

# THE COMMERCIAL APPEAL

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Section

## Back To Court On I-40

CLAUDE BRINEGAR, the Nixon administration's new secretary of transportation, might as well begin familiarizing himself with the Overton Park expressway case. The last of it has not been heard, despite the recent ruling by outgoing Secretary John Volpe that the park segment of Interstate Highway 40, as the design was submitted to him, would not meet the test of federal environmental laws.

Volpe also avoided making a recommendation for any alternate I-40 route, although he did point out some of them. One of the alternates Volpe mentioned was a tunnel on the same right-of-way where the Tennessee Transportation Department has proposed to build a depressed roadway.

In view of all this, the State of Tennessee has gone back to Judge Bailey Brown's United States District Court, from which the case was originally thrown back to Volpe, to seek an order that would compel Volpe's successor to make a route determination. Or, says the state, unfreeze the injunction against construction on the park site and let the state and City of Memphis do the job if they wish.

HOW THE COURT will view this petition cannot be foreseen, of course. But if this doesn't work, there will be other avenues for trying to work out the I-40 situation. It may be that tunnel construction will be the chosen means. That would be expensive, but far less disruptive than to abandon the present right-of-way and clear another through populated areas.

In any event, Brinegar has been warned to prepare himself for a look at the Memphis expressway case. Gov. Winfield Dunn, in Washington last weekend, had a chance to discuss it with Brinegar. Said the governor: "I told him the public interest would not be served by further delays. I said we were interested in seeing the project completed with all possible speed, either as proposed or possibly as a tunnel."

The idea of speed was underlined, also, in the state's petition to federal court, which asked that Brinegar be required to make a route decision within 30 days of a court order.

We hope Brinegar begins doing his homework on this dispute soon, because the ball is coming his way.

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