

# THE COMMERCIAL APPEAL

A Scripps-Howard Newspaper

GORDON HANNA, Editor

Published by The Memphis Publishing Co., 495 Union, Memphis, Tenn. 38101

W. FRANK AYCOCK JR., Business Manager

Consolidated July 1, 1894

{ The Memphis Commercial ..... Established 1889  
The Appeal ..... Established 1840  
The Avalanche ..... Established 1867

PAGE 4

FRIDAY MORNING, JANUARY 7, 1972

## Progress On The Expressway

JUDGE BAILEY BROWN'S decision to remand the Overton Park expressway to Transportation Secretary John Volpe comes as a disappointment to all the citizens who had hoped that a final decision on this seemingly endless case might be forthcoming at this time.

The decision must be regarded as progress on the expressway issue, however, because it has narrowed considerably the debate.

Judge Brown has dismissed the arguments that the proposed design of the expressway, if it should go through the park, would cause great harm through pollution, noise and other factors. In short, if the secretary now should find that the park route is the one that should be followed it can be built according to present design rather than resorting to tunnels or a cut-and-cover method or any other device.

What is left, therefore, is for Secretary Volpe to now make studies to determine that "there is no feasible and prudent alternative" to the use of Overton Park as the route for Interstate 40, and that it is not "feasible and prudent" to abandon that segment of the expressway completely.

The latter possibility is mentioned by Judge Brown in a footnote on his decision. He cites the Oct. 12, 1971, decision in the case of the District of Columbia Federation of Civic Associations versus Volpe on this question and notes that "it would appear that . . . on remand the secretary should consider the alternative of not building this expressway at all" because "if the secretary should again select the park route and did not consider such alternative and determine it to be not 'feasible and prudent,'

his determination in favor of the park route might well be subject to attack on that ground."

The decision Secretary Volpe now is called upon to make will be complicated by the fact that this new delay is expected to bring into consideration the requirements of the National Environmental Policy Act of 1970, which is even more strict in regard to use of parklands than was the Parklands Act to which Judge Brown has referred.

THE SECRETARY will have to build his case for the park route around all these limitations now and substantiate it fully. That will require time. It will tax the patience of Memphis citizens who see the need for this route now. But Judge Brown has included his cautions in his decision in an attempt to forestall any further delay once Volpe's decision comes through.

The DOT case should be made somewhat easier by Judge Brown's findings that Volpe "did consider all design alternatives and that in doing so he applied the correct standard, that is, that all that is reasonably possible to do must be done to minimize harm to the park."

Given that determination and adding to it the demonstrable need for improved traffic flow through Memphis on an east-west route, surely the secretary ought to be able to find that abandonment of the expressway would be neither feasible nor prudent, and that instead the park route is the only reasonable one available.

We hope that is his finding — and that he makes it as quickly as possible.

ORE 26-03