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"U.S. Attorney Here Blasts DOT Lawyers for Sudden Change in Expressway"

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Authors	Black, Kay Pittman
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Memphis Press-Scimitar

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MARKETS

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OTHER FORECAST: Chance of showers tonight with little change in temperature Thursday. High today 52, low tonight 33. (Details on Page 2.)

ST. YEAR NO. 99

MEMPHIS, TENN., WEDNESDAY, DECEMBER 16, 1970

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U.S. Attorney Here Blasts DOT Lawyers for Sudden Change in Expressway Case

By KAY PITTMAN BLACK
Press-Scimitar Staff Writer

"this move is just simply a legal procedure, that's all."

State and local officials who have been fighting for the expressway for 15 years, termed it a "disaster."

Turley's criticism referred to Solicitor General Erwin Griswold, who filed the brief with the U.S. Supreme Court yesterday, and William Bradford Reynolds, the Justice Department attorney who wrote the brief and is handling the case on the Washington level for John Volpe, secretary of the U.S. Department of Transportation and a defendant in the matter along with the state.

At first, Department of Transportation officials said they knew nothing of Griswold's brief this morning.

Don Sturl, public relations director for the transportation department's highway division, said, "That couldn't be correct. The Overton Park case has been set for Supreme Court hearing on Jan. 11."

He checked with David E. Wels, attorney for the Federal Highway Administration, then said, "Mr. Wels and Secretary Volpe can only comment that they accepted the advice of the Solicitor General's office strictly on the basis of legal procedure."

Griswold could not be reached this morning, as he was in court, but Reynolds was located in the Washington office.

"I hate to disagree with

Mr. Turley but I am not a Harvard Law School graduate," Reynolds said. He added that he is a native of Nashville, Tenn., has been with the Justice Department one year, and is a graduate of Vanderbilt Law School.

He said he worked on the brief and had been assigned to handle the Overton Park matter but that Griswold, whose name the brief bears, had approved the action.

Reynolds said, "It is our view that a hearing was not needed but that since the Supreme Court on Dec. 7 decided it was, we decided that there was not enough of the administrative record for the court to render a decision."

U.S. District Judge Bailey

Brown thought there was sufficient record as did the U.S. Circuit Court of Appeals. However, in a dissenting opinion, Court of Appeals Judge Anthony Celebrezze said the appeals court could not determine whether or not Volpe was supported by sufficient evidence in his finding that the expressway route selected to go through the park was the only feasible route. Volpe published no findings for the court to review, Celebrezze said.

"In this area we agree with Judge Celebrezze," said Reynolds.

He said the administrative record which was before the secretary of transportation and which showed how he arrived at his decision was

not entered into the lower court records.

"The only way we can show the Supreme Court that the decision was based on what we consider right and proper records is to ask the Supreme Court to send the case back to the district court and start all over so the record can be put into the case," Reynolds said.

Turley characterized such thinking as "the stupidest thing I've ever heard." He said such a motion was "detrimental" to the state's case and that it was "unnecessary."

Reynolds said he expects the Supreme Court to consider the matter Friday. He said one of three things could be done: The Supreme

Court could grant the motion and send the case back to the district court, it could refuse the motion or it could simply disregard it and not act on it. "If either the first or the last are done, then we'll have to go ahead and prepare our briefs in defense of our position for the Jan. 4 deadline," said Reynolds.

Opponents of the freeway route through the park, which included the Audubon Society and Sierra Club in addition to the Citizens to Preserve Overton Park, were given until Dec. 21 to file final briefs before the Jan. 11 hearing set by the Supreme Court.

The state and federal law-
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THOMAS TURLEY

Park Expressway Squabble Takes New Twist

From Page 1

yers had until Jan. 4 to file briefs.

While Reynolds is not a graduate of Harvard University Law School his boss, Griswold, is, and has a long list of academic credits.

He was born in 1904 in East Cleveland, Ohio, and graduated from Oberlin College in 1925, getting his law degree in 1928 and has been associated with such colleges and universities as Tufts, University of British Columbia, Brown University, the University of Sydney and the University of Melbourne, Columbia University, Amherst, Harvard, Northwestern, the University of Edinburgh and Oxford University to mention a few. He was also a practicing attorney in Massachusetts, and is a Phi Beta Kappa.

But it is the youthful sounding Reynolds, whom Turley characterized as "one of those pipsqueaks," who is bossing the Department of Transportation case. Reynolds, a native of Nashville, finished at Vanderbilt law school.

Asked if the reason the surprise motion was made

was because the Justice Department felt there was not enough evidence (based on administrative record), Reynolds said, "That's basically how we feel."

Asked why the Memphis and state attorneys did not put the administrative record in the case at the lower court level — since the Citizens to Preserve Overton Park had maintained throughout their legal position that the record was faulty and incomplete — Reynolds replied, "I could not attempt to answer that. I can't comment on how another lawyer handles his case."

Tennessee plans to respond to Reynolds' brief today asking the U.S. Supreme

Court to ignore the motion and go ahead as planned with the Jan. 11 hearing "to resolve the issue once and for all."

Reynolds confirmed that he "and others" had spent considerable time discussing the matter with Memphis and state officials yesterday before filing the motion in Washington in late afternoon.

State and federal sources have said that Griswold's office and representatives "didn't know what they were doing, were arrogant and furthermore were uninformed on the case."

"I can't comment on their personal feelings," said Reynolds.

When told that Turley

characterized the Washington governmental lawyers motion as an "atrocious piece of arrogant myopia," Reynolds said, "Hmmm."

He paused and said, "Yes, I would guess from that statement that he does sound mad, doesn't he?"

Reynolds was candid with The Press-Scimitar, said he felt the motion was necessary and that the administrative record would support the government's position, that the route selected was the only proper route to take.

The plaintiffs in the case, who are trying to get the Supreme Court to re-route or depress the route through the park, were elated.

Mrs. Sunshine K. Snyder

ington don't know enough about it to realize what they've done."

Thus Overton Park has wound up not only as a con-

trovery between conservationists and highway builders but also as a full-scale in-fight between various branches of government.