

FRI., AUG. 6, 1971 CA
**Court Blocks Park Expressway
In Texas, Citing Memphis Case**

NEW ORLEANS, Aug. 5. — (AP) — The Fifth United States Circuit Court of Appeals Thursday temporarily blocked further construction of a federally funded super highway through a San Antonio, Texas, park and warned the state not to try to get around the court by using its own funds.

At the same time, the court described as unlawful Transportation Secretary John Volpe's suggested solution for the controversial six-to-eight lane route.

"The secretary's approach to his . . . responsibilities thus makes a joke of the feasible and prudent alternatives standard, and we not only decline to give such an approach our imprimatur, we specifically declare it unlawful."

The court reversed a lower court that had given the expressway the go-ahead and sent the case back with directions that it be held until Volpe complies with his statutory responsibilities.

The Fifth Circuit action came on a suit filed by the San Antonio Conservation Society against the Texas Highway Department and the United States Department of Transportation, challenging construction of the expressway through the Brackenridge-Olmos Parklands.

The Fifth Circuit issued an order last May stopping the state and government from completing construction of two "end segments" of the 18-million-dollar expressway, which would stop at the north and south borders of the park, thus leaving the park undisturbed.

Secretary of Transportation Volpe had approved the end sections, believing that perhaps a compromise could be reached concerning the middle or park section of the route, the Fifth Circuit said in its 37-page ruling.

"Patently, the construction of these two end segments to

the very border, if not into, the parklands, will make destruction of further parklands inevitable . . ." the court stated.

The court also noted that Volpe failed to comply with environmental statutes which require Volpe to consult other agencies before giving approval to a route that could affect a park.

In another aspect to the case, the appeals court said that the San Antonio City Council does not have the right to decide that an expressway is more desirable than the park.

The aspect arose, the court said, when the United States Supreme Court, in a recent decision, reversed a ruling that had approved a route through Overton Park in Memphis.

The Memphis City Council had approved the route and sold the strip of park to the state.

"We must conclude from the Supreme Court's action," the

Fifth Circuit said, "that the court attached little if any significance to the local officials' preference to use Overton Park for highway right-of-way."

The appeals court also warned the State of Texas that it had no right to build the middle section through the San Antonio park with its own money.

The state had served notice to the court that it would do this if necessary.

"The state by entering into this venture, voluntarily submitted itself to federal law," the Fifth Circuit said. "It entered with its eyes open, having more than adequate warning of the controversial nature of the project and of the applicable law. "And while this marriage between the federal and state defendants seems to have been an unhappy one, it has produced an already huge concrete offspring whose existence is impossible for us to ignore."

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