Tennessee. If in fact, you did sign such a statement, I have nothing in my file nor recollection concerning that.

On Page 24, the report states that in May or June of 1969, you and Mr. Brooks were aware that the authority of Standard Union to transact business in any state other than Alabama was seriously in jeopardy and was dependent largely upon increased liquidity of assets. I, of course, have no way of knowing whether or not you were aware of the liquidity problems with Standard Union in the states other than Alabama. However, I feel that the language "either suspended from doing business or have his license revoked in four of the five states in which it had previously operated" is misleading. Footnote 32 is correct wherein it states that the licenses of Standard Union in various states were not renewed. All state insurance departments are asked each year to renew licenses of insurance companies theretofore doing business in the states. It is not a question of revocation or suspension but is merely a question as to whether or not the company is in financial state to have such a renewal. Standard Union in as far as these other states were concerned, was not in a position to have its license renewed.

However, it was qualified to do business within the State of Alabama at all times pertinent hereto. In fact, Alabama never undertook any action against Standard Union Life Insurance Company because of its asset portfolio. Alabama took action only when it came to their attention that Mr. Brooks had pledged Standard Union stock as collateral on a bank loan and that the Bank had to institute foreclosure proceedings. I am enclosing herewith copy of a letter dated October 1, 1969, from the Superintendent of Insurance of the State of Alabama to that end.

Insofar as the memorandum of Ms. Wilcox and Mr. Herod concerning their telephone interview with me of October 2, 1975, I find it to be basically correct. However, there is obviously some misunderstanding as to my statement concerning what annual statements of Standard Union of December 31, 1968, were changed, if any. Again, the statements disseminated from this office were identical. The statements that were reviewed in Georgia, Alabama and Mississippi are the figures that were on the Tennessee statement at the time it was originally forwarded to the Insurance Department, State of Tennessee. Any changes in that statement would have been subsequent to handling by this office and would have been done by Mr. Brooks through his actuarial associates in Nashville, Tennessee, and, I am sure, with approval from the State of Tennessee as to refileing.

If you have any other questions in this regard, please call me.

Yours truly,

JOHN A. TABER.

Enclosure.

STATE OF ALABAMA, DEPARTMENT OF INSURANCE,
Montgomery, Ala., February 3, 1969.

Re: Reinsurance Agreement, Standard Union Life Insurance Co. (Alabama),
 American Family Life Assurance Co. of Columbus, Ga.

Mr. JOHN A. TABER,
Williamson and Taber,
Attorneys at Law,
Greenville, Ala.

DEAR MR. TABER: The above Reinsurance Agreement has been received in this office and appears to be in proper order. Had this submission been made in duplicate, the duplicate copy would have been stamped "Filed" and returned to you but inasmuch as only one copy was received, we will retain it for our file.

Very truly yours,

R. FRANK USSERY,
Superintendent of Insurance.

ARMY AIR FORCES,
 HEADQUARTERS, AIR TECHNICAL SERVICE COMMAND,
October 3, 1945.

Subject: Letter of Commendation.

To: Captain James F. Hooper, 0-789997.

1. On the occasion of your return to inactive duty I wish to express my appreciation for your individual effort and contribution toward our common goal, the successful and victorious conclusion of the war, and to commend you for the conscientious and efficient manner in which you have performed the duty assigned you in the Personal Equipment Laboratory of the Engineering Division.

2. Your attention to detail, perseverance and devotion to duty has contributed in a great measure to the prestige of this Division and has assisted materially in the accomplishment of the final victory.

3. It is desired to particularly commend you for your outstanding effort in the development of Suit; Protective, Forest Landing, and Helmet; Flying, For High Speed Aircraft, Protective.

4. Your recognition of the problems involved, and your superior ability in solving these problems has resulted in an accomplishment of which I am justifiably proud.

5. The undersigned desires to convey to you his very best wishes for a prosperous and happy future.

MILLARD L. HASKIN,
Colonel, Air Corps.

ARMY AIR FORCES,
 HEADQUARTERS, AIR TECHNICAL SERVICE COMMAND,
Dayton, Ohio, May 8, 1945.

