

Return for the better. First I-40 article

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I-40 And Overton Park

IT HAS NOW been a full 20 years since an east-west expressway routed through Overton Park was first proposed.

They have been years of controversy and there has been bitterness from both sides, from those who want the highway built through the park and from those who do not.

It is a controversy which has received national attention and national precedent has been established through litigation.

Throughout, the arguments over the route have been blurred by inaccuracies, unrealistic judgments and emotion.

This newspaper repeatedly has said the best route for Interstate 40 is through Overton Park. We still think so and will continue to support reasonable — and we stress the word reasonable — suggestions for getting it built.

But the time has come to pause in the Overton Park controversy and give consideration to legal and financial realities. They are realities which must be met and resolved if the highway is ever to be built.

We are prompted to this quiescent editorial tone by the most recent proposal. It comes from U.S. Transportation Secretary William T. Coleman Jr. It is for a 5,100-foot cut-and-cover tunnel with two three-lane roadways stacked on top of each other. The price tag is \$119 million and the state's share would be \$15 million plus an annual maintenance cost of \$450,000.

IT IS DIFFICULT to imagine an 80-foot-wide, 70-foot-deep tunnel nearly a mile long. We'd prefer not to have to try.

The original proposal was for a depressed highway through the park varying in width from 250 feet to 450 feet. In 1971, the cost was estimated at \$3.5 million.

Much of Memphis' leadership supported it. But perhaps too little attention was given to those who fought it, to those who thought of the highway as "one of the worst rapes of a public park I've ever seen," to quote a statement of a Department of Transportation deputy cited in a 1971 federal court hearing.

In 1969, park route opponents filed suit in federal court to stop construction through the park. The state had already paid the city \$2 million for right-of-way.

The crux of the case was contained in interpretation of a small part of a parkland statute passed in 1967. It says: "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the country-

side and public park and recreation lands. The secretary (of transportation) shall not approve any program or project which requires the use of publicly owned land from a public park . . . unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park . . ."

"Feasible and prudent . . ." Legal careers have hinged on the interpretation of those words. The last interpretation, however, comes from the Supreme Court and in the Overton Park case the justices used this language:

"Protection of parkland was to be given paramount importance. The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost or community disruption resulting from alternative routes reached extraordinary magnitudes."

THE MOST recent proposal for building through the park fails to come to grips with legal realities.

The courts have been clear in stating it is the responsibility of the state — not the federal government — to develop a plan. The state has not done this. The state also is responsible for making detailed studies of alternative routes. The state has not done this.

We doubt if there is a feasible alternative. We agree with language used in the 1970 appeals court decision (which was reversed by the Supreme Court). The appeals judges said, "If it were now determined that a new route be chosen not only would there be additional disruption, but that already caused would have been futile and wasteful."

I-40 through Memphis is now complete except for a 3.7-mile stretch with Overton Park in between. We would argue that the way of I-40 has been cast in concrete.

But I-40 will not be completed until legal strictures against it are overcome. Those who prefer an unviolated park have won out thus far in the courts. And they are just as sincere in their cause as those who want so desperately to have a highway link between downtown and East Memphis.

With the admonition of the Supreme Court in mind, the state needs to come up with a less expensive plan.

The controversy needs to be resolved. The present state of affairs is disruption to the point of chaos. If the state does its homework perhaps even the Supreme Court will come to see that.

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