

# Sec. Volpe Rejects Overton X-way Plan

By LEE STILLWELL  
The Press-Scimitar Bureau

WASHINGTON. — The Interstate 40 route through Overton Park, as proposed by Tennessee, was rejected today by Transportation Secretary John A. Volpe, leaving state officials in confusion over what alternatives to pursue in wake of the decision.

In a report released today Volpe's decision shuts off federal aid to the proposed Overton Park route, but leaves the door open for the Tennessee Highway Department to choose a "feasible alternative" to the route submitted and to receive the 90 per cent federal financing for the alternate.

In Nashville, the decision was greeted with disappointment by Robert F. Smith, state highway commissioner, who said he will consult with attorneys and announce the department's next step sometime early next week.

"We're very disappointed," said Smith, "and we're sorry about the handicap this will place on the citizens of Memphis."

Spokesmen in Nashville say the odds are greatly against the state's deciding to go ahead with the Overton Park route with 100 per cent state and local financing, because of both the expense and the probability of other lengthy court battles.

In his covering letter, Volpe detailed the long court battle and numerous laws that came into effect during the struggle over completion of I-40 through the park in Memphis.

"Each of these new developments has weighed in my deliberations, and on the basis of the record before me and in light of guidance provided by the Supreme Court, I find that an interstate highway as proposed by the state through Overton Park cannot be approved," Volpe said.

"I cannot find, as the statute requires, and as interpreted by the court, that there are no prudent or feasible alternatives to the use of U.S. parklands, nor that the broader protective objectives of NEPA (National Environmental Protection Act) and the Federal Aid Highway Act have been met."

Volpe then offered more details about his feeling in the case:

"Among the possible alternatives, which the State of Tennessee may wish to consider, are the use of I-240 circumferential combined with improvements to arterial streets, alternative routes such as the Louisville & Nashville railroad corridor, a broadened use of public transportation and services, or combinations of the above to meet the transportation needs . . .

"Apart from alternative locations, I am also convinced that a tunnel design would be less harmful to the

park than the present design.

"Listing these possible alternatives should not, of course, be construed either as an endorsement of any of them or as an exclusion of any other alternatives. Likewise, it should not be construed as a finding that 'no build alternative' has been rejected."

It became apparent Volpe would make his decision late yesterday when Memphis Republican Rep. Dan Kuykendall and Sen. Howard

Baker, R-Tenn., were called and invited to meet with Volpe about 4 p.m. Kuykendall went, and Baker sent his legislative aide, James Jordan.

Kuykendall and Jordan were led into Volpe's office, meeting with the secretary and his aide. Kuykendall said he had a frank discussion with Volpe about his decision.

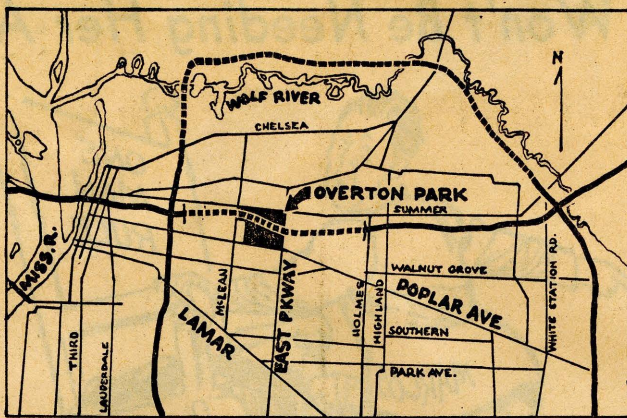
"Frankly, there are no ifs about it . . . He didn't like

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#### ALTERNATIVE MENTIONED BY VOLPE

Transportation Secretary John Volpe, in ruling against the proposed Overton Park expressway route, today said the state Highway Department might consider completion of the I-240 circumferential expressway, dotted line at top of map, and the enlargement of other traffic arteries as one of the feasible alternatives to the Overton Park route.

—Press-Scimitar Staff Drawing

## Volpe Says No to Plan

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the decision he had to make because the last law passed by Congress, the NEPA, was made retroactive to apply even to projects that were finished," Kuykendall said.

He added that Volpe also was upset because the court didn't allow him to consider cost at all in making the decision. The Congressman said he asked Volpe if he couldn't have made a different decision.

state could bring the matter back up in Federal Court, thus apparently ending the court battle that has been waged for more than a decade.

Volpe's decision was his "swan song" in the Overton Park case. Future decisions will rest with the new secretary-designate, Claude Brinegar.

He said Volpe replied that he could have made another decision, but that it would have been overruled.

"He was being used as an instrument of the court in making the decision," Kuykendall said.

Kuykendall said he was not surprised by the decision, because of the restrictions imposed by NEPA and based upon the fact the court did not allow consideration of the costs of alternatives to the park route.

A paved two-lane road now goes through Overton Park along the same line proposed for the expressway. That road was built solely for city buses. When Memphis obtained title to Overton Park in 1910, the property was subject to an easement by the Raleigh Springs Railroad and its successors. The old trolley line rails of the former Memphis Street Railway gave way to paving in 1947. Memphis Transit Authority now enjoys the easement through the park, said Frierson Graves, city attorney.

A spokesman at U. S. District Court in Memphis said Volpe's decision is final as far as Brown's court is concerned. The court source said, "The case is closed, unless the state decides to begin all over again by filing suit against the federal government in a new action."

The source said such a move would be "far-fetched," however, because the state would have to claim — as expressway opponents did after Volpe's earlier decision — that the Transportation Department decision is "arbitrary and capricious."

The spokesman said he knew of no other way the

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