Serial No.: TI-2021, Addendum No. 5.

Subject: Protective Helmet for Fighter Aircraft Pilots.

To: Engineering Division.

1. Problem Presented: (a) To develop a protective helmet for fighter aircraft pilots.

2. Authority: (a) CG, AAF. By 1st Indorsement dated 2 May 45, subject as above, received from Chief, Materiel Division, AC/AS, M&S.

3. Action desired:

(a) That the Engineering Division develop the subject helmet in accordance with the attached Statement of Military Requirements.

(1) Samples of the subject helmets are to be forwarded to the AAF Board for evaluation for service use.

(2) Samples of the helmets are to be sent to the 412th Fighter Group for inspection at the same time they are sent to the Army Air Forces Board.

(b) Status report on the subject project is to be forwarded to AC/AS, M&S, by 1 June 1945. This report should include an estimate of when sample articles can be sent to the AAF Board.

(c) This project carries a 1-C priority.

By command of Major General MEYERS:

T. A. SIMS,
Colonel, Air Corps.

Inc.: Statement of Mil. Req. dtd April 23, 1945.

[From the Commercial Appeal, Monday, Mar. 31, 1975]

TOP TVA CHOICE

The White House personnel office has recommended that President Ford appoint James F. Hooper of Columbus, Miss., to be the new member of the Tennessee Valley Authority board of directors.

It is a good choice. Hooper's experience in agriculture together with his background in water resources management and his long efforts to establish the Tennessee-Tombigbee Waterway Development Authority all capped by his training as an industrial engineer surely make him a highly qualified person for this post.

But if that were not enough, his philosophy in regard to TVA certainly would make the difference. The Mid-South, he says, is "at an emerging period" in its development and the future success of the TVA is essential to that emergence.

That is a progressive attitude which combined with his openmindedness about how TVA develops and expands is what the region and the nation need at this time.

BUTLER, SNOW, O'MARA, STEVENS & CANNADA,
Jackson, Miss., April 25, 1975.

Mr. JAMES F. HOOPER,
800 North 8th Street,
Columbus, Miss.

DEAR JIM: You have requested that I give you the history of my contacts with Rhodes Optical Company, Atlanta, Georgia, in connection with my efforts to obtain capital investment in Columbus Canning Company in and about the year 1958. My best recollection of the events leading up to and having to do with Rhodes Investment in Columbus Canning Company is as follows:

Due to the rapid growth of the business and in order to assure its continued growth and expansion, it was decided that additional capital should be invested. You asked that I, as the Company attorney, assume the responsibility for locating such capital. I contacted several different sources and finally made contact with Rhodes Optical Company of Atlanta, Georgia, through a businessman who enjoyed a good reputation in the Georgia political and business communities. I undertook a very intensive investigation of Rhodes and its principals, including going to Georgia and Florida, checking with individuals there such as bank presidents, looking at other businesses in which Rhodes had invested and doing everything within my ability to assure myself that Rhodes would be a desirable type investor. My investigation led me to the definite conclusion that it would be and I so recommended to you.

Based on my recommendation, Columbus Canning entered into certain contractual relationships with Rhodes. While I do not remember the exact terms of the arrangements, I do recall that one Ray Goodman, a principal of Rhodes, assumed almost complete control of the affairs of Columbus Canning and that your services were retained only to the extent desired by Rhodes and Goodman. I recall being present in the offices of Columbus Canning on several occasions during the early stages of this relationship when Goodman would call past and prospective new suppliers of raw materials and assure them that Rhodes was to guarantee the accounts. Apparently these suppliers must have made credit checks and received the same type information that I did because they immediately started shipping materials in unlimited quantities.

July 1, 1959, I moved to Jackson, Mississippi, from Columbus in order to accept a senior partnership in the above firm. Prior to my departure, as a part of closing out my Columbus practice, I had to advise you to obtain other counsel so I am not familiar with the events that occurred in connection with the operation of the business after mid-1959 and for a short time before that. However, I do remember learning that you, Pratt Thomas and Otis Garard, they being the other principals in Columbus Canning, were shocked to learn some time about middle or late 1959 that the accounts of the business were not being paid by Goodman and that he had apparently diverted the proceeds of the sales of the company's products.

In summary, the steps taken by you in entrusting to me as the company attorney the responsibility of locating new capital and in relying on my advice were in keeping with accepted and usual business practices. You exercised what I considered excellent business judgment, with every step based on the best information available to you. I made what I consider a very thorough investigation and

received favorable reports on Rhodes. Many suppliers and businesses with investigative facilities much more complete and far reaching than mine reached the same conclusion as indicated by the fact that tremendous amounts of goods were shipped to Columbus Canning Company on the strength of Rhodes' credit reputation. The business was apparently growing and prospering under the control of Rhodes and its principals for a considerable period of time after the takeover and there was certainly nothing to indicate the events or conditions that were to lead to the downfall of the business. Certainly these events and conditions were beyond your control.

If I can be of any further assistance, please do not hesitate to call on me.
Very truly yours,

ROGER C. LANDRUM.

[From the Chattanooga Times, Monday, June 16, 1975]

A CHOICE FOR TVA

Early reports indicate President Ford scored well on his nomination of James F. Hooper, a Columbus, Miss., businessman, for a nine-year term on the TVA board of directors. If confirmed by the Senate, Mr. Hooper will succeed Don McBride, who did not seek reappointment.

Associates who know him well describe Mr. Hooper as a levelheaded, strong-minded businessman and industrial engineer who has long been interested in problems of land conservation and waterways development. He is a former member of the Mississippi Rivers and Harbors Association, and an early participant in the Tombigbee River Water Management District.

Admittedly without expertise in the field of electrical energy generation and distribution Mr. Hooper is well qualified by experience to deal with many of the TVA's other resource utilization programs such as fertilizer research, tree farming and similar projects. And, of course, the agency is fully as concerned with these as it is with its power program, although the latter gets more than its share of public attention.

His Mississippi residence, while not essential to his usefulness as a TVA director, is a plus since it gives him a ready-made knowledge of regional problems and potentials.

Friends of the TVA, as well as of Mr. Hooper, will await with interest a fuller development of his viewpoints during confirmation hearings. We foresee little opposition.

[From the Nashville Banner, June 11, 1975]

A GOOD SELECTION

President Ford's decision to nominate James F. Hooper of Columbus, Miss., to be a new director of the Tennessee Valley Authority is fitting for the challenges facing the TVA region.

Mr. Hooper's background is broad enough to bring close-to-the-ground experience to the TVA board. A businessman, a farmer, a civic leader, a political leader, Mr. Hooper has demonstrated through personal involvement an appreciation for the region's development.

TVA's role in the growth of this region is well-documented. Its contribution will be no less in the coming decade when the availability of energy supplies will shape the region's destiny, as well as the country's.

In this trying period ahead, the insights of Mr. Hooper should serve the TVA board of directors well.

As one of the early leaders in the development of the Tennessee-Tombigbee Waterway, Mr. Hooper has shown a healthy regard for both growth and environmental concerns.

In doing so, he has not emerged as a narrow-minded representative of any special-interest group. He is not a mouthpiece for private power. Nor is he an ecological zealot.

Avoiding the extremes, Mr. Hooper has shown himself to be a level headed citizen whose ideas seem to parallel closely those of the people served by TVA.

He is a good choice. His nomination deserves prompt Senate confirmation.

[From the Sun-Democrat, Paducah, Ky., Friday, Jan. 31, 1975]

RETIRING TVA DIRECTOR SAYS SUCCESSOR SHOULD BE OUTSIDER

Knoxville, Tenn. (AP)—Donald O. McBride says he feels his successor on the Tennessee Valley Authority board of directors should be a "nonresident of the Tennessee Valley area."

And McBride says he thinks it would be helpful if the new director is versed in natural resource development.

McBride's nine-year term on the three-member TVA board expires May 18. He is 71 and plans to retire in Knoxville. Other members of the board are chairman Aubrey J. Wagner and William L. Jenkins.

President Ford will nominate McBride's successor, who must be confirmed by the Senate.

One reason McBride believes his successor should come from outside the valley is that an outsider "could serve without prejudice toward any particular valley section.

"I'm not saying the next man would be prejudiced, but it would be less susceptible to pressure from valley areas."

McBride is originally from Oklahoma and he said he felt "I've had an advantage because of that." He was appointed to the TVA board in 1966 by the late President Lyndon Johnson.

His successor, McBride said in an interview, should possess "a broad experience in land, woods and water. And it wouldn't hurt if he knew something about nuclear energy."

The TVA power system is now concentrating on nuclear electric facilities.

McBride said TVA must continue to work toward raising per capita income in the Tennessee Valley.

"We must raise per capita income up to and beyond the national average," he declared. "In 1933 the valley per capita income was 45 per cent of the national average. Now it's 76 per cent."

The authority was created by Congress in May 1933.

MERCHANTS & FARMERS BANK,
Columbus, Miss., July 3, 1975.

MR. JAMES F. HOOPER,
800 Eight Street N.,
Columbus, Miss.

DEAR JIM, A friend in Nashville has sent me clippings from the Nat Caldwell stories in the Nashville Tennessean regarding your nomination for the TVA Directorship, and I hasten to tell you that I am astounded that Nat would turn out such unfactual diatribe.

When he was in Columbus to dig up the facts in the matter, Nat told me that he could find nothing whatsoever against your character.

He said that, in carrying out his assignment from the Tennessean to do a "hatchet job" on you, he expected to resort to ridicule.

He said he intended to create such a public reaction that your nomination should be laughed off.

I have known Nat a long time. When I was with the International News Service, he and I covered a number of major southern political stories. I do not, then, believe for a minute that Nat Caldwell would misrepresent the matter as he saw it.

As you know, I was in good faith when I suggested to you that you meet with Nat and that you lay the cards on the table. I felt confident that, notwithstanding the pressure his editors undoubtedly would bring upon him to make you appear less than honest, he could be expected to stick at least to the basic facts.

While I knew that the Tennessean, ever since this newspaper was handed over to the late publisher Silliman Evans by FDR through the RFC and Jesse Jones, had been an ultra-liberal publication, I think they have gone beyond the pale of good reporting when they forced Nat to use their news columns to fulfill editorial objectives. The stories that Nat has concocted, in his opinion perhaps poke ridicule your way, but they are plainly ridiculous to anyone who knows you.

All this adverse nonsense, confined exclusively as far as I can tell to the columns of the Tennessean, is not likely to damage your image seriously anywhere that counts. So, be of cheer!

With best regards, I am,
Sincerely,

JOHN R. HENRY,
President.

COLUMBUS, MISS., *January 22, 1976.*

Mr. JAMES F. HOOPER,
Columbus, Miss.

DEAR JIM: When I read the article about you written by Nat Caldwell in the June 22nd issue of The Nashville Tennessean (which I had not seen before now), I was astounded at the statement he made quoting me as saying that I told him I was sure that you would support Red Wagner all the way, etc., (this is not verbatim.) I made no such statement and as you know, I would have had no basis to make it. I do not recall that you ever told me that you would support Red Wagner or Bill Jenkins or any other person. The statement is a deliberate newspaper fabrication.

I do recall, Jim, that during our conversation while he was here in Columbus, I asked him why he was asking all those questions about you and trying to dig up as many derogatory things about you as he could. I asked him why he didn't forget it and try to find some of the good things he could find. His answer to me was that he was sent down here by his editor and publisher to dig up all of the things he could find on you and he said that, "You know, Louis, when your editor and publisher sends you down to do a job, you do it. I am working for The Tennessean and I've got to do what they tell me to do."

Jim, I can assure you that I never made such a statement to Nat or to any one else. I would have had no basis for such a statement because I am convinced as you are that you are your own man and that you are going to vote and make decisions on what your own judgment dictates and not what anyone else tells you to do.

You can assure anyone that questions that statement attributed to me that it is complete fabrication.

Best regards,

LOUIS WISE